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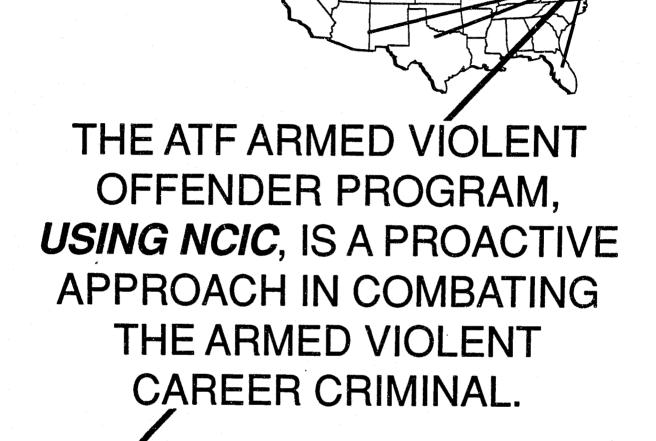
U.S. Dept. of the Treasury to the National Criminal Justice Reference Service (NCJRS).

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# INTRODUCTION

As public opinion surveys have clearly demonstrated, crime is at the top of the list of the greatest concerns of the American public. In fact, in 1989, the National Crime Survey found that violent crime or property crime victimized one in four U.S. households. More specifically, 23.5 million households suffered from either rape, assault, robbery, theft, burglary, or auto theft. The same individuals arrested today for the majority of those crimes will be rearrested and convicted tomorrow for the same or worse crimes. Although the media continually reports these facts, and studies have confirmed them, the public still suffers from the lax treatment of habitual offenders.

In 1984, enactment of the Armed Career Criminal Act directly and uniquely gave the Bureau of Alcohol, Tobacco and Firearms (ATF) the capability to remove the career criminal from society. Title 18, U.S.C., Section 924(e) calls for the mandatory imprisonment of not less than 15 years for anyone possessing a firearm who has three previous State or Federal convictions for a violent felony or serious drug offense, or both. It is significant that this statute does not allow for parole, probation, or early release. In addition, the statute provides for a discretionary fine of \$25,000. ATF with the assistance of State and local law enforcement agencies, has had tremendous success in gaining significant prison sentences through aggressive enforcement of this statute. As of February 26, 1992, 754 career criminals have been sentenced in excess of 12,715 years imprisonment with a 17year average. Eleven of these defendants have received life sentences.



# **EXPECTED RESULTS**

- ENHANCEMENT OF POLICE OFFICER SAFETY.
- OFFICERS ALERTED TO ACTIVE ARMED CAREER CRIMINALS WHO ARE IN VIOLATION OF THE FEDERAL FIREARMS LAWS.
- SIGNIFICANT MANDATORY SENTENCES OF YEARS OF 15 YEARS TO LIFE WITHOUT PROBATION OR PAROLE.
- REDUCTION OF VIOLENT CRIME BY REMOVING ARMED VIOLENT FELONS FROM SOCIETY.
- PROTECTION OF INNOCENT CITIZENS FROM ARMED CAREER CRIMINALS.

## ATF VIOLENT OFFENDER PROGRAM

The ATF Violent Offender Program, approved by the NCIC Advisory Policy Board on December 6, 1990, is yet another law enforcement tool in the fight against violent crime on our nation's streets. The program, which began on March 2, 1992, preidentifies career criminals who meet the below listed criteria. These subjects have been entered into NCIC's ATF Violent Felon File. When one of these violent felony offenders is encountered by a law enforcement officer, and is in possession of a firearm, ATF will be contacted immediately. ATF Communications Center in Washington, DC, will respond to the inquiring law enforcement agency within 10 minutes. An ATF special agent will respond to the department to assist in the investigation and prosecution for violations of Federal firearms laws.

### ATF ARMED VIOLENT OFFENDER PROGRAM CRITERIA

Before being placed in the ATF Violent Offender Program, the subject must meet all four of the following criteria:

A minimum of three prior felony convictions for crimes of violence or drug trafficking.

A felony conviction for a violent crime when a firearm or other weapon was used.

A conviction for a crime when the subject injured or killed his/her victim.

The subject has either been on probation/parole or released from prison within the last 5 years.

The Violent Offender Program is a proactive approach by law enforcement where the Program works the criminal not just the crime. ATF believes that the subjects meeting the above criteria are among the most dangerous violent criminals on the streets today.

