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Prepared Testimony of Scott Came, SEARCH Executive Director
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Introduction

I am Scott Came, Executive Director of SEARCH, The National Consortium for Justice Information and Statistics. Thank you, Mr. Chairman and members of the Subcommittee, for the opportunity to speak to you today on the Department of Justice (DOJ) funding to be provided for in the FY14 Commerce, Justice, Science, and Related Agencies appropriations bill. SEARCH recommends that the National Instant Criminal Background Check System (NICS) Act Record Improvement Program (NARIP) receive an appropriation of \$50 million, and the National Criminal History Improvement Program (NCHIP) receive an appropriation of \$25 million.

SEARCH, The National Consortium for Justice Information and Statistics (SEARCH), is a nonprofit membership organization created by and for the states. SEARCH's Governor-appointed, dues-paying Members from each of the 50 states and territories have the responsibility, among other things, to oversee both NARIP and NCHIP within their states.

Over the years, states have made great strides in meeting their criminal history record improvement goals under both programs, despite severely limited funding levels for each program. SEARCH recognizes that these are difficult budgetary times that have strained investments in criminal history improvement over the past several years.

There is still work to be done to realize a truly complete and accurate national criminal history background check system. That system informs a variety of critical public safety decisions, as well as noncriminal justice decisions, such as those regarding applicants for employment and licensing, to volunteers who work with children and other vulnerable populations, to individuals purchasing firearms. In light of recent, tragic events due to gun violence, and the simultaneous demand for accurate, complete and timely criminal records for a range of decisions, there should be a priority placed on NARIP and NCHIP funding.

It is important to note that both NARIP and NCHIP each focus on improvements to the efficiency, effectiveness, timeliness and accuracy of criminal history record and associated data for decisionmaking purposes. However, each program emphasizes specific and distinct goals, while also complementing one another. NARIP funding has been heavily focused on enhancing decisionmaking for firearms purchases, such as increasing the number of disqualifying mental health records available to the system. NCHIP is focused on a broader range of criminal history improvements that individual states have prioritized (improving arrest and disposition matching, increasing conviction record availability in the federal systems, etc.). Perhaps most significantly,

by current law, only 20 states qualify for NARIP funding to improve their contributions to NICS¹. Thus, the majority of the states rely on NCHIP for criminal history record and repository improvements related to all criminal and non-criminal justice decisionmaking. As such, SEARCH makes two key recommendations:

1. Invest in Background Screening for Firearms Purchases

Since the recent tragedies in Aurora, Colorado, and Newtown, Connecticut — compounded by the nearly daily reports of gun-related violence — significant focus has been placed on the nation’s background screening system for firearms purchases: NICS. Some of that focus has been mistakenly critical of the states and their contributions to the databases used for such screening. Indeed, the vast majority of records used to make firearms transfer determinations are records maintained and made available by the states. Thus, the overwhelming majority of firearms transfer denials are based on state records. States have made their records available despite facing many extraordinary, and well-documented, obstacles to effectively sharing information at the national level and in support of this national system.

Those obstacles include lack of sufficient investment to help build the infrastructure for electronic information sharing, continuing challenges with making disqualifying records (such as felony convictions) available to NICS, and significant policy challenges (particularly with sharing mental health records). NICS has been very successful in denying the sale and transfer of guns to those prohibited from having them. The States and FBI rely on NICS for robust decision-making on daily firearms transactions. There are, however, opportunities for improving the timeliness and availability of information to NICS that could be addressed by targeted funding. For example, there are still millions of records related to felony convictions, under indictment/information, fugitive from justice and drug abuser prohibiting categories that are not always available to NICS.

A lack of sufficient funding to the states, exacerbated by impractical grant requirements, has been one of the most significant challenges to creating a more robust background check system for firearms purchases. Despite an authorization of \$1.25 billion for FY 2009–2013, congressional appropriations for the NARIP have been a small fraction of that authorization (\$20 million, \$17 million, and \$5 million in FY 10-12, respectively). Meanwhile, the U.S. Department of Justice’s Bureau of Justice Statistics (BJS) — which administers the grant program — received grant applications requesting funding far above the amounts appropriated. Ironically, however, due to the grant program’s requirements, most states could not qualify to receive funding. As a result, only three states received funding in FY 2009 for a total of \$2.5 million — despite the fact that 22 states applied for \$13.5 million in funding. In FY 2010, eight states received \$16.9 million, although 15 states submitted applications totaling \$28 million. In FY 2011, 15 states applied for more than \$33 million in funding; however, 12 states received just over \$20 million. FY 2012 grantees received just over \$11 million in funding.

