



Washington State Auditor's Office

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Performance Audit

Improving the Completeness of Washington's Criminal History Records Database

June 15, 2015

Criminal history records include information on arrests and the disposition of those arrests. They are used during criminal investigations, for charging and sentencing decisions, and to conduct background checks for jobs and volunteer positions. We found a third of the dispositions reported in the Judicial Information System (JIS) in 2012 were missing from the Washington State Identification System (WASIS). Almost 90 percent were for gross misdemeanors, such as driving under the influence. Dispositions were missing for thousands of people for offenses that would disqualify them from jobs and volunteer positions with vulnerable populations.

We found dispositions were missing for two primary reasons: the person arrested was never fingerprinted, or vital information was not included when the disposition was entered into JIS. To improve the completeness of WASIS, we recommend the Washington State Patrol seek changes to state laws and rules to ensure all people arrested are fingerprinted and that all dispositions are properly entered. We also recommend the Patrol take a more targeted approach to working with local law enforcement agencies and courts to help them identify and improve weaknesses in their processes to report arrests and dispositions.



Audit Number: 1013675

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Executive Summary

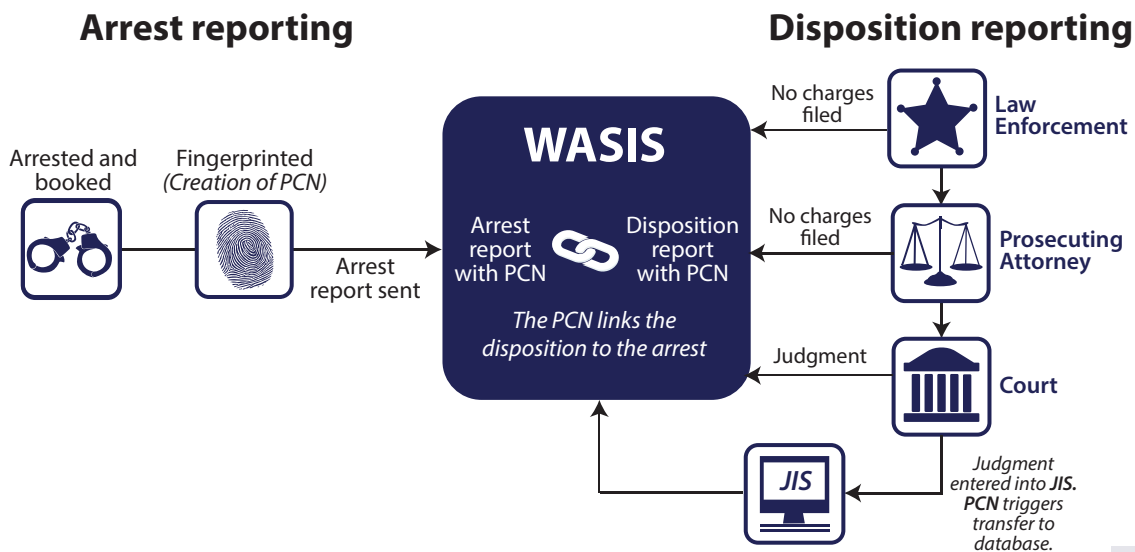
Criminal history records include information on arrests – and the final result of those arrests – that law enforcement officers, prosecuting attorneys and judges use to conduct investigations, to confirm identities, and to make charging and sentencing decisions. These records are also used by employers to decide if candidates are suitable for certain jobs, such as working with children or the elderly, and retailers to ensure individuals may legally purchase firearms. So it is vital that the state’s criminal history database known as the Washington State Identification System (WASIS) includes complete records.

However, we found a third of the dispositions for charges reported in the Judicial Information System (JIS) in 2012 were missing from WASIS, hindering the ability of law enforcement and other decision makers to properly perform their jobs.

State law makes the Washington State Patrol responsible for maintaining WASIS and for ensuring it is complete. State law also requires that independent local law enforcement agencies, courts and county clerks provide the Patrol with criminal history record information.

Process Control Numbers link dispositions to arrests

WASIS uses fingerprints to identify individuals and their criminal history record information. A unique Process Control Number (PCN) is assigned to every arrest when fingerprints are taken and is used to link the result of the arrest, called the disposition, to the the appropriate arrest record. The illustration below shows how arrest and disposition information is reported to WASIS.



If fingerprints are not taken, a PCN is not created and arrest information is not sent to WASIS. Law enforcement agencies and prosecuting attorneys are responsible for reporting dispositions when cases do not go to court. The majority of dispositions that do go to court are sent to the Patrol through an interface between JIS and WASIS. Dispositions entered into JIS will be sent electronically to WASIS only if a PCN is also entered.

Washington’s Administrative Office of the Courts administers the statewide court case management system, known as JIS. Although its use is not required, it is used by the vast majority of Washington courts.

Washington’s criminal history records database is incomplete

To assess the completeness of WASIS, we matched calendar year 2012 disposition records in JIS to those in WASIS and found that 33 percent were missing. Eleven percent of the missing dispositions were for felony offenses, while 89 percent were gross misdemeanors. The most common offenses missing dispositions were driving under the influence, third degree theft, and fourth degree assault – all gross misdemeanors. As WASIS is used to conduct background checks for individuals who work with vulnerable populations, we further analyzed our results and found that more than half of the individuals with missing dispositions had at least one missing disposition for an offense on the state’s Department of Social and Health Services’ list of disqualifying offenses. These offenses include such crimes as harassment, child molestation and domestic violence.

Missing fingerprints and Process Control Numbers contribute to incomplete criminal history records

Based on our analysis, we identified two primary reasons criminal history records are incomplete: 1) fingerprints are not taken, resulting in a PCN not being created, and 2) PCNs are not included when disposition information is entered into JIS.

To better understand why this occurs, we interviewed selected local law enforcement and court clerks across the state. One reason fingerprints are not taken is a state law that does not require law enforcement entities to fingerprint individuals arrested for gross misdemeanors if they are not taken into custody. We also found that even when fingerprints are taken, dispositions may not make it to WASIS because JIS allows dispositions to be entered without the PCN. Court staff we talked to said that when entering disposition information in JIS, they only enter the PCN when they receive it from the law enforcement agency, even if they know a particular charge should have one. A contributing factor we learned from our interviews was that some law enforcement officials and court clerks lacked an understanding of the purpose and use of the PCN and are not receiving clear guidance from the Patrol.

