



Executive Order No. 100

TBI's Response



TENNESSEE BUREAU OF INVESTIGATION
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APR 11 2023

Secretary of State
Tre Hargett



STATE OF TENNESSEE
EXECUTIVE ORDER
BY THE GOVERNOR

No. 100

**AN ORDER ENHANCING PROTECTIVE PROCEDURES FOR
THE PURCHASE OF FIREARMS**

WHEREAS, it is the duty of the State of Tennessee to protect Constitutional rights, promote public safety, and protect the lives of its citizens; and

WHEREAS, the National Instant Criminal Background Check System (NICS) is an essential tool for preventing dangerous individuals from purchasing firearms; and

WHEREAS, Tennessee has chosen to implement a state system, the Tennessee Instant Check System (TICS), overseen by the Tennessee Bureau of Investigation (TBI), and this system is utilized for conducting background checks for proposed sales of firearms in Tennessee and for supplying NICS with the local records and information necessary to identify which individuals are prohibited from purchasing a firearm; and

WHEREAS, recent tragedies in Nashville and throughout our nation have demonstrated the devastating impact of firearms possession by those intending to cause harm to themselves or others and underscore the need for more effective instant background checks; and

WHEREAS, effective instant background checks rely on information that is accurate, complete, and submitted in a timely manner; and

WHEREAS, domestic violence convictions, orders of protection, mental health adjudications, and other disqualifying history should be accurately and expeditiously reported to the instant background check system to prevent dangerous persons from accessing firearms, and everyone with a duty to report has an individual responsibility to properly fulfill their duty; and

WHEREAS, improving the accuracy, completeness, and timely reporting of records submitted to the instant background check system can make our communities safer for all Tennesseans.

NOW THEREFORE, I, Bill Lee, Governor of the State of Tennessee, by virtue of the power and authority vested in me by the Tennessee Constitution and the laws of the State of Tennessee, do hereby direct and order the following:

1. All entities with obligations to report relevant information that is accessible in the Tennessee Instant Check System (TICS) shall ensure that all relevant information is either entered into TICS or provided to the TBI within seventy-two (72) hours of an entity's receipt of the information. For purposes of this Order, relevant information is criminal history information and court mental health information.
2. The Administrative Office of the Courts (AOC) shall ensure that the circuit, chancery, and general sessions courts of this State accurately, completely, and timely submit relevant information into either the TBI's FlexCheck database or directly to the TBI for entry into TICS.
3. The TBI shall review TICS to determine how the process for submitting information to TICS may be improved. Within sixty (60) days of this Order, the TBI shall submit a report to the Governor and the Speakers of the Senate and the House of Representatives that identifies any barriers to complete, accurate, and timely reporting of information that is accessible in TICS.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 11th day of April, 2023.



GOVERNOR

ATTEST:



SECRETARY OF STATE



INTRODUCTION

In accordance with state and federal law, the Tennessee Bureau of Investigation (TBI) oversees the Tennessee Instant Check System (TICS), which acts as the state's background check for prospective firearm purchasers. The TICS Unit began operation on November 1, 1998, when the requirements of the Brady Handgun Violence Prevention Act [18 U.S.C. § 922(t)] were incorporated into the Tennessee gun transfer statute with an amendment to Tenn. Code Ann. 39-17-1316. The law required TBI to establish and maintain a background check system that meets or exceeds the requirements established by the Brady Act for continuing recipient background checks on all firearms transactions except those specifically excluded by law. By the creation and utilization of TICS, federal firearm license dealers do not have to go through the FBI's National Instant Check System (NICS) and instead utilize TICS. Tennessee is one of thirteen (13) full "Point of Contact" states in the nation. To meet the necessary requirements, TICS accesses the databases in the reference list below when processing the required TICS background check of any person seeking to purchase a firearm from a licensed firearm dealer.