# THE PENALTY ENHANCEMENT

# Title 18, U.S.C., Section 924(e)(1)

In the case of a person who violates section 922(g) of this title and has three previous convictions by any court referred to in section 922(g)(1) of this title for a violent felony or a serious drug offense, or both, committed on occasions different from one another, such person shall fined not more than \$25,000 and imprisoned not less than 15 years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under 922(g), and such person shall not be eligible for parole with respect to the sentence imposed under this subsection.

# ARMED CAREER CRIMINAL (18 U.S.C. 924(e)(1))

- 3 time convicted felon
- possession of a firearm or ammunition



# MANDATORY 15 YEAR SENTENCE

## WHO ARE THE ATF VIOLENT OFFENDERS?

ATF BELIEVES, BASED UPON A REVIEW OF THE RECORDS OF THE SUBJECTS ENTERED INTO THE PROGRAM, THAT THE CONVICTED FELONS IN THE VIOLENT OFFENDER PROGRAM ARE AMONG THE MOST DANGEROUS VIOLENT CRIMINALS ON THE STREETS TODAY.

# THE VIOLENT OFFENDER HAS AN AVERAGE OF 6 PREVIOUS FELONY CONVICTIONS

THE VIOLENT OFFENDER HAS BEEN PREVIOUSLY SENTENCED TO AN AVERAGE OF 36 YEARS IN PRISON.

# OF THE 500 VIOLENT OFFENDERS WHO HAVE BEEN ENTERED INTO THE PROGRAM

# 50 HAVE PREVIOUSLY INJURED A LAW ENFORCEMENT OFFICER

# 19 HAVE BEEN PREVIOUSLY SENTENCED TO AT LEAST ONE LIFE TERM IN PRISON

### CASE STUDIES

1) VO 133-0003 has received sentences totaling 35 years, of which he has actually served 6 years. He has two aggravated assaults and one burglary conviction in Macon County, Georgia. His second set of convictions were for aggravated assault and possession of a firearm by a convicted felon. These convictions resulted from an incident in which the subject attempted to murder a man by shooting him with a rifle. His third conviction was for another aggravated assault. This conviction resulted from an incident in which the violent offender broke into a residence and attacked the family living there. During the attack, the subject raped a young girl and repeatedly stabbed the girl's mother when she attempted to intervene. 2) VO 335-0010 has 11 felony convictions, including 5 aggravated robbery convictions. In addition, the VO was convicted in 1977 of assaulting a Federal officer after he and four other individuals attempted to kill a U.S. marshal while they were in the process of committing an aggravated robbery. Also in 1977, the subject pled guilty to attempted murder after he attempted to cause the death of a local police officer. The assistant U.S. attorney prosecuting the case for the assault on the Federal officer stated that this VO is probably the most dangerous person he has ever tried.

3) VO 334-0012 from the St. Paul area is a 13-time convicted felon and previous ATF defendant. He has multiple convictions for armed robbery and aggravated kidnapping. In 1973, he shot an ATF agent after breaking into the agent's home. He escaped after stealing a government vehicle and was arrested by local authorities after a high-speed chase. In 1983, he was convicted of a felon in possession of a firearm charge after ATF agents made undercover purchases from him. He was released from prison in 1990 and is currently on Federal probation.

4) VO 932-0003 from northern California has been convicted of murder, assault with intent to murder and assault with a deadly weapon in 1975, robbery in 1985, and second-degree burglary in 1990. He also has numerous other arrests throughout this time period for burglary, auto theft, petty theft, firearms and other weapons violations, car theft, inflicting corporal injury on a spouse, assault with a deadly weapon, battery, obstructing or resisting a public officer, giving false information to peace officers, robbery, selling tear gas weapons, trespassing, and disturbing the peace.

5) VO 332-0005 was convicted in 1981 of aggravated battery to a police officer as a result of his using his fists to beat up a police officer. In 1982, he was convicted of deviate sexual assault and home invasion after he broke into a house and sodomized a police officer's ex-wife while holding a knife to her throat, threatening to kill her 5-year old child who was in the next room. In 1990, this exceptionally violent subject was convicted of aggravated battery after he beat up a woman with a pipe and his fists.

