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January 1997

# FINGERPRINT-BASED BACKGROUND CHECKS

## Implementation of the National Child Protection Act of 1993



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**General Government Division**

B-272098

January 15, 1997

The Honorable Fred Thompson  
United States Senate

Dear Senator Thompson:

This report responds to your January 3, 1996, request that we review certain implementation issues under the National Child Protection Act of 1993 (NCPA), as amended (42 U.S.C. 5119 et seq.). This federal legislation encourages states to enact statutes authorizing fingerprint-based national searches of criminal history records of individuals seeking paid or volunteer positions with organizations serving children, the elderly, or the disabled. As agreed with you, we conducted work in five states (California, Florida, Tennessee, Texas, and Virginia) to address the following questions:<sup>1</sup>

- To what extent have selected states enacted statutes authorizing national background checks of child care providers? Also, what fees are charged for background checks of volunteers, and how do these fees compare with the actual costs in these states?
- What effects have these states' laws and related fees had on volunteerism? For instance, have the laws and fees discouraged volunteers from participating in child care programs at nonprofit entities?
- Have selected state agencies and other organizations found national background checks a useful screening tool? More specifically, for selected job or position categories in selected jurisdictions, how often have fingerprint-based background checks identified individuals with criminal histories?
- What is the status of the Integrated Automated Fingerprint Identification System (IAFIS) being developed by the Federal Bureau of Investigation (FBI), and what are the selected states' plans for using the system when it becomes available?

Initially, we identified and reviewed relevant child care-related statutes enacted by each of the five states. Also, we identified the FBI's and the selected states' fees for background checks. We compared these fees to the actual costs of such checks, as reported by the FBI and the respective state agencies; however, we did not independently verify the accuracy of

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<sup>1</sup>On the basis of your specific interest, we focused our work on workers who interact with children. Factors we considered in selecting the states to study were the scope of the states' laws authorizing background checks, whether the states had any automated fingerprint identification services, the number of youth under age 18 in the states, and geographical coverage. Also, you expressed specific interest in Tennessee.

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these amounts. To determine the effects (if any) of these laws and related fees on volunteerism, we reviewed applicable studies and interviewed officials of 3 national and 20 local nonprofit youth-serving organizations. Regarding the usefulness of national checks, we obtained views from officials at relevant national, state, and local organizations. Also, for at least one job or position category in each of the five states, we analyzed available statistics on the number and the results of national fingerprint-based background checks of applicants. To determine the status of IAFIS, we interviewed FBI officials and reviewed documentation regarding the system's schedule and progress. Also, we contacted responsible officials in each of the five states to determine their plans for interfacing with IAFIS.

We did our work from March to October 1996 in accordance with generally accepted government auditing standards. Because our work covered only selected child care organizations and/or positions and selected locations within five states, our findings (1) should not be considered representative of statewide conditions in the selected states and (2) are not projectable to other states. Appendix I provides further details about our objectives, scope, and methodology.

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## Background

Over 87 million children in the United States participate in activities provided by child- and youth-serving organizations each year. Many of these organizations have formalized and structured environments, such as schools, which children are required to attend. Others are voluntary, extracurricular activities, such as clubs and sports activities. The known adult-child interactions that involve child abuse in these out-of-home settings, although a relatively small percentage of child abuse overall,<sup>2</sup> have drawn public attention and generated parental alarm about the safety of children in such settings.<sup>3</sup> In 1996, the Department of Justice issued a report that examines the most serious crimes against children.<sup>4</sup> For example, the report provides analyses of more than 35,000 cases of child murder that occurred between 1976 and 1994.

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<sup>2</sup>Most instances of reported child maltreatment involve in-home or family situations. For example, according to reports from the states to the National Center For Child Abuse and Neglect, in 1994 approximately 80 percent of perpetrators of child maltreatment were parents, and an additional 10 percent were other relatives of the victim.

<sup>3</sup>American Bar Association Center on Children and the Law, Effective Screening of Child Care and Youth Service Workers, January 1995.

<sup>4</sup>Department of Justice, Office of Justice Programs, Child Victimized: Violent Offenders and Their Victims, NCJ-153258, March 1996.

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Criminal history records checks are one of several methods of predicting the suitability of individuals seeking paid or volunteer positions with organizations that interact with children. National fingerprint checks can help identify criminal histories of individuals convicted of a crime anywhere in the United States who are seeking a volunteer or paid position in any state.

The checks of criminal history records for civil (noncriminal justice) purposes have long been a part of the FBI's workload. Public Law 92-544, which was enacted in 1972 and preceded NCPA, authorizes the FBI to exchange identification records with officials of state and local governments for purposes of licensing and employment—if such exchanges are also authorized by a state statute that has been approved by the U.S. Attorney General.

NCPA did not give the states any new access to national fingerprint-based background checks and did not mandate the states to pass laws. Rather, NCPA highlighted the need for such background checks and encouraged the states to pass appropriate legislation. Thus, under NCPA, background checks must be handled in accordance with the requirements of Public Law 92-544. For example, each state that wants the FBI to conduct national criminal history records checks of child care or youth service workers must have in place a law defining what categories of jobs or positions require the background checks. It is left up to each state to decide how broadly to extend the background check requirement. But, whatever the scope, there must be a state law requiring fingerprinting of the employee or volunteer and allowing<sup>5</sup> the FBI to conduct criminal history background checks of persons in or applying for the specified categories of jobs or positions.

Further, NCPA specifies that the criminal records search must be based upon fingerprints. Thus, each request for a criminal history background search must be accompanied by a set of 10-print fingerprint cards. These submissions must be made by (and the results returned to) a designated governmental agency, such as a state Department of Education, Department of Social Services, or a state public safety or police department. NCPA requires that these designated agencies be responsible for determining whether the provider has been convicted of, or is under pending indictment for, a crime that bears upon the provider's fitness to have responsibility for the safety and well-being of children. However, the

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<sup>5</sup>In commenting on a draft of this report, U.S. Department of Justice officials noted that NCPA does not recommend that these checks of criminal history records be mandatory.

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act does not provide a specific list of disqualifying offenses; rather, each state must make these determinations.

When enacted in 1993, NCPA specified that fees collected by the FBI and authorized state agencies, respectively, for fingerprint-based background checks of volunteers with a qualified entity<sup>6</sup> could not exceed the actual cost. The provision was amended in 1994 to specify that the fee for these volunteers could not exceed \$18 or the actual cost, whichever is less.<sup>7</sup> Also, the act specifies that the states shall ensure that fees to nonprofit entities for fingerprint-based background checks do not discourage volunteers from participating in child care programs.<sup>8</sup>

According to the FBI, advances in electronic communications, expanding legislative mandates, and increased sophistication of law enforcement technology are expected to double the number of all types of criminal history information requests by the end of the century. IAFIS, which has been under development since the early 1990s, is being designed to provide more efficient identification services by, among other means, eliminating the need to transport and process paper fingerprint cards.

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## Results in Brief

Although there are considerable differences in scope or coverage, each of the five study states has enacted statutes authorizing national fingerprint-based background checks regarding paid and/or volunteer positions at various types of child care-related organizations, such as public schools, day care centers, and youth sports leagues. For 1995, available (but incomplete) information indicates that the number of national checks of child care providers in the 5 states ranged from about 1,200 in Texas to about 125,000 in Florida, with the majority involving paid positions (e.g., schoolteachers) rather than volunteers. Three of the five states (California, Tennessee, and Texas) have authority to request

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<sup>6</sup>NCPA defines "qualified entity" as a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services. 42 U.S.C. 5119c(10).

<sup>7</sup>The fee cap applies separately to the states and the FBI. Thus, \$36 is the total maximum fee for a complete background check (by a state and the FBI) of a volunteer. NCPA does not set fee levels for background checks of paid employees.

<sup>8</sup>Under provisions of the act (42 U.S.C. 5119 note), the Department of Justice is developing guidelines to address the cost, timeliness, and effectiveness of criminal history background checks and to help ensure that fees for background checks do not discourage volunteers from participating in care programs. According to Justice officials, these guidelines are expected to be issued in spring 1997 and will address the types of screening mechanisms that the Department encourages for both paid and volunteer service providers.

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national checks of volunteers at nonprofit youth-serving organizations.<sup>9</sup> However, these states do not require that national checks be done, and few checks have been requested.<sup>10</sup> In Tennessee, for example, although all nonprofit youth-serving organizations are authorized to request national checks, only two such checks were requested in 1995.

A complete check of criminal history records has both FBI and state agency components. The FBI's fee for national fingerprint-based background checks of volunteer applicants is \$18.<sup>11</sup> Also, the FBI projected that its costs for a national check would average \$18 in 1996. In the three states with authority to request national checks of volunteers at nonprofit youth-serving organizations, the respective state's fees were zero (California), \$18 (Tennessee), and \$15 (Texas). Of these states, only California had recently (in 1996) calculated its actual costs for a state fingerprint check.<sup>12</sup>

State laws and related fees did not appear to have negatively affected volunteerism at the various nonprofit youth-serving organizations we contacted, since applicable statutes permitted rather than required fingerprint-based background checks, and few had been requested. However, the fees charged for background checks were a concern to officials at many of the nonprofit organizations we contacted—a concern that would be heightened, they said, if state laws were changed to require fingerprint checks.

Officials at the various organizations we contacted said that national checks are or could be a useful tool that should supplement rather than supplant other important screening practices. These officials told us they believe the prospect of being subjected to a national background check deters an indeterminate but significant number of individuals with unacceptable criminal histories from even applying for certain positions.

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<sup>9</sup>The organizations include the Boy Scouts, Girl Scouts, camp groups, and others that work with children and depend largely upon volunteers. The other two states (Florida and Virginia) do not have statutes authorizing national fingerprint checks of volunteers at nonprofit youth-serving organizations.

<sup>10</sup>Tennessee and Texas have statutes that specifically permit national background checks of such volunteers. The California statute refers to state background checks of such volunteers. California and FBI officials interpret this provision as implying authorization for national checks.

<sup>11</sup>While each organization or individual is required to pay the \$18 fee, in most states, a responsible state agency retains a small portion (\$2) of this fee. Specifically, the state agency responsible for (1) forwarding the applicant's fingerprint card to the FBI, (2) collecting the \$18 fee, and (3) serving as the agency that the FBI bills monthly for processing such cards, retains \$2 to offset the administrative handling costs in connection with collection of the fee and serving as the billing agency and submits only \$16 to the FBI. See tables III.1 and III.2 in appendix III.

<sup>12</sup>We did not audit or verify the actual costs reported by the FBI or California.

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In this sense, according to these officials, national checks are useful irrespective of how often the checks identify individuals with criminal histories (“hit rates”).

For selected job positions, organizations, or local jurisdictions in the five study states, we found that national checks detected some applicants with criminal histories who may not have been detected by less comprehensive practices, including state background checks. Perhaps the most dramatic example occurred in 1996 in Tennessee, where four children were removed from a foster care placement after a national check showed that the foster parent had a previous conviction in Alabama for enticing a child into his home for immoral purposes. Due to an absence of reporting requirements, we were unable to obtain comprehensive statistics on the use and results of national fingerprint background checks in the five states we studied.