- **TCHR (Tennessee Criminal History Repository)** This file is maintained by the TBI and is supported by arrest fingerprint cards. Persons convicted of a felony, a misdemeanor crime of violence, or stalking cannot legally possess a firearm.
- **NCIC (National Crime Information Center)** This database maintains files on wanted persons, protection orders, deported felons, U.S. Secret Service Protective (persons who may pose a threat to the President and/or others afforded protection by the U.S. Secret Service), foreign fugitives, SENTRY File (persons currently under supervision of the Federal Bureau of Prisons), Convicted Person on Supervised Release File and the Convicted Sexual Offender Registry.
- **III (Interstate Identification Index)** This is the national repository for criminal history record information.
- **NICS (National Instant Check System)** The federal instant background check system maintained by the FBI. It houses databases on Denied Persons, Illegal/Unlawful Aliens, Controlled Substance Abusers, Dishonorable Discharges, Citizenship renunciants and Mental Defectives/Commitments.

Overview of the TICS Background Check Process

When an individual seeks to purchase a firearm from a licensed dealer, they are required to fill out a form created by the Federal Department of Justice and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) known as the 4473. After the buyer fills out the form, the dealer signs into their Flex-Check account to initiate the gun transaction.¹ Once the gun transaction is submitted via Flex-Check by the dealer, the TICS system reviews the available databases identified above for disqualifying offenses. If there are no disqualifying offenses found, TICS will approve the transaction. If something is found that could prohibit the purchase, TICS will deny the transaction or send it to a criminal history examiner (CHE) at the Bureau for further review before the approval or denial. An individual denied a gun purchase may appeal the denial through the TBI. Pursuant to Tenn. Code Ann. 39-17-1316(n), an individual cannot purchase a firearm if there is an arrest on their criminal history, with no disposition, which would be a disqualifying offense under state or federal law if the person was convicted as charged. When an appeal is received based on a denial for an arrest without a disposition, a TBI employee attempts to acquire the disposition. If the TBI can acquire the disposition, the transaction is either switched to an approval or the denial is sustained, at which time the dealer and purchaser are notified. If the TBI cannot acquire the disposition within fifteen

¹ Fewer than 10% of dealers have chosen to submit the 4473 through mail or fax. Regardless, the background check process is handled the same way.

(15) calendar days, the transaction is changed to a conditional proceed. A conditional proceed, pursuant to Tenn. Code Ann. 39-17-1316(o), allows the dealer to proceed with the sale of a firearm at their choosing. The TICS Unit will continue to research needed dispositions past the fifteen (15) business days. If the disposition is ultimately received and the transaction can switch from a conditional proceed to either an approval or a sustained denial, then the dealer and purchaser are notified. If the dealer chose to sell the firearm under a conditional proceed and the disposition is ultimately received which indicates the purchaser is prohibited from purchasing a firearm, the TICS Unit contacts the ATF. An ATF agent then retrieves the firearm from the purchaser.

TICS is an expansive system utilized by over 1,400 firearm dealers across the state and has processed over 7,650,000 transactions since its creation. To provide background results in those instances, TICS depends on the information it accesses being accurate, complete, and timely. While the Bureau serves as the state's repository for criminal history record information and is responsible for maintaining updated criminal records, TBI is completely dependent on local law enforcement, courts, and clerks to submit criminal record information. Any delays, inaccuracies, or incomplete information becomes a potential blind spot for criminal histories, and in turn, for TICS.

