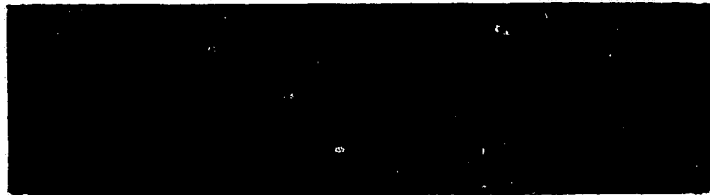


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STATE OF SOUTH CAROLINA

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OFFICE OF THE GOVERNOR

NCJRS

SEP 30 1977

ACQUISITIONS

SOUTH CAROLINA PLAN FOR SECURITY &
PRIVACY OF CRIMINAL HISTORY RECORD
INFORMATION

June 17, 1976

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INTRODUCTION

In 1973, by amendment to the Omnibus Crime Control and Safe Streets Act of 1968, the U. S. Congress enacted Section 524b (42 USC 3771b) which establishes certain ground rules for the collection, storage and dissemination of criminal history record information. On May 20, 1975, the U. S. Department of Justice, through the Law Enforcement Assistance Administration, published Regulations implementing Section 524b in the Federal Register. The Regulations became effective one month after publication on June 19, 1975, and may be found in Part 20 of Chapter 1 of Title 28 in the Code of Federal Regulations.

The new Regulations outline a broad set of standards applying to all criminal justice information systems (Federal, State and local) which store criminal history record data and which have received the assistance of LEAA funds since July 1, 1973. These systems are expected to fully comply with the Regulations by December 31, 1977.

These regulations require each state which has received LEAA funds since July, 1973, for the development or operation of criminal records systems, to submit Plans detailing how and when the state will implement the provisions of the regulations. The Office of Criminal Justice Programs (OCJP) was designated by Governor James B. Edwards as the agency which would prepare that plan. This document presents the required plan. It specifies the extent to which South Carolina is presently in compliance with the Regulations and defines the steps which the State will take to comply with all regulatory requirements, (except for Section 20.21(f)) on or before December 31, 1977.

Major issues covered by the Regulations are:

- 1) completeness and accuracy of Criminal History Record Information, especially important is the inclusion of dispositions;
- 2) limits on dissemination of Criminal History Record Information to authorized persons and/or agencies with a valid need to know;
- 3) audits and quality controls required to monitor agency compliance and insure record integrity;
- 4) security requirements as they relate to hardware, physical facilities and personnel;
- 5) and the individual's right of access and review of information maintained about him and to challenge and correct it if he deems it inaccurate or incomplete.

Although there are systems in the State which may contain some or all of the elements of data which are included in the definition of "Criminal History Record Information," this data is maintained primarily for investigative and/or subject-in-process purposes. The majority of these agencies are small and their "systems" are in fact, manual record keeping systems.

Currently, primary emphasis in South Carolina in criminal justice information systems (CJIS) is on the statewide telecommunications (Criminal Justice Information and Communications System or CJICS). The system is operated and maintained by the State Law Enforcement Division (SLED) which also serves as the central repository in South Carolina. Additionally, SLED/CJICS is responsible for development and implementation of the Offender Based Transaction Statistics/Computerized Criminal History (OBTS/CCH) component of the Comprehensive Data System (CDS) program. For these reasons, this Plan and Certification Statement will concentrate primarily on the central State repository.

The basic objective of this Plan is to address the issues presented in the Federal Regulations, describe South Carolina's current position, and to outline a method for meeting the requirements the state is not now in compliance with. The fundamental goal, of course, underlying the whole concept of security and privacy is to protect the individual from the consequence of inaccurate and incomplete reporting and improper use of identifiable offender information describing his formal contact with the criminal justice system.

A Criminal Justice Information System (CJIS) Policy Advisory Board has recently been established. The Board will provide policy and direction for criminal justice information systems in South Carolina. For additional duties and responsibilities, see the "legislation and executive order" portion of the Certification Statement, Appendix H.