According to the FBI, in October 1998 IAFIS is scheduled to be available to a few (to be selected) states, for purposes of conducting national fingerprint checks of applicants, with all other states that have appropriate technology coming on-line by July 1999.<sup>13</sup> Once IAFIS is fully implemented, the FBI expects that the processing time for national fingerprint checks of applicants will be reduced from 7 weeks (not including mailing time) under current processes to about 24 hours.<sup>14</sup> Responsible public agency officials in the five states we visited told us they are aware of the requirements for interfacing with IAFIS and that their respective states plan to use the system.

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## Variations in Scope or Coverage of Statutes in the Five Study States

According to the FBI, 37 of the 50 states have enacted legislation authorizing use of national fingerprint-based checks of criminal history records for purposes of checking applicants for paid or volunteer positions involving interaction with children.<sup>15</sup> The 5 states we selected for review are among these 37. Applicable statutes in the five states vary considerably in scope or coverage (see app. II). For example, Tennessee’s statute covers a broad range of positions or work settings involving interaction with children, while Virginia’s statutes cover only selected

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<sup>13</sup>FBI, Status Report on Integrated Automated Fingerprint Identification System (Third Quarter, Fiscal Year 1996).

<sup>14</sup>At the time of our review, FBI officials told us that they had not projected the actual cost of (nor the appropriate fee for) a fingerprint-based background check under a fully implemented IAFIS.

<sup>15</sup>The 13 states without national access are Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Mississippi, Montana, Nebraska, New Hampshire, Vermont, and Utah.



school districts and juvenile residential facilities. Also, some statutes cover new applicants only, while other statutes cover both current employees and new applicants. The statutes also differ regarding whether national checks are required or permitted. For example, the Florida child care-related statutes shown in appendix II require national checks, whereas Tennessee's statutes permit but do not require national checks.

## Even When National Fingerprint Checks Have Been Authorized, Few Volunteers Have Been Checked

Three of the five states (California, Tennessee, and Texas) have authority to request national checks of volunteers at nonprofit youth-serving organizations, such as the Boy Scouts of America and Big Brothers/Big Sisters of America. Within these states, in reference to these volunteers, the use of fingerprints to nationally check criminal history records has been limited. For example, in California, although all nonprofit youth-serving organizations have authority to request national checks, only 12 checks had been requested from January through June 1996. In Tennessee, only two such checks were requested in 1995. In Texas, four nonprofit youth-serving organizations are authorized to request national checks.<sup>16</sup> From August 1, 1995, through July 17, 1996, a total of 98 national checks were requested, all by one local affiliate of the Big Brothers/Big Sisters of America.

Officials at most of the nonprofit youth-serving organizations we contacted suggested several reasons why the use of national checks of volunteers has been limited. One reason suggested was that the states' statutes permit rather than require such checks.<sup>17</sup> The officials commented that the fact that state statutes permit rather than require national fingerprint-based checks of volunteers may derive from concerns about the fees for such checks. According to these officials, the use of national background checks may also have been limited because the FBI's response or turnaround time can be weeks or months, which may be unacceptable for many organizations that use volunteers for seasonal or part-time positions. In Texas, for instance, officials at the Volunteer Center of Dallas County<sup>18</sup> told us that state name-based searches generally meet their clients' needs because the fee (\$4) is reasonable and the results are

<sup>16</sup>Big Brothers/Big Sisters of America, "I Have a Dream/Houston," court-appointed special advocates for abused or neglected children, and the Make a Wish Foundation.

<sup>17</sup>In Tennessee, for example, as an option under state law, organizations can choose to provide awareness training rather than request national background checks.

<sup>18</sup>The Volunteer Center of Dallas County is a centralized unit through which nonprofit entities in Texas can submit requests for name-based background searches of the state's criminal history records. From September 1993 through April 1996, the Center requested a total of about 34,200 name-based searches.

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available in a week or less.<sup>19</sup> Thus, Center officials told us that they do not plan to push for legislation requiring national fingerprint checks.

Another reason for limited fingerprint-based background checks of volunteers may be lack of authorization awareness by certain groups. For example, two of the youth-serving organizations that we contacted in California were not aware that they are allowed to request national fingerprint-based background checks.

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## Fees for Fingerprint Checks Varied, and Some States Have Not Calculated Their Actual Costs

A complete check of criminal history records has both FBI and state agency components. At the time of our review, the FBI's fee for national fingerprint-based background checks was \$18 for volunteers and \$24 for all others. The fee amount for volunteers equates to the FBI's reported costs. That is, according to expenditure and workload data provided us by the FBI, the Bureau projected that actual costs would average \$18 for each fingerprint-based background search of criminal history records during fiscal year 1996.<sup>20</sup>

Of the five states we studied, only California had recently (in 1996) calculated its actual costs (\$32.62) for conducting a fingerprint-based check of state records. This reported cost figure was considerably higher than the NCPA-imposed fee cap for volunteers of \$18. However, California was not charging a fee for fingerprint-based checks of volunteers at nonprofit youth-serving organizations.

Florida Department of Law Enforcement officials told us that the state does not perform fingerprint-based checks of criminal history records for purposes of licensing and employment.<sup>21</sup> These officials explained that the state's computer system for fingerprint searches was not sufficient to handle such requests. Thus, our questions regarding the fees for and the actual costs of state fingerprint checks were not applicable to Florida.

By state statute, Tennessee's fee structure matches that of the FBI; thus, the state's fee is \$18 for volunteers and \$24 for all others.<sup>22</sup> Tennessee

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<sup>19</sup>In contrast, a national fingerprint-based background check would cost \$33 (\$15 payable to the state and \$18 to the FBI).

<sup>20</sup>We did not audit or verify the actual costs reported by the FBI and the states.

<sup>21</sup>For these noncriminal justice purposes, the state agency is to perform name-based searches even though the search requests may be accompanied by fingerprint cards. However, if the requests are for national searches, the state agency is to forward the fingerprint cards to the FBI.

<sup>22</sup>Tenn. Code Ann. 38-6-103.

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Bureau of Investigation officials told us that given this statutory basis for setting fees, the state has not attempted to calculate its actual costs.

Texas' fee is \$15 for fingerprint checks of applicants, whether volunteers or nonvolunteers. This fee amount, according to Texas Department of Public Safety officials, was first established in 1990 on the basis of a study that calculated actual costs totaling \$11.42 per applicant. However, the study recommended a fee of \$15 to ensure that Texas was consistent with other states' fees for similar services.

Virginia's fee is \$13 for fingerprint checks of applicants, whether volunteers or nonvolunteers. Virginia Department of State Police officials told us that this fee amount has been in effect for several years and, at the time of implementation, was set to match the FBI's then-current fee.

Without knowledge of actual costs, states that charge fees cannot ensure compliance with federal law. Specifically, as amended in 1994, NCPA provides that fees collected by authorized state agencies for fingerprint-based background checks of volunteers may not exceed \$18 or the actual cost, whichever is less.

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## Voluntarism Apparently Not Affected by Background Check Laws and Related Fees, Although Concerns Exist

In the states we studied, because nonprofit youth-serving organizations had requested relatively few national fingerprint-based checks on volunteers, the applicable statutes and related fees do not appear to have negatively affected volunteerism. However, officials at the various nonprofit organizations we contacted were concerned about state and FBI fees. Many of these officials commented that the fees were too high and, thus, if state laws were changed to require fingerprint checks, the number of volunteers and/or the scope of program services probably would be reduced.

On the basis of discussions with officials at various national and local nonprofit entities, we identified only two studies—completed in 1994 and 1995, respectively—that had attempted to assess the potential effects of background check fees on volunteerism. Both studies were conducted or sponsored by the Boy Scouts of America. The respondents to both studies generally endorsed the concept that adult volunteers should be required to have a background check, but the respondents also indicated that personal cost was a factor influencing their willingness to maintain their volunteer status. Due to sampling and other methodological limitations, however, neither study can be used to draw conclusions about the overall scouting

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volunteer population. Also, the reported results are speculative because reactions were solicited regarding fees not actually in place.

A minority view was presented by officials at 2 of the 20 nonprofit organizations we contacted in the study states (see table I.1 in app. I). These officials—who represented entities located in California—commented that the current fees for national checks were reasonable and easily could be borne by applicant volunteers. Here again, however, these views are speculative because, at the time of our review, neither of the two groups had requested any national fingerprint-based background checks of volunteers.

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## National Checks May Serve as a Deterrent and Also Can Identify Some Unsuitable Applicants Not Readily Detectable by Other Means

In the opinion of officials at the organizations we contacted, the authority to request national fingerprint-based checks is useful irrespective of the hit rates. These officials emphasized that although it is not quantifiable, the deterrent effect of the prospect of national background checks is significant—and, indeed, is a factor perhaps more important than any other aspect of such checks. Where applicable, for example, experienced officials told us of instances where individuals reconsidered their interest or withdrew their applications after learning that criminal history records would be checked. These officials acknowledged that such background checks may also deter a few qualified applicants who object to such checks due to privacy or other concerns. On balance, however, the officials said that the deterrent effect of national background checks was largely positive, that is, unsuitable applicants were being deterred from applying for child care-related positions.

Further, officials at most of the organizations we contacted said that national fingerprint-based checks can be an important supplement to traditional screening tools, such as personal interviews, reference queries or follow-ups, and checks of local and state records. According to these officials, in screening applicants, child care entities should not rely solely upon checks of criminal history records—whether national, state, or local—because such records may be incomplete or even nonexistent for many unsuitable applicants. On the other hand, national fingerprint-based background checks may be the only effective way to readily identify the potentially worst abusers of children, that is, the pedophiles who change their names and move from state to state to continue their sexually perverse patterns of behavior. Further, national checks can identify out-of-state criminal histories involving certain offenses that although not directly involving child abuse, may nonetheless be important in

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considering an applicant's suitability. These offenses include, for example, offenses involving drug possession or trafficking, assault or other violent acts, and theft—and even the offense of driving while intoxicated, which may have particular relevance in checking prospective applicants for positions involving transportation of children.

By focusing on selected job positions, organizations, or local jurisdictions within each state, we were able to identify situations clearly showing the usefulness of national fingerprint-based checks. For example:

- An individual moved from Texas to California and obtained a teaching position in a special education program. In conducting a national background check in 1996, as requested by the California Commission on Teacher Credentialing, the FBI identified records showing that the individual had been convicted of sexual battery (rape) in Florida.
- In one school district in Florida, national fingerprint checks of noninstructional staff hired in 1995 resulted in the firing of at least seven individuals. The search of criminal history records showed that each individual had been convicted for a serious offense, such as drug possession or trafficking or aggravated battery.
- Fingerprint searches of prospective foster parents in Tennessee during the period October 1995 through May 1996 showed that 120 (or 9.3 percent) of 1,293 applicants had criminal felony records. Of the 120 criminal history records, 58 involved out-of-state records, which were not identifiable based solely upon a search of Tennessee records.
- In Texas, a local nonprofit youth-serving organization requested a total of 98 national fingerprint-based checks from August 1, 1995, through July 17, 1996. One applicant was rejected as a volunteer, in part, because the criminal history records showed a drug possession conviction.
- In Virginia, from July 1993 through June 1996, one county requested approximately 3,800 state and national fingerprint checks on new-hire school employees. A total of 111 individuals were subsequently fired on the basis that they had lied on their applications (claiming no criminal conviction).

Appendix IV presents more details about these and related examples. However, due to an absence of reporting requirements, we were unable to obtain comprehensive statistics on the use and results of national fingerprint background checks requested by applicable groups within the five states.