The collection of criminal history information begins when a person is booked into jail for a criminal offense. An individual's fingerprints are captured and submitted electronically to the TBI via a livescan device. The livescan device allows the booking officer to record the fingerprints along with required descriptive data, (i.e., name, date of birth, race, gender). Once received by the TBI Automated Fingerprint Identification System (AFIS), the fingerprints are reviewed and approved by TBI staff or, if the fingerprints are of a sufficient quality, they are automatically processed within AFIS, and the arrest appears on the criminal history record. AFIS connects new arrests to an existing criminal history record by comparing the new set of fingerprints to fingerprints already in the system. This process ensures that arrests and dispositions are attached to the right criminal record. Either an approved/accepted response or a rejection of a fingerprint submission is provided within two to four hours and returned to the local law enforcement agency's livescan. An approved/accepted fingerprint submission is returned to the local agency with the state control number (SCN), the state identification number (SID), and the FBI number. The state control number is unique to the arrest. The SID and FBI number are unique to the individual. A disposition card, called an R-84 card, is also created by the livescan machine, which the booking agency must submit to the court clerk. (See Tenn. Code Ann. 8-4-115). The R-84 contains identifying information of the individual as well as arrest and case information.

The court is responsible for submitting the final disposition to the TBI. Final dispositions come to TBI via mail, fax, email, and electronically. Pursuant to T.C.A. § 8-4-115(a)(1)(C), TBI encourages courts and clerk's offices to submit electronically. However, we cannot force them to comply, and there are no consequences for non-compliance. In 2022, 87% of dispositions came to the TBI electronically. The other 13% amounted to over 100,000 dispositions manually submitted. Electronic submissions arrive at the TBI through a vendor software of the local entity's choosing. The most widely used system for disposition submittal mentioned throughout this report is Tennessee Court Information System (TnCIS), which was created in Tenn. Code Ann. 16-3-803. Flex-Check is another system used by courts which the TBI provides for disposition submittal. When the disposition arrives at the TBI, it is attached to the corresponding arrest on an individual's criminal history housed within the Tennessee Criminal History Repository (TCHR). This cannot occur unless the individual was fingerprinted because the submission of the fingerprint card in AFIS is needed to establish and build an offender's criminal records in the TCHR. As mentioned above, TICS searches through TCHR to determine if an attempted purchaser of a firearm has a criminal history record with a disqualifying conviction.

The Tennessee Instant Check System faces several hurdles. Fundamentally, it relies on the cooperation and effective communication of hundreds of law enforcement agencies. Without a unified court system, it is also dependent on hundreds of courts and clerks across the state. Finally, TICS is also dependent on communication and compatibility between various pieces of technology. With each inaccurate submission and each technological incompatibility comes a limitation on the effectiveness of TICS. Below, the Bureau examines a variety of the current barriers, as well as some solutions TBI is already pursuing or believes could be beneficial.

BARRIERS & POSSIBLE SOLUTIONS

This section identifies barriers to accurate criminal history information visible in TBI's databases and the criminal history repository. The list also includes challenges the TBI faces as it relates to obtaining accurate, timely, and complete criminal history record information from the local reporting entities at arrest, disposition, and expungement.

Arrest Data Barriers

- Without a fingerprint card, the TBI cannot link an arrest and disposition together. If the fingerprint card is rejected, because of a problem with the information on the card, an email response is sent back to the local law enforcement agency with an explanation and next steps. The local law enforcement agency must correct the issues with the fingerprint card and resubmit to TBI for the arrest to appear on the criminal history record. The local law enforcement agency may print the fingerprint card and mail the fingerprint card to the TBI for manual input. This process could take anywhere from two to four weeks for the fingerprint card to be returned to the local law enforcement agency for their file. In turn, this can lead to a delay in the submission and reporting of the disposition from the courts. The resubmission of the fingerprints is sometimes difficult because the local law enforcement agency may purge the initial fingerprint card and/or the subject is no longer at the booking agency.
- Because a person must be fingerprinted for an arrest to populate into the TN Criminal History Repository (TCHR), there are certain offenses that do not make it onto a person's criminal history. This occurs most often when criminal offenses are added or modified by a grand jury, when a case is presented as an information plea without arrest, or when a person is issued a citation. TBI only becomes aware of these additional charges when a criminal history examiner attempts to add a disposition to an individual's criminal history and the arrest does not appear. The only way to add these charges to the criminal history is by fingerprinting the individual, which presents its own challenges, or by adding the charges to the original fingerprint card if the charges are additions or modifications to an original arrest.
- Another issue with receiving fingerprints and arrest information into AFIS and TCHR occurs when a livescan device experiences connectivity issues with AFIS. Sheriff's offices experiencing livescan connectivity issues must submit mail-in criminal fingerprint cards to the TBI resulting in a delay of arrest information populating in a criminal history record.
- Connectivity issues are exacerbated because there is currently no mechanism in place to alert the TBI that an agency's livescan machine stops submitting electronic fingerprints and the transmission of criminal history records ceases. It may take several days for a TBI employee to notice that an agency is no longer submitting records. It is possible that connectivity issues could be spotted by an employee dedicated to this task as part of their job requirements, however, current staffing levels are not sufficient to fulfill this task. Alternatively, the Bureau is exploring the possibility of a technology solution that provides a notification to the booking agency and/or TBI when a connectivity issue occurs.