6) VO 334-0010 is currently on parole for attempted robbery, battery to a police officer, and first-degree armed robbery. He was released from prison on October 22, 1991. He has an extensive record with over 30 convictions. The first-degree robbery conviction stems from

his hitting, knocking to the ground, and stabbing an individual for \$25. His parole officer describes him as very violent, especially when drinking. He is in top physical shape and tries to intimidate everyone he deals with.

7) VO 336-0012, from the Detroit area, has an extensive criminal history which includes breaking and entering, possession with intent to deliver cocaine, and second-degree murder. The latter conviction involved an incident in which the VO and two other individuals went to the victim's residence with intentions of robbing him. A female codefendant got the attention of the victim in the doorway, at which time the VO and an accomplice charged the victim, and the VO hit him in the head with a tire iron. All three defendants then bound and gagged the victim. The female codefendant injected the victim with two syringes full of battery acid. The victim died as a result of their actions.

8) VO 332-0006's criminal history includes an extensive number of assaults upon police officers. In 1981, an aggravated battery conviction was the result of him using a pool cue to strike and break a police officer's arm. A 1991 conviction for aggravated battery of a police officer was the result of him striking and injuring a police officer with his fists. His other convictions include burglary, second degree escape, third degree escape, robbery, and criminal damage to property.

9) VO 331-0030, at 40 years of age, has been arrested 46 times since 1970 and has at least 7 violent felony convictions which include rape, burglary, aggravated battery with a firearm, and attempted murder. He was paroled from prison in 1990 and since then has been arrested for simple assault, battery, and resisting arrest. He has been arrested a total of 10 times for battery and at least 4 times for sex offenses.

10) VO 932-0017, from San Francisco, has been convicted of assault with a deadly weapon on a peace officer (two counts) in 1975, assault with a deadly weapon (firearm) on a police officer in March 1976, assault with a deadly weapon on a peace officer in July 1976, assault with a deadly weapon and mayhem in 1982, and battery on a police officer in 1988. He has numerous other arrests for assault with deadly weapons where he was found to be not guilty by way of insanity. His other arrests include carrying a concealed weapon, grand theft, assault, petty theft, robbery, assault with a deadly weapon, trespassing, obstructing or resisting a public officer, mayhem, and indecent exposure.

11) VO 534-0001, from the Baton Rouge area, can be identified by the tattoo of "mom" on his left arm and "love" on his left finger. In 1979, he used a .38 caliber revolver to shoot and kill his brother for which he was convicted of manslaughter. He has since been arrested for armed robbery (pled guilty to simple robbery). In 1986, he was charged with attempted second-degree murder after he stabbed a victim with a knife. He pled guilty to aggravated battery and was sentenced to 10 years of hard labor.

12) VO 931-0002 has a criminal past going back to 1967 for battery and resisting arrest. Since then, he has nine felony convictions, ranging from a Federal conviction for smuggling marijuana to kidnapping. His criminal career has been particularly violent. In the 1970's, he was convicted of assault with a deadly weapon after a bar fight in which he used a mug to strike a victim in the face, causing injury. Also, he was convicted of armed robbery after an incident during which the VO and an accomplice used a sawed-off shotgun and a knife to rob a female victim at her residence. The victim was tied up and gagged during the robbery. His most recent incarceration was for a violent spree in the 1980's during which he kidnapped and robbed his victims, committed armed robberies of businesses, held up a cab driver, and at the time of his arrest, fought with police officers for control of an officer's shotgun, injuring the officer. For this spree, he received 15 years' imprisonment and is currently on parole in California.

UNITED STATES DEPARTMENT OF TREASURY BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

WASHINGTON, D.C. 20226

# VIOLENT OFFENDER PROGRAM

(refer to NCIC update 91-4)

This subject is a violent offender convicted of at least three violent felonies and/or serious drug offenses. <u>IF SUBJECT IS IN POSSESSION OF A FIRE-</u><u>ARM</u>, he/she is subject to arrest for federal firearms violations and a 15 year sentencing enhancement. Immediately contact ATF Headquarters at 1-800-659-6242.

