



CRIMINAL AND JUVENILE JUSTICE INFORMATION ADVISORY GROUP

2019–2020 BIENNIAL REPORT TO THE GOVERNOR, SUPREME COURT, AND LEGISLATURE ON CRIMINAL JUSTICE INFORMATION INTEGRATION

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INTRODUCTION

Minnesota Statutes, section 299C.65, subdivision 3(a) requires the Criminal and Juvenile Justice Information Advisory Group to file a biennial report providing: 1) a status and review of current integration efforts and projects; 2) any recommendations made to the legislature concerning legislative changes or appropriations that are needed to ensure that criminal justice information systems operate accurately and efficiently; and 3) a summary of the activities of the Advisory Group. This report endeavors to fulfill that requirement.

The Advisory Group is the state advisory group on statewide criminal justice information policy and funding issues. The Advisory Group studies and makes recommendations to the governor, the state supreme court, and the legislature on criminal justice information funding and policy issues such as related data practices, individual privacy rights, and data on race and ethnicity; information sharing at the local, state, and federal levels; technology education and innovation; the impact of proposed legislation on criminal justice information systems and business processes; and data and identification standards.

BACKGROUND

More than 1,600 agencies and branches of local, state, and federal government oversee the justice and public safety services delivered in Minnesota at a cost of nearly \$2.5 billion per year to the public, according to past census estimates and auditor's reports. Each of these agencies needs timely and accurate information at key decision points throughout the criminal justice process. To assure that information is accessible and managed from a statewide perspective, the legislature created the Policy Group and Task Force in Minnesota Statutes, section 299C.65 in 1993.

The Policy Group gathered a wide range of state and local criminal justice stakeholders and policymakers to address issues related to the statewide integration of criminal justice information from a broad-based perspective. The Task Force assisted the Policy Group in these duties. Starting in 2001, these efforts were coordinated by the CriMNet Program Office, which was part of the Minnesota Justice Information Services (MNJIS) section at the Minnesota Bureau of Criminal Apprehension (BCA). Together, the Policy Group, Task Force, and MNJIS executive director provided key leadership in managing the direction of criminal justice integration activities statewide.

Early integration-related activities focused on filling significant gaps in statewide criminal and juvenile justice data such as statewide predatory offender data, electronic booking photos, and complete criminal history information. Systems to collect that information from agencies statewide are now in place.

The Policy Group and Task Force in 2014 began a strategic planning effort to examine their current function and future role in the development of criminal justice information integration policy, direction, and laws. In 2016, the Policy Group acted on a Task Force recommendation and proposed an amendment to the enabling statute, 299C.65, that would formally combine the Policy Group and Task Force into the Criminal and Juvenile Justice Information Advisory Group (Advisory Group). The legislature amended the statute and established the Advisory Group on August 1, 2016. The statutory language identified general areas of focus including criminal justice related data practices, individual privacy rights, and data on race and ethnicity; information sharing at the local, state, and federal levels; technology education and innovation; the impact of proposed legislation on the criminal justice system related to information systems and business processes; and data and identification standards.