Patrol could do more to improve the completeness of WASIS

While the Patrol has taken steps to improve the completeness of WASIS, it could do more to ensure fingerprints are taken during arrests and PCNs are used to report dispositions. As an example, while the Patrol has developed guidelines on the use and purpose of PCNs, we found the guidelines lack specific direction and are not reaching the right people. Providing direction and guidance to the hundreds of law enforcement agencies, courts and county clerks involved in reporting criminal history record information is difficult. However, the Patrol could do more to reduce the occurrence of missing information by taking a more targeted and direct approach in providing clear guidance, communicating that guidance to the appropriate individuals, and working with law enforcement agencies and courts to ensure the creation and use of PCNs.

Recommendations

We recommend the Patrol:

1. Seek changes to state laws and/or administrative rules to require all persons arrested for gross misdemeanors be fingerprinted.
2. Seek changes to state laws and/or administrative rules to require law enforcement agencies, courts and county clerks include Process Control Numbers when entering disposition information.
3. Clarify guidance provided to law enforcement agencies, courts and county clerks on the use of the Process Control Number by providing more specific directions on its use and how to address known issues when reporting criminal history record information.
4. Develop a targeted approach for working with local law enforcement agencies, courts and county clerks to improve the completeness of the state's criminal history records. This includes identifying those not performing as well; working with them to identify areas of weaknesses in their processes and procedures; and providing them with targeted guidance and training to address the identified weaknesses.
5. Continue current efforts to work cooperatively with the Administrative Office of the Courts to regularly share information and ideas on ways to improve the completeness of criminal history records, including how to improve communication and interactions with the state's county clerks and courts, and how to ensure that courts use Process Control Numbers when entering dispositions in the Judicial Information System.
6. Continue to improve its processes to regularly reconcile the disposition information contained in and received from the Judicial Information System to the disposition information present in the Washington State Identification System.

Introduction

Criminal history records include information on arrests – and the disposition of those arrests – that law enforcement officers, prosecuting attorneys and judges use to conduct investigations, to confirm identities, and to make charging and sentencing decisions. These records are also used by employers to decide if candidates are suitable for certain jobs, such as working with children or the elderly, and retailers to ensure individuals may legally purchase firearms. If information in the state’s criminal history records database is incomplete, law enforcement may come to the wrong conclusions during investigations, a judge may inappropriately order a lesser sentence, or an employer may wrongly offer or deny someone employment.

The Washington State Patrol is statutorily responsible for maintaining Washington’s criminal history records database and for ensuring it is complete – containing arrest and disposition information for all felonies and gross misdemeanors committed in the state. Washington shares these records with the U.S. Federal Bureau of Investigation for inclusion in the national criminal history record repository. The national repository is used to conduct the FBI’s fingerprint-based background checks. All states benefit if each state does all it can to ensure the completeness of its criminal history records.

The Patrol relies on hundreds of independent, local law enforcement agencies, courts and county clerks to provide the information needed to keep the state’s criminal history records database, the Washington State Identification System (WASIS), complete. State law requires them to send criminal history record information for felonies and gross misdemeanors to the Patrol, but because so many agencies are involved, each with its own processes and procedures, opportunities for missing information may occur. Furthermore, two previous performance audits pertaining to background checks performed by the State Auditor’s Office in 2012 and 2014, suggested potential issues with the completeness of the criminal history record information in WASIS.

We designed this audit to answer the following question:

- Are Washington criminal history records complete, and if not, why not?

In 2012, 172 law enforcement agencies and 193 courts provided information on hundreds of thousands of arrests and dispositions to the Washington State Patrol for inclusion in WASIS.

Background

Federal law states that, to be complete, an individual criminal history record must include both the arrest record and the disposition of that arrest. A disposition is the result or conclusion of the criminal justice process associated with the arrest, including: release without charges filed by prosecutors, charges dismissed by the court, or a prosecution ending in acquittal or conviction. For WASIS to be considered complete it must contain all statutorily required arrests – felonies and gross misdemeanors – and all associated dispositions.

WASIS uses fingerprints to positively identify individuals and correctly associate them with their criminal history. Completeness of an individual’s criminal history record depends on the use of a unique Process Control Number (PCN) to link disposition information to its associated arrest. PCNs are created when fingerprints are taken. If fingerprints are not taken, a PCN is not created and arrest information is not included in WASIS.

The majority of fingerprints are taken at jails using an electronic Live-Scan device, which automatically generates a PCN and sends the fingerprints, along with the arrest information and personal identifiers of the offender, like name and date of birth, to WASIS. The device also creates a disposition report that includes the PCN. If prints are taken manually using ink, jail staff use a fingerprint card prestamped with a PCN number and mail it to the Patrol; Patrol staff then enter the information into WASIS. Each prenumbered fingerprint card has a companion disposition report bearing the same PCN.

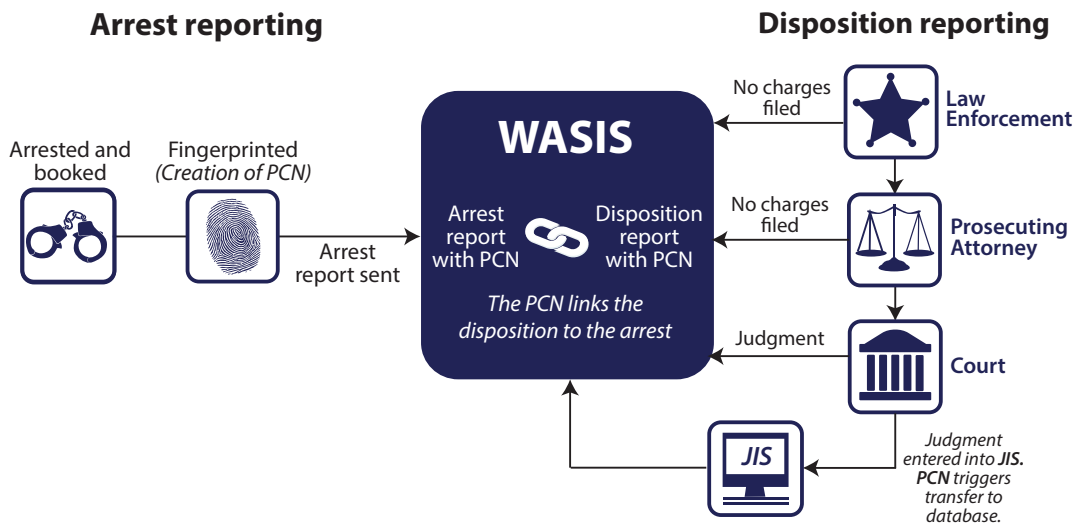
The disposition of an arrest can be reported at several points in the process, with different entities bearing responsibility for reporting at different points, depending on when the disposition is finalized. The law enforcement agency, the prosecuting attorney, and the county clerk or court in the county, district, or municipality may each have its own method for reporting the disposition of the case.

Felonies, such as robbery, are severe crimes punishable by imprisonment in a state correctional institution for typically more than one year.

