

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 962 (Delegates Quinter and Vallario)
 Judiciary

Criminal Procedure - Maryland Criminal Justice Information System - Criminal Justice Units

This bill includes any U.S. Attorney’s office within the definition of a criminal justice unit under provisions relating to the State’s Criminal Justice Information System (CJIS). The bill provides that for purposes of agreements between the CJIS Central Repository and criminal justice units, the penalties specified for failure to comply with related provisions may be limited to revocation of the agreements. The bill requires, rather than allows, the Secretary of Public Safety and Correctional Services and the Chief Judge of the Court of Appeals to develop procedures to share criminal history information with federal criminal justice units.

Fiscal Summary

State Effect: General fund expenditures could increase in FY 2004 by \$31,100 for start-up and operating costs associated with installation of a CJIS computer terminal for the U.S. Attorney’s Office for the District of Columbia. Out-year costs reflect recurring costs only. Special fund revenues from user fees from that office would total about \$400 annually.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
SF Revenue	\$400	\$400	\$400	\$400	\$400
GF Expenditure	31,100	29,100	29,100	29,100	29,100
Net Effect	(\$30,700)	(\$28,700)	(\$28,700)	(\$28,700)	(\$28,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The Criminal Justice Information Advisory Board is a 22-member board in the Department of Public Safety and Correctional Services (DPSCS) for administrative and budgetary purposes only. There are currently 23 events that are statutorily required to be reported to the CJIS Central Repository.

Under provisions pertaining to CJIS, a “criminal justice unit” means a government unit or subunit that allocates a substantial part of its annual budget to any of the following functions and that by law: (1) may arrest, detain, prosecute, or adjudicate persons suspected of or charged with a crime; (2) is responsible for the custodial treatment or confinement of persons charged or convicted of a crime or relieved of criminal punishment by reason of a verdict of not criminally responsible; (3) is responsible for the correctional supervision, rehabilitation, or release of persons convicted of a crime; or (4) is responsible for criminal identification activities and the collection, storage, and dissemination of criminal history record information.

Criminal justice unit includes, when exercising jurisdiction over criminal matters, alternative dispositions of criminal matters, or criminal history record information: (1) a State, county, or municipal police unit, sheriff’s office, or correctional facility; (2) a unit required to report to the Central Repository; (3) the offices of the Attorney General, State’s Attorneys, and any other person or unit that by law may prosecute persons accused of a crime; and (4) the Maryland Judiciary, the Administrative Office of the Courts, and the offices of the clerks of these courts. With certain exceptions, criminal justice unit does not include the Department of Juvenile Justice or a juvenile court.

The Secretary of Public Safety and Correctional Services and the Chief Judge of the Court of Appeals are required to develop agreements between the Central Repository and each criminal justice unit. Among the enumerated required particulars that such agreements must include, are the penalties to be imposed if a criminal justice unit fails to comply with this subtitle, including the revocation of the agreement between the unit and the Central Repository and appropriate judicial or administrative proceedings to enforce compliance.

Background: The advisory board provides oversight of CJIS, and provides advice and recommendations to the Secretary of Public Safety and Correctional Services and the Chief Judge of the Court of Appeals.

CJIS is the database containing the criminal history record information reflecting the official fingerprint-supported criminal record of each offender charged and adjudicated in Maryland. The CJIS Central Repository is administratively managed by DPSCS and is

designated by the FBI as Maryland's State identification bureau for the exchange of criminal history records.

In recent years the scope of authorized and mandated record checks has expanded into areas with noncriminal justice purposes. These areas include a range of business and professional licensing purposes as well as employment in various childcare, educational, and recreational settings. Federal laws have expanded criminal history record checks to include caregivers who serve children, the elderly, and the disabled. Since 1994 the repository has housed fingerprint-supported records of certain juveniles adjudicated delinquent for some serious crimes. The repository has housed records of the issuance and withdrawal of juvenile writs of attachment since 1998.