CHAPTER 1

CENTRAL STATE REPOSITORY

Information about an individual's contact with the criminal justice system is produced by numerous methods and at a variety of locations around the State. Because of the high mobility of our population, data may be recorded by a local police or sheriff's unit, a magistrate, a circuit solicitor, courts, corrections or probation, parole and pardon in any number of locations throughout the State.

With this wide dispersion of information, it could be assumed that the information recorded by an individual agency does not constitute an individual's complete criminal history. If, however, the criminal justice system is to operate in an efficient, economical and fair manner, there must be a system to incorporate these desired attributes. The system should be able to maintain a complete, accurate, and up-to-date criminal history information file and be able to disseminate the data to those who have a need to know, in an acceptable time frame.

Establishment of a central State repository is the most practical method for performing the above tasks. This fact is recognized and supported by the U. S. Department of Justice including LEAA and the FBI, as well as other states and is strongly recommended.

Repository Functions

A central State repository should have the following legislatively-mandated functions:

- Collect, maintain, and disseminate criminal history record information. (As defined in Appendix A)
- Maintain complete, accurate criminal history record information to be used by all authorized agencies as the valid comprehensive criminal history record for the administration of criminal justice.
- Insure the proper reporting, administration, and dissemination of criminal history record information by the central repository and by all criminal justice agencies in the State.
- Insure the protection of criminal history record information in its custody from destruction or misuse, through the imposition of physical security (locks and guards), computer security measures, and personnel security (limited access, training, clearance procedures).
- Supply, quickly and efficiently, criminal history record information to all authorized criminal justice agencies in South Carolina.
- Monitor and audit the operations of the central repository and contributing/using agencies, to maintain the quality of information in the system.
- Provide for convenient review for completeness and accuracy of criminal history record information by data subjects to whom the information refers.
- Provide for the correction of criminal history record information found to be inaccurate or incomplete, wherever that information may have been disseminated.
- Serve as an administrator of such rules, regulations, and procedures promulgated by the Criminal Justice Information System Policy Advisory Board.

Existing Resources

In 1970, the South Carolina General Assembly established the State Law Enforcement Division (SLED) as the State central repository for criminal justice information, and made reporting of that information mandatory for law enforcement agencies and court officials.

- * § 53-30. Established as department within State Law Enforcement Division.--There is hereby established as a department within the State Law Enforcement Division a statewide criminal information and communication system, hereinafter referred to in this chapter as "the system", with such functions as the Division may assign to it and with such authority, in addition to existing authority vested in the Division, as is prescribed in this chapter.
- * § 53-31. Law-enforcement agencies and court officials to report criminal data.--All law-enforcement agencies and court officials shall report to the system all criminal data within their respective jurisdictions and such information related thereto at such times and in such form as the system through the State Law Enforcement Division may require.

The rules and regulations for determination of information to be supplied and methods of compiling, evaluating and disseminating the information is authorized by statute as follows:

- * § 53-32. The State Law Enforcement Division is authorized to determine the specific information to be supplied by the law enforcement agencies and court officials pursuant to § 53-31, and the methods by which such information shall be compiled, evaluated and disseminated. The State Law Enforcement Division is further authorized to promulgate rules and regulations to carry out the provisions of this chapter.

The communications department of SLED is responsible for development, operating, and maintaining the automated statewide criminal justice information and communication system, commonly known as SLED/CJICS. Included in the department are three sections: data processing; uniform crime reporting; and records, which also serves as the state identification bureau.

One of the basic records of any ID bureau is the fingerprint card. It is the document that provides the first positive identification of the offender. In order to have an effective base for a criminal history record information system, or a CCH program, it must have the fingerprint card as its foundation. Submission of the fingerprint card to SLED is required by:

- * § 53-35. Certain fingerprints to be made available to State Law Enforcement Division.--All sheriff's and police departments in South Carolina shall make available to the Criminal Justice Records Division of the State Law Enforcement Division for the purpose of recordation and classification all fingerprints taken in criminal investigations resulting in convictions. The State Law Enforcement Division shall pay for the costs of such program and prepare the necessary regulations and instructions for the implementation of this section.