Gross misdemeanors, such as driving under the influence, are punishable by up to 364 days in jail or a \$5,000 fine.

Misdemeanors, such as driving without a valid license, are punishable by up to 90 days in jail or a \$1,000 fine. Misdemeanors are not required to be submitted to WASIS.

Exhibit 1 - PCNs link arrest and disposition information in WASIS



As Exhibit 1 shows, the PCN is created if an offender is fingerprinted; the disposition report containing the PCN is sent by the law enforcement agency to the prosecuting attorney or court depending on agreed-upon practices.

If a person is arrested, but no charges are filed, the law enforcement agency would report the disposition as “no charges filed.” If there is enough evidence to potentially file charges, the case is forwarded to the prosecuting attorney. Prosecuting attorneys assess whether they have sufficient evidence to file charges. If they do not, the disposition of the arrest would again be reported as “no charges filed.”

If the prosecuting attorney decides to file charges, the case moves to the appropriate court; at the conclusion of the court case, clerks will enter the disposition (a plea, a dismissal, or a conviction) with the PCN, from the disposition report, into the Judicial Information System (JIS). When a disposition with a PCN is entered in JIS, an interface between the two systems automatically sends the disposition to WASIS. If the clerk does not have a PCN, or does not enter the PCN with the disposition information into JIS, the disposition will not be electronically transferred to WASIS through the interface.

While most dispositions are submitted to Patrol through the interface between JIS and WASIS, the prenumbered disposition form can also be mailed to the Patrol where staff enter the information into WASIS.

Washington’s Administrative Office of the Courts administers the statewide court case management system known as JIS. Although its use is not required, it is used by the vast majority of courts in Washington.

Scope and Methodology

Our audit was designed to determine whether WASIS was complete, and if not, why not. To answer this question, we reviewed pertinent federal and state laws and rules associated with the state's criminal history records database to understand the legal requirements of all parties that contribute information to WASIS. A list of relevant state laws can be found in **Appendix B**.

We also interviewed agency staff at the Patrol and the Administrative Office of the Courts to learn more about the processes used to enter criminal history record information into WASIS. Based on those interviews and a review of documentation provided by the Patrol and the Administrative Office of the Courts, we gained an understanding of how disposition information is entered into JIS and is electronically transferred to WASIS. To determine if adequate information system controls were in place to ensure records from JIS were being correctly transferred to WASIS, we conducted tests to see if all pertinent fields were required to be filled in with logical values and if the Patrol had procedures and processes in place to ensure all the required information was transferred to WASIS.

To test if criminal history records were complete, we matched disposition records found in JIS for calendar year 2012 to disposition records in WASIS for the same period. We focused on dispositions for felony and gross misdemeanor charges because state law specifies they must be submitted to the criminal history records database. We considered a disposition record to be missing if it appeared in JIS but not in WASIS.

We did not search for missing arrest records in WASIS because available arrest data did not include consistent information to allow a match to arrest information in WASIS. The state's central repository of booking data – the Washington Association of Sheriffs and Police Chiefs Jail Booking and Reporting System – collects data from the majority of jails in the state, but does not include standardized information for any of the values it receives from the jails, making it nearly impossible to perform an accurate match. The Jail Booking and Reporting System also only includes arrests where the individual is taken into custody. In addition, arrest information in JIS was also not consistent. JIS only has the date of arrest if the PCN is also present, and only includes the offense the individual was charged with in court. This charge could be different than the offense they were arrested for, which is the offense included in WASIS.

Variations in how information was entered meant we had some difficulty matching disposition records between the two systems. We used different combinations of data fields to complete our match, including the PCN, State Identification Number, FBI number, court case number, charge, disposition, and other offense and demographic information (such as name and date of birth). As requested by Patrol and the Administrative Office of Courts, we used the court case number to confirm records were actual matches.

Some records contained incorrect information; many records revealed differences in the way the same value was entered into records. For example, the charge of Third Degree Theft was entered into JIS as "Third Degree Theft," "Theft in the 3rd Degree," "Theft 3," or other ways; WASIS usually recorded the charge as "Theft-3." We attempted to standardize the charges manually, but some were entered into JIS in dozens of variations. Because of these data limitations, our calculations and match results are not perfect and likely contain some inaccuracies.

To understand the extent of incomplete criminal history records, we used our match results to determine the number and percent of dispositions in JIS that were not in WASIS. We also determined the number and percent of people with missing dispositions, including those who were charged with felonies, or crimes on the Department of Social and Health Services' list of offenses that would disqualify them from certain volunteer and employment positions. We did this by grouping disposition records by name and date of birth to determine the number of unique individuals, then calculated the number and percent of people that had at least one missing disposition. Minor inaccuracies in this calculation can be attributed to different people sharing the same name and birth date, spelling variations of a name, or different names used by the same person.

To better understand why WASIS was missing dispositions, we talked with staff and managers at selected local jails, county clerks' offices and courts that provide arrest and disposition information for inclusion in WASIS and JIS. We used our match results to judgmentally select 16 courts – eight superior courts and eight courts of limited jurisdiction. We conducted structured phone interviews with eight courts that had high disposition match rates, and in-person visits with eight low match rate courts. For the eight courts we visited, we also visited their associated jails. We visited a total of five jails because two of the courts we visited used the same jail, and two other jails were contracted tribal facilities.

During both our structured interviews and our visits, we asked about the processes they used to create and update criminal history records. Also during our visits, we attempted to trace several dispositions we identified as missing from WASIS through the arrest and disposition reporting process to identify potential causes for incomplete criminal history records.

Finally, we reviewed the guidance and training materials on how to report arrest and disposition information that the Patrol provides to local jails and courts.

Audit performed to standards

We conducted this performance audit under the authority of state law (RCW 43.09.470), approved as Initiative 900 by Washington voters in 2005, and in accordance with Generally Accepted Government Auditing standards (December 2011 revision) issued by the U.S Government Accountability Office. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. See **Appendix A**, which addresses the I-900 areas covered in the audit.

Next steps

Our performance audits of state programs and services are reviewed by the Joint Legislative Audit and Review Committee (JLARC) and/or by other legislative committees whose members wish to consider findings and recommendations on specific topics. Representatives of the State Auditor's Office will review this audit with JLARC's Initiative 900 Subcommittee in Olympia. The public will have the opportunity to comment at this hearing. Please check the JLARC website for the exact date, time, and location (www.leg.wa.gov/JLARC). The State Auditor's Office conducts periodic follow-up evaluations to assess the status of recommendations and may conduct follow-up audits at its discretion.