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## IAFIS Completion Targeted for July 1999

In 1993, the FBI estimated that IAFIS development would extend into fiscal year 1998, with costs totaling about \$520.5 million. In October 1995, the FBI revised its schedule and cost estimates, projecting that completion of system development would slip 18 months (to about June 1999) and that costs would increase by over 20 percent (to between \$630 million and \$640 million). In a March 1996 status report submitted to the Senate Appropriations Committee, the FBI acknowledged that problems with various components prompted a decision (in February 1996) to adopt a new approach for developing and deploying IAFIS, which may lead to further revision of schedule and cost estimates.<sup>23</sup> In its next status report, the FBI's schedule and cost estimates were unchanged.<sup>24</sup> However, in December 1996, in commenting on a draft of our report, FBI officials told us that the IAFIS completion date had been revised to July 1999.

The new approach for developing and deploying IAFIS—reflecting the February 1996 decision mentioned above—called for the incremental availability of certain functions earlier in the process, rather than offering all IAFIS services at the final completion date. This incremental approach consists of six distinct segments or “builds,” with sequentially targeted completion dates (see app. V).

For purposes of NCPA-related national fingerprint-based background checks, initial state participation in IAFIS is targeted for October 1998. At that time, according to the FBI, a “small number” of other federal and state users will be selected to implement IAFIS capabilities on a trial basis, which would provide the FBI an opportunity to test the system in an operational environment before accepting all other users in July 1999.

State officials in California, Florida, Tennessee, Texas, and Virginia told us that they are aware of the equipment and software specifications and compatibility criteria necessary for interfacing with IAFIS and that their respective states plan to use the system. California and Florida plan to electronically process applicant fingerprint-based background checks when the FBI allows selected states to test this process, currently scheduled for October 1998. Tennessee and Virginia plan to interface with IAFIS whenever the system is available, which may be the system's planned final completion date of July 1999. Texas plans to interface with IAFIS in 2000 after making necessary equipment purchases.

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<sup>23</sup>FBI, Status Report on Integrated Automated Fingerprint Identification System (March 19, 1996).

<sup>24</sup>FBI, Status Report on Integrated Automated Fingerprint Identification System (Third Quarter, Fiscal Year 1996).

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## Agency Comments and Our Evaluation

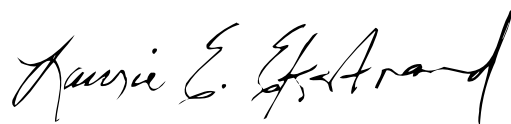
On December 6, 1996, we met with officials from the Department of Justice, including the Senior Counsel to the Director, Executive Office of the United States Attorneys, and representatives from the FBI's Criminal Justice Information Services to obtain comments on a draft of this report. Agency officials commented that the conclusions reached in the report are reasonable and that the report is sound and consistent with Department of Justice studies, reports, and other information on the subject of fingerprint-based background checks. Also, in addition to suggesting that the discussion of certain background topics be expanded, the officials provided technical comments and clarifications. We have incorporated these suggestions, comments, and clarifications where appropriate in this report.

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We are sending copies of this report to the Senate Committee on the Judiciary; the Chairman and the Ranking Minority Member, Subcommittee on Crime, House Committee on the Judiciary; the Attorney General; the Director, FBI; the Director, Office of Management and Budget; and other interested parties. Copies will also be made available to others upon request.

Major contributors to this report are listed in appendix VI. If you have any questions about this report, please contact me on (202) 512-8777.

Sincerely yours,



Laurie E. Ekstrand  
Associate Director, Administration  
of Justice Issues

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**Abbreviations**

FBI	Federal Bureau of Investigation
IAFIS	Integrated Automated Fingerprint Identification System
NCPA	National Child Protection Act of 1993

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# Objectives, Scope, and Methodology

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By letter dated January 3, 1996, the then-Chairman of the Subcommittee on Youth Violence, Senate Committee on the Judiciary, requested that we review certain implementation issues under the National Child Protection Act of 1993 (NCPA) (P.L. 103-209), as amended by section 320928 of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322). On the basis of the requester's specific interest, we focused our work on children, even though NCPA's provisions also apply to workers who have responsibility for the safety and well-being of the elderly and the disabled.<sup>1</sup> As agreed with the requester, we conducted work in five states (California, Florida, Tennessee, Texas, and Virginia) to address the following questions:

- To what extent have selected states enacted statutes authorizing national background checks of child care providers? Also, what fees are charged for background checks of volunteers, and how do these fees compare with the actual costs in these states?
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- What is the status of the Integrated Automated Fingerprint Identification System (IAFIS) being developed by the Federal Bureau of Investigation (FBI), and what are the selected states' plans for using the system when it becomes available?

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## Overview of Our Scope and Methodology

Initially, to obtain a broad understanding of NCPA requirements and implementation, state laws authorizing background criminal history checks, and available statistics and related information regarding child abuse, we contacted relevant public and private organizations that could provide national perspectives. At the federal level, for example, the FBI is responsible not only for developing IAFIS but also for reviewing and approving state laws that authorize national fingerprint-based searches of criminal history records. Another federal agency we contacted is the Department of Health and Human Service's National Center on Child

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<sup>1</sup>The scope of our work did not include individuals who work with children at federal facilities, such as child care centers at federal offices or military bases. Fingerprint-based background checks of these workers are required by the Victims of Child Abuse Act of 1990, as amended (42 U.S.C. 13041).

Abuse and Neglect. The Center administers the National Clearinghouse on Child Abuse and Neglect Information.

A January 1995 report (Effective Screening of Child Care and Youth Service Workers) by the American Bar Association Center on Children and the Law also provided useful overview perspectives.<sup>2</sup> Among other information, for example, the report presented the results of a national survey of the screening practices of approximately 3,800 child- and youth-serving agencies.

Further, we contacted the National Collaboration for Youth, which is an affinity group of the National Assembly of National Voluntary Health and Social Welfare Organizations.<sup>3</sup> The Collaboration has published guidance entitled Principles for Model State Legislation Implementing the National Child Protection Act (January 15, 1995).

To obtain more detailed information about specific states' automated fingerprint systems and statutory criminal history check provisions, as well as the views and concerns of organizations that recruit or use volunteers, we contacted relevant public agencies and at least three nonprofit entities in each of five judgmentally selected states—California, Florida, Tennessee, Texas, and Virginia. Generally, these selections were among the states suggested to us by officials at the public and private organizations mentioned above, that is, knowledgeable officials with national perspectives. Among other considerations, we selected states to reflect a range of (1) laws authorizing background checks and (2) experiences with automated fingerprint services. Also, in addition to geographical coverage, some specific factors we considered in selecting these five states are as follows:

- California leads all states in number of youth under age 18, according to U.S. Bureau of the Census data.
- Florida, according to Census Bureau data, is the fourth most populous state in terms of youth under age 18. Also, Florida law requires that instructional and noninstructional personnel hired to fill positions

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<sup>2</sup>The report was prepared under a grant by the Department of Justice's Office of Juvenile Justice and Delinquency Prevention.

<sup>3</sup>Collaboration members are: American Red Cross; Association of Junior Leagues International; Big Brothers/Big Sisters of America; Boy Scouts of America; Boys & Girls Clubs of America; Camp Fire Boys & Girls; Child Welfare League of America; 4-H, Extension Service; Girl Scouts of the USA; Girls Incorporated; National Network of Runaway and Youth Services; WAVE, Inc.; YMCA of the USA; and YWCA of the USA.

involving direct contact with students shall, upon employment, file a complete set of fingerprints.

- Tennessee was of specific interest to the requester. Under Tennessee law, effective January 1994, all persons applying for work (as a paid employee or as a volunteer) with children at a child welfare agency or with a religious, charitable, scientific, educational, athletic, or youth-serving organization may be required to (1) submit a fingerprint sample for criminal history background checks, or (2) attend a comprehensive youth protection training program, or (3) both submit a fingerprint sample and attend training.
- Texas, according to Census Bureau data, is the second most populous state in terms of youth under age 18. Also, the Volunteer Center of Dallas County (which recruits volunteers for more than 100 nonprofit entities located in the North Texas area) is the largest such centralized referral agency in the nation.
- According to the Virginia Department of Police, as of 1996, 42 of the state's 135 public school district boards are required by state law to have school employee applicants undergo a national fingerprint check.

In each of these states, we contacted the public agency responsible for criminal history records and/or fingerprint identification services to determine automation status and plans for connecting with IAFIS. Also, to determine trends in the number of reported child abuse cases, we contacted each state's applicable social services agency. Further, in these 5 states, we contacted a total of 20 nonprofit entities—at least 3 in each state. Generally, we tried to ensure that we selected a variety of nonprofit entities on the basis of such factors as size (including some large, nationally affiliated entities as well as some smaller, independent local entities); gender of the youth served (boys, girls, or both); and functions (e.g., sporting, educational, and religious activities).

Table I.1 lists all of the public (federal and state) and private organizations we contacted. Also, further details about the scope and methodology of our work regarding each of the objectives are presented in separate sections below.

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**Appendix I**  
**Objectives, Scope, and Methodology**

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**Table I.1: Public and Private Organizations Contacted**

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Federal organizations: Department of Health and Human Services: —National Center on Child Abuse and Neglect Department of Justice: —Bureau of Justice Statistics —Criminal Division, Child Exploitation and Obscenity Section —FBI, Criminal Justice Information Services Division —Office of Juvenile Justice and Delinquency Prevention
National organizations: American Bar Association Center on Children and the Law (Washington, DC) Big Brothers/Big Sisters of America (Philadelphia, PA) Boy Scouts of America (Irving, TX) National Assembly of National Voluntary Health and Social Welfare Organizations (Washington, DC) National Association of State Directors for Teacher Education and Certification (Seattle, WA) National Center for Missing and Exploited Children (Arlington, VA) National Center for the Prosecution of Child Abuse (Alexandria, VA) National Collaboration for Youth (Washington, DC) National Committee to Prevent Child Abuse (Chicago, IL) National Conference of State Legislatures (Denver, CO) SEARCH Group, Inc. (Sacramento, CA)
California public organizations (Sacramento): California Commission on Teacher Credentialing Department of Justice —Bureau of Criminal Identification and Information Department of Social Services —Adoptions Services Bureau —Community Care Licensing Division, Criminal Records Clearance Bureau
California private organizations: Children’s Receiving Home of Sacramento Sacramento Court Appointed Special Advocate Program Sacramento Student Buddy Program
Florida public organizations (Tallahassee): Bureau of Teacher Certification Commission on Community Service Department of Health and Rehabilitative Services, Division of Children and Family Services —District Two —Florida Abuse Registry Department of Law Enforcement, Division of Criminal Justice Information Systems Leon County School District
Florida private organizations: American Red Cross, Capital Area Chapter (Tallahassee) Boy Scouts of America, South Florida Council (Miami) East Hill Baptist Church (Tallahassee) Florida Recreation and Park Association, Inc. (Tallahassee) Volunteer Center of Tallahassee, Sponsored by the United Way of the Big Bend (Tallahassee)

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(continued)

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Tennessee public organizations (Nashville):

Tennessee Bureau of Investigation  
—Information Systems Division  
—Records and Identification Unit  
Department of Human Services

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Tennessee private organizations:

Boy Scouts of America, Middle Tennessee Council (Nashville)  
Buddies of Nashville (an affiliate of Big Brothers/Big Sisters)  
Volunteer Center of Nashville

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Texas public organizations (Austin):

Department of Protective and Regulatory Services  
Texas Education Agency  
Department of Public Safety

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Texas private organizations:

Big Brothers/Big Sisters of America (Austin)  
North Texas State Soccer Association (Carrollton)  
St. Elizabeth Ann Seton Catholic Church (Plano)  
Tejas Girl Scout Council, Inc. (Dallas)  
Volunteer Center of Dallas County (Dallas)  
YMCA of Metropolitan Dallas (Dallas)

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Virginia public organizations:

Chesterfield County Public Schools (Chesterfield County)  
Department of Social Services (Richmond)  
—Child Abuse and Neglect Information Systems Division  
—Foster Care and Adoptions  
—Office of Volunteerism  
Department of State Police, Criminal Records Division (Richmond)  
Department of Youth and Family Services, Background  
Investigations Unit (Richmond)  
Henrico County Public Schools (Henrico County)

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## Scope and Methodology of Our Work Regarding States' Statutes and Background Check Fees and Costs

To identify applicable legislation, we contacted the FBI's Criminal Justice Information Services Division, which is responsible for approving state statutes that authorize child care-related organizations to request national fingerprint-based background checks. The FBI provided us its list of applicable state statutes, which were approved as of March 1996. In reference to the five study states, we verified the accuracy and completeness of the FBI's list by contacting appropriate officials in each state and by reviewing each statute. Also, in reviewing the statutes, we looked for similarities and differences in terms of the various positions or work settings covered and whether national background checks were mandatory or simply permitted.