Currently, SLED/CJICS is developing a Computerized Criminal History (CCH) Program. Development efforts are being coordinated with the FBI's National Crime Information Center (NCIC) in order to meet federal guidelines and requirements. Upon completion of the CCH program development, criminal history information will be available on-line within seconds to those authorized individuals or agencies with computer terminals. User's agreements will be required at all terminal locations where participation in the program is requested.

* South Carolina Code of Laws, 1962 Amended

CHAPTER 2

COMPLETENESS AND ACCURACY OF CRIMINAL HISTORY RECORD INFORMATION

Section 524(b) of the Safe Streets Acts of 1973 requires that automated criminal history record information be kept current and that disposition data be included with arrest data to the maximum extent feasible. The Federal Regulations define these standards by requiring that with respect to arrests occurring after June 19, 1975, "to the maximum extent feasible" dispositions must be reported to the central state repository within 90 days of the time when they occur. Dispositions must also be reported as quickly as possible to any other facility which disseminates criminal history records. As a further measure to insure that only the most complete data is disseminated, the Federal Regulations require that, except in cases where "time is of the essence" and the requisite response cannot be obtained with sufficient speed, disseminators must query the central state repository with regard to open or new arrests prior to disseminating criminal history data outside the agency.

As the Instructions¹ indicate (p.22) Sec. 524(b) of the Crime Control Act of 1973 was intended to insure that criminal history records whose collection, storage or dissemination was funded in whole or in part by LEAA funds be complete and accurate wherever they are stored. "Thus, if criminal histories are maintained at criminal justice agencies other than central repositories, and are available for dissemination outside of the agency, they must include dispositions to the maximum extent feasible, at least including all dispositions occurring in the jurisdiction served by the system containing

¹Privacy and Security Planning Instructions, published June 30, 1975, by LEAA

the criminal history information."

This requires agencies, other than the central repository, to develop and implement procedures to comply with the query before dissemination rule. For those agencies that remain as local repositories, SLED procedures will require that disposition data be obtained directly from the central repository rather than from a local recording agency. The Office of Criminal Justice Programs (OCJP) has already advised most major criminal justice agencies at both the state and local levels of the existence of the Federal Regulations and of their implications for all SLED users. In addition, SLED will prepare model operational procedures to assist local users in developing their own internal regulations in compliance with the Federal standards pertaining to completeness and query before dissemination. These model procedures will be available by December 1976.

This section of the Plan describes the current disposition reporting to SLED, problems in reporting and recommended changes that will enable South Carolina to come into compliance with the Federal Regulations. In order to provide assistance and/or better understanding of some of the key words or phrases, the first part is concerned with definitions. For more detailed definitions and their applicability, see Appendix A.

1: Preliminary Definitions

The word "disposition" is defined in Sec. 20.3(e) to mean "information disclosing that criminal proceedings have been concluded..." Without repeating the entire section verbatim, a fair paraphrase of its intent is that everything of a final nature which could happen to a defendant following his arrest is a disposition. However, the setting of bail or holding for a grand jury indictment, being interim steps in the criminal justice process, are not dispositions.

The word "dissemination" is not defined in the Federal Regulations; however, the Instructions to the Regulations define the word to mean a transmission of criminal history data to "agencies other than the criminal justice agency which maintains the criminal history record information." (p. 23) Thus, intra-agency transfers of information would not normally constitute a dissemination except in the unusual case where there is an intra-agency transfer of data from a criminal justice sub-component to a non-criminal justice sub-component of the same agency. For purposes of the query before dissemination rule, the Instructions also indicate (p.21) that transfers of information relating only to a charge in process do not constitute dissemination provided that in the particular circumstances "it is clear... that no disposition has occurred."

The term "criminal justice agency" means either a court or governmental agency (or sub-unit thereof) "which performs the administration of criminal justice pursuant to (state) statute or (state) executive order and which allocates a substantial part of its annual budget to the administration of criminal justice." (Sec. 20.3(c).) The word "substantial" has been defined to mean in excess of 50 percent of the annual budget. (Instructions, P. 5). Whatever accounting methods may be used to reach the 50 percent figure, the commentary to the Federal Regulations indicates that to qualify as a criminal justice agency an agency must perform, as its principal function, one of the functions comprising the administration of criminal justice.