Audit Results

Washington's criminal history records database is incomplete

We found a third of the 2012 disposition records in JIS were missing from WASIS. Almost 90 percent were for gross misdemeanor charges, such as driving under the influence. Dispositions were missing for thousands of people for offenses that would disqualify them from jobs and volunteer positions with vulnerable populations. We found they were missing for two primary reasons: fingerprints were not submitted to WASIS, resulting in no PCN being created, or a PCN was not included when entering the disposition of an arrest into JIS.

Concerns about the completeness of WASIS are well known. For each of the last four years, the Patrol has identified and reported the percentage of arrests in WASIS that have a disposition. Its most recent report reviewed 2013 arrest records and found that 78.5 percent included a disposition and 21.5 percent did not. However, the Patrol's review does not account for criminal history records that are missing because fingerprints and arrest records were not submitted to WASIS in the first place. And while informative, the report does not address why disposition records are missing.

For our evaluation of the completeness of WASIS, we matched dispositions recorded in JIS to those in WASIS for calendar year 2012. We chose this approach because whether or not defendants were fingerprinted, they would still proceed through the criminal justice process and, if they appeared in court, their case information would be entered into JIS. Thus, dispositions missing from WASIS could either be the result of missing fingerprints, or the PCN not being entered in JIS. Data limitations prevented us from determining the exact number of records in WASIS lacking both fingerprints and the disposition, and the number lacking just the disposition.

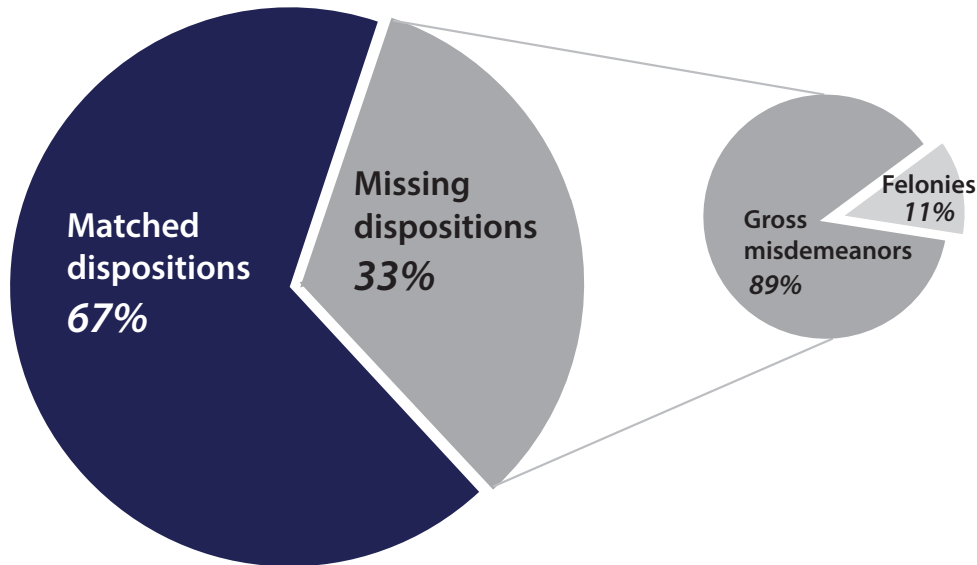
Before we completed our match, we also reviewed relevant system controls within WASIS to determine if there were weaknesses in the system that may have prevented dispositions in JIS from transferring to WASIS. While we did not find any control issues that would prohibit properly entered dispositions to transfer from JIS to WASIS, we did find that the Patrol does not have procedures in place to verify that all disposition data is successfully transferred.

WASIS is missing 33 percent of dispositions found in JIS in 2012

We looked for matches for 245,776 dispositions – 177,770 for gross misdemeanors and 68,006 for felony offenses – found in the JIS to dispositions found in WASIS.

As shown in Exhibit 2, we could not find matching dispositions for 81,100 (33 percent) of those dispositions in WASIS. We found that a disproportionate amount, 89 percent, of the missing dispositions were for gross misdemeanors; only 11 percent were for felony offenses. The most common crimes with missing dispositions were driving under the influence, third degree theft, and fourth degree assault – all gross misdemeanors.

Exhibit 2 - Of the 245,776 dispositions we tried to match, more than one-third were not present in WASIS

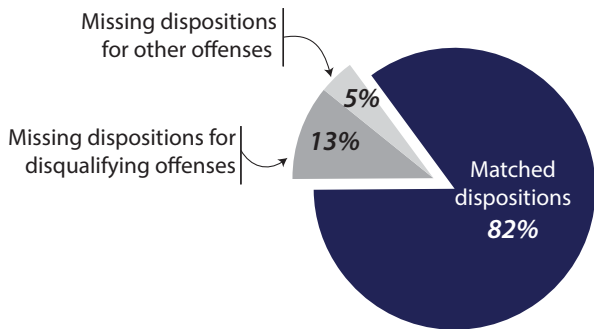


Source: Auditor's Office match results between JIS and WASIS.

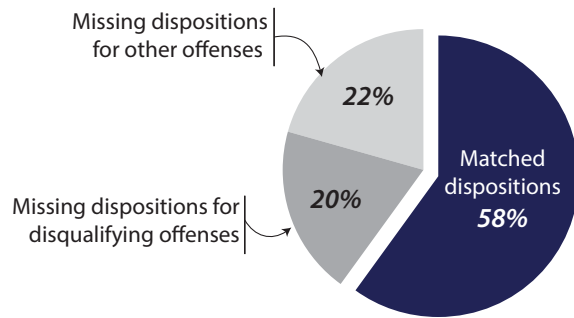
Our match also found that superior courts, where felony cases are tried, had fewer missing dispositions in WASIS than limited jurisdiction courts, where gross misdemeanors are tried. As shown in Exhibit 3, 82 percent of superior court dispositions were recorded in WASIS, while only 58 percent of dispositions finalized in limited jurisdiction courts were recorded. This may be partially due to state laws that require superior court judges to ensure that felony defendants are fingerprinted.

Exhibit 3 - Dispositions reported by superior courts were more likely to appear in WASIS

Superior court total dispositions: 93,771
Total missing dispositions: 17,226



Limited jurisdiction court total dispositions: 152,005
Total missing dispositions: 63,874



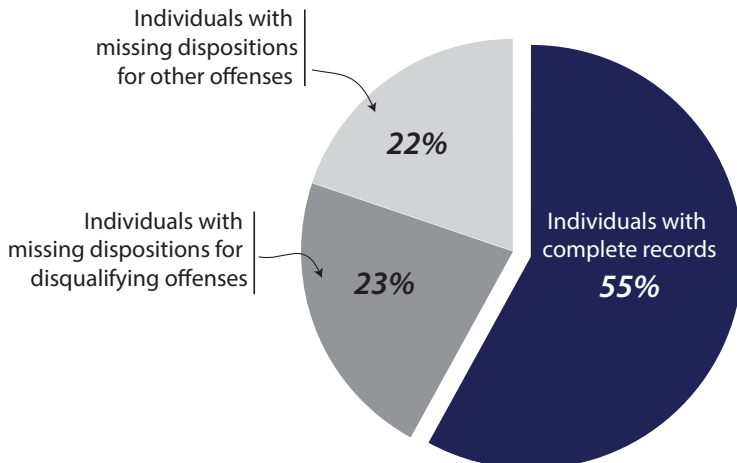
Source: Auditor’s Office match results between JIS and WASIS.