- Manual ink rolled fingerprint cards, which are utilized when a livescan machine cannot submit prints electronically, increase the possibility of poor-quality fingerprints being submitted and ultimately rejected thus resulting in the inability of being able to add that arrest information to the system. In 2022, the Data Quality Unit received 266,483 electronic fingerprint submissions compared to 3,913 mailed-in cards.

Disposition Barriers Because of Format

Dispositions arrive at the TBI in multiple formats. We see this via the actual form that is used by an agency to compile a disposition entry and the way the disposition arrives at TBI. Both result in barriers to accurate, timely, and complete criminal history records. This could be eliminated if all dispositions were received electronically and appeared at the TBI in one uniform location which automatically populated to TCHR and to the FBI's national criminal history database.

- Agencies submit hardcopy dispositions to the TBI on multiple forms. The Bureau has documented at least fourteen (14) different forms that we receive through mail, fax, or email. The forms include different versions of judgement orders from circuit and criminal courts, as well as warrants and citations from general sessions courts. R-84 forms are also received in different versions, and this is because not all livescan devices have the newest version installed. The lack of uniformity delays the inputting of information to a criminal history because a criminal history examiner must search the form to determine where the necessary information is located. Utilizing a single form would allow the examiner to be familiar with the location of each piece of information, and the verification and entry of criminal history information would speed up. TBI is currently working with the Tennessee Office of Criminal Justice Programs (OCJP) on a Livescan Replacement Project. The TBI plans to update the Statewide Livescan Requirements document to require the use of the correct R-84 form, which will be provided to the new livescan vendor awarded the contract, to aid TBI's Livescan Replacement Project. As part of this project, TBI and the livescan vendor will deliver 30 livescans to agencies with livescans approaching or at the end of their lifespan. The goal is to replace 30 livescans each year to ensure local law enforcement agencies have new and functional livescans.
- In addition to the form itself, dispositions are submitted by courts by mail, fax, email, and electronically². Dispositions that are not received electronically require a criminal history examiner to engage in a set of steps before the disposition can be added to an individual's criminal history. For example, dispositions received by mail and fax are scanned into a computer by a criminal history examiner. Mailed, faxed, and emailed dispositions are then added by a criminal history examiner to a server maintained by the Criminal Records Unit. Those dispositions are taken from the server and added to an individual's criminal history manually by a criminal history examiner. Dispositions received electronically present their own challenges which are explained later in this document.
- Courts choose which vendor software to use for the electronic submittal of dispositions. There are around ten different vendors used across the state. They do not all function in the same way. Dispositions that are submitted electronically by Davidson County, Hamilton County, Knox County, and Shelby County are inputted directly into TN Criminal History Repository (TCHR) by each of their chosen systems. However, a criminal history examiner must send the dispositions of the 91 other counties to TCHR. For most dispositions, this is a relatively straightforward, but time-consuming, task whereby an examiner reviews the disposition entry and arrest entry to ensure the accuracy of the record and then the disposition is added to TCHR. 1% of the dispositions come to TBI via Flex-Check and

² In 2022, approximately 87% of dispositions were received electronically, 11% by email, 2% by mail, and fewer than 1% (5,585) by fax.

must be manually entered into TCHR like those dispositions that we receive by email, mail, or fax. The TBI is currently researching the possibility of an automatic population to TCHR of a disposition from Flex-Check.