ADVISORY GROUP MEMBERSHIP

- The Commissioner of Corrections or designee.
- The Commissioner of Public Safety or designee.
- The state Chief Information Officer or designee.
- Three members of the Judicial Branch appointed by the Chief Justice of the Supreme Court.
- The Commissioner of Administration or designee.
- The State Court Administrator or designee.
- Two members appointed by the Minnesota Sheriffs Association, at least one of whom must be a sheriff.
- Two members appointed by the Minnesota Chiefs of Police Association, at least one of whom must be a chief of police.
- Two members appointed by the Minnesota County Attorneys Association, at least one of whom must be a county attorney.
- Two members appointed by the League of Minnesota Cities representing the interests of city attorneys, at least one of whom must be a city attorney.
- Two members appointed by the Board of Public Defense, at least one of whom must be a public defender.
- Two corrections administrators appointed by the Association of Minnesota Counties representing the interests of local corrections, at least one of whom represents a Community Corrections Act county.
- Two probation officers appointed by the Commissioner of Corrections in consultation with the president of the Minnesota Association of Community Corrections Act Counties and the president of the Minnesota Association of County Probation Officers.
- Four public members appointed by the governor representing both metropolitan and greater Minnesota for a term of four years using the process described in section 15.059, one of whom represents the interests of victims, and one of whom represents the private business community who has expertise in integrated information systems and who, for the purposes of meetings of the advisory group, may be compensated pursuant to section 15.059.
- Two members appointed by the Minnesota Association for Court Management, at least one of whom must be a court administrator.
- One member of the house of representatives appointed by the Speaker of the House, or an alternate who is also a member of the House of Representatives, appointed by the Speaker of the House.
- One member of the Senate appointed by the Majority Leader, or an alternate who is also a member of the Senate, appointed by the Majority Leader of the Senate.
- One member appointed by the Attorney General.
- Two members appointed by the League of Minnesota Cities, one of whom works or resides in greater Minnesota and one of whom works or resides in the seven-county metropolitan area, and at least one of whom is an elected official.
- Two members appointed by the Association of Minnesota Counties, one of whom works or resides in greater Minnesota and one of whom works or resides in the seven-county metropolitan area, and at least one of whom is an elected official.
- The director of the Sentencing Guidelines Commission or a designee.

LEGISLATIVE RECOMMENDATIONS

Pursuant to Minnesota Statutes, section 299C.65, subdivision 2, the Advisory Group must provide a report to the legislature by January 15 every other year detailing the statutory changes and/or appropriations necessary to ensure the efficient and effective operation of criminal justice information systems. The Advisory Group adopted the following recommendations for the legislature's consideration during the 2019 and 2020 legislative sessions.

2019 RECOMMENDATIONS

The Advisory Group made no recommendations in 2019.

2020 RECOMMENDATIONS:

While the Advisory Group in 2020 made no formal recommendations for legislative action, it is advising the legislature about an issue regarding identification standards and what the group has learned about it.

An individual's identity can come into question when they have the same name and date of birth as another person, or when another person—either knowingly or unknowingly—uses that individual's name and date of birth in an encounter with the criminal justice system. This can lead to problems for that individual with employment, housing, finance, and the criminal justice system. Accurate identification ensures that the right person is held accountable for an offense, and that an innocent person is not wrongly identified. This issue has come to be known as questioned identity.

Currently, a victim of questioned identity can contact the Bureau of Criminal Apprehension (BCA). After they fill out a form and are fingerprinted they receive a letter that serves as proof that they've been misidentified with a criminal record. The records in question are also "flagged" for law enforcement as a possible questioned identity record. The BCA receives approximately 70 requests per year for such letters. Despite receiving the letter, the alias remains on the criminal record (per federal requirements), even if it is removed from public availability. The burden remains entirely on the victim to seek out a solution, and with private data collection companies collecting massive amounts of information, it may be extremely difficult for a victim to completely clear their name.

The Advisory Group's Data and Identification Standards subcommittee in 2020 developed a white paper—still in draft form—analyzing the problem of misidentified offenders, which includes both offenders using someone else's name and offenders with changed names. The subcommittee looked at many aspects of this problem as well as how other states and countries handle identity on a societal level.

The subcommittee's white paper concludes that taking additional steps to correctly identify someone at the beginning of the criminal justice process would solve many current issues. However, the group needs input from the legislature and the public to understand how to best make that happen while balancing justice and privacy. While the Advisory Group did not make a formal recommendation to the legislature on this issue in 2020, the white paper recommends more state guidance or statutory changes encouraging the use of an offender's known legal name, coupled with state agencies and associations providing training on ensuring the use of the legal name.

The white paper details short-term actions that criminal justice groups are taking in Minnesota to address the problem:

- The Department of Corrections is planning to change its policy on allowing offenders to change their names on file to their legal names.

- The BCA is developing a marker for the criminal history database to indicate the most recently known legal name.
- The Minnesota County Attorneys Association is pushing legislation to ensure more automatic expungement of records for dismissed charges.

The Advisory Group’s Data and Identification Standards subcommittee recommended the BCA develop the marker in criminal history records to indicate the most recent legal name. If the person charged is proven not to be the person cited or arrested, the prosecutor could automatically send an expungement with dismissal.