Records for almost 55,000 people lacked disposition information

Incomplete criminal history records affect people, not just database accuracy. We found that the 81,100 dispositions missing from WASIS belong to 54,462 individuals. As shown in Exhibit 4, almost 28,000 of these people had at least one missing disposition for crimes on the Department of Social and Health Services’ (DSHS) list of disqualifying offenses. These offenses include such crimes as harassment, child molestation and domestic violence.

Exhibit 4 - Missing disposition information for almost 55,000 people could affect numerous employment and licensing decisions

45% of the 120,388 individuals with dispositions in JIS lacked complete records in WASIS



Source: Auditor’s Office match results between JIS and WASIS.

DSHS conducts background checks to decide if an applicant should be disqualified from working with vulnerable populations. However, if the agency relied only on data in WASIS, it might not be able to make the correct decision, because those records can be incomplete:

- WASIS does not contain records for people who were arrested but whose fingerprints were not submitted to generate a PCN and a criminal history record.
- WASIS records do not have disposition information if it was not reported using the person's PCN.

Because DSHS is aware that disposition information may be missing from WASIS, staff there also review court records for everyone seeking licenses or employment from them. While this consumes additional resources when conducting background checks, doing so gives staff a more complete picture of an applicant's criminal history. Other employers and licensors may not take these additional steps: the result is people with criminal convictions may obtain licenses and employment they should not have, or people with acquittals or dismissals may be unfairly denied licenses and employment.

Dispositions for people with felony offenses are also missing from WASIS

We also found 4,611 of the 54,462 people lacking dispositions had at least one missing disposition for felony offenses; this included 462 people arrested for murder, robbery, aggravated assault and rape. Felony convictions can affect people's voting rights, firearm privileges, and their ability to hold certain jobs. Again, if WASIS was the only source used to conduct the background check, these missing dispositions mean it is impossible to make fully informed decisions.

Missing fingerprints and PCNs contribute to incomplete criminal history records

The completeness of WASIS is founded on consistent creation and entry of PCNs by all law enforcement agencies, courts and county clerks that report criminal history record information. Based on our data match results, interviews with staff at the Patrol, and interviews with officials at selected law enforcement agencies and courts, we identified several possible causes for incomplete records:

- Fingerprints are not taken during "cite and release" arrests or upon booking
- Fingerprints may be taken, but jail staff do not transfer the PCN to the appropriate court or prosecutor
- Court clerks do not enter the PCN into JIS upon the disposition of a case

One reason fingerprints are not taken is the use of "cite and release" at arrest

State law allows law enforcement entities to forego fingerprinting offenders arrested for gross misdemeanors at the time of their arrest if they are not taken into custody. Officers can instead give the offender a citation and a date to appear in court. This practice, known as "cite and release," often results in fingerprints not being taken: without prints, and a corresponding PCN, these arrests are not included in WASIS.

Driving under the influence, a gross misdemeanor, accounted for 15% of the dispositions missing from WASIS.

We could not determine the number of dispositions missing from WASIS because fingerprints were not taken. But given the fact that we found a disproportionate percentage of gross misdemeanors with missing dispositions from WASIS, it is possible they were missing because they were for cite and release arrests. In reviewing our results, Patrol found that more than half of the 200 missing dispositions they examined were missing because there was no arrest record in WASIS.

An incident in April 2015 points to the effect cite and release has on background checks. While driving a bus carrying senior citizens on a day trip, an individual was arrested for driving under the influence. He turned out to have a prior arrest for the same offense, which would have disqualified him from driving the bus. He did not mention the earlier arrest on his application and it did not appear on his background check because the offense was not in WASIS. This happened because he was cited and released for the prior offense; he was not booked into jail and fingerprints were not taken, resulting in the arrest not being entered into WASIS.

There may be other reasons fingerprints are not recorded

We also found instances where the offender was taken into custody but not fingerprinted. Law enforcement agency officials told us that offenders are sometimes not immediately fingerprinted because they have injuries to their hands, or are being disruptive. Others are admitted to the hospital before being sent to the jail. In these cases, the offender is supposed to be fingerprinted as soon as the next opportunity arises. Sometimes, fingerprints are rejected by the Patrol due to poor quality after the offender has been released from jail; at other times, fingerprints are taken but not sent to the Patrol. During our visits to local law enforcement agencies, we found several instances where defendants were booked into jail, but we could not find any indication that they were ever fingerprinted.

PCNs are not used consistently when staff enter dispositions

For the disposition of an offender's case to transfer automatically to WASIS, creating a complete criminal history record, county clerk and court staff must enter the offender's PCN into JIS. However, we found that JIS allows disposition information to be entered without a PCN.

Court clerks told us they only enter PCNs when they receive them from the law enforcement agency, even if they know a particular charge should have a PCN. The clerks at several courts said that establishing PCNs is the responsibility of the law enforcement agency, not theirs. Furthermore, court clerks said that they were unlikely to contact the law enforcement agency to request a PCN, or to have a defendant fingerprinted to establish a PCN.

Inconsistent understanding of the importance of the PCN to WASIS contributes to incomplete records

Staff at county clerks' offices, courts and law enforcement agencies we visited did not always understand the purpose of the PCN. One booking officer at a jail we visited said that, because they were unaware of the role of the PCN in the reporting process, he and his colleagues had not always forwarded disposition reports containing PCNs to the courts. They only began doing so about two and a half years ago after the sergeant wondered what the number was used for and conducted his own research to gain a better understanding of it. Another booking officer at a different location said that he had not received any guidance materials from the Patrol related to the processing of criminal history records.

Several court clerks told us that they did not know the PCN was essential for the disposition to transfer from JIS to WASIS. One clerk believed the PCN was just another unique person identifier used by the federal government and did not question why she never received PCNs from the law enforcement agency in her area. When we asked court clerks if they knew about Patrol-issued guidance, many did not know such guidance was available.