	NAME: (Last,	First, Middle)	
PLACE PHOTO HERE (FAX Quality)	AKA: SEX: PGB: HGT: EYES: FBI #: SCARS, MARKS, TATTOOS: ATF CASE NUMBER: FINGERPRINT	RACE: DOB: WGT: HAIR: SKIN: SS #: DL #: TECS ID#: VIOLENT OFFENDER #:	
PLACE F	INGERPRI (FAX Quality)	NTS HERE	

	VIOLENT OFFENDER PROFILE (PAGE 2) SUBJECT VIOLENT OFFENSE CONVICTIONS		•
	(Qualifying convictions for 18 USC 924(e) sentencing.)		t
Conviction:	· · · · · · · · · · · · · · · · · · ·		
Date:			
Sentence:			
Court:			
Conviction:			
Date:			
Sentence:			
Court:			
Conviction:			
Date:			
Sentence:			
Court:			
Conviction fo		DATE	
	r a crime when a firearm or other weapon was used r a crime when the subject assaulted and/or injured the victim		-
or Conviction for a crime when the subject killed the victim.			
	n probation/parole/prison (within 5 years) duled to be released if currently on probation/parole.		
	es of conviction obtained? (Yes or No)		
Originating I	nvestigative Division	<u></u>	_
Originating I	nvestigative Group/POD		-
Did subject Cumulative	ever injure a law enforcement officer. (Yes or No) ever kill a law enforcement officer. (Yes or No) number of felony convictions number of imprisonment years previously sentenced		-

Weshington, D.C. 20535

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October 4, 1991

## NCIC TECHNICAL AND OPERATIONAL UPDATE

SEC	FION	
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2.	NCIC	System Changes
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	2.2	Correction to 24-Hour Hit Confirmation Originating Agency Identifier
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	2.4	Codes to be Deleted from the NCIC Code Manual 2-7
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NCIC UPDATE 91-4



781/D

#### AND FEDERAL SERVICE COORDINATORS

Section 2 of this Update contains information on the implementation of the Bureau of Alcohol, Tobacco and Firearms (BATF) Violent Felon File on March 1, 1992. This information is provided with approximately five months lead time to advise System users of the caveats that will highlight a BATF violent felon record. The lead time also gives Control Terminal Officers (CTOS) and Service Coordinators (SCS) time to train users in the procedures for handling hits on the new File.

Also contained in Section 2 are a correction to a 24-hour hit confirmation Originating Agency Identifier (ORI) and codes to be added to and deleted from the NCIC Code Manual.

Information contained in this Update may require programming in your state or regional system.

Sincerely yours,

David F. Nemecek Chief National Crime Information Center

NCIC UPDATE 91-4 DATED 10/4/91

#### SECTION 2 -- NCIC SYSTEM CHANGES

#### 2.1

Implementation of the Bureau of Alcohol. Tobacco and Firearms (BATF) Violent Felon File -- Effective March 1, 1992

#### Background

At the December, 1990, meeting, the NCIC Advisory Policy Board recommended that a file to identify violent felons be implemented in NCIC. The Board reviewed a proposed file design and moved that NCIC and BATF staffs should finalize the design and implement the file after approval by the FBI Director, concurrence by the Attorney General, and notification to interested Congressional oversight committees. NCIC and BATF staffs have finalized the design as set forth in this Update, and the approvals are pending and are expected to occur in time for implementation of the File on the effective date.

The BATF Violent Felon File will contain records on individuals who have had three or more previous convictions for a violent felony or a serious drug offense. These persons, if found in possession of a firearm, are in violation of 18 U.S.C. Section 924(e)(1), which provides a fine of not more than \$25,000 and imprisonment of not less than 15 years with no suspension, parole, or probation.

#### Expected Benefits

Hits on the File will provide immediate on-line dissemination of accurate documented criminal history information advising of persons who have three times previously been convicted of violent felonies or serious drug offenses. This information in "hot" file format will be available 24 hours a day in response to inquiries by law enforcement on persons with whom they are in contact. Officer safety will be enhanced because the officer receiving a record on a person with a history of violent crime will be warned of the possible danger. Hits on the File will have the potential of increasing the number of apprehensions of armed violent criminals and the number of convictions for violation of Federal firearms laws. These convictions will remove violent criminals from society because of the mandatory 15-year prison sentence and reduce their opportunities to commit additional violent crimes.

NCIC UPDATE 91-4 DATED 10/4/92

SELTION C ----------------------

2.1

Implementation of the BATF Violent Felon File (Continued) -- Effective March 1, 1992

#### Criteria for Entry

BATF Headquarters will be the only agency authorized to enter records in the BATF Violent Felon File. The violent felon record subject must meet <u>all</u> four of the following criteria:

- 1. Have a minimum of three prior violent felony or serious drug offense convictions as defined in the statute.
- 2. Have a felony conviction for a violent crime where a firearm or other weapon was used.
- 3. Have a conviction for a crime where the subject has injured or killed the victim.
- 4. Be either on probation or parole or have been released from supervision (prison, probation, or parole) within the last five years.