- The issues created by different forms and formats of dispositions received at TBI could be solved if every disposition came to the Bureau electronically. Through outreach and education, the TBI aims to get courts to either utilize the court software of their choice or the Flex-Check system to submit dispositions electronically. TBI will also request that courts do not submit dispositions via fax, mail, or email if they have submitted the disposition electronically. The electronic entries should automatically populate into TCHR without any intervention from a TBI employee. If the dispositions populate straight to TCHR, the issue then becomes ensuring that the entering agency is inputting the information accurately and correcting any rejections in a timely manner. A CJIS support specialist could function as an auditor and trainer for entering agencies across the state.

Disposition Barriers Because of Incomplete or Inaccurate Information

An incomplete criminal history causes extensive research and time for the criminal history examiners at TBI. Requests for dispositions come from individuals asking about their own criminal history because they are trying to acquire a job, housing, or a firearm. Requests also come from other law enforcement agencies both in-state, but primarily, out of state and from the National Instant Check System when an individual attempts to purchase a firearm in another state but has an incomplete criminal history in Tennessee. These requests are on the rise as firearm purchases increase.

Many of the missing dispositions are on older arrests which take longer to acquire the needed information from the local agencies. The reason a criminal history is incomplete or inaccurate varies. Several examples are: (1) an agency did not include the state control number (SCN), (2) the fingerprint card taken at the time of the arrest was never received by the TBI, (3) errors during manual entry of information, (4) errors in disposition submittal cause delays and sometimes prohibit the disposition from arriving at TBI, (5) older dispositions are not digitized by the local court. A discussion of the five examples follows.

- Pursuant to Tenn. Code Ann. 8-4-115(a)(C)(i), all dispositions sent to TBI shall contain a state control number. The SCN is generated at the time of the arrest and tied to the arrest on an individual's criminal history. The local law enforcement agency is supposed to send the SCN to the clerk so the number can be included with the disposition. The inclusion of the number with the disposition is necessary because that is how the disposition is then linked to the arrest in TCHR. The reason that the number is not included varies. There are other times when a number is included with the disposition, but it is not the correct number. Sometimes this is because the state control number was transposed incorrectly and other times the included number is not a state control number at all. The omission of the SCN and the inclusion of the wrong number could be minimized with training and auditing. Currently, the R-84 disposition card is printed at the time of the arrest from the livescan device and the SCN must be added by the local law enforcement agency. An alternative to this process would be that the R-84 disposition card is electronically sent to the clerk's office from the livescan, with the SCN included, in lieu of being printed. This is a technology hurdle that would require some form of collaboration between the agency's livescan vendor and the court's software vendor to be able to electronically send an R-84 to the clerk's office.
- TBI must receive the fingerprints of an individual along with the arrest charge for the arrest to appear on the criminal history. The reasons why we may not receive a fingerprint card are discussed above in the arrest barriers section. If the fingerprint card did not make it to TBI, the disposition will not have an arrest in TCHR to attach to. In this scenario, the Criminal Records Unit creates a rejection form and sends the form along with a request to the arresting agency for a mailed in copy of the fingerprint card.

Once the fingerprint card is mailed in, it is then sent to the Data Quality Unit within the CJIS Division which adds the arrest to the criminal history. Once the arrest is added, the Data Quality Unit notifies the Criminal Records Unit which can then add the disposition to the record. This is a labor and time-consuming effort.