The phrase "administration of criminal justice", Sec. 20.3(d), means "performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders."

As the definition of "criminal history record information" in Sec. 20.3(b) indicates, the term refers to information collected by criminal justice agencies relating to individuals "consisting of identifiable descriptions and notations of arrest...indictments, information or other formal criminal charges and any disposition arising therefrom, sentencing, correctional supervision, and release." On page 7 of the Instructions it states the definition was intended to cover all of the standard OBTS/CCH (Offender Based Transaction Statistics/Computerized Criminal History) data elements. See Appendix B for a complete list.

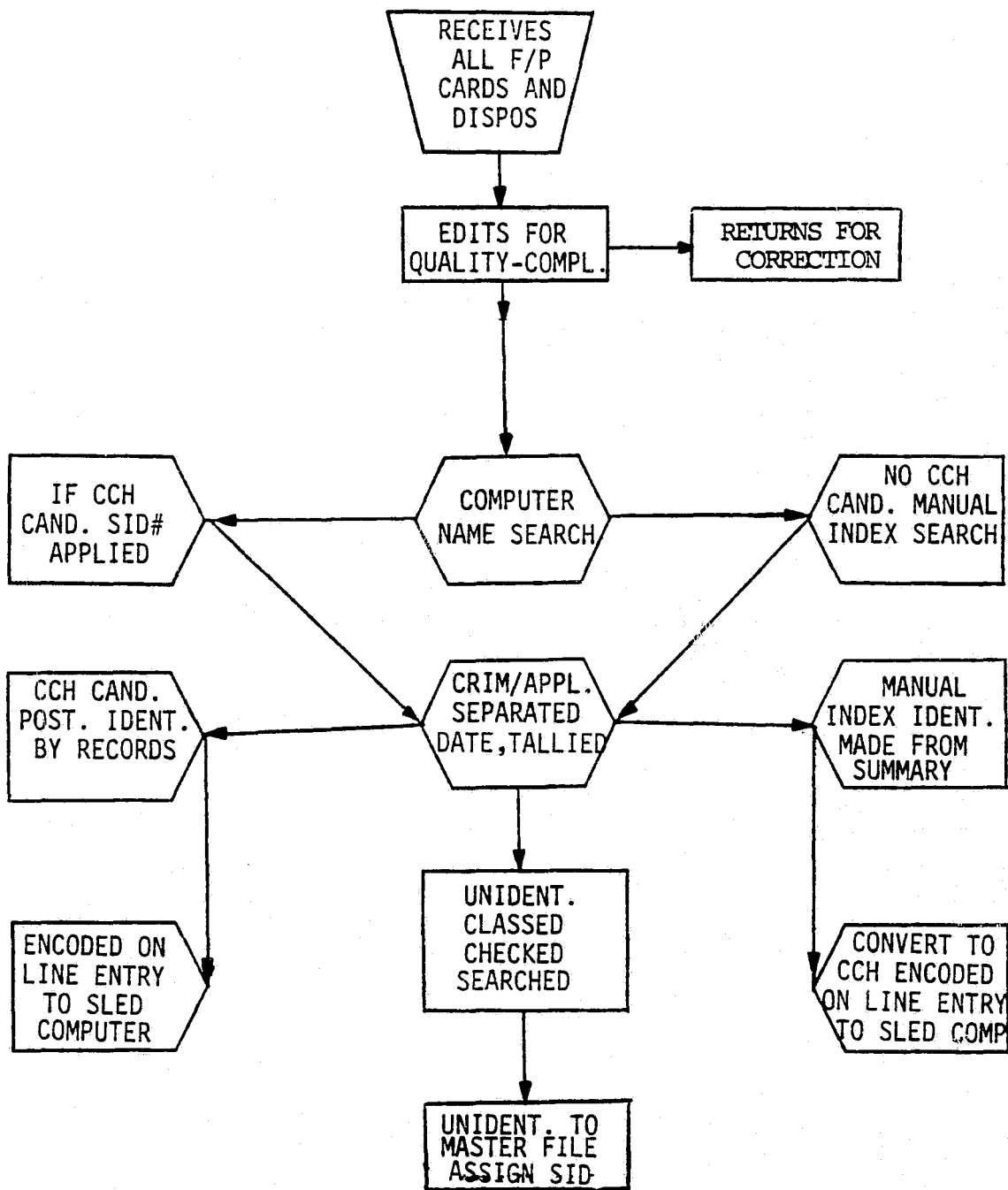
Of perhaps greater significance, the Instructions indicate that even when the relevant data elements occur outside their normal CCH setting, they nevertheless fall within the scope of the Federal Regulations. Thus, all agencies which maintain records containing "notations" of citizens' prior criminal involvement may - particularly if they have received financial help from LEAA for the collection, storage, or dissemination of such records since July of 1973 - be subject to the regulatory requirements. Readers should refer to the chart in Appendix C for further clarification on this point.

