

"KEYNOTE ADDRESS"

Honorable Janet Reno, Attorney General of the United States
U.S. Department of Justice
Washington, D. C. 20530

Presented at the National Conference on Criminal History Records
Brady and Beyond,
February 7 - 9, 1994

Thank you very much, Laurie. P J has stood in for me so many times before, I think, in so many different situations, it would be just fine. And that's really. I spoke to the State Supreme Court Chief Justices yesterday, and as I explained to them and as I will explain to you, I am a product of a "local system" -- of a state court system. I am here at the federal government, and I do not want to forget where I came from and how difficult it is to deal with the issues of technology, of constitutional issues, of policing on the streets of America. Local and state law enforcement have the hardest single job of anybody in law enforcement, and they do an incredible job considering all the federal regulations that we impose, all the unfunded federal mandates that oftentimes come to local government. And, I want to do everything I can to work with you on these issues that we discussed today and on the issues of the future, to make sure that there is a real partnership. But the federal government doesn't come to town and say, "Hey we know better!", but, that " We work with you, understand the difficult problems that you face, and work with you to use whatever federal resources are available to solve it."

There are scores of legitimate reasons for needing to know whether a certain individual has ever committed a crime, and, if so, what crime? And, yet, as I will discuss this morning, our current ability to do that is distressingly inadequate. I thought from my own experience -- trying to develop a career criminal program and trying to get sound prior records and immediate prior records to prove what we were doing and to

focus our priorities on the true career criminal. I thought in terms of trying to get information to court for pre-sentence investigations. Every time I turned around, criminal records were keyed to everything we were doing, and the issues involved were very, very difficult. But, I also had a sense of hope. I used to sit there in Miami, as I struggled with the Metro-Dade Police Department's identification and records section, and tried to understand what the issues were. To think, in ten years, I am going to be looking at this and think, "We did what ? We were able to provide that much information with that kind of technology ?" Because, I am convinced that if we work together and use technology in the right way -- if we avoid duplication and if we all go in the same direction developing the best we can with the resources we have -- that criminal-history informations are going to be easily accessible and law enforcement's efforts will be far enhanced by that effort .

It's all too easy to forget how often we need to know about a person's criminal history, i e , when bond is set in a criminal case, and, how many of you have stood before a bond judge, saying, "Well, we really don't know (about the person's criminal history)." How many of you have picked up the paper a day after a bond hearing and find a man that you let out, because you thought he had no priors, has gone out and killed somebody? I have been there, and it hurts! The defendant's criminal history may indicate whether there is a serious risk of flight when a judge goes to sentence an individual convicted of a crime. A judge is entitled to know the past criminal behavior of the person standing before the bench. When our government is trying to decide whether an individual can be trusted to have access to our nation's military secrets, a history of criminal behavior may shed light on that question .

And, yet, the legitimate uses for criminal history background information go well beyond the needs of criminal justice and other agencies. In various states, criminal background checks are done before individuals may be hired as bank tellers, daycare workers, retirement home aides and school bus drivers. I dealt with that issue after our country watched child abuse cases, and know how difficult it is both to protect individuals who have a right to work in daycare centers, but how

desperate the need is to make sure that people who work with our children are trusted enough, can be trusted enough to do so. Checks are done before licenses are issued to sell insurance, run an auction, or serve food to the general public. In some states, we check backgrounds before people can take leadership roles with public organizations. Now, the Brady Law provides that we should check for a criminal history before we sell someone a gun. And, we must make sure that the National Child Protection Act is implemented, and we need to have accurate information to do so.

The business of criminal histories is a tricky one. Our society believes that people can make mistakes and that those mistakes should not necessarily be held against them forever. And, our society believes that we should, in general, respect people's privacy. Our society also understands what happens to a person when they get unfairly labeled with inaccurate information -- when the record is wrong, when the information is wrong -- and how disastrous that can be in this era of automation. For that inaccuracy can follow them through one credit check or one background check after another, and it takes sometimes an *act of God* to erase it from the automated system!

So, our society has learned that we must take steps to protect ourselves from those who haven't just made a mistake -- those who break the law repeatedly or with malice, those who by their actions have demonstrated that they are dangerous. It is, unfortunately, because of these people -- those who have demonstrated that they cannot be trusted -- that we must check the backgrounds of all people who wish to engage in occupations or activities in which only the people the society trusts should be allowed to engage. But, we must make sure it's accurate, we must make sure that information is maintained, and that we do so consistent with due process.