Further, we contacted the FBI and applicable law enforcement agencies in the five selected states to determine their fee policies and amounts. During these contacts, we inquired whether the respective jurisdiction's fees for



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background checks differentiated, for example, between for-profit and nonprofit entities and between paid employees and volunteers. Further, at the FBI and in the five state jurisdictions, we inquired about the availability of records, studies, or formulas showing how fees compare to the actual costs of conducting a background check. We reviewed available data on actual costs, but the scope of our work did not constitute a financial audit of costs.

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## Scope and Methodology of Our Work Regarding the Effect of State Laws and Fees on Voluntarism

To identify whether any nonprofit entities have studied or self-reported on the effects of criminal history background check laws and the related fees applicable to volunteers at their organizations, we interviewed officials at (1) the National Collaboration for Youth; (2) the headquarters of two member organizations of the Collaboration, i.e., Boy Scouts of America and Big Brothers/Big Sisters of America; and (3) at least three nonprofit entities in each of the five selected states. As applicable and permitted by available data, we reviewed the scope and methodology of the studies identified by these contacts. To supplement the findings of any available studies regarding whether fees discourage volunteers from participating in child care programs, we obtained opinions, anecdotes, and other pertinent information from officials at the various national and local nonprofit entities contacted. The interview data—opinions and related information—are not projectable to nor representative of all nonprofit entities in the respective states.

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## Scope and Methodology of Our Work Regarding the Usefulness of National Fingerprint Checks as a Screening Tool

Regarding the usefulness of national fingerprint-based background checks of applicants for positions involving interaction with children, we obtained both quantitative data (e.g., number of applicants disqualified on the basis of criminal histories) and qualitative data (e.g., opinions offered by experienced managers responsible for personnel decisions at various organizations). In so doing, we first reviewed the five study states' criminal history background check laws, which are approved by the FBI and authorize national fingerprint-based background checks for paid or volunteer positions involving child care. Within each of the five states, for selected jobs, work settings, or jurisdictions, we obtained available data on the number of national fingerprint checks requested from the FBI and, in turn, the number of "hits" based on criminal histories. Further, to determine whether these criminal history records were used or considered in actual personnel decisions, we followed up and contacted one or more applicable organizations at the local level. For example, if we were able to obtain hit data for schoolteachers in a given state, we contacted one or

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more local school districts to determine how many applicants were denied employment on the basis of the fingerprint-based background check.

To obtain additional information about the usefulness of national fingerprint-based background checks of child care workers, we discussed the merits and problems of such checks with applicable public agency officials in each of the five selected states, as well as with officials of various national and local nonprofit organizations (see tab. I.1).

Because our work covered only certain child care positions and locations within selected states, our findings may not be representative of statewide conditions in the respective state. Further, the findings cannot be projected to other states with similar positions because, among other reasons, state laws vary as to what constitutes a disqualifying crime.

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## Scope and Methodology of Our Work Regarding IAFIS Status and Selected States' Participation Plans

In determining the status of IAFIS, we focused on the FBI's implementation schedule by reviewing available planning documents and status reports prepared by the Bureau. We did not undertake a detailed systems review; that is, we did not evaluate the technical merits of the design configurations nor of the performance objectives.

Similarly, in contacting relevant agencies in five states, we did not undertake detailed systems reviews. Rather, our primary inquiries involved the extent to which each state planned to participate in IAFIS. Thus, for example, we inquired as to whether each state's existing (or planned) automated fingerprint identification system was (would be) compatible with the standards necessary to connect or interface with IAFIS. Further, because effective background checks depend upon the availability of reliable records, we obtained information about the status of the five states' efforts to automate their criminal history records, including final dispositions of cases. To obtain this status information, we contacted the applicable state agencies responsible for managing criminal history records, and we also reviewed the results of the most recent biennial survey conducted by the Department of Justice's Bureau of Justice Statistics and SEARCH Group, Inc.<sup>4</sup>

On December 6, 1996, we met with officials from the Department of Justice, including the Senior Counsel to the Director, Executive Office of the United States Attorneys, and representatives from the FBI's Criminal

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<sup>4</sup>SEARCH Group, Inc., based in Sacramento, California, is The National Consortium of Justice Information and Statistics.

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Justice Information Services to obtain comments on a draft of this report. Agency officials commented that the conclusions reached in the report are reasonable. The officials suggested that the discussion of certain background topics be expanded, and provided technical comments and clarifications. We have incorporated these suggestions, comments, and clarifications where appropriate into the report.

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# Selected States' Laws Authorizing the FBI to Conduct National Fingerprint-Based Criminal History Records Checks of Persons Interacting With Youth

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The authority for the FBI to conduct criminal record checks for civil (noncriminal justice) licensing or employment purposes is based upon Public Law 92-544, enacted in 1972. Pursuant to the 1972 act, the FBI is authorized to exchange identification records with officials of state and local governments for purposes of licensing and employment if authorized by a state statute that has been approved by the U.S. Attorney General. The Access Integrity Unit within the FBI's Criminal Justice Information Services Division is responsible for reviewing state statutes to determine if the statutes meet the applicable standards. The current standards used by the FBI in approving state statutes have been established by a series of memoranda issued by the Office of Legal Counsel, Department of Justice. Among other things, a state's statutes must (1) specify the categories of jobs or positions covered; (2) require fingerprinting of the employee, licensee, or volunteer; and (3) authorize the use of FBI records for checking criminal history records of the applicant.

NCPA did not give the states any new access to national fingerprint-based background checks and did not mandate the states to pass laws. Rather, NCPA highlighted the need for such checks of criminal history records and encouraged the states to pass appropriate legislation.

According to Access Integrity Unit officials, as of March 1996, a total of 37 states had enacted one or more child care-related laws meeting the requisite criteria for the FBI to conduct fingerprint-based national checks of criminal history records.<sup>1</sup> The following sections and tables summarize the applicable child care-related criminal history background check statutes for each of the states covered in our review—California, Florida, Tennessee, Texas, and Virginia.

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## California Statutes Authorizing National Fingerprint-Based Background Checks

According to California officials, as early as the 1970s, California statutes authorized national fingerprint-based criminal history background checks for selected child care groups. Since then, as summarized in table II.1, California laws have been enacted or amended to either require or permit background checks on many categories of persons (including volunteers in some instances) applying to work with or provide care for children in California. Although several of the California statutes do not specifically refer to a national check, the statutes either require or permit a state background check. According to California Department of Justice officials, the state statutes under which agencies submit applicant

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<sup>1</sup>The other 13 states, those without FBI-approved criminal history background check statutes, are Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Mississippi, Montana, Nebraska, New Hampshire, Utah, and Vermont.

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fingerprints for national background checks have all been previously approved by the FBI. However, in recognizing that some of these statutes need to be revised to meet current federal standards, the officials commented substantially as follows:

- Over the years, the requirements or standards for access to FBI criminal history record information have evolved from a series of memoranda issued by the U.S. Department of Justice's Office of Legal Counsel. Therefore, not all of California's previously approved statutes meet the current requirements or standards. However, because California was granted prior authorization, the FBI has indicated that it will accept all fingerprint submission categories that were previously approved. The California Department of Justice has plans to advise relevant licensing and employment agencies that certain state statutes need to be revised to meet current standards for FBI access.

According to statistics provided by the California Department of Justice, from July 1995 through June 1996, California requested 147,791 national fingerprint checks for applicant background checks, of which 50,434 were for peace officers and criminal justice employees. A California Department of Justice official told us that the majority of the remaining 97,357 national checks were submitted under child care-related statutes.<sup>2</sup> For example, the California Commission on Teacher Credentialing requested 27,564 national checks for applicants from July 1995 through June 1996.

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<sup>2</sup>The official also told us that 12 of the 97,357 national checks were submitted for volunteers at nonprofit youth-serving organizations.

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**Table II.1: Summary of California Statutes Authorizing National Fingerprint-Based Background Checks of Child Care Providers**

<b>California statutes</b>	<b>Statute covers:</b>	<b>Personnel covered</b>	<b>National criminal records checks</b>
Cal. Educ. Code 44340 and 44341	Teacher certification	Applicants to be teachers	State checks permitted; no reference to national checks <sup>a</sup>
Cal. Educ. Code 45125	Positions in certain school districts that do not require certification	New and current employees	State checks required; no reference to national checks <sup>a</sup>
Cal. Vehicle Code 12517.3 and 12517.4	Certification to drive a school bus	Applicants to be drivers	Permitted
Cal. Educ. Code 44237	Private school personnel who do not possess valid state teaching credentials	New employees who have contact with minors	Required
Cal. Educ. Code 58751	Staff for extended school day programs with frequent and routine contact with participants	Volunteers and employees	Required
Cal. Health and Safety Code 1522 and 1596.871	Personnel of day care facilities, foster family homes, family day care facilities, community care facilities, and certified family homes for children	Applicants, persons other than clients residing in the facilities, and employees having frequent and routine contact with children	State checks required; no reference to national checks <sup>a,b</sup>
Cal. Family Code 8712, 8811, 8908, and 9000-9007	Adoptions (various types)	Applicants for adoptions	State checks permitted; no reference to national checks <sup>a,b</sup>
Cal. Penal Code 11105.3	Human resource agency (public or private) positions involving supervisory or disciplinary power over persons under care	Applicants for a license, or for a volunteer or an employment position	State checks permitted; no reference to national checks <sup>a</sup>
Cal. Educ. Code 10911.5	Public recreation program positions involving direct contact with children	New and current employees	State checks required; no reference to national checks <sup>a</sup>
Cal. Educ. Code 8171 and 8172	Registered child care providers	Applicants to be providers	Permitted

<sup>a</sup>Over the years, there have been changes in federal standards for access to criminal history information maintained in FBI files. Although current federal standards require that state statutes must expressly or by implication authorize use of FBI records for applicant background checks, several California laws do not contain explicit language regarding this requirement. However, according to California Department of Justice officials, the FBI has indicated it will continue conducting national checks on California applicants while California updates its laws to meet current standards.