¹ NARIP has two main requirements: States must 1) establish a process where those adjudicated as “mentally defective” can seek to reinstate their right to purchase a firearm, and 2) comply with a process to estimate the number of NICS disqualifying records they maintain. Only 20 states have met requirement #1.

The need for additional funding is not dependent on the expansion of the background checking system; it is to improve the system's effectiveness for existing requirements related to background screening for firearms purchases.

For example, in New York, NARIP funding has enabled the state to form a multi-agency task force that focuses on the strategic oversight and governance of NICS data collection and submission improvements. The state has deployed the NICS Transmission System that agencies use to submit mental health, civil guardianship and orders of protection records, and to date, New York has submitted in excess of 165,000 records to the NICS Index.

NARIP funding also allowed New York to collect and report Misdemeanor Crimes of Domestic Violence (MCDV) convictions via criminal histories and submit them to NICS. In addition, the state repository continues to work with the courts in identifying system and database errors that contribute to unresolved arrest events, expected to eliminate an estimated 10,000 disposition errors per month.

In Florida, NARIP funding has been instrumental in improving the Florida Department of Law Enforcement (FDLE) Firearm Purchase Program (FPP), the state's contact to NICS. With NARIP funding, FDLE developed the online Firearm Eligibility System, which now processes 50% of firearm purchase background checks. Additionally, FDLE is working with the Clerks of Court to retrieve historical mental health records to better ensure those adjudicated mentally defective are denied firearm purchases. So far, more than 39,000 records prior to 2007 have been entered, including more than 1,600 records from Hillsborough County.

SEARCH urges the Committee to make a meaningful investment in building our nation's capabilities to effectively conduct background screening for firearms purchases. For that investment to be successful, it should also remove the roadblocks to successful state participation and develop strategies to improve the availability of disqualifying records to the NICS Index. With a \$50 million investment in NICS via NARIP in FY 2014, states that qualify for the funding will be able to concentrate on criminal history record priorities that would allow them to increase their record contributions to NICS.

It is also critical that decisionmakers ensure all states receive or are eligible for grant funding to support improvements to NICS — based on incentives, not penalties — and that new funding is authorized and appropriated for this work. It is likely that many states will not meet the “relief from disabilities” requirement attached to NARIP funding. While SEARCH does not have a policy position on this requirement, to disqualify states from funding to improve their criminal history record system only weakens the potential for a national system that provides the most complete, accurate, and timely records to inform critical decision-making. The fact that more than half of the states do not qualify for NARIP makes NCHIP that much more important.

2. Enhancing Criminal History Records with Funding for NCHIP

The NCHIP program has been successful in helping states to improve the accuracy, reliability and completeness of their automated, criminal history record systems. Unlike the NARIP, all states qualify for funding under NCHIP to improve their criminal history record systems. States who cannot qualify for NICS funding will be significantly hampered in their efforts to help improve the nation's criminal history record system if they cannot access sufficient resources via NCHIP.

Georgia, for example, does not qualify for NICS funding under the NARIP program. However, Georgia has actively used NCHIP to improve the quality, completeness and accessibility of criminal history information available to criminal justice agencies. NCHIP funding helps Georgia ensure that the most current criminal history data is available and accessible for criminal justice needs, as well as to the general public where applicable.

In Virginia, via NCHIP funding, the State Police can now provide electronic access to criminal history records on-site at gun shows. This ensures rapid response to the National Instant Criminal Background Check System (NICS) and prevents the transfer of firearms to prohibited persons.

NCHIP's broad objective is to enhance the criminal justice capabilities of state governments by improving the accuracy, completeness and timeliness of criminal history records. These state systems support federal records systems, including the Federal Bureau of Investigation (FBI) Interstate Identification Index (III).² Indeed, seventy percent (70%) of all III records are maintained by the states and thirty percent (30%) are maintained by the FBI.³

NCHIP funds have also furthered efforts in Virginia to improve the completeness and accuracy of Computerized Criminal History files and the Court Automated Information System and the state has reached a completion rate for missing dispositions of approximately ninety-five percent (95%). Similarly, in New York, NCHIP funds have supported major initiatives to modernize and vastly improve the ability to provide critical information services to New York's state and local criminal justice agencies. The state repository and the courts collaborate to identify system and database problems that contribute to unresolved arrest events. As a result of these efforts – and similar to Virginia – New York has one of the best completion rates in the nation for missing dispositions (greater than 92%).