- The fields required for entry of dispositions in the majority, if not all counties, are completed manually. Manual entry allows for a rate of error in identifying information, sentence information, etc. TBI receives dispositions for the same offense or charge from every county across the state. However, the same disposition or offense is not referenced the same way in every county. Manual entry, or free text boxes, are used in the entry of arrest information. The result makes for confusing entries in TCHR. One possible solution would be a drop-down menu whereby every criminal offense was listed in the livescan machine as well as in the vendor software used for electronic submission of dispositions. The same approach could be used in the conviction type field. Example options would include guilty plea, dismissed, or judicial diversion. This effort would require extensive reprogramming of vendor and TBI software. Cooperation between all the local livescan vendors and TBI's software vendors would be needed to successfully implement a standardized drop-menu on all livescans.
- Dispositions cannot be added to TCHR if there is an error in the entry of information. The dispositions are sent back to the entering agency to correct. The entering agency does not always resubmit the disposition when there is an error. A notification to the agency reminding them of the error could increase the rate of fixed errors. An employee dedicated to training and auditing agencies could work with agencies to eliminate their errors and ensure dispositions make it into TCHR.
- If a criminal history examiner requests a disposition from a local court, and the court record has not been digitized, there is often a delay in obtaining the disposition and updating criminal history record information. Older records are commonly stored in off-site locations. There are courts which are only able to send an employee once a week, or even once a month, to the off-site location to research the requested information. There are other times when a criminal history record cannot be updated because the needed information has been destroyed at the local level.
- When incomplete dispositions are submitted by a court or clerk that are unable to be matched to a record, the record system places the dispositions into an "error file." Error files historically came to the TBI through TCHR. Currently, the disposition stays within the submitting agency's system with a notification of the error. TBI is aware of over 1.2 million error submissions that have come to TCHR since 2005. Bureau staff have worked to correct and match as many error submissions as possible. Due to the volume of error submissions coming in and the limitations on available staff, personnel have had to prioritize processing dispositions in either the "pending" or "error" file. Staff have prioritized processing of felony dispositions, leaving misdemeanors as the majority of remaining dispositions in need of processing. For several years, the Bureau has contracted with a vendor in an attempt to address the issue and determine whether the rejected dispositions can be added to the appropriate criminal history records. Despite TBI's best efforts, the Bureau estimates that as of 2023, there are still approximately 761,000 error file dispositions which are either awaiting processing to determine if connectivity to a criminal history record is possible, or that have been processed and a determination has been made that the disposition cannot be connected to a record without further research being conducted into the charge associated with the disposition. Though TBI is examining a variety of options to address the issue, without better and more thorough submissions, this problem is likely to continue.

Expungement Barriers Because of Format

There is no statutory requirement for courts to enter expungement orders electronically even though the TBI offers electronic submission through the Flex-Check system. Seventy-one counties use Flex-Check. Although more than half of the counties utilize Flex-Check, most of the courts that use Flex-Check are rural

counties, not the larger contributing counties. In 2022, only 22% of expungement orders were transmitted through the Flex-Check system. 68% of expungement orders were received by email, and 10% of orders were mailed to TBI. Electronically submitted expungement orders through Flex-Check can be processed quicker by a criminal history examiner. The courts not only scan in the expungement order, but they also manually enter information about the case. A criminal history examiner can go straight to processing the expungement received since they do not have to manually enter the information. If there is an issue with the expungement order received, the correction process is quicker for those orders received via Flex-Check as well. The rejection and correction process is discussed below. If all expungement orders were submitted electronically, an individual's criminal history would be updated sooner.