<sup>b</sup>California Department of Social Services regulations require FBI background checks only for applicants who have not lived in California for the past 2 years or when there is suspicion that the applicant committed an offense in another state.

Source: GAO summary of California statutes.

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**Florida Statutes**  
**Authorizing National**  
**Fingerprint-Based**  
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As table II.2 shows, Florida statutes call for mandatory rather than permissive checks and cover a range of positions or work settings dealing with children. The statutes cover personnel in most child care-related settings, except youth-serving organizations. In calendar year 1995, the Florida Department of Law Enforcement received 270,435 requests for national fingerprint-based checks of noncriminal justice applicants. Department officials, however, were unable to quantify exactly how many of these requests were for personnel in or applying for positions in work settings involving child care. However, officials at the Florida Department of Health and Rehabilitative Services said they requested around 100,000 national checks in 1995, and officials at the Florida Department of Education said they requested around 25,000 that year.

**Table II.2 : Summary of Florida Statutes Authorizing National Fingerprint-Based Background Checks of Child Care Providers**

<b>Florida statutes<sup>a</sup></b>	<b>Statute covers:</b>	<b>Personnel covered</b>	<b>National criminal records checks</b>
Fla. Stat. Ann. 231.17 and 231.173	Teacher certification	Applicants for certification	Required
Fla. Stat. Ann. 231.02	School district personnel (instructional and noninstructional) in positions requiring direct contact with students <sup>b</sup>	New employees	Required
Fla. Stat. Ann. 231.1725	Substitute teachers, nondegreed teachers of career education, and noncertified teachers in critical teacher shortage areas	New employees	Required
Fla. Stat. Ann. 231.1712	Instructional positions requiring a teaching certificate in public and nonpublic schools	New employees	Required
Fla. Stat. Ann. 232.258	After-school programs	New employees	Required
Fla. Stat. Ann. 230.2305	Prekindergarten early intervention programs	New employees	Required
Fla. Stat. Ann. 110.1127	Staff at the Florida Department of Health and Rehabilitative Services in positions providing care to children for 15 hours or more per week	Employees	Required
Fla. Stat. Ann. 402.301-402.319 and 409.175	Licensed positions—in child care facilities, family foster homes, residential child care facilities, and child placing agencies—that involve direct contact with children	Volunteers, <sup>c</sup> employees, owners, and operators	Required

(continued)

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<b>Florida statutes<sup>a</sup></b>	<b>Statute covers:</b>	<b>Personnel covered</b>	<b>National criminal records checks</b>
Fla. Stat. Ann. 285.18	Certain Indian tribe programs (education, Head Start, and day care)	Employees	Required
Fla. Stat. Ann. 397.311 and 397.451	Substance abuse provider personnel having direct contact with specified clients under the age of 18	Owners, directors, employees, and volunteers <sup>c</sup>	Required
Fla. Stat. Ann. 39.001	Personnel in facilities providing state-contracted programs for children	Owners, operators, employees, and volunteers <sup>c</sup>	Required

<sup>a</sup>The state's general statutory authority for conducting employment background checks is Florida Statutes Annotated Chapter 435. This chapter applies whenever background checks for employment are required by another provision of Florida law.

<sup>b</sup>A 1996 amendment extended coverage to include all personnel currently employed who have not been fingerprinted, in addition to new employees. All certified personnel must be fingerprinted by January 1, 1997, and all other personnel must be fingerprinted by January 1, 1998.

<sup>c</sup>A volunteer who assists on an intermittent basis for less than 40 hours per month need not be checked if the volunteer is under direct and constant supervision by persons who meet the background requirements.

Source: GAO summary of Florida statutes.

## Tennessee Statutes Authorizing National Fingerprint-Based Background Checks

Tennessee statutes authorizing national fingerprint-based criminal history background checks became effective January 1, 1994. As table II.3 shows, the laws cover a broad range of positions or work settings involving interaction with children in Tennessee. The statutes permit rather than require national checks and apply to new applicants only; that is, the statutes do not cover persons who were already in paid or volunteer positions as of January 1, 1994. Under these statutes, Tennessee agencies and organizations requested 1,522 national fingerprint checks for child care provider applicants during calendar year 1995. Only 2 of the 1,522 checks were for volunteer applicants.



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**Table II.3: Summary of Tennessee Statutes Authorizing National Fingerprint-Based Background Checks of Child Care Providers**

<b>Tennessee statutes<sup>a</sup></b>	<b>Statute covers:</b>	<b>Personnel covered</b>	<b>National criminal records checks</b>
Tenn. Code Ann. 49-5-413	Public schoolteachers	Applicants to be teachers	Permitted
Tenn. Code Ann. 71-3-533	Child welfare agency positions that involve working with children	Applicants to be volunteers or employees	Permitted
Tenn. Code Ann. 37-1-414	Religious, charitable, scientific, educational, athletic, or youth service institutions or organizations that work with children	Applicants to be volunteers or employees	Permitted

<sup>a</sup>The state's general statutory authority for requesting the FBI to conduct national fingerprint checks is Tennessee Code Annotated 38-6-114. This statute authorizes the Tennessee Bureau of Investigation to submit fingerprints for local boards of education and other organizations to the FBI.

Source: GAO summary of Tennessee statutes.

## Texas Statutes Authorizing National Fingerprint-Based Background Checks

All the child care-related provisions of Texas law permit rather than require national checks. As table II.4 shows, many child care-related organizations in Texas are authorized to request national fingerprint-based background checks. However, in response to our inquiries, officials at the Texas Department of Public Safety said they were aware of very few child care-related national checks. Similarly, officials at the Texas Education Agency said they did not know if any school districts in the state had requested such checks. Officials at the Texas Department of Protective and Regulatory Services said the Department requested 1,195 national fingerprint-based checks in calendar year 1995, primarily on applicants providing child care.

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**Table II.4 : Summary of Texas Statutes Authorizing National Fingerprint-Based Background Checks of Child Care Providers**

<b>Texas statutes<sup>a</sup></b>	<b>Statute covers:</b>	<b>Personnel covered</b>	<b>National criminal records checks</b>
Tex. Code Ann. 411.090	Applicants for teacher certification	Applicants to be teachers	Permitted
Tex. Code Ann. 411.097	Instructional and noninstructional positions in schools <sup>b</sup>	Applicants to be volunteers, employees, or transportation contractors	Permitted
Tex. Code Ann. 411.114	License, registration, or certification for child care facility or registered family home; Texas Department of Protective and Regulatory Services positions involving direct delivery of protective services to children; volunteer positions at specified nonprofit organizations, including the "I Have a Dream/Houston" program and the local affiliates of Big Brothers/Big Sisters of America <sup>c</sup>	Volunteers and employees	Permitted
Tex. Code Ann. 411.102	Adults living in a McGruff House <sup>d</sup>	Residents	Permitted
Tex. Code Ann. 411.103	Participant in a child watch program who has given written consent to disclosure of criminal history record information <sup>e</sup>	Volunteers	Permitted

<sup>a</sup>The state's general statutory authority for requesting the FBI to conduct national fingerprint checks is Texas Code Annotated 411.087. This statute permits authorized entities to obtain criminal history record information maintained by the FBI.

<sup>b</sup>The statute covers public schools, charter schools, private schools, regional educational service centers, and educational shared services arrangements.

<sup>c</sup>This is a partial listing of positions covered.

<sup>d</sup>A McGruff House is a temporary haven for school-age children.

<sup>e</sup>A child watch program is designed to protect schoolchildren by having parents or volunteers patrol their residential neighborhoods and schools to watch for suspicious activity, dangers, and threats to children.

Source: GAO summary of Texas statutes.

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**Virginia Statutes  
Authorizing National  
Fingerprint-Based  
Background Checks**

At the time of our review, Virginia statutes authorizing national fingerprint-based criminal history background checks of persons interacting with children in Virginia were limited to public schools and juvenile residential facilities, as table II.5 shows. The statutes are mandatory rather than permissive and apply only to persons who accept a paid or volunteer position, as applicable, after the effective date of the respective statute. According to Virginia Department of State Police officials, in calendar year 1995, approximately 10,000 national fingerprint-based criminal history background checks were conducted for the state's public schools, and approximately 3,000 national checks were conducted for the state's juvenile residential facilities.

**Table II.5: Summary of Virginia Statutes Authorizing National Fingerprint-Based Background Checks of Child Care Providers**

<b>Virginia statutes</b>	<b>Statute covers:</b>	<b>Personnel covered</b>	<b>National criminal records checks</b>
Va. Code Ann. 22.1-296.2	Positions in designated public schools <sup>a</sup>	Applicants	Required
Va. Code Ann. 63.1-248.7:2	State-regulated or state-operated residential juvenile facility positions that involve providing services alone on a regular basis to juveniles	Volunteers and employees—if not employed at that facility before July 1, 1994	Required

<sup>a</sup>At the time of our review, 42 of Virginia's 135 school boards were required to request state and national fingerprint-based background checks of applicants as a condition of employment. A 1996 provision extended Virginia law to require a national fingerprint-based background check as a condition of employment at certain private or parochial schools. The effective date of this law is July 1, 1997 (Va. Code Ann. 22.1-296.3).

Source: GAO summary of Virginia statutes.

# Fingerprint-Based Background Check Fees and Actual Costs

Under NCPA, the fees collected by the FBI and authorized state agencies, respectively, for fingerprint-based records checks of volunteers with a qualified entity<sup>1</sup> may not exceed \$18 or the actual cost, whichever is less. Also, the act specifies that the states shall establish fee systems (for fingerprint background checks) that ensure that fees to nonprofit entities for background checks do not discourage volunteers from participating in child care programs.

## FBI Fees and Actual Costs

At the time of our review, the FBI's fee for national fingerprint-based criminal history checks was \$18 for volunteers and \$24 for all others. Before NCPA was amended in 1994, the FBI's user fee policy was to charge \$24 for processing each applicant's fingerprint card. Table III.1 shows FBI fees for conducting fingerprint-based searches of criminal history records since October 1989.

**Table III.1: FBI's Fees for Conducting Fingerprint-Based Searches of Criminal History Records**

Effective date	Fees for billing states <sup>a</sup>	Fees for nonbilling states
10-01-89	\$13	\$14
03-01-90	19	20
10-01-90	21	23
01-03-94	22	24
07-17-95	22 and 16 <sup>b</sup>	24 and 18 <sup>b</sup>

<sup>a</sup>Most states (45) have cumulative fee accounts, with balance amounts paid each month to the FBI; these states are referred to as "billing" states. As an incentive for this type of consolidated accounting arrangement, the FBI allows these states to offset their administrative costs by retaining a "handling charge" portion (\$2) of the normal fees, which is applicable to the "nonbilling" states. The five nonbilling states are Connecticut, Kentucky, Maine, Massachusetts, and Pennsylvania.

<sup>b</sup>The lower fee amount applies to volunteers.

Source: FBI.

According to expenditure and workload data provided to us by the FBI, the Bureau's costs were projected to average \$18 for each fingerprint-based background search of criminal history records during fiscal year 1996. As table III.2 shows, this average included a handling charge of \$2. Also, a surcharge of \$6 was applied for each set of fingerprints processed for nonvolunteers.

<sup>1</sup>NCPA defines "qualified entity" as a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services. 42 U.S.C. 5119c(10).

