Completing the Criminal History Puzzle: An Overview of the Disposition Gap

Reliable disposition reporting plays a crucial role in fostering well-informed decision-making and enhancing public safety. Criminal justice and regulatory agencies rely on dispositions for processes such as investigations, licensing, and employment evaluations. As a result, gaps in criminal history records created by missing dispositions can lead to significantly negative consequences.

In general, the term **"disposition"** provides information about actions taken and decisions made after an arrest. Sometimes, a disposition refers to a final settlement in a case, such as a case dismissal, verdict, or criminal sentencing. Other times, a disposition refers to the current status of a case, such as deferred, entry of judgment, or warrant issued. **In this infographic, disposition refers to any event after an arrest that is reported to the California Department of Justice, by any actor in the criminal legal system.**

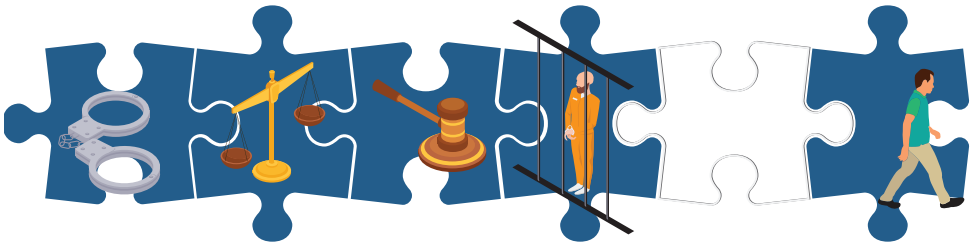
Some examples of events that provide dispositions are (1) booking of an individual; (2) district attorney case filing decisions; (3) entry into a diversion program; (4) case outcome, such as a guilty finding, acquittal, dismissal, etc.; (4) sentencing; and (5) postconviction modifications, such as a pardon.

Please note that there are other, less common types of dispositions not highlighted here.

The Disposition Gap: The Missing Puzzle Piece

The **disposition gap** refers to missing dispositions in criminal history records.

Each disposition provides a key piece of criminal history information. If we think of criminal justice actors as contributing pieces of the criminal history data puzzle, a person's criminal history as a picture, any disposition not recorded turns into an incomplete picture of the individual's criminal history.



Actors: Who Puts the Puzzle Together?

A person's criminal history puzzle is pieced together with many dispositions placed by many entities. These entities include law enforcement, prosecutors, probation departments, courts, and the California Department of Corrections. ***"Each agency plays a critical role to ensure the integrity and completeness of state summary criminal offender record information."*** [1]

Records may be missing for a variety of reasons, including failure to submit by the agency or rejection of the information due to submission errors. The disposition gap is not likely caused by any one agency or entity within the criminal legal process. Below are a few examples of contributions to the criminal history puzzle made by three entities, as well as ways these pieces can go missing:

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[1] *Disposition Reporting, California Dept. of Justice* (Feb. 2012), p. 2.

Law Enforcement



- **Arrest**
  - Law enforcement is responsible for reporting when they make an arrest or issue a written notice to appear.
  - Oftentimes, an initial arrest data segment is generated when an individual is fingerprinted at the time of booking. However, for many misdemeanors the offender is instead given a citation and ordered to get a Live Scan on their own and appear in court. In these instances, it is harder to link subsequent dispositions (e.g., charges dropped or a future verdict) to the initial arrest since no arrest data segment has been created until the person gets fingerprinted.
- **Case not referred for prosecution**
  - Law enforcement is responsible for reporting arrests, even in cases when they are not forwarded to the prosecutor for review. For example, law enforcement may decide there is insufficient evidence to file charges upon further investigation. This information must still be reported into the criminal history system.
  - Sometimes the decision not to refer a case is not reported, leaving an arrest entry with no further information in the repository about what decision was reached.

Prosecutor



- **Charging decisions**
  - Prosecutors have discretion to decide what charges they will bring. They may decide to reduce or drop charges as cases go through the criminal legal system, such as when a plea bargain is made.
  - Reporting these changes to the repository makes the case history accurate and easier to follow.
- **Declining to file charges**
  - Prosecutors can decline to file charges for a variety of reasons. These decisions hold important information that add a piece of criminal history information to the puzzle when reported to the repository.
  - When these decline to file dispositions are not reported, the arrest will still appear unresolved in the repository because the piece of the puzzle that shows that the case was not pursued further is missing.



Court

- **Conviction, acquittal, or dismissal**
  - These are three common court case outcomes. It is important that courts be able to match these dispositions to the relevant arrest record.
  - If there are case outcomes the court is unable to link to an arrest record, it will look like the arrest is still open/unresolved. If the defendant was not fingerprinted at the time of arrest, or the court does not incorporate the unique state person identifiers into their records, court dispositions must be matched by name, date of birth, and other available information. This can cause matching errors whereby these court case outcomes are not associated with the correct arrest event.

Why Do Missing Pieces Matter?

Accurate disposition reporting results in better-informed decisions and safer communities.