The subcommittee also recommended that law enforcement take fingerprints when citing someone for an offense. The fingerprints would be stored in eCharging, which limits how the data could be accessed and would keep it separate from criminal history or other databases. In court, the suspected offender’s fingerprints would be captured again, proving they are—or are not—the same person. These recommendations would require changes in statute and new processes and rules surrounding data retention and privacy would need to be developed. There would also be a need to create or purchase new technology.

The Advisory Group seeks the opportunity to share its findings with the legislature to provide a better understanding of concerns and opinions about data practices laws and to provide a broader spectrum of voices on the issue.

ACTIVITIES OF THE CRIMINAL AND JUVENILE JUSTICE INFORMATION ADVISORY GROUP

The Advisory Group in 2019–2020 made significant progress in its efforts to examine issues and solutions critical to criminal justice information integration and the safety of its practitioners and subjects in Minnesota. The Advisory Group reviewed recommendations made by its subcommittees, as well as reviewed the budget, policy issues, and implications of the topics that were covered.

The Advisory Group also welcomed new members to its leadership team and general membership, and continued to meet quarterly, including virtual meetings for most of 2020 due to the pandemic. Its three subcommittees also met and corresponded periodically. Because the Advisory Group is composed of subject-matter experts from across the criminal justice spectrum, the legislature, and the public, it is in a unique position to provide advice on real world solutions for criminal justice information integration. Each member, including appointees from the legislature and the public, informs the discussions and ultimate decisions made by the group.

NATIONAL INCIDENT-BASED REPORTING SYSTEM (NIBRS)

Minnesota made significant progress in its quest to complete the transition from Summary crime reporting to National Incident-Based Reporting System (NIBRS) crime reporting. The transition to NIBRS will greatly benefit law enforcement and criminal justice. NIBRS allows enriched data on criminal incidents, such as the elements of the offense (e.g., what was stolen, type/amount of drugs, entry point of a burglary) and the characteristics and relationships of victims and offenders. With a richer set of incident data compared to Summary crime reporting, NIBRS provides a far better understanding of what occurred during an incident. Increasing data quality and quantity improves crime analysis and reduces workload and costs.

The FBI announced in 2016 that it would sunset Summary crime reporting in favor of NIBRS reporting in January 2021. The Bureau of Criminal Apprehension (BCA) prioritized Minnesota’s transition, with a goal of 100 percent of Minnesota law enforcement agencies submitting NIBRS data by the end of this year. As of January 1, 2021, 418 out of 420 agencies had transitioned.

The BCA in 2021 seeks to expand crime reporting capabilities and replace the yearly publication of the Minnesota Uniform Crime Report with a web portal and supplemental yearly publication. This publicly accessible web portal will allow users to view and filter crime data using visualization tools.

VICTIM PERSPECTIVE ON DATA PRACTICES

In a presentation to the Advisory Group, representatives from the Office of Justice Programs (OJP) and the Minnesota Coalition for Battered Women (MCBW) outlined issues surrounding data practices from the perspective of victims of crime, domestic violence, or sexual abuse and how these issues are often misunderstood in the public and in the criminal justice field. The presentation aimed to help the Advisory Group better understand the perspective of victims of crimes and domestic or sexual abuse and common frustrations victims have in dealing with criminal justice agencies.

The OJP provides resources and operates a helpline that serves about 1,600 people per year—one-third are victims, and the remainder questions from prosecutors, law enforcement, and other professionals. Through this helpline, the OJP helps victims understand their rights in the criminal justice process. They find that there is often confusion regarding what data victims have access to and what protections the law provides them as victims.

ACCESSIBILITY OF INFORMATION

During the 2019–2020 biennium, the Advisory Group frequently discussed work to develop and improve criminal justice information systems, and how those changes improved the capabilities of law enforcement, courts, and other stakeholders. Here are two examples:

- An update to the National Crime Information Center (NCIC) data index will provide more detailed information for eCitations, improving accuracy and reducing eCitation rejections. The make and model of vehicles will be made available in the system with federal codes. The implementation date for this project is yet to be determined.
- A collaborative project with the Bureau of Criminal Apprehension (BCA) and the Minnesota Judicial Branch now allows Harassment Restraining Orders (HROs) to be reported electronically to local law enforcement agencies as well as the FBI. Currently, only Domestic Abuse No Contact Orders (DANCOs) are reported to federal systems. This improvement allows local law enforcement to access HROs through BCA record checks.