DISPOSITION REPORTING SYSTEM

The operational procedures utilized at the Records Section (which serves as the ID bureau) of SLED to insure completeness, are integrated into the criminal identification procedures in order to insure positive identification (accuracy and integrity). This process is illustrated on the following charts (pages 12 and 13). These charts illustrate the various steps in the process used to ensure that information is correct and complete.

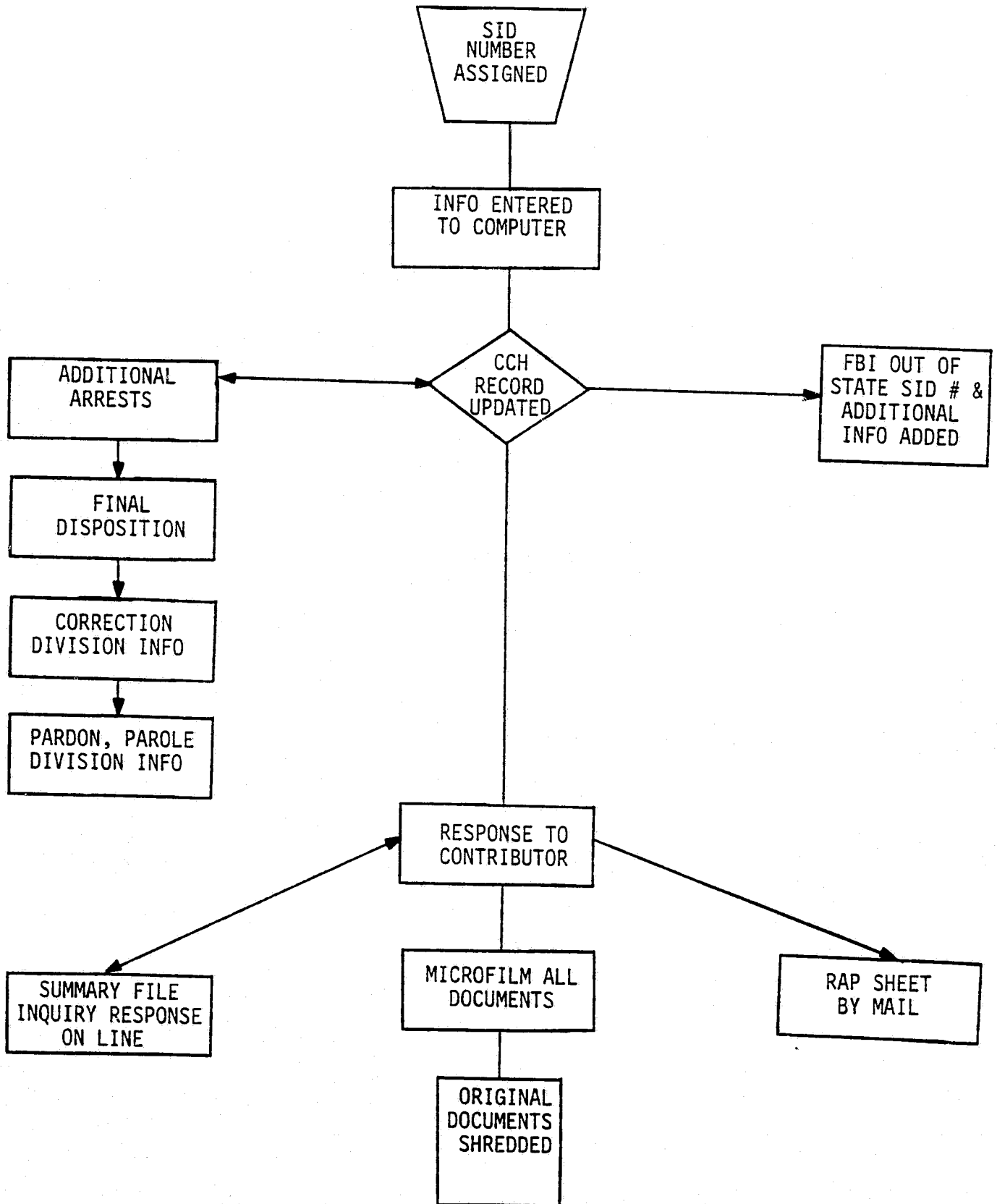
SOUTH CAROLINA LAW ENFORCEMENT DIVISION

CRIMINAL IDENTIFICATION PROCEDURES



SOUTH CAROLINA LAW ENFORCEMENT DIVISION

COMPUTERIZED CRIMINAL HISTORY PROCEDURES



If a report is not complete, an inquiry is made via the telephone where appropriate, to determine if corrective action can be handled that way. Many forms, however, have to be returned to the originating agency for corrective action.

Procedures to ensure that criminal history records are complete and accurate are presently being developed by SLED. This includes dispositions being forwarded to SLED subsequent to arrest to the maximum extent feasible. Disposition forms currently in use throughout the state are the standardized forms supplied by the FBI and SLED.

Although forms and postage are provided and disposition reporting is statutorily required, analyses of the completeness of the criminal history record file maintained at SLED reveals that many dispositions are not received. Since 1971, SLED staff have held training workshops to promote better reporting. These sessions were held at the local level and various segments of the criminal justice system were represented.

COMPLETE DISPOSITION REPORTING IN 90 DAYS

While S. C. Code Section 53-31 requires reporting of "all criminal data within their respective jurisdictions and such information related thereto at such times and in such form as the system through the State Law Enforcement Division may require," there is no specific mention of disposition or reporting within 90 days of such disposition.