**Appendix III  
Fingerprint-Based Background Check Fees  
and Actual Costs**

**Table III.2: FBI's Costs for Conducting Fingerprint-Based Searches of Criminal History Records (Fiscal Year 1996)**

<b>Cost or object classification</b>	<b>Average costs for each set of fingerprints</b>
Personnel	\$9.37
Payroll benefits	2.42
Rent, mail, and other	2.29
Equipment	0.37
Supplies	0.22
Travel	0.13
Printing	0.02
Other services	1.18
Handling charge	2.00 <sup>a</sup>
Subtotal	\$18.00
Surcharge	6.00 <sup>b</sup>
<b>Total</b>	<b>\$24.00</b>

<sup>a</sup>As noted in table III.1, the "billing" states do not pay the FBI this amount partly because cumulative fee accounts reduce the FBI's need to process or handle individual checks.

<sup>b</sup>Under 28 U.S.C. 534, the FBI was authorized to use a surcharge to offset the costs of automation of fingerprint identification services beginning in fiscal year 1991.

Source: FBI.

## States' Fees and Actual Costs

A complete check of criminal history records has both FBI and state agency components. Thus, in addition to the national check, four of the five states we studied (California, Tennessee, Texas, and Virginia) performed a fingerprint-based search of state records. Table III.3 shows selected states' fees for conducting fingerprint-based checks of individuals seeking paid or volunteer positions with organizations serving children.

**Table III.3: Selected States' Fees for Conducting Fingerprint-Based Checks of Child Care Providers**

<b>State</b>	<b>Paid employees</b>	<b>Volunteers</b>
California	\$0, \$32, \$42, or \$52	\$0, \$32, 42, or \$52
Florida <sup>a</sup>	not applicable	not applicable
Tennessee	24	18
Texas	15	15
Virginia	13	13

<sup>a</sup>At the time of our review, Florida did not perform state fingerprint-based checks of criminal history records for purposes of employment and licensing.

Source: Information provided to GAO by applicable state agencies.

**Appendix III  
Fingerprint-Based Background Check Fees  
and Actual Costs**

**California**

As table III.4 shows, California’s fees for fingerprint checks of child care provider applicants ranged from \$0 to \$52, depending on the type of organization or agency involved and the speed of processing required.

**Table III.4: California’s Fees for Conducting Fingerprint-Based Checks of Child Care Providers**

<b>\$0</b>	<b>\$32</b>	<b>\$42</b>	<b>\$52</b>
Nonprofit youth-serving organizations and human resource agencies	For-profit youth-serving organizations and human resource agencies	School bus drivers	Residential care for children and day care facilities with more than six children
Foster care	Private and noncertified public school employees	Santa Clara County Department of Social Services/unlicensed foster care (a pilot program)	
Adoptions (stepparent)	Adoptions (agency, independent, and intercountry)		
Residential care for children and day care facilities with six children or fewer	Trustline Registry (registered child care workers)		
Family day care	Parks and recreation employees		

Source: California Department of Justice.

State fingerprint checks are free for all employees and volunteers at nonprofit youth service organizations and human resource agencies covered under California Penal Code section 11105.3. These organizations include Boy Scouts and Girl Scouts, sports leagues, nanny services, YMCAs, YWCAs, and newspapers (youth carrier supervisors).

Volunteers at other nonprofit entities, including those licensed by the California Department of Social Services, can also get free state fingerprint checks under section 11105.3. However, information disseminated from these checks is restricted to arrests resulting in conviction (and arrests pending adjudication) for sex crimes, drug crimes, or crimes of violence. This limited dissemination does not permit a volunteer to perform the duties of a paid employee. Before being allowed to perform such duties, the individual would be required to have a more comprehensive \$52 state check through the Department of Social Services, during which all arrest and conviction information is obtained.

Employees and volunteers at for-profit youth-serving organizations and human resource agencies pay a \$32 fee, which is California’s standard fingerprint processing fee. This fee is based on the California Department of Justice’s reported costs for processing applicant fingerprints.

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**Appendix III  
Fingerprint-Based Background Check Fees  
and Actual Costs**

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Department officials told us the processing costs per applicant averaged \$32.62, which consisted of \$13.84 in direct processing costs, \$11.30 for file improvements, and \$7.48 for workload enhancements. According to California Department of Justice officials, the maintenance costs for applicant processing are high because the Department retains most applicant fingerprint cards and, thus, is able to later notify applicable organizations and entities of any subsequent arrests of the individuals.

The \$42 fee consists of the standard \$32 fee plus an extra \$10 for expedited service (guaranteed turnaround in 17 working days). According to California Department of Justice officials, the extra \$10 supports additional staff dedicated solely to processing requests for expedited service.

The \$52 fee applies to employees and volunteers not exempt from fees at facilities licensed by the California Department of Social Services' Community Care Licensing Division. This fee consists of the standard \$32 fee, plus \$10 for expedited service and an additional \$10 to help subsidize state checks done for the Division's fee-exempt providers (foster care, family day care, and residential child care and day care facilities with six or fewer children). According to statistics provided by the California Department of Justice, about one-half of the approximately 118,000 state checks done for the Department of Social Services during July 1995 through June 1996 were fee-exempt.

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**Florida**

Florida Department of Law Enforcement officials told us that the state does not perform fingerprint-based checks of criminal history records for purposes of employment and licensing. These officials explained that the state's computer system for fingerprint searches was not sufficient to handle such applicants, either for paid employees or for volunteers. Thus, our questions regarding the fees for and the actual costs of fingerprint checks were not applicable to Florida. However, for these noncriminal justice purposes, the state was performing name-based background checks and charging a fee of \$15 for most applicants. The only exception is the \$8 fee charged for applicant background checks required by the Florida Department of Health and Rehabilitative Services.

For calendar year 1995, the Florida Department of Law Enforcement performed a total of 1,134,013 name-based searches for employment and

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**Appendix III  
Fingerprint-Based Background Check Fees  
and Actual Costs**

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licensing and in response to public requests.<sup>2</sup> Further, 535,941 (or 47 percent) of the total requests for criminal history searches were accompanied by fingerprint cards, which the Department forwarded to the FBI for national checks.<sup>3</sup> The state's records were insufficiently detailed for us to determine how many of these national checks involved child care positions. However, many of the requests for national checks were submitted by various state agencies, such as the Florida Department of Banking and Finance and the Florida Department of Insurance, that obviously have no child care responsibilities. One exception is the Florida Department of Health and Rehabilitative Services, which is responsible for licensing and certifying facilities for the care of children. During 1995, this department requested over 100,000 national background checks.

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**Tennessee**

By state statute, Tennessee's fee structure mirrors that of the FBI, which currently is \$18 for volunteers and \$24 for all others. Tennessee Bureau of Investigation officials told us that given this statutory basis for setting fees, the state has not attempted to calculate its actual costs.

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**Texas**

Texas' fee is \$15 for fingerprint checks of applicants, whether volunteers or nonvolunteers. This fee amount, according to Texas Department of Public Safety officials, was established in 1990 on the basis of a study that calculated actual costs totaling \$11.42 per applicant. According to the study, this total consisted of employee costs (\$5.81); supervisory costs (\$1.46); utility, materials, and supply costs (\$3.65); and data entry costs (\$0.50). Even though these costs for fingerprint searches totaled \$11.42 per applicant, the study recommended a fee of \$15. This amount, according to the study, would ensure that Texas fees were consistent with other states' fees for similar services. Texas officials told us that the fee was later changed to \$17.25, as part of a general, across-the-board increase of 15 percent of all the state's applicable fees. The officials explained, however, that the state legislature "rolled back" the fee to \$15 in 1996.

In calendar year 1995, the Texas Department of Public Safety conducted 115,398 fingerprint-based searches of applicants.<sup>4</sup> Of this total, the

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<sup>2</sup>Because Florida is an open records state, anyone residing in the state can request (for any reason) a name-based search on any other person residing in Florida. According to Florida Department of Law Enforcement statistics, public requests accounted for 593,308 (or 52 percent) of the total name-based searches conducted in 1995.

<sup>3</sup>None of the public requests were forwarded to the FBI. Those requests were for name-based searches only, which were conducted by the Florida Department of Law Enforcement.

<sup>4</sup>Major categories included persons applying for concealed handgun permits (38,863 applicants) and private investigator licenses (34,390 applicants).



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**Appendix III  
Fingerprint-Based Background Check Fees  
and Actual Costs**

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Department forwarded 15,287 requests to the FBI for national searches. Of these national searches, 1,195 involved applicants for positions involving interaction with children.<sup>5</sup>

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**Virginia**

Virginia's fee is \$13 for fingerprint checks of applicants, whether volunteers or nonvolunteers. Virginia Department of State Police officials told us that this fee amount has been in effect for several years and, at the time of implementation, was set to match the FBI's then-current fee.<sup>6</sup> The officials said that the state has not calculated or analyzed the actual costs of conducting fingerprint checks. On the other hand, the officials noted that in 1993, the Department did analyze the costs for conducting name-based checks. At that time, according to these officials, the Department's actual costs for a name-based check averaged \$14.48 per applicant.

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<sup>5</sup>The 1,195 national fingerprint searches were performed for the Texas Department of Protective and Regulatory Services, which licenses foster homes and child care facilities. Also, the Department serves as the conduit for certain nonprofit entities to request national fingerprint searches.

<sup>6</sup>Effective October 1, 1989, the FBI's fee for billing states was \$13 (see tab. III.1).

# Specific Uses and Results of Fingerprint-Based Background Checks in Selected States

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The specific uses and results of fingerprint-based background checks were difficult to quantify in many cases because there were no reporting requirements and statistics were not routinely kept. Starting with the FBI, we tried to obtain the number of fingerprint-based criminal history checks relating to NCPA. The FBI performed 1,834,369 fingerprint-based criminal history checks in fiscal year 1995 for civil nonfederal applicants. However, the FBI was unable to disaggregate that figure to identify how many checks relating to NCPA were performed for child care purposes or volunteer organizations.

For each of the five study states, we had similar difficulties obtaining comprehensive statistics on the use and results of national fingerprint-based checks for NCPA purposes. However, by focusing on selected job positions, organizations, or local jurisdictions within each state, we were able to identify situations clearly showing the usefulness of national fingerprint-based checks.

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## California: Results of Background Checks of Teachers and Other Credentialed School Employees

According to California officials, state and FBI fingerprint-based background checks are requested on all individuals applying for credentials to work in California public schools, including new teachers, counselors, and administrators. The officials indicated that state checks have been conducted since 1951, and FBI checks since at least the 1970s. The California Commission on Teacher Credentialing is responsible for requesting the checks, reviewing the results, and determining whether applicants are or are not qualified. A California statute contains a list of offenses (e.g., drug-related and sexual assault offenses) that result in mandatory denials or revocation of credentials.<sup>1</sup> In addition, a California statute provides the Commission with discretionary authority to deny credentials to any applicant who is guilty of the offenses listed therein.<sup>2</sup>

The Commission performs this function centrally for all of the state's 7,818 public schools (as of October 1994). These schools had a total of 213,389 full-time credentialed employees for the period July 1994 through June 1995. Applicants pay \$32 for the California Department of Justice state check and \$24 for the national FBI check. These fees are part of the total fee to obtain California credentials, and applicants are not reimbursed. According to Commission officials, obtaining background check results from the FBI takes approximately 4 months.

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<sup>1</sup>Cal. Educ. Code 44425 and 44346.

<sup>2</sup>Cal. Educ. Code 44345.