Patrol could do more to improve the completeness of WASIS

The Patrol has already taken some steps to improve the completeness of WASIS, such as providing training and guidance on the use and importance of the PCN. However, by taking a more targeted and direct approach in working with local law enforcement agencies and courts, the Patrol could help them identify weaknesses in the processes they use to report arrests and dispositions and improve them. This, in turn, would improve the completeness of WASIS.

Improve the quality of guidance and target the right users

For example, the Patrol has developed guidance that describes the PCN, its purpose and its use, but as we learned from our visits to local law enforcement agencies, courts and county clerks, these guidelines are not always reaching the right people. Some of the jail and court employees with direct responsibility for creating and updating criminal records told us they lacked a general understanding of the PCN's purpose.

Our own review of the guidelines found them to be informative, but lacking in specific direction on how to ensure PCNs are created and used. Patrol managers responsible for developing and distributing the guidelines have a clear understanding of the issues within the reporting process that lead to incomplete records, but the guidelines themselves offer local entities little instruction on how to address them.

Work closely with local entities that have higher rates of missing dispositions

The Patrol has also held meetings with stakeholders in three counties to discuss their criminal record reporting processes and ways to improve them. Patrol managers said that these meetings were beneficial and led to great improvements in reporting from those counties. If the Patrol actively approached law enforcement agencies and courts with higher rates of missing dispositions it would likely increase the percentage of complete criminal history records in WASIS through improved reporting. The Patrol could use the findings from its Annual Compliance Report on disposition reporting to identify local law enforcement agencies and courts that need the most help in improving their processes.

Develop strategies to communicate with courthouse staff

The Patrol has established a collaborative relationship with the Administrative Office of the Courts that provides a forum to resolve issues on the transfer of disposition information from JIS to WASIS. The Patrol could leverage this relationship to improve its strategies for communicating and coordinating with court staff.

Several factors make it difficult for the Patrol to take action to improve the completeness of WASIS

Patrol officials told us they face several challenges in providing targeted guidance and training to entities that report criminal history record information. In particular, the state law that allows cite and release complicates their efforts by making it difficult for the Patrol to require offenders be fingerprinted when arrested.

Furthermore, while state law makes the Patrol responsible for the completeness of WASIS, and requires law enforcement entities, prosecuting attorneys and courts to report arrest and disposition information to the Patrol, it does not give the Patrol any authority over these entities to enforce these requirements.

This legal gap is complicated by the decentralized structure of the hundreds of reporting entities that includes independently elected sheriffs, prosecuting attorneys, court clerks, and judges. According to Patrol managers, it creates an environment in which they find it difficult to provide specific and prescriptive guidance on what processes entities should have in place to ensure the creation and use of the PCN.

Recommendations

Although the Patrol has taken significant steps to improve the completeness of criminal history records contained within the Washington State Identification System, our audit work suggests there are additional steps it could take to further improve the completeness of criminal history records. These include:

1. Seek changes to state laws and/or administrative rules to require all persons arrested for gross misdemeanors be fingerprinted.
2. Seek changes to state laws and/or administrative rules to require law enforcement agencies, courts and county clerks include Process Control Numbers when entering disposition information.
3. Clarify guidance provided to law enforcement agencies, courts and county clerks on the use of the Process Control Number by providing more specific directions on its use and how to address known issues when reporting criminal history record information.
4. Develop a targeted approach for working with local law enforcement agencies, courts and county clerks to improve the completeness of the state's criminal history records. This includes identifying those not performing as well; working with them to identify areas of weaknesses in their processes and procedures; and providing them with targeted guidance and training to address the identified weaknesses.
5. Continue current efforts to work cooperatively with the Administrative Office of the Courts to regularly share information and ideas on ways to improve the completeness of criminal history records, including how to improve communication and interactions with the state's county clerks and courts, and how to ensure that courts use Process Control Numbers when entering dispositions in the Judicial Information System.
6. Continue to improve its processes to regularly reconcile the disposition information contained in and received from the Judicial Information System to the disposition information present in the Washington State Identification System.

Agency Response



STATE OF WASHINGTON

June 11, 2015

Ms. Jan Jutte
Acting Washington State Auditor
P.O. Box 40021
Olympia WA 98504-0021

Dear Ms. Jutte:

Thank you for the opportunity to respond to the State Auditor's Office (SAO) performance audit report on *Improving the Completeness of Washington's Criminal History Records Database*. Our agencies worked together to provide this joint response.

The Washington State Patrol (WSP) operates the state's repository for criminal history records information. This information is provided by law enforcement agencies, prosecuting attorneys, and courts throughout the state and is used extensively for making decisions that affect public safety. Through processes already in place, the WSP has been informally recognized by the Federal Bureau of Investigation as one of the leading organizations in the country in providing complete criminal history information to the national system.

The enclosed management response addresses the audit recommendations for the six areas of improvement to WSP processes to ensure the completeness of arrest and disposition information reported to and distributed by WSP. The agency already had activities in place in support of recommendations 4 and 5 prior to the audit. Activities in support of recommendation 6 were completed prior to the release of the report.

The report indicates two primary reasons for incomplete information: 1) fingerprints are not taken at the time of arrest, and 2) Process Control Numbers (PCNs) are not included when dispositions are entered in the court system. WSP has long known about, and continually addresses, these two contributors to incomplete criminal history information. We appreciate the report recognizing that WSP relies on hundreds of independent local law enforcement agencies, courts, and county clerks to provide the information needed to keep the state's criminal history records database complete. WSP's Criminal Records Division provides formal and informal training, as well as regular and ongoing feedback, to contributing agencies about the importance of submitting fingerprints at the time of arrest and including the PCN on document submissions.

While WSP has responsibility for complete and accurate criminal history information, the agency has experienced challenges with moving information through local, county, and state agency processes and systems. We strongly believe that other law enforcement agencies, prosecutors, and the courts share a responsibility for ensuring the accuracy and completeness

Ms. Jan Jutte
June 11, 2015
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of these records. WSP will continue to provide training and information outlining requirements to these entities and rely upon their respective processes to ensure compliance.

WSP will strive to implement the recommendations in the report and continue its efforts to collaborate with the hundreds of Washington law enforcement agencies, prosecutors, and courts to provide complete and accurate criminal history record information.

We thank the State Auditor's Office and the audit team for their work.