SLED will define the term "disposition" and develop and promulgate rules requiring complete disposition reporting within 90 days. It is anticipated that this will be implemented by December, 1977.

Act 361 (1973) states that "any person who after being charged with a criminal offense and such charge is discharged or proceedings against such person dismissed or is found to be innocent of such charge the arrest and booking record, files, mug shots, and fingerprints of such person shall be destroyed and no evidence of such record pertaining to such charge shall be retained by any municipal, county or state law enforcement agency."

DISPOSITION REPORTING

All dispositions occurring in a case from arrest to final release of an individual from the South Carolina Criminal Justice System must be reported to the South Carolina Law Enforcement Division by the criminal justice agency responsible for the disposition. All disposition reporting must be made to the South Carolina Law Enforcement Division Criminal Records Section, Columbia, South Carolina. Disposition reporting shall be made on Standard Disposition Reporting (SDR) forms provided by SLED. Any criminal justice agency reporting a disposition to SLED shall maintain a record of the disposition.

FLOW OF DISPOSITION FORM

The Standard Disposition Reporting (SDR) form shall include the name of the subject, the OCA number, the arrest, date of arrest, disposition, the date

of the disposition, and the officer or agency furnishing the disposition to SLED. It must also include the impressions of the four fingers of the right hand.

LAW ENFORCEMENT

When an arrest is made, the defendant's fingerprints are taken in triplicate. One set of prints stays with the arresting agency, one goes to the FBI (if the offense is a felony), and the other goes to SLED. The form on which the fingerprints are taken provides all arrest data elements needed to meet the arrest segment of the OBTS program and of the CCH program of the National Crime Information Center (NCIC).