BATF Headquarters proposed these criteria and the Board approved them as a way to select the most violent and recently active felons. BATF will manage the records for subjects meeting the criteria as documented by case reports prepared by the BATF field offices. At File startup, BATF will enter records for 500 persons. BATF set the File size at 500 subjects based on their resources to monitor, maintain, and respond to that case load. After one year of File operation in NCIC, BATF will evaluate the results and report to the Board. At that time, BATF will make a new proposal for the File size based on the results and budget considerations.

NCIC UPDATE 91-4 ' DATE 10/4/91

#### SECTION 2 - NCIC SYSTEM CHANGES

2.1

Implementation of the BATF Violent Felon File (Continued) -- Effective March 1, 1992

The File is designed to permit entry of vehicle and/or license data as part of the violent felon record if BATF has reasonable grounds to believe that the record subject may be operating the vehicle or a vehicle bearing the license. As designed an inquiry on vehicle and/or license data may result in a hit on a BATF violent felon record. There will be no \$.8. Program messages to the state of registry as the result of vehicle or license plate data in a BATF violent felon record.

#### Retention Period for BATF Violent Felon File Records

A BATF Violent Felon File record will remain on file until such time as the BATF Headquarters takes action to remove it.

#### Example of an NCIC Inquiry and Positive BATT Violent Felon File Response

All NCIC "hot" file person and vehicle queries, entries, and modifications of searchable data elements will be searched on line against the BATF violent felon records. Each record response will be distinguished by caveats preceding and following the record, an appropriate caution indicator, a unique message key translation, a special Offense (OFF) Field code translation, and an NCIC Number (NIC) that begins with "F". The Violent Felon File record will follow any Wanted Person File and Missing Person File records and precede any Secret Service Protective File record(s) in a positive response in NCIC.

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#### SECTION 2 -- NCIC SYSTEM CHANGES

2.1

Implementation of the BATF Violent Felon File (Continued) -- Effective March 1, 1992

#### Inquiry Example:

1L01HEADER.QW.MD1012400.NAM/RECORD, TEST.SEX/M.RAC/W.DOB/010141(EOT)

- • •

#### Positive Response:

#### 1L01HEADER

MD1012400

\*\*\*\*\*CAUTION-THIS IS A RESPONSE FROM THE BATF VIOLENT FELON FILE \*\*\*\*\*\*\*WARNING--YOUR SUBJECT MAY BE A VIOLENT CONVICTED FELON. \*\*\*\*\*\*\* RECORD NIC/F123456789 FOLLOWS. DO NOT SEARCH, DETAIN OR ARREST BASED SOLELY ON THIS RECORD. RECORD SUBJECT HAS MULTIPLE CONVICTIONS FOR VIOLENT FELONIES AND/OR SERIOUS DRUG OFFENSES. RECORD SUBJECT MAY BE ARRESTED ON FEDERAL FELONY CHARGES IF IN POSSESSION OF A FIREARM. CHECK YOUR SUBJECT'S IDENTITY USING PERSONAL DESCRIPTORS. IF YOUR SUBJECT IS THE RECORD SUBJECT AND IF YOUR SUBJECT IS IN POSSES ION OF A FIREARM, IMMEDIATELY CONTACT BUREAU OF ALCOHOL, TOBACCO AND FIREARMS AT 1-800-659-6242 MKE/VIOLENT FELON ORI/DCATF0000 NAM/RECORD, TEST SEX/M RAC/W POB/US DOB/010141 HGT/510 WGT/180 EYE/BRO HAI/BRO FBI/999990X1 SKN/FAR SMT/SC LF ARM SOC/777010000 OFF/SUBJ HAS 3 OR MORE CONVICTIONS FOR VIOLENT FELONIES/SERIOUS DRUG OFFS OCA/TEST MIS/THIS IS A BATF VIOLENT FELON FILE TEST RECORD SSS TEST \$\$\$ ----TEST---- ////TEST RECORD ONLY//// ORI IS BUREAU OF ATF HDOTRS WASHINGTON DC NIC/F123456789 \*\*\*\*\*THIS RECORD MAY BE USED ONLY BY CRIMINAL JUSTICE AGENCIES FOR CRIMINAL JUSTICE PURPOSES.\*\*\*\*\*\*END OF VIOLENT FELON FILE RESPONSE\*\*\*\*\*\*