Sincerely,



Chief John R. Batiste
Washington State Patrol



David Schumacher, Director
Office of Financial Management

Enclosure

cc: Joby Shimomura, Chief of Staff, Office of the Governor
Kelly Wicker, Deputy Chief of Staff, Office of the Governor
Miguel Pérez-Gibson, Executive Director of Legislative Affairs, Office of the Governor
Matt Steuerwalt, Director, Executive Policy Office, Office of the Governor
Tracy Guerin, Deputy Director, Office of Financial Management
Wendy Korthuis-Smith, Director, Results Washington, Office of the Governor
Tammy Firkins, Performance Audit Liaison, Results Washington, Office of the Governor
Jim Anderson, Criminal Records Division, Washington State Patrol
Dr. Donald Sorenson, Risk Management Division, Washington State Patrol

OFFICIAL STATE CABINET AGENCY RESPONSE TO THE PERFORMANCE AUDIT ON IMPROVING THE COMPLETENESS OF WASHINGTON'S CRIMINAL HISTORY RECORDS DATABASE

JUNE 11, 2015

This coordinated management response to the State Auditor's Office (SAO) performance audit report received May 28, 2015, is provided by the Washington State Patrol (WSP) and the Office of Financial Management (OFM).

SAO Performance Audit Objectives:

The SAO designed the performance audit to answer the question:

1. Are Washington criminal history records complete, and if not, why not?
-

SAO Finding 1: Washington's criminal history record database is incomplete.

SAO Finding 2: Missing fingerprints and Process Control Numbers (PCNs) contribute to incomplete criminal history records.

SAO Finding 3: Patrol could do more to improve the completeness of the criminal history database known as the Washington State Identification System (WASIS).

SAO Finding 4: Several factors make it difficult for the Patrol to take action to improve the completeness of WASIS.

SAO Recommendation 1: Seek changes to state laws and/or administrative rules to require all persons arrested for gross misdemeanors be fingerprinted.

STATE RESPONSE: WSP will explore this recommendation with stakeholders to determine the best course of action about possible legislative changes. Legislative changes requiring all persons arrested for gross misdemeanors to be fingerprinted would have significant workload and fiscal impacts on law enforcement agencies and jails.

Action Steps and Time Frame

- ▶ Establish a work group with stakeholders to include the Administrative Office of the Courts (AOC) and Washington Association of Sheriffs & Police Chiefs to determine the best strategy for addressing the recommendation. *By March 15, 2016.*
 - ▶ Deliver legislative/rulemaking recommendations to WSP executive staff. *By April 30, 2016.*
 - ▶ Discuss potential legislative changes with OFM. *By September 15, 2016.*
-

SAO Recommendation 2: Seek changes to state laws and/or administrative rules to require law enforcement agencies and courts use PCNs when entering disposition information.

STATE RESPONSE: WSP will explore this recommendation with stakeholders to determine the best course of action about possible legislative changes. The PCN is already required (WAC 446-16-070) at the time of fingerprinting and for electronic disposition submission from the AOC Judicial Information System (JIS).

Action Steps and Time Frame

- Establish a work group with stakeholders to include AOC and the Washington Association of Sheriffs & Police Chiefs to determine the best strategy for addressing the recommendation. *By March 15, 2016.*
 - Deliver legislative/rulemaking recommendations to WSP executive staff. *By April 30, 2016.*
 - Discuss potential legislative changes with OFM. *By September 15, 2016.*
-

SAO Recommendation 3: Clarify guidance provided to law enforcement agencies and courts on the use of the Process Control Number (PCN) by providing more specific directions on its use and how to address known issues when reporting criminal history record information.

STATE RESPONSE: To supplement free PCN training already provided by WSP, the agency will update PCN written materials to include requirements that law enforcement agencies, prosecutors, and courts must follow to submit the most accurate and complete criminal history record information.

Action Steps and Time Frame

- Publish and distribute new PCN directions to law enforcement agencies and courts. *By December 31, 2015.*
-

SAO Recommendation 4: Develop a targeted approach for working with local law enforcement agencies and courts to improve the completeness of the state's criminal history records, including identifying those not performing as well; working with them to identify areas of weaknesses in their processes and procedures; and providing them with targeted guidance and training to address the identified weaknesses.

STATE RESPONSE: WSP will continue efforts that began in 2013, including meeting with staff from county law enforcement agencies, related courts, prosecutor offices and jails, to discuss methods and best practices on submitting arrest cards and dispositions. The objective is to enhance the completeness and accuracy of criminal history records information contained in the criminal history records database.

Action Steps and Time Frame

- Meet with staff from county law enforcement agencies, related courts, prosecutor offices, and jails to discuss requirements for submitting arrest cards and dispositions. *Ongoing.*
-

SAO Recommendation 5: Continue current efforts to cooperate with the Administrative Office of the Courts to regularly share information and ideas on how to improve the completeness of criminal history records including how to improve communication and interactions with the state’s courts, and how to ensure that courts use PCNs when entering dispositions in the JIS.

STATE RESPONSE: WSP will continue efforts with AOC to regularly share information and ideas on how to improve the completeness and accuracy of criminal history records. These efforts include exploring electronic methods to transmit and receive data in the criminal history records database. Additionally, WSP continues to accept invitations to attend court clerk conferences to present about criminal history record information requirements and requirements for taking and submitting fingerprints and disposition information.

Action Steps and Time Frame

- Collaborate with AOC on ways to improve the completeness of criminal history information. *Ongoing.*
-

SAO Recommendation 6: Develop a process to regularly reconcile the disposition information contained in and received from the Judicial Information System to the disposition information present in the state’s criminal history records database.

STATE RESPONSE: WSP has already developed a process to daily reconcile the disposition information submitted from the JIS. *Completed.*

Action Steps and Time Frame

- Reconcile disposition information received from the courts to the disposition information that is entered into the state’s criminal history records database. *Ongoing.*
-

Appendix A: Initiative 900

Initiative 900, approved by Washington voters in 2005 and enacted into state law in 2006, authorized the State Auditor’s Office to conduct independent, comprehensive performance audits of state and local governments.

Specifically, the law directs the Auditor’s Office to “review and analyze the economy, efficiency, and effectiveness of the policies, management, fiscal affairs, and operations of state and local governments, agencies, programs, and accounts.” Performance audits are to be conducted according to U.S. General Accountability Office government auditing standards.

In addition, the law identifies nine elements that are to be considered within the scope of each performance audit. The State Auditor’s Office evaluates the relevance of all nine elements to each audit. The table below indicates which elements are addressed in the audit. Specific issues are discussed in the Results and Recommendations section of this report.