Given the new miracles of technology which emerge every day, our current ability to conduct reliable background checks is abysmal. In your packets are two charts which help to illustrate the current state of affairs. There is a blue chart and a pink chart. The first chart is headed,

"Records Held by States and the F B I - 1992". Referring to this chart, using the best data available (we have data from 1992), we can see that, at that time, there were just over 53 million criminal history records scattered throughout the country -- 53 million! This chart shows that of those 53 million, just 17.5 million of them, or 33% of them, were available inside the Interstate Identification Index (III), the only real multi-state database of criminal records! So in 1992, a computer search would not even have had access to two-thirds of the criminal history records in the country. But, it gets worse!

Of the 17.5 million records available in III, only about 9 million of them had information about the ultimate disposition of the case. How many criminal histories have you looked at where there is an arrest and no disposition -- where there is an arrest, after arrest, for a very serious crime and no disposition? The judge is about to sentence them, about to put them on probation. You're grappling with the hard issue (that) the judge won't give you a continuance, and you just wish you had the dispositions there. What is the result? This means that for about 8 million of those 17.5 million records available on III, we can see that an arrest is made, but we don't know what happened! We don't know if the person was convicted, acquitted, had the charges dropped, or pled guilty to a lesser offense. For purposes of knowing a person's criminal background, almost half the records available in "III" don't tell us what we need to know.

So where does that leave us? It leaves us with only 9.2 million records on III with case dispositions out a total of 53 million records -- just 17%. Just 17% of the criminal records in this country are complete enough and accessible enough to be instantaneously useful to our law enforcement community and the rest of society. And 17% is so far away from a passing grade -- let alone the A+ quality work in this area to which Americans are entitled -- that we've got to make improvements in this area on a national, state and local basis, and, as a priority!

Now, to be fair, there has been considerable improvement in recent years. I think back to 1978 when I took office as State Attorney, and see the distinct difference.

Let's look at the pink chart headed, "Percent of Criminal Records Accessible through Interstate Identification Index". Federal and state funds have been invested in the effort to improve criminal histories. Some have started to recognize the critical nature of improvement in the area. And, the percent of criminal records accessible through III has risen slowly, but steadily, through the first half of this decade. We are now up to 39% of all criminal records included in III. Twenty-six states (26) are in III. By the end of the calendar year, we will have between 30 and 35 states in III. And, disposition reporting has been improved, too. Through tremendous efforts on your part, we are making progress, but we still have a very long way to go. I recognize that it is an extraordinarily difficult task to automate all of the those records that are still manual, to link the data that is contained in different automated systems, and to make those records immediately available. Nonetheless, the American people expect no less of us, and we cannot let them down.

Fortunately, when the Congress passed the Brady Bill, it understood that we were not ready to rely on an instant check system, starting at the end of this month. There was a recognition that computerized records with case dispositions were not sufficiently complete to prevent sales to prohibited buyers. And, that's why the Congress gave all of us involved in conducting background checks, five (5) *working* days to complete the checks.

Because of the current state of computerized records, the background check burden will fall even more heavily on those of you involved in local law enforcement. When the computer shows an arrest without a disposition, you will have a few days to find out what happened in that case. When there is a question about which "John Smith" is seeking to buy a gun, and whether it's the same one convicted of aggravated battery last year, you will have a few days to get it right.

Without the five working days which law enforcement agencies have been granted to conduct background checks, you would be forced to rely exclusively on that computer system that is so far away from a passing grade right now. The five-day waiting period is a critical tool for law enforcement officials. That gives you at least some of the time you need to conduct a reliable background check.

At the end of five years, we must be ready to conduct background checks -- not in five days, but instantaneously. That, too, will be a substantial challenge. But, I believe working together, we can meet that challenge. And, I look forward to trying to do everything I can to support your efforts and to use the federal government in ways that can be most helpful to you.

Those of you here today are on the front line. You maintain the records. You use the records. You have prosecutors hollering at you. You have judges telling you that he wants you over there five minutes before you were supposed to be over there. I've been there. I've been called downstairs, from the 6th floor to the 4th floor, and asked why I didn't have the records. I understand. You are court administrators, probation officials, police officers and judges. You work for organizations concerned with crime victims, child abuse and sensible gun laws. When I talk about the importance of criminal background checks to the people assembled here today, I think, "You know it better than anybody else." And, it falls on those of us who understand the problem to make it a priority for our federal, state and local governments.