NCIC UPDATE 91-4 DATED 10/4/91

#### SEC.'ION 2 -- NCIC SYSTEM CHANGES

#### 2.1 <u>Implementation of the BATF Violent Felon File</u> (Continued) -- Effective March 1, 1992

#### Response Caveats

Caveats will be part of a positive response to distinguish violent felon records from wanted person records. A wanted person record is supported by a warrant issued by an independent magistrate. Hit confirmation on a wanted person is directed to establishing identity and the warrant's validity to formally arrest the record subject. A hit on a record in the Violent Felon File will support an arrest and a search incident to that arrest if the person in question is identical to the record subject and has a firearm in plain view of the officer at the scene. In another circumstance, an officer may discover a firearm during a search incident to the arrest of a person on another charge, such as automobile theft or burglary, and thereafter charge the arrestee with a Federal firearms violation after contact with BATF. A caveat before the record will warn against action based on the positive response alone.

Since the Violent Felon File will contain criminal history information in "hot" file format, it is subject to dissemination restrictions. Access and dissemination will be restricted to criminal justice agencies for criminal justice purposes. A caveat at the end of a record response will emphasize to record recipients that the record may be disseminated only to criminal justice agencies for criminal justice purposes.

#### Procedures for Handling a Hit

An officer who receives a BATF Violent Felon File record on a person who has a firearm in his/her possession must proceed as follows:

> 1. Verify that the person is identical to the subject of the violent felon record by comparing physical and numeric descriptors of the subject of the inquiry with the descriptive data in the hit record.

NCIC UDATE 91-4 DATED 10/4/91

#### SECTION 2 --- NCIC SYSTEM CHANGES

#### 2.1. <u>Implementation of the BATT Violent Felon File</u> (Continued) -- Effective March 1, 1992

- 2. Call BATF to confirm the identity of the person and advise that the hit subject has a firearm in his or her possession.
- 3. If appropriate, charge the subject with a Federal firearms violation and hold the person for Federal officers.

The agency receiving a hit on a violent felon record will be instructed to contact BATF only if the subject is in possession of a firearm. On a 24-hour basis, BATF Headquarters will respond within ten minutes and then file a Federal criminal case against the subject if appropriate. BATF will have prepared preliminary paperwork on each of the 500 subjects of NCIC records; however, BATF advised that they will not usurp the state's right to prosecute.

#### Quality Assurance

BATF Headquarters will be responsible for applying the definitions of "serious drug offense" and "violent felony" contained in 18 U.S.C. Section 924 e)(2) in determining the persons on whom to enter a violent felon record. On receiving word that a person who is indexed in the BATF Violent Felon File has been arrested, BATF Headquarters will determine when to remove the record. There will be no automatic purge of the BATF File and no locating of records. BATF will validate records for accuracy and validity according to the established validation schedule of 60-90 days after entry and every year thereafter.

NCIC UPDATE 91-4 DATED 10/4/91

SECTION 3 OPERATIONAL STATISTICS					
	June, 91	July, 91	August, 91		
Total Hours in Month	720	744	744		
System Operational Hours Unrestricted System Hours Restricted System Hours*	719.5(99.9) 718.1(99.7) 1.4( .2)	743.7(99.9) 742.2(99.7) 1.5(2)	724.7(97.4) 721.4(97.0) 3.3( .4)		
System Downtime Hours Scheduled Downtime Hours Unscheduled Downtime Hours	0.5( .1) 0.4( .1) 0.1( .1)	0.3( .1) 0.3( .1) 0.0( .0)	19.3(2.6) 1.4(.2) 17.9(2.4)		

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\*Restricted System Hours means NCIC is operational but accepting only certain types of messages because of concurrent file maintenance.

#### NCIC Data Bases On September 1, 1991

File	Number of <u>Records</u>
Stolen Gun	2,152,568
Stolen Securities	1,981,426
Stolen Vehicle	1,090,098
Stolen Article	1,561,760
Stolen License Plate	788,720
Wanted Person	351,612
Missing Person	72,259
Stolen Boat	30,210
Unidentified Person	2,143
Foreign Fugitive	634
U.S. Secret Service Protective	32

TOTALS

8,031,462

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