I-900 element	Addressed in the audit
1. Identify cost savings	No. The purpose of this audit was to determine the completeness of criminal history records and why they might be incomplete, not on identifying cost savings.
2. Identify services that can be reduced or eliminated	No. The state is required by federal law to maintain a database (WASIS) of criminal history records in order to participate in the federal fingerprint based background check program. Therefore, we did not consider a reduction or elimination of services.
3. Identify programs or services that can be transferred to the private sector	No. The purpose of this audit was to determine the completeness of criminal history records and to identify ways to improve the level of completeness. It did not consider whether any of the processes related to WASIS could be transferred to the private sector.
4. Analyze gaps or overlaps in programs or services and provide recommendations to correct them	Yes. In determining why WASIS was incomplete, we looked at whether gaps in the process to enter arrest and disposition information into WASIS might be the cause.
5. Assess feasibility of pooling information technology systems within the department	No. The purpose of this audit was to determine the completeness of criminal history records and why they might be incomplete. While we did look at the two information systems used in the criminal history record reporting process, we did so to determine how they impact the completeness of WASIS, not whether they could be pooled.
6. Analyze departmental roles and functions, and provide recommendations to change or eliminate them	Yes. The audit identified key personnel and their roles and responsibilities in the state’s criminal history records reporting process and determined where improvements could be made.
7. Provide recommendations for statutory or regulatory changes that may be necessary for the department to properly carry out its functions	Yes. The audit identified laws that create opportunities for offenders to not be fingerprinted and recommended changes to these laws to require fingerprints be taken in order to improve the completeness of WASIS.
8. Analyze departmental performance, data performance measures, and self-assessment systems	Yes. The rate of completeness of WASIS is a measure of performance for the Patrol. Our audit evaluated how the Patrol measures completeness and makes recommendations to improve both how performance is measured and how to improve the rate of completeness.
9. Identify relevant best practices	Yes. We used strategies from the federal government on how to improve disposition reporting in our evaluation of the state’s criminal history record reporting process and in formulating our recommendations.

Appendix B: State Laws Relevant to Ensuring the Completeness of WASIS

This appendix includes several state laws that are relevant to the completeness of WASIS. *Italics* are used to show wording that most impacts criminal history record completeness.

- **Reporting entities (law enforcement and courts) are required to provide arrest and disposition information to the Patrol for retention in WASIS**

RCW 43.43.740: Photographing and fingerprinting — Transmittal of data.

(1) It shall be the *duty* of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state *to furnish* within seventy-two hours from the time of arrest to the section *the required sets of fingerprints together with other identifying data as may be prescribed by the chief, of any person lawfully arrested, fingerprinted, and photographed pursuant to RCW 43.43.735...*

RCW 43.43.745: Convicted persons, fingerprinting required, records — Furloughs, information to section, notice to local agencies — Arrests, disposition information — Convicts, information to section, notice to local agencies — Registration of sex offenders.

(1) It shall be the duty of the sheriff or director of public safety of every county, or the chief of police of each city or town, or of every chief officer of other law enforcement agencies operating within this state, *to record the fingerprints of all persons held in or remanded to their custody when convicted of any crime* as provided in RCW 43.43.735 for which the penalty of imprisonment might be imposed and to disseminate and file such fingerprints in the same manner as those recorded upon arrest pursuant to RCW 43.43.745 and 43.43.740.

(3) *Disposition* of the charge for which the arrest was made shall be reported to the section at whatever stage in the proceedings a final disposition occurs by the arresting law enforcement agency, county prosecutor, city attorney, or court having jurisdiction over the offense: PROVIDED, That the chief shall promulgate rules pursuant to chapter 34.05 RCW to carry out the provisions of this subsection.

RCW 10.97.045: Disposition data to initiating agency and state patrol.

Whenever a court or other criminal justice agency reaches a disposition of a criminal proceeding, the court or other criminal justice agency *shall furnish the disposition data* to the agency initiating the criminal history record for that charge *and to the identification section of the Washington state patrol as required under RCW 43.43.745...*

RCW 10.98.050: Officials' duties.

(1) It is the *duty* of the chief law enforcement officer or the local director of corrections to *transmit* within seventy-two hours from the time of arrest *to the section fingerprints* together with other identifying data as may be prescribed by the section, and statutory violations of any person lawfully arrested, fingerprinted, and photographed under RCW 43.43.735. *The disposition report shall be transmitted to the prosecuting attorney, county clerk, or appropriate court of limited jurisdiction, whichever is responsible for transmitting the report to the section under RCW 10.98.010.*

(2) *At the preliminary hearing or the arraignment of a felony case, the judge shall ensure that the felony defendants have been fingerprinted and an arrest and fingerprint form transmitted to the section. In cases where fingerprints have not been taken, the judge shall order the chief law enforcement officer of the jurisdiction or the local director of corrections, or, in the case of a juvenile, the juvenile court administrator to initiate an arrest and fingerprint form and transmit it to the section. The disposition report shall be transmitted to the prosecuting attorney.*

RCW 10.98.090 Disposition forms — Coding.

(1) In all cases where an arrest and fingerprint form is transmitted to the section, *the originating agency shall code the form indicating which agency is initially responsible for reporting the disposition to the section.* Coding shall include but not be limited to the prosecuting attorney, superior court, district court, municipal court, or the originating agency.

(2) *In the case of a superior court or felony disposition, the county clerk or prosecuting attorney shall promptly transmit the completed disposition information to the section... In a county where the judicial information system or other secure method of electronic transfer of information has been implemented between the court and the section, the county clerk shall electronically provide the disposition information... In the case of a lower court disposition, the district or municipal court administrator shall either promptly transmit the completed disposition form or, in a county where the judicial information system or other secure method of electronic transfer of information has been implemented between the court and the section, electronically provide the disposition information to the section. For all other dispositions the originating agency shall promptly transmit the completed disposition form to the section.*

- **Fingerprint cards are to include a unique tracking number and identification as defined by the Patrol**

RCW 10.98.060: Arrest and fingerprint form.

The arrest and fingerprint form shall include but not be limited to the following:

(1) *Unique numbers* associated with the arrest charges. The unique numbering system may be controlled by the local law enforcement agency; however, the section shall approve of the numbering system and maintain a current catalog of approved local numbering systems. *The purpose of the unique numbering system is to allow tracking of arrest charges through disposition;*

(2) An organization code;

(3) Date of arrest;

(4) Local identification number;

(5) The prescribed fingerprints;

(6) *Individual identification information and other information prescribed by the section.*

- **Individuals arrested for violations punishable as gross misdemeanors are not required to be fingerprinted at time of arrest if not taken into custody – “Cite and Release”**

RCW 43.43.735 - Photographing and fingerprinting — Powers and duties of law enforcement agencies — Other data.

(1) It shall be the *duty* of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state, *to cause* the photographing and *fingerprinting of all adults and juveniles lawfully arrested for the commission of any criminal offense constituting a felony or gross misdemeanor.* (a) When such juveniles are brought directly to a juvenile detention facility, the juvenile court administrator is also authorized, but not required, to cause the photographing, fingerprinting, and record transmittal to the appropriate law enforcement agency; and (b) *a further exception may be made when the arrest is for a violation punishable as a gross misdemeanor and the arrested person is not taken into custody.*