If final disposition is known when the arrest fingerprint card is submitted, it is entered on the card. If final disposition is not available, then arrest disposition is entered instead. If final disposition is not available the arresting or booking agency fills out the Standardized Disposition Report (SDR) which is forwarded to prosecution with the case file.

PROSECUTOR AND TRIAL COURTS

If final disposition is determined at the prosecution level, the Standardized Disposition (SDR) is so noted and is either sent to SLED or returned to the arresting agency who in turn sends it to SLED. If court action is required, the prosecutor then forwards the disposition form with the case file to the court having jurisdiction.

TRIAL COURT; LOWER

At the time of arrest when an individual is booked, a fingerprint card must be submitted to the South Carolina Law Enforcement Division Criminal Records

Section. As a part of the booking procedure, the Standardized Disposition (SDR) form must be completed and attached to the document, i.e., warrant, summons ticket; that carries the individual through the criminal justice system; in this case the lower court; i.e., Magistrate, City Recorder. When the case is adjudicated, the arresting agency must submit a Standardized Disposition (SDR) form with disposition to SLED.

TRIAL COURT; HIGHER

At the time of arrest during the booking procedure, a fingerprint card of the individual is completed and sent to SLED. A Standardized Disposition (SDR) form must be completed and attached to the document which carries the individual through the criminal justice system; i.e., warrant. With the flow of the warrant through the system, the disposition form will be forwarded to the Solicitor for an indictment to be prepared where the warrant and the disposition sheet will then become attached to the indictment which goes to the Clerk of Court to be entered on the court docket using the Standardized Docket Number as implemented by a court administrator throughout South Carolina. This disposition report will utilize this same Standardized Docket Number. The Standardized Docket Number is placed on the indictment as well as the Standardized Disposition Reporting (SDR) form. At this time, the Standardized Disposition Reporting (SDR) form will be mailed to the Criminal Records Section at SLED.

Upon receipt of the disposition form at SLED, a fingerprint comparison will be made of the arrest fingerprint card and the disposition sheet to insure accuracy of the disposition to the proper criminal record. The Standardized Docket Number on the disposition form will be entered into the Computerized Criminal History (CCH) file under the proper name and SID number. When the

case is adjudicated, the Clerk of Court under the present system of court reporting, submits all dispositions of cases tried in General Sessions court to the Attorney General's office by Standardized Docket Number. This file is computerized utilizing the Attorney General's Criminal Docket Report (CDR) system. The Computerized Criminal History (CCH) files will be run against the Criminal Docket Report (CDR) file, thus up-dating the proper individual Computerized Criminal History (CCH) file with dispositions.

APPELLATE COURTS (SOUTH CAROLINA SUPREME COURT)

Orders of the South Carolina Supreme Court, by Supreme Court Rule 17, are sent by means of remittitur to the Trial Court of original jurisdiction for disposition of the case. Technically, therefore, final dispositions are made by the Trial Court.

CORRECTIONS

The South Carolina Department of Corrections has recently received a discretionary grant to implement a Corrections Information System (CIS). This system will provide all OBTS/CCH data elements required by corrections in the CDS program. The system will interface with SLED in providing their input. A full CIS is a multi-year program and will receive input from correction institutions throughout the state.

Currently, this data reporting is done in a manual mode. As the offender is processed at the Reception and Evaluation Center, a fingerprint card is filled out, with court disposition, a mug shot taken and a FACE sheet included. This is then forwarded to SLED within two to three days. This also serves as an excellent backup to verify earlier information or even provide information in cases where it is missing.

PROBATION, PAROLE AND PARDON

The South Carolina Probation, Parole and Pardon Board (PPP) will submit whatever OBTS/CCH data elements, including dispositions, are required to meet the CDS program and Federal Security and Privacy Guidelines. PPP will be developing a data base at SLED to accomplish this.

Currently, Probation, Parole and Pardon provides a completed fingerprint card, with disposition, and a mug shot to SLED when the offender comes under their jurisdiction, whether the individual is received from the courts or corrections. This process is planned to continue.