Expungement Barriers Because of Incomplete or Inaccurate Information

- When an expungement order is received by the TBI, a criminal history examiner reviews the order, manually removes the appropriate records from a person's criminal history and enters the expungement information into the confidential expungement database. It is vital that the expungement order includes the state control number, clearly identifies what offenses are to be expunged, and the reason for the expungement.
- As mentioned above, the state control number is a unique number created at the time of arrest which allows for the connection of a disposition to the correct arrest. The SCN is important for expungements because a criminal history examiner can search by that number included on the expungement order thereby eliminating the time it would take to determine which arrest and disposition are supposed to be expunged. The general assembly passed legislation this past session requiring the state control number on all expungement orders. TBI is optimistic that this requirement will greatly increase the frequency of state control numbers on orders. Without the number, TBI criminal history examiners must manually search an individual's criminal history to identify what arrest and disposition is subject to expungement by comparing the other identifying information on the order with the criminal history.
- Expungement orders must be rejected back to the court for a correction if it is unclear what information should be expunged. This often occurs because the date of arrest or arrestee information on the order does not match the information contained in TCHR, the form is illegible because it was handwritten, or the orders is submitted without a judge's signature.
- When an order is received through Flex-Check and must be rejected, a criminal history examiner can type in the issue inside the Flex-Check system and send it right back. Orders not received by Flex-Check require a criminal history examiner to fill out a rejection form which is then sent back via mail or email with the expungement order to the court.

Juvenile Criminal History Records Barriers

- Pursuant to T.C.A. § 37-1-155, juveniles may only be fingerprinted in limited circumstances and the fingerprints which are taken are to be maintained by the local agency. Therefore, the fingerprints should not be transmitted to the TBI through AFIS at the time the juvenile is taken into custody for placement on the individual's criminal history. An issue arises when a juvenile is transferred from juvenile court to be tried as an adult. The juvenile is not always re-fingerprinted after indictment which means the arrest and disposition do not make it to the criminal history record. A CJIS Support Specialist could train local law enforcement and courts on the necessity of submitting the fingerprints and charge information to TBI once the juvenile is transferred to be tried as an adult.

- Congress passed the Bipartisan Safer Communities Act which became effective in the fall of 2022. The Act amended 18 U.S.C 922 and requires TICS, for all purchasers under 21 years of age, to contact the “juvenile justice information system” where the attempted purchaser resides before approving a firearm purchase to determine "if the person has a possibly disqualifying record.“ The TICS Unit has not had success requesting juvenile records from Tennessee courts with juvenile jurisdiction because Tennessee juvenile records are confidential with limited exceptions listed in T.C.A. § 37-1-153. This statute could be amended to allow the TICS Unit access to records of the court for the purposes of determining whether the person has a possibly disqualifying record for the purchase of a firearm.

Barriers Because of Personnel Limitations

There are approximately 200,000 older hardcopy fingerprint cards which are not in the Automated Fingerprint Information System (AFIS). These cards were submitted to the TBI before the implementation of the AFIS. Due to the limitations of technology and resources, the older hard copy cards were not migrated to the AFIS once the system went live in the year of 2000. TBI employees work on adding these historic hard copies to the AFIS as time and resources permit. Our 2023 NCHIP grant application includes a request to offer overtime to existing criminal history examiners and temporary personnel so that they may dedicate time to the entry of hard copy fingerprint cards. The grant may also provide technological enhancements. With our current software, each fingerprint card must be scanned on an individual basis. During the Bureau’s review of this issue, TBI became aware of possible technology solutions to this barrier. TBI requested funding in the 2023 NCHIP grant for a batch scan workstation that is capable of scanning 200-250 single-sided fingerprint cards each hour. Fingerprint cards in Tennessee are two-sided so there will be a reduction in the number of cards scanned each hour, but these workstations will still vastly improve the rate at which personnel can address this issue. TBI will continue to use this device to input hardcopy fingerprint cards received in the future when fingerprints are transmitted to TBI because of connectivity issues or errors with the electronic submittal.