PANDEMIC RESPONSE

The Advisory Group, in its first meeting after the emergence of COVID-19, focused on the impacts and challenges of the pandemic response on criminal justice agency operations. Members recounted the difficulties of operating in a largely work-from-home environment, as well as the surprising opportunities of using virtual environments and how it affects criminal justice for agencies, stakeholders, and the public.

The pandemic has reduced jail bookings (many jurisdictions are only jailing offenders for felony or violent offenses), increased suspense records (when a criminal history arrest record is not linked to a court disposition because of a lack of fingerprints or mismatched or incomplete identifying information), and reduced other public services such as background checks and firearm permits. Following widespread postponements certain hearings and court trials have been moved to virtual platforms.

In addition to the challenges of learning how to do business remotely and virtually agencies must balance public accessibility and open meeting laws with security and keeping meetings on-topic and appropriate (i.e., preventing access from internet pranksters and “Zoombombing”).

Advantages of virtual work and public meetings have included increased work efficiency and reduced travel for staff and public attendees.

The Advisory Group noted added responsibilities associated with following CDC guidelines, such as installing barriers, procuring personal protective equipment (PPE), wearing masks, and ensuring social distancing among staff and the public. From a law enforcement side, there has been the added challenge of public enforcement/education of local ordinances and statewide executive orders.

DIVERSITY AND MEMBERSHIP

The Advisory Group discussed how to increase the group's diversity when filling current vacancies, especially from underrepresented communities. Members are reaching out to relevant organizations to fill open positions within the requirements of the group's bylaws. Members discussed leveraging existing organizations to increase the diversity of the Advisory Group. The group will continue its efforts to diversify its ranks and explore options to better reflect the diversity of Minnesota.

U.S. CENSUS

The Advisory Group heard a presentation on the 2020 United States Census from a State Demographics Center representative.

The United States Census is a decennial census mandated by the U. S. Constitution. The stakes of an accurate, complete census include equal representation, fair distribution of resources, and accurate population data for policymakers, businesses, and organizations to make informed decisions.

A looming issue for Minnesota is the strong possibility of losing a congressional seat. A lost congressional seat has wide ranging ramifications, affecting redistricting down to the precinct level. This puts a burden on rural areas, with longer distances between constituents and their political representatives, and affects the federal funding an area receives. Minnesota currently receives \$15.5 billion in population-based federal funding. Businesses and non-profits also use census data to make decisions—for example, where Target puts a new store is based in part on local population.

WHITE PAPER ON UNIFORM CRIMINAL JUSTICE DATA AND IDENTIFICATION STANDARDS

The Advisory Group's Data and Identification Standards subcommittee developed a white paper—currently in draft form—analyzing the problem of misidentified offenders, which includes both offenders using someone else's name and offenders with changed names (see *2020 Recommendations* on page 5).

The subcommittee, formed in 2018 with representatives from law enforcement, the Bureau of Criminal Apprehension, courts, prosecution, the Department of Corrections, and probation, held meetings with stakeholder organizations and advocacy groups to explore ways to improve identification standards. The subcommittee continued to examine the root causes of this issue in 2019 and reviewed practices in other states and nations as it considered possible solutions.

The white paper drafted in 2020 is a culmination of these efforts and seeks to provide an expert overview of the issue and advise the full Advisory Group, legislature, and agencies on proposed solutions.

CONCLUSION

The Criminal and Juvenile Justice Information Advisory Group is the only group of its kind with representation from all the disciplines across Minnesota's criminal justice community, as well as legislative, public and municipal representation. As it has for a quarter century, this unique collection of experts, practitioners and others will continue to provide valuable knowledge and real-world experience that can help shape the future of Minnesota criminal justice information integration.