Since 1995, Florida's criminal justice community has used both NCHIP and NICS funds to make many major improvements in the collection and sharing of information in support of public safety. Recent projects such as automating court disposition reporting in all Florida counties, as well as researching and reporting historical disposition data have resulted in the addition of over 700,000 new dispositions and updates to over 2.5 million dispositions.

BJS, with limited funding, has been widely recognized for its extraordinary efficiency, effectiveness and accomplishments in the NCHIP program. The last two Government Accountability Office (GAO) reports on NCHIP (in 2004 and 2008) highlighted the program's continued success in meeting its goals and the significant progress states made toward automating state criminal history records and making them accessible nationally.⁴ Indeed, the states have devoted massive efforts and resources over many years toward building automated, criminal history record databases that are accurate, complete and reliable. Notwithstanding the efforts of BJS and the states, there continue to be significant shortfalls in arrest reporting; in disposition reporting; and in accuracy and data quality.

² The Interstate Identification Index is the national system designed to provide automated criminal history record information of federal offenders and records of offenders submitted by all states and territories.

³ Survey of State Criminal History Information Systems 2010, Bureau of Justice Statistics, U.S. Department of Justice, Office of Justice Programs (November 2011) (<https://www.ncjrs.gov/pdffiles1/bjs/grants/237253.pdf>)

⁴ See GAO reports (<http://www.gao.gov/new.items/d04364.pdf>; <http://www.gao.gov/new.items/d08898r.pdf>).

NCHIP has suffered over the past several years due to considerably reduced funding. In FY 2010 congressional appropriations were approximately \$12 million for this program, dropping to \$10 million in FY 2011, and to \$6 million in 2012. In fact, the program has been so significantly underfunded that some states no longer receive any allocation from the NCHIP grants. Because state criminal history records are the primary source for the FBI III database, any constraints on the states weakens the ability of many federal programs to identify threats and keep our nation safe.

Today, the accuracy, completeness and reliability of the nation's criminal history record system is more important than ever before, for law enforcement investigations; officer safety; sentencing and other criminal justice purposes; for expungement and other reentry strategies; for homeland security and anti-terrorism purposes; for public non-criminal justice purposes, such as security clearances and employment suitability; and for research and statistical programs that provide critical guidance for justice assistance decisions and for shaping law and policy. Without an adequate level of funding for the states, the quality of criminal records available nationwide will continue to be negatively impacted.

As you can see from the examples above, for both of NICS and NCHIP, SEARCH encourages Congress to allow states to use funding at their discretion to address the specific challenges each state faces in making more records available to the national system. Funding should also encourage adherence to performance metrics and accountability measures. SEARCH supports that Congress should expect, and states should define, specific and measurable goals for which they will use the funding to demonstrate progress and impact. Meanwhile, states should receive incentives, rather than penalties, to facilitate their compliance with grant requirements. SEARCH also encourages Congress to fund technical assistance and technology investments for states to improve automated information sharing systems in support of NICS.

Conclusion

SEARCH thanks the Chairman and members of the Subcommittee for their steadfast support of these programs in the face of daunting budget challenges. Given the reliance on criminal history record systems for critical decisions that keep our citizens safe from guns, predators, terrorists and other criminals, it is a worthwhile and needed investment.

We urge Congress to make a substantial investment in the Federal-State criminal background screening partnership that comprises NICS. NICS is a critical tool in the fight against gun violence, but funding for its improvement must envision a national scope that is inclusive of all the states. As Florida representatives noted, their successes with information sharing would not have been possible without the support of NARIP and NCHIP funding.

Meaningful NCHIP funding will more broadly improve this nation's criminal justice information sharing backbone. And the federal investment can be leveraged many times over by contributing to the ability of state and local criminal justice agencies to provide timely, accurate and compatible information to federal programs such as III.

On behalf of SEARCH, its governors' appointees, and the thousands of criminal justice officials who participate in the SEARCH network and who benefit from SEARCH's efforts, I thank you for your time. It has been a pleasure appearing here today.