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**Appendix IV  
Specific Uses and Results of  
Fingerprint-Based Background Checks in  
Selected States**

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For the period July 1995 through June 1996, the California Commission on Teacher Credentialing requested 27,564 state and FBI background checks. Of these total checks, 540 criminal history reports (“rap sheets”) were received from the California Department of Justice, and 66 rap sheets were received from the FBI via the California Department of Justice.

From July 1995 through June 1996, a total of 45 initial applicants were denied credentials for various reasons. Commission officials estimate that the fingerprint-based background checks were used as the basis for denial in about 95 percent of all denials. The officials added that in one or two cases each year, the background checks result in an automatic denial of a certification.

The Commission did not have detailed statistics on the number of hits that resulted from FBI checks after the search of California’s records found no criminal histories. Commission officials told us that national checks are a key component in protecting the safety of schoolchildren and are worth doing even if they reveal only a few criminal histories not covered in California. The officials provided the following example of the usefulness of national checks:

- In 1996, an individual with a lifetime teacher certification from Texas noted on his California application that he had never been convicted of a felony. However, the FBI check requested by the Commission showed that the applicant had been convicted of sexual battery (rape) in Florida. This offense occurred before he was credentialed in Texas, which does not do national background checks as part of the teacher certification process. The California Commission may not have learned about this crime if not for the FBI check. The individual was teaching a special education program in California for 6 months before the results of the FBI check were received.<sup>3</sup> There was no indication that any children were abused. The employee was dismissed.

In addition to applicant background checks, if a credential holder is subsequently arrested or convicted of a crime, the California Department of Justice sends a “subsequent arrest notice” to the Commission.<sup>4</sup> For the period July 1995 through June 1996, these notices resulted in 53 mandatory revocations, i.e., the individuals were convicted of a specified

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<sup>3</sup>California statutes permit the issuance of temporary credentials while the results of the FBI’s background checks are pending. Cal. Educ. Code 44332 and 44332.5.

<sup>4</sup>The criminal charges reviewed by the Commission may be as minor as petty theft or as serious as murder and child molestation.

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**Appendix IV  
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criminal offense involving drugs or sex.<sup>5</sup> Also, on another 39 individuals, the Commission imposed “interim suspensions,” which are required by California law when an individual is criminally charged with a specified sex offense or when an individual pleads “no contest” to specified serious criminal offenses.<sup>6</sup>

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**Florida: Results of  
National Background  
Checks of Teachers and  
Other School Employees**

In calendar year 1995, the Florida Department of Law Enforcement forwarded to the FBI 270,435 requests for national fingerprint-based checks of noncriminal justice applicants. The Department’s statistics did not show which agencies or entities in the state requested these checks.

We focused our work in Florida on teachers and other school employees. Regarding applicants for certified instructional positions in Florida schools, state law does not specify disqualifying crimes. However, one of the requirements for qualification is good moral character. The Florida Bureau of Teacher Certification officials told us that requesting fingerprint-based background checks, reviewing the results, and determining whether the applicants are or are not qualified are their responsibilities. The officials added that the Bureau performs this function centrally for all of the state’s 67 public school districts, which had a total of 132,080 teachers in 1995.

Florida Bureau of Teacher Certification officials disqualified a total of 56 applicants for the 1995 school year (July 1, 1995, through June 30, 1996). However, the officials noted that even though the Bureau may disqualify as many as 100 applicants a year on the basis of criminal history records, most of these decisions are reversed on appeal. More specifically, these officials commented substantially as follows:

- The Florida Bureau of Teacher Certification has requested a total of about 25,000 national fingerprint-based checks annually in recent years. Checks conducted on applicants during school year 1995 resulted in identification of 1,079 individuals with criminal history records.<sup>7</sup> Of these total hits, the Bureau determined that 56 individuals should not be certified to teach, and the Bureau provided each of these individuals a written notification of disqualification. After receiving such notification, 37 of the 56 individuals appealed to a centralized review board, which reversed all but 5 of the

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<sup>5</sup>California law provides for no hearing or administrative appeal for an individual convicted of a specified mandatory revocation offense. Cal. Educ. Code 44425.

<sup>6</sup>Cal. Educ. Code 44425.

<sup>7</sup>The Florida Bureau of Teacher Certification does not keep specific information on each hit, and therefore could not separate these hits into state hits versus FBI hits.

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**Appendix IV  
Specific Uses and Results of  
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Bureau noncertification decisions. Thus, after the appeals process, the remaining number of adverse personnel actions based upon criminal histories was 24 (i.e., the 5 unsuccessful appellants, plus the 19 applicants who did not appeal their disqualification notifications). In making its decisions, the review board considered the date of the offense, the severity of the offense, and any rehabilitation measures the applicant had taken (e.g., drug abuse counseling and treatment). The review board does not view offenses such as petty theft or bad check writing to be serious offenses.

Similar to the Florida provision relating to instructional positions, Florida law also does not specify disqualifying crimes regarding applicants for noninstructional positions in the state's schools. But, one of the requirements for qualification is good moral character. Each school district is responsible for determining whether the applicants or hires are or are not qualified.

We obtained available information from one school district in Florida—Leon County School District. In calendar year 1995, the district had a total of 5,653 teachers and noninstructional personnel, of which 1,260 were newly hired. The district requested national fingerprint-based background checks on the 1,260 new personnel. In response to our inquiries, the district's personnel office could not readily disaggregate the total number of new hires into teacher and noninstructional staff categories. However, office staff did provide the following information:

- Of the fingerprint-based background checks requested in 1995 for noninstructional personnel, about 40 percent resulted in identification of criminal records. Of these staff, about 100 had a criminal history serious enough for the district to send each individual a letter asking for explanations about the crimes. After the Affirmative Action Director received full explanations and documentation from the employees, about 10 people were fired because of their criminal history records. Of those fired, about four or five appealed those decisions, and, as a result, two or three were reinstated. In summary, seven or eight noninstructional personnel remained fired based on the criminal history records checks.<sup>8</sup> The records showed that each individual had been convicted for a serious offense, such as drug possession or trafficking and aggravated battery, within the previous 7 years.

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<sup>8</sup>Because the criminal history record information from both the state criminal history check and the FBI criminal history check was returned to the school district combined, the district's personnel office staff could not estimate how many criminal history records came from the state check and how many came from the FBI check.

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**Tennessee: Results of  
Background Checks of  
Foster Care Applicants**

Under a Tennessee law, which took effect in January 1994 (see app. II), child welfare agencies can require state and national fingerprint-based background checks on all persons applying to work with children. In October 1995, the Tennessee Department of Human Services started requiring such checks on prospective foster care parents and social services employees who will be working with children.<sup>9</sup> The Department did not plan to check foster care parents who were already in the system as of October 1995. The Department pays the \$24 state fee and the \$24 FBI fee. State check results are received in less than a month, and FBI results are received in 6 weeks to 2 months.

From October 1995 through May 1996, the Tennessee Department of Human Services requested 1,293 state and FBI fingerprint checks for foster care applicants and social services employees. Of the 1,293 checks, 120 (or 9.3 percent) showed felony criminal records. Felony records included enticing a child to enter a house for immoral purposes, accessory to murder, aggravated assault with weapons on a family, smuggling drugs, delivery of drugs, receiving and concealing stolen property, and grand larceny. The national check identified 58 of the 120 felony records, which were not found via the state check.

In one case, the FBI check revealed that a new foster care parent for four children had served a 3-year prison sentence in Alabama for enticing a child to enter a house for immoral purposes. As a result of the background check, the Tennessee Department of Human Services immediately removed the four children from the convicted felon's home.<sup>10</sup> Department officials told us there was no evidence that any of the children had been abused.

In another case, a foster care applicant told Department officials he was in the FBI's witness protection program but did not disclose why. The FBI check revealed that the applicant had been arrested in another state for accessory to murder. Therefore, the foster child already placed in his home was removed.

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<sup>9</sup>Some foster care placements are contracted out to private organizations. These organizations are not required to request fingerprint checks.

<sup>10</sup>Because of the time lag between requesting FBI checks and receiving results, children were placed in foster care homes before the FBI's results were received. Since January 1995, children are not placed until the results from all fingerprint checks are received.

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**Texas: Results of  
Background Checks of  
Applicants at One Local  
Affiliate of Big  
Brothers/Big Sisters of  
America**

Under Texas law (see app. II), Big Brothers/Big Sisters of America is one of four nonprofit organizations specifically authorized to request national fingerprint-based background checks through the Texas Department of Protective and Regulatory Services.<sup>11</sup> We selected Big Brothers/Big Sisters because it is the only nonprofit organization of the four authorized that requested national fingerprint-based criminal history checks. Of the 21 Big Brothers/Big Sisters affiliates in Texas, only 1 affiliate requested national fingerprint-based checks. In response to our inquiries, affiliate representatives commented substantially as follows:

- The affiliate requested a total of 98 national fingerprint-based checks during the period August 1, 1995, through July 17, 1996. Of this total, two applicants were found to have criminal records. The affiliate still accepted one of these individuals as a volunteer because the criminal history record involved an incident (theft under \$20) that occurred about 22 years ago, and the other indicators in the screening process (e.g., interviews and references) showed no concerns. The other applicant was rejected as a volunteer because the criminal history record showed a drug possession conviction about 6 years ago; also, during the interview and screening process, the applicant exhibited behavior that raised some concerns.

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**Virginia: Results of  
Background Checks of  
Applicants at Two Public  
School Districts**

Under Virginia law (see app. II), 42 of the state's 135 school boards are required to request state and national fingerprint-based background checks of applicants as a condition of employment. Under the law, the school boards must take into account charges or convictions of specified crimes. In calendar year 1995, approximately 10,000 state and national checks were conducted. The background checks are not part of a centralized credentialing process. Rather, each school board is responsible for requesting the checks, reviewing the results, and determining whether applicants are or are not qualified. The results are not shared with other counties. Therefore, a teacher moving from one county to another would require new checks, and a substitute teacher working in multiple counties would require multiple checks.

We contacted personnel offices in 2 of the 42 school districts—  
Chesterfield and Henrico counties—to obtain views on the usefulness of

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<sup>11</sup>During calendar year 1995, the Texas Department of Protective and Regulatory Services, which is responsible for foster care and child care facilities, submitted to the FBI a total of 1,195 requests for national fingerprint-based checks. In response to our inquiry, the Department was unable to disaggregate this total among the specific organizations that requested the checks. Also, we contacted the Big Brothers/Big Sisters office in Austin, Texas; however, the office did not have Texas-wide statistics regarding background checks of individuals applying to be volunteers.

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**Appendix IV  
Specific Uses and Results of  
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state and FBI background checks. According to responsible officials, since the background checks have begun, over 100 individuals in these 2 school districts have been fired on the basis of their criminal history records. The officials commented that the background checks have revealed only two individuals with criminal records involving child abuse. In one case, for example, the criminal history record showed that the individual set fire to a house with children inside. Officials from both counties told us the checks are definitely a deterrent. One of the officials added that the checks would still be worth the cost even if they revealed no criminal records. Another official told us the checks are worth the cost if only one child is saved from abuse.