This bill is in response to concerns expressed by the U.S. Attorney's Office for the District of Columbia regarding obtaining timely criminal history information from CJIS, especially relating to handgun charging and bail review decisions for that office. While discussions among that office, DPSCS, and the Maryland State Police are ongoing, this bill is intended to make any U.S. Attorney's office a participating law enforcement entity for purposes relating to the direct sharing of information via CJIS. The U.S. Attorney's Office for Maryland has electronic connection to CJIS.

State Expenditures: Any law enforcement agency of the State is permitted to electronically connect with and use various communications systems in the State including the Maryland Interagency Law Enforcement System (MILES), the National Crime Information Center (NCIC), and the National Law Enforcement Telecommunications system (NLETS). NLETS is generally used for direct state-to-state inquiries. Since March 1998, the State has been a participant in the Interstate Identification Index, or "III" system, for prospective criminal justice information purposes only. Maryland will not be fully capable for III information exchanges for a couple of years. For criminal justice records prior to 1998, FBI checks via the FBI "pointer system" continue to be used.

Although there are certain limited exceptions, states do not generally give direct electronic access to out-of-state law enforcement agencies. The Maryland State Police assigns originating agency identification numbers (ORIs) for in-State participating agencies participating in NLETS, III, NCIC, or MILES. Participating agencies must separately meet certain qualifications and criteria for use of each system, and must be approved by the FBI for that use. By FBI rule, the State Police may not assign an ORI to an out-of-state entity. The only out-of-state exception for CJIS connection in Maryland is the DC Metro Transit Police Department, which has jurisdiction for offenses committed on or near subway lines operating in Maryland and has a CJIS terminal in Washington, DC. An electronic connection between CJIS and any U.S. Attorney's office would require FBI approval.

Terminals are required to be audited bi-annually by the State Police for security purposes, as well as for purposes related to actual use and information abuse. Annual compliance audits are also required to be performed by CJIS.

All new users of any system connection pay for most start-up costs for electronic terminal connection. Each participating location for a CJIS connection (capable of information inflow from NLETS, III, NCIC, or MILES) requires a dedicated 56Kb frame relay circuit, and assumes five users per location. Installation and on-site maintenance is handled by DPSCS. Start-up and operating costs are billed to the user (per a fiscal 2002 Data Communications Facilities Agreement), including the purchase of computer terminal hardware.

The fiscal 2004 costs associated with connecting just the U.S. Attorney's Office for DC to CJIS via a dedicated 56Kb frame relay circuit, assuming five users per site, would be about \$2,000 for start-up costs (including installation) and about \$29,000 per year in recurring costs beginning in fiscal 2004 (including maintenance and monitoring). These costs would be minimally offset by the collection of user fees estimated at \$420 annually. The U.S. Attorney's Office's costs are estimated to be about \$7,500 in start-up costs in fiscal 2004 (including computer hardware), with annual recurring costs of about \$3,300 beginning in fiscal 2004. User fees for that office would be \$420 annually.

If all 93 U.S. Attorney's offices (including five located outside of the continental U.S.) sought direct electronic connection to CJIS, State start-up costs would rise to about \$134,600, with annual recurring costs of about \$880,500 annually. Total user start-up costs for all 93 offices would be about \$793,600, with annual recurring costs of about \$306,900 annually. User fee revenue for all 93 offices is estimated at \$39,100 annually. It is assumed that such State and user costs or revenue would only occur after a request for connection is approved by the FBI and would be felt over time and not in any one fiscal year.

Legislative Services believes that, initially, State costs and revenues under this bill would only be associated with the interest of the U.S. Attorney's Office for DC to be directly connected to CJIS. Accordingly, assuming FBI approval of that CJIS terminal connection, all costs associated with this bill would arise from connection to that location only, for the foreseeable future. Audits by the State Police and CJIS of a CJIS terminal located at that office could be handled with existing budgeted resources. Audits of CJIS terminals at additional (or all) U.S. Attorney's offices could have additional significant costs attached.

Additional Comments: SB 264 of this year would adopt the National Crime Prevention and Privacy Compact, effective October 1, 2003. The compact organizes the III system

among member states and the federal government to exchange criminal history records for noncriminal justice purposes authorized by state or federal law, such as background checks for licensing and employment.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services (Information Technology and Communications Division), Department of State Police, Department of Legislative Services

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