Dispositions are used by criminal justice and regulatory agencies in investigations, licensing, certifications, and employment decisions. Therefore, inaccurate or incomplete information impacts the following:



1. **Public Safety**

   Accurate and complete data are vital to facilitating informed decisions by actors throughout the criminal legal process who query criminal history data from the state criminal history repository. For example, prosecutors need correct and complete criminal history information to inform filing and plea-bargaining decisions, as well as sentencing recommendations.



2. **Background Checks**

   Criminal history records are accessed every day and relied upon for accurate and complete criminal history information to conduct background checks for employment, firearm purchases/transfers, visas, and other authorized purposes. For example, individuals need to pass a background check to receive a real estate license.



3. **Public Policy**

   Researchers, the public, media, and policymakers use criminal history information, often in aggregate, to form opinions and make decisions. It is difficult to assess whether laws and policies are having their intended effect when there is incomplete or inaccurate data.

How Do We Prevent Missing Puzzle Pieces?

Because it is important to have accurate and complete pictures of criminal history, California, as well as other states, are trying a variety of strategies to fill in the missing puzzle pieces and prevent losing pieces going forward.

Strategies California Is Using

Here are some tools that California has begun implementing to help close the disposition gap:

Livescan Devices in the Courtroom



As of 2022, California has 42 livescan devices in courtrooms and courthouses.[2] This allows court dispositions to be matched with the proper individual's record through biometric information. Without fingerprints, dispositions are matched to an arrest event with less precise and reliable information, which can cause matching errors.

[2] *Survey of State Criminal History Information Systems, 2022*, Table 4d.

Automated Reporting

As of 2022, 92 percent of individual offenders in California's state criminal history file have automated, electronic files.[3] Criminal history used to be reported on paper documents, which then had to be manually matched and entered. Automated disposition reporting helps to ensure accurate and timely record entry.

Emerging Strategies

State Unique Person Identifiers (CII)



California Assembly Bill 2418, the Justice Data Accountability and Transparency Act, was passed in 2022 but not funded. As funds become available, allotting resources to implement AB 2418 could help fill in gaps in disposition data, especially the inclusion of Criminal Identification and Information numbers (CII) on records sent to and from the court, and back to the Department of Justice. Including CII numbers helps to facilitate disposition matching by ensuring every individual has a unique identifier that can be used by all criminal justice actors, and reduces potential errors by trying to match less precise identification information (such as name and date of birth).

Expand Interim Disposition Reporting

Interim disposition is a term sometimes used to refer to decisions made in a case between arrest and a case outcome, such as conviction or dismissal. Interim dispositions hold important information for law enforcement officials, employment eligibility, professional licensing, firearms transactions, and other authorized purposes. Assembly Bill 2418 also expands the data elements that prosecution offices are required to report to the California Department of Justice. These data elements include each charge, enhancement, and special circumstance filed; data about the initial appearance, custody, and bail; whether the defendant posted bail, and the date of release from custody; and data about diversion and collaborative court programs, including whether the defendant was offered a diversion program, whether the defendant was eligible for a collaborative court program, and whether there was opposition by the prosecuting agency for either program.

These are important decision points, making them ideal additions for data collection to provide current case status information until the next step in the criminal legal system is taken.

Case Matching versus Charge Matching

There are two approaches to matching dispositions throughout the life of a case: **case matching** and **charge matching**. Both approaches are supported by the FBI and have their own advantages and limitations.



California uses **case matching**, also known as **cycle matching**. Case matching lists charges at arrest and charges at conviction but does not attempt to match individual charges with later disposition charges. Although it is easier to match dispositions with this approach, it is more challenging to tell whether data are complete and accurate.

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[3] *Survey of State Criminal History Information Systems, 2022*, Table 2.

Charge matching follows individual arrest charges as they move through the case process. Charge matching can provide clearer information, as there is no ambiguity in which charges from an arrest event have been filed, dropped, or changed. However, charge matching can be challenging because charges may evolve through the criminal legal process—for example, during investigation by law enforcement, from a plea negotiation, or as a result of trial.

California could explore whether incorporating elements of charge matching within its data structure would help improve gaps in disposition data. Adjustments aimed at facilitating charge matching may make it easier to identify what arrest events have outstanding dispositions, which would then allow for justice actors to begin targeted efforts to provide dispositions where they are missing.

Completing the Puzzle

The disposition gap leaves crucial information out of the criminal history picture, turning this picture into a puzzle with missing pieces. It is crucial for the state to engage in efforts to fill in these missing pieces of criminal history through a multipronged approach. Further supporting the inclusion of unique state person identifiers would likely increase record match linkages and overall completeness. Expanding interim disposition reporting would provide more information about steps taken after an arrest that are currently not reflected within the data. Exploring the incorporation of elements of charge matching into the state's criminal history data format has the potential to increase the state's ability to reduce missing dispositions. Pursuing these strategies, as well as others as new information becomes available, would assist California in completing its criminal history picture—an important step towards delivering the highest quality of justice, safety, and service to the public possible.