**Chesterfield County Public  
Schools**

In response to our inquiries, school personnel officials in Chesterfield County commented substantially as follows:

- With 55 schools, approximately 50,000 students, and about 5,800 employees (not including substitute teachers and volunteers), Chesterfield County is one of the largest public school districts in Virginia. The county has been conducting state and FBI fingerprint checks since July 1990. These checks cover all new full-time and part-time hires (teachers, janitors, food service workers, etc.) and rehires who have not been employed by the school district for more than 2 years. Substitute teachers and volunteers are not checked at this school district. Employees who were on board in July 1990 were not checked, and employees are not periodically rechecked. Chesterfield County pays the \$13 state fee and the \$24 FBI fee. State check results are received in about 2 weeks, and FBI results are received in about 2 months.
- From July 1, 1995, through June 5, 1996, Chesterfield County requested about 675 to 700 state and FBI checks, of which 32 (or about 4.6 percent) found criminal records. Although not specifically quantifiable, the majority of these criminal records involved Virginia offenses. The number of hits resulting from FBI checks (i.e., hits after the state's checks found no criminal histories) has been relatively small. Since July 1990, the total in this category has been five or six hits. Of these, two or three cases resulted in the employee's being dismissed. In one case, for example, a custodial worker in a Chesterfield County public school was found to have an outstanding fugitive warrant in Maryland for a traffic violation. After this was learned, the police were notified and the employee was dismissed.
- Also, in about six cases each year, employees are dismissed because the state or FBI check revealed that the employee falsified the application. Most of these employees worked in the custodial area, which raised a



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concern about theft, since these employees had unsupervised access to equipment and supplies.

**Henrico County Public Schools**

In response to our inquiries, school personnel officials in Henrico County commented substantially as follows:

- With 58 schools, over 38,000 students, and about 4,200 full-time employees, Henrico County is one of the 10 largest public school districts in Virginia. The county has been requesting state and FBI fingerprint background checks since July 1993. These checks cover all new full-time, part-time, and temporary employees (teachers, substitute teachers, janitors, food service workers, etc.) and rehires who have not been employed by the school district for more than 2 years. Employees who were on board in July 1993 were not checked, and employees are not periodically rechecked. County officials want to do state and national checks on all volunteers, but the school board historically has not wanted the checks.
- Henrico County pays the \$13 state fee and the \$24 FBI fee. State check results are received in about 2 to 3 weeks, and FBI results are received in about 4 weeks to 2 months.
- From July 1993 through June 1996, Henrico county requested approximately 3,800 state and FBI checks (about 1,200 a year) on new hires. Of this total, 137 (or 3.6 percent) resulted in identification of applicants with criminal records. The majority of these hits involved Virginia criminal records. As a result of these hits, 111 of the 137 new hires were fired. The other 26 new employees were not fired because the individuals (1) showed that information in the criminal history records was inaccurate or (2) had acknowledged their criminal history in completing the application form. The 111 firings were justified on the basis that the individuals had lied on their applications (claiming no criminal conviction) and not because of the nature of their criminal records. Ten or fewer of these 111 employees had criminal records identified by the FBI, following a state check showing no records.

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# IAFIS: System Components, Incremental Development Approach, States' Participation, and Automated Criminal History Records

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The FBI describes IAFIS as being a large, technologically complex system that will support the exchange of criminal history information among federal, state, and local agencies using a variety of media, standard formats, and communication protocols. Presently, fingerprint checks are initiated through the submission of criminal or civil 10-print fingerprint cards. During fiscal year 1995, the FBI received and processed over 9 million fingerprint cards submitted by federal, state, and local criminal justice organizations for criminal and applicant purposes.

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## Major Components of IAFIS

For many users, the development of IAFIS should eliminate the need to transport and process paper fingerprint cards. Fingerprints are to be captured electronically<sup>1</sup> at booking stations or other locations and transmitted through a high-speed telecommunications network to an applicable state agency and the FBI for processing. Also, the FBI's present inventory of criminal fingerprint cards is to be electronically scanned, converted into digital images, and stored in an IAFIS database to facilitate on-line retrieval.

To meet the goal of providing computerized criminal history and identification services, IAFIS is designed to have three major subsystems or components:<sup>2</sup>

- The Interstate Identification Index is an existing federal-state cooperative system for exchanging criminal history records. The Index contains federal criminal history files and also provides access to state-level centralized repositories of criminal history records. With the development of IAFIS, some or all of the Index's hardware and software is to be replaced.
- A new Identification Tasking and Networking subsystem is to provide the workstations, workflow control, internal telecommunications, and image files necessary to support "paperless" processing.
- A new Automated Fingerprint Identification System is to provide fingerprint searching capabilities. The System is to first digitize the fingerprint image (if not already digitized, as it is when received from a scanning device). Then, in processing the digitized image, searchable fingerprint characteristics are to be extracted (e.g., ridge-ending locations and orientations). In a background check, the appropriate subfile of

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<sup>1</sup>For example, certain scanning equipment can capture fingerprint images directly (without the application of ink to the fingers) and also allow the user to combine the images with narrative data to produce a standard electronic fingerprint card.

<sup>2</sup>Integrated Automated Fingerprint Identification System (IAFIS) Planning Guide (April 30, 1993), produced by the Advisory Policy Board to the FBI's National Crime Information Center, with assistance from SEARCH (The National Consortium for Justice Information and Statistics).

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**Appendix V**  
**IAFIS: System Components, Incremental**  
**Development Approach, States’**  
**Participation, and Automated Criminal**  
**History Records**

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fingerprints is to be searched for the applicable characteristics. A resulting candidate list of file fingerprints (the most probable matches) is to be generated and provided to a fingerprint examiner, who decides which (if any) of the candidates represents a positive identification.

By “integrating” these three components—an upgraded Interstate Identification Index capability, a new Identification Tasking and Networking subsystem, and a new Automated Fingerprint Identification System—IAFIS is to provide a more efficient interface for state and local users.<sup>3</sup>

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**Incremental**  
**Development**  
**Approach**

In 1996, in response to concerns about cost increases and schedule slippages, the FBI adopted a new approach for developing and deploying IAFIS. This approach, as shown in table V.1, involves six separate segments, or “builds.” The build dates will not be finalized until the completion of the negotiations with the various development contractors.

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<sup>3</sup>In addition to the three major components, the IAFIS project also includes the interrelated development of (1) the “Fingerprint Image Conversion Operation,” which involves the scanning and digitizing of nearly 32 million 10-print fingerprint cards already in the FBI’s master fingerprint file; (2) the “Fingerprint Image Capture System,” which is to provide the completed IAFIS with the scanning capability to accommodate users who have no electronic transmission equipment and, thus, continue to submit fingerprints on paper cards; and (3) a “Management Information and Decision Support” program to facilitate IAFIS performance analyses and other administration and monitoring functions, including accounting for service-based fees.

**Appendix V**  
**IAFIS: System Components, Incremental**  
**Development Approach, States’**  
**Participation, and Automated Criminal**  
**History Records**

**Table V.1: Timelines, Users, and Description of Each IAFIS Build**

<b>Build</b>	<b>Scheduled on-line by:</b>	<b>Users</b>	<b>Description</b>
A	August 1996	FBI	Developed and deployed an automated capability to conduct searches from fingerprints found at a crime scene against a 200,000 record database.
B	December 1996	FBI	Increase the searchable database in build A to 500,000 files.
C	November 1997	FBI	Provide a limited fingerprint search capability (about 10 percent of eventual capacity) and a stand-alone fingerprint image repository.
D	February 1998	FBI	Integrate a high-volume fingerprint scanning capability and the capability to compare images on a computer screen. This build is intended to decrease fingerprint card processing time and decrease retrieval time for candidate matches.
E	October 1998	FBI; a few states	Allow some selected remote users to search IAFIS database and retrieve images.
F	July 1999	FBI; all other states	Complete the development. Also add several new services, including the storage and retrieval of mug shots.

Source: FBI.

Although the FBI does not have a schedule specifically showing when the states, or which states, will use IAFIS for applicant criminal history check purposes, table V.1 does show that state participation in the system is not to begin until “build E,” which is scheduled to be on-line in October 1998. At that time, according to the FBI, a “small number” of other federal and state users are to be selected to implement IAFIS capabilities on a trial basis. FBI officials told us that build E would provide an opportunity for checking the system in an operational environment before the remaining users are accepted in build F.

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## **General Observations Regarding States’ Participation in IAFIS**

For nearly a century, the criminal justice community has used fingerprint identification. Over the last 2 decades, manual fingerprint processing has given way to increased use of automation. Today, many states and cities have some form of automated fingerprint identification system. Thus, in designing IAFIS, the FBI was very cognizant that the “connectivity” of the integrated system with the state and local law enforcement community would be a challenge.

To prepare for this challenge, the FBI worked with the National Institute of Standards and Technology to hold a series of workshops nationwide during 1990 and 1991. These forums were attended by officials from federal, state, and local law enforcement agencies and by representatives from all of the major vendors for automated and live-scan fingerprint equipment. The resulting national standards for the transmissions of fingerprint data have been approved by the American National Standards Institute.<sup>4</sup>

Among other purposes, these standards were to provide a basis for state and local law enforcement officials to begin planning to ensure that their agencies had the capability to participate in the new federal system. However, it is important to note that no agency is required to participate in IAFIS. Each state can decide the extent to which it wants to be “connected” to and compatible with IAFIS. That is, each state must decide for itself what equipment and system changes or upgrades are needed (if any), desirable, and affordable.

Recognizing that the various states are at different stages of automation with respect to fingerprint identification services, the FBI is planning to accommodate different levels of participation in IAFIS—ranging from minimal to full participation. At the minimal end, for example, some states may decide to continue using the U.S. Postal Service to transmit paper fingerprint cards. For this reason, as noted earlier, IAFIS will have a “Fingerprint Image Capture System” that will allow the FBI to scan and digitize data from these cards. The fuller levels of participation will be dependent upon the states’ already having or later acquiring (1) standards-compatible equipment and/or (2) special purpose computer programs (“controllers”) to provide format conversions.

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<sup>4</sup>Data Format for the Interchange of Fingerprint Information (ANSI/NIST-CSL 1-1993).

## Selected States' Criminal History Record Systems

Because effective background checks depend upon the availability of reliable records, we obtained information about the status of the five states' efforts to automate their criminal history records. As of the time of our review, the most recent biennial survey (conducted by SEARCH Group, Inc.) provided a report of each state's status as of the end of calendar year 1995. At that time, as table V.2 shows for the five states covered in our review, all five had fully automated the master name index, and three of the five had fully automated the arrest records. Also, as further shown in table V.2, even though Virginia had the lowest percentage of automated arrest records among the five selected states, Virginia also had the highest percentage of automated records for arrests within the past 5 years that had final dispositions (e.g., dismissals, acquittals, or convictions) recorded.

**Table V.2: Overview of Selected States' Criminal History Records Systems (as of December 31, 1995)**

State	Master name index		Number of subjects (individual offenders) in state criminal history file			Percent of arrests within past 5 years in database that have final dispositions recorded
	Fully automated	Percent of records in index	Total	Automated	Percent automated	
California	Yes	100	4,630,800	4,085,500	88	43
Florida	Yes	100	3,158,200	3,158,200	100	73
Tennessee	Yes	100	655,400	655,400	100	40
Texas	Yes	100	4,912,100	4,912,100	100	40
Virginia	Yes	100	1,015,400	819,600	81	86

Note: This information is based upon survey information reported by the administrators of the state criminal history record repositories. The survey was performed by SEARCH Group, Inc., under a grant from the Bureau of Justice Statistics.

Source: Preliminary findings provided to GAO by the Department of Justice, Bureau of Justice Statistics. In 1997, the Bureau is scheduled to publish these findings.

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