They love to go build jails. Or, they love to say, "Here is some planning money for some jails. We are going to start the jails." They love to start building the jails, and they love, finally, to sometimes provide operating expenses for jails. But, when it gets into the difficult issues of technology, technology that can make law enforcement so much more effective, it becomes incumbent upon us who understand how important it is to go to county commissions, to go to state legislators, to go to cabinets and to let them know how critical this information is, and what we can do with a relatively small investment, to make law enforcement so

much more effective. We can explain it to them in terms of "technology is a wave of the future, if you make this investment now, you are going to save us dollars in re-arrests that have to be made because a dangerous offender was let out of prison prematurely because we didn't have criminal records." You are going to be able to explain to them that we could put a career criminal away, and keep him away, because we had the up-to-date disposition information, rather than seeing the offender go out on probation, only to be recycled back into the system -- both a tragic injury to a victim and a considerable expense to arresting authorities and prosecuting authorities.

We can make a difference! We must remind all of the them of the uses for which they expect criminal history records to be available, and we must be honest with them about how far we have to go before we can have a really reliable check to determine someone's criminal history. Furthermore, the federal government must do its part to assist you in this effort in every way we can. I am pleased that President Clinton's budget submitted to the Congress on Monday requested \$100 million for the improvement of state criminal history quality and accessibility. This money, if appropriated by the Congress, will be distributed in grants based on the priorities established in the Brady Law and the timetables established by the Department of Justice, in consultation with *each state* -- it's not us deciding, it is working with you to jointly decide what the priorities are. In addition to providing funding, the Justice Department and the F B I will continue our partnership with all of you to make sure that we have a national records system that works -- one that provides the type of complete, accurate, timely information we and the criminal justice community need. With your dedicated efforts and with these critical federal funds, I have no doubt that working together we can make real progress towards improving all of the criminal history databases in this country.

We have the Brady Law. And, it's so nice to hear "Brady Law" instead of "Brady Bill". We now have the National Child Protection Act, or the "Oprah Winfrey Bill", which will improve the quality of our data

regarding those who commit crimes against these children. But these laws are only a small part of the mosaic of uses for criminal histories.

The President has called for an enactment of the "Three Strikes And You're Out Law", and we are working to define it carefully so that we go after the truly violent -- the people who I have long said should be put away and kept away. But, I understand, as I have mentioned, what it is like to try to prove that somebody is a "career criminal" -- to try to prove that somebody had "three strikes". How can such a sensible law work if we don't know which people have committed violent crimes in the past? Right now, the computer can only give us reliable information, in that regard, for less than 25% of the criminal histories in our country. For "Three Strikes and You're Out" to keep violence off the streets, for the Brady Law to keep handguns out of the reach of those who shouldn't have them, for the National Child Protection Act to keep our children safer from child abuse and neglect, we must improve the quality of criminal history databases, and we must do it quickly!

I thank you all for your dedication to law enforcement, whether it be in the issue of criminal histories, community policing, support that we can give you for technology, technical and expert information that we can share with you -- we want to develop a mechanism for truly sharing. We have an interesting "face" to law enforcement in the federal government now. We have, as Director of the F B I, a man who was an F B I agent, who was a federal prosecutor, who was a federal judge. For the United States Marshall, we have a man who was Deputy Director of the Metro-Dade Police Department and Chief of Police in Tampa, a man who came up through the ranks from Patrolman to become the Director of the Marshall Service of the United States. As the nominee of the Drug Enforcement Administration, we have a man who worked his way up through the ranks in New York to become Commissioner of the State of New York, who understands the aspect of law enforcement from a state perspective. And you have a local prosecutor hanging around, too. Never has there been, I think, such a chance for cooperation. There is now a splendid effort underway between the federal agencies and the Department of Justice. The D.E.A. and the F.B.I. have just announced a

resolution of the intelligence hearing aspect of their two agencies that, I think, brings unparalleled efforts of cooperation, coordination, and an end to "turf battles":

But more importantly, I think we now have the chance to share with you as *real* partners. You're the people who are on the "front line". You are also the people who are on the front line of probably the greatest burst of knowledge in all of human history. You have got to take what that street officer knows and what that scientist knows, and marry them together, so that we can form an effort where law enforcement is going to be *ahead of the crooks*, the sophisticated crooks, where law enforcement is going to have up-to-date information so that it can respond immediately. We look forward to working with you in that partnership.

Thank you .

Partial Introduction by Laurie Robinson of the Honorable Janet Reno, Attorney General of the United States:

The U.S. Attorney's Office talks with people and communities who are doing something about crime in their own neighborhoods. That caring approach really touches everything she does. I hope you will now join me in welcoming Janet Reno, the Attorney General of the United States.

(Transcription Note This commentary actually occurred prior to Ms. Reno's Keynote Address, as an "introduction". Because the bulk of the introductory message was not captured on cassette tape, this remaining portion is transcribed for the records and shown as page 10.)