Barriers Within TBI’s Software

- During the Bureau’s internal review for this report, areas were identified in which systems could be improved to increase the efficiency of TBI criminal history examiners, and ultimately improve the timeliness of accurate criminal histories. Most of these inefficiencies are minor in and of themselves and will be eliminated if the dispositions automatically populate to TCHR, eliminating the need for manual intervention by a criminal history examiner. TBI plans to pursue solutions with its software vendors to accomplish these improvements.
- If criminal history examiners continue to review and submit dispositions to TCHR, it is believed that the identified issues can all be modified by the vendor. The Bureau researched some of the costs attached to these modifications.
- For example, the Flex-Check system does not allow a court to modify a previous disposition entry. This is a technology limitation, and it becomes an issue when the TBI rejects a disposition because of an error. The only option for the court is to reenter all the previously submitted information. This encourages new errors when the entry is made a subsequent time, and often it discourages courts from making corrections to rejections received from TBI. The result being that a disposition is never

reentered. The TBI has already begun examining technology enhancements to this barrier. TBI has received a quote from the Flex-Check vendor to add a reject and resubmit functionality to the system.

Staffing Needs and Technology Enhancement Recommendations

The TBI's CJIS Division believes there is an opportunity to enhance the effectiveness of the system with technology enhancements and additional personnel. The Bureau is committed to working with the Governor's administration and the legislature to secure appropriate solutions in the most effective and cost-efficient manner. While certain personnel will be needed to help train and audit submissions, depending on the solutions pursued, TBI may be able to shift personnel into new roles as technology and automation are improved.

CONCLUSION

In this document, the Bureau has discussed the various barriers to complete, accurate, and timely information accessible to TICS. Without proper training, communication, personnel, technology, resources, and cooperation from local reporting entities across Tennessee, the TBI will continue to encounter challenges related to providing timely, accurate, and complete criminal history record information. We appreciate Governor Bill Lee and his administration realizing the issues surrounding this work extend to agencies and systems well beyond the Bureau's purview, and stand prepared to engage in meaningful and productive conversations with all stakeholders about the enhancements needed to continue to promote the highest level of public safety in Tennessee.

GLOSSARY

AFIS- Automated Fingerprint Information System is a biometric solution used by the TBI to receive, review, and process criminal and fee applicant fingerprints submitted by the law enforcement agencies and the state's enrollment services vendor known as IdentoGo.

ATF- Bureau of Alcohol, Tobacco, Firearms, and Explosives

BE- Biometric Examiner

CHE- Criminal History Examiner

CJIS- Criminal Justice Information Services

CRU- Criminal Records Unit

CSS- CJIS Support Specialist

DQU- Data Quality Unit

Flex-Check System- used by the TBI to provide electronic automation of various adjudication processes in the following areas including Tennessee Instant Check System, TN Applicant Processing System, TN Open Records Information System, Expungements, Diversions, and Dispositions.

III- Interstate Identification Index is a national index of state and federal criminal histories in the U.S., maintained by the Federal Bureau of Investigation at the National Crime Information Center.

NCHIP- National Criminal History Improvement Program

NCIC- National Crime Information Center is a criminal records database allowing criminal justice agencies to enter or search for information about stolen property, missing or wanted persons, and protection orders; to get criminal histories; and to access the National Sex Offender Registry maintained by the FBI.

NICS- National Instant Check System is the federal instant background check system maintained by the FBI. It houses databases on Denied Persons, Illegal/Unlawful Aliens, Controlled Substance Abusers, Dishonorable Discharges, Citizenship renunciants and Mental Defectives/Commitments.

OCJP- Office of Criminal Justice Programs

SCN- State Control Number

SID- State Identification Number

TCHR- Tennessee Criminal History Repository is a database maintained by the TBI and is supported by arrest fingerprint cards and court dispositions on state offenders.

TICS- Tennessee Instant Check System is the TBI's instant background check system used to process gun transactions submitted by Federal Firearm Licensed Dealers.

TnCIS- Tennessee Court Information System is maintained by the Administrative Office of the Courts and designed to provide court clerks with an automated case management system and accounting software system to allow courts to perform their statutory responsibilities, as cited in TCA § 16-3-803.