SUMMARY

The above anticipated completeness, accuracy and reporting will be directly tied into South Carolina's OBTS/CCH component of the CDS Program. South Carolina is in the initial implementation stage of the OBTS/CCH component. OBTS/CCH will be composed of various modules with some being implemented sooner than others. Much of this will be dependent on availability of CDS discretionary funds.

South Carolina anticipates having a fully operational OBTS/CCH system in five years. And while the entire OBTS/CCH system will not be operational by December 31, 1977, SLED expects that those portions of it required to meet the timeliness and completeness requirements of the Federal Regulation will be operational by that date to the maximum extent feasible.

DEFICIENCIES

Existing Statute S. C. Code Section 53-31 stated "all law enforcement and court officials shall report to the system ...", but it does not cover all criminal justice agencies. Additionally, there are no sanctions for non-compliance.

§ 53-35 states that "all sheriff's and police departments in South Carolina shall make available to the Criminal Justice Records Division of the State Law Enforcement Division for the purpose of recordation and classification all fingerprints taken in criminal investigations resulting in convictions." All law enforcement agencies need to be covered and the submitting of fingerprint cards after conviction must be deleted. Existing legislation and executive orders dealing with criminal history record information will be reviewed and amendments and/or new legislation proposed as needed to meet the new State and Federal Regulations by July, 1977.

QUERY OF CENTRAL REPOSITORY BEFORE DISSEMINATION

The Department of Justice regulations § 20.21 (a)(1) provide that in those States that have central State repositories "procedures shall be established for criminal justice agencies to query the central repository prior to dissemination of any criminal history record information to ensure that the most up-to-date disposition data is being used." LEAA has instructed that the regulations also provide that "if criminal histories are maintained at criminal justice agencies other than central repositories, and are available for dissemination outside of the agency, they must include dispositions to the maximum extent feasible." This would make the regulatory provision applicable to all those criminal justice agencies in South Carolina which have received LEAA funds subsequent to July 1, 1973, for the collection, storage, or dissemination of criminal history record information.

Procedures will therefore be established by SLED for criminal justice agencies to query the central repository prior to dissemination of any Criminal History Record Information to assure that the most up-to-date disposition data is being used. Policy is being adopted by SLED to be included in the agreement form between SLED and the users which will require appropriate inquiry

of the central repository. Non-compliance with the provision of the agreement as with other provisions will involve sanctions which include termination of CCH terminal service. This is planned to be completed by December, 1976.

ACCURACY AND SYSTEMATIC AUDIT

Regulations 20.21(a)(2) require systematic (internal) auditing as a means of guaranteeing the completeness and accuracy of criminal history record information.

The Records Section at SLED verifies the completeness and accuracy of data by comparing any criminal history record information with the source documents. These source documents include the original and subsequent fingerprint cards, arrest reports, court, corrections, probation and parole records. These source documents are microfilmed and available for examination.

SLED also has responsibility to assure accurate and valid records contained in CCH. As SLED is in the process of automating the criminal history file, procedures will be developed by the time the system becomes operational.

Currently SLED has a number of system (computer) edit routines that assure the entry of valid data. Error listings are produced and forwarded to the Records Section and if needed to the originating agency for correction. Errors are corrected as soon as possible in both the manual and automated files.

SLED utilizes the following procedures with regard to terminal users:

- 1) SLED is responsible for the accuracy and completeness of information entered into the South Carolina CCH System and any information subsequently transmitted for inclusion in the NCIC-CCH system.
- 2) This responsibility extends only to information contained in the documents as submitted to SLED.
- 3) Removal of Information. SLED is responsible for removal of information from the South Carolina CCH and the NCIC-CCH system where required by law or court order.
- 4) Entry of Information. Only terminals located at SLED are allowed to enter records into the CCH system or to change existing records.
- 5) Audit and Inspection of User Agencies. SLED is responsible for periodically auditing and inspecting each terminal location to insure compliance with the published rules, policies and procedures.
- 6) CCH terminal transaction records will be maintained at and by SLED and will be made available to participating criminal justice agencies.

Notification Procedures

Currently no procedures exist for notifying agencies who have received criminal history record information that has subsequently been identified as erroneous. SLED does record the number of criminal history record inquiries, however, this is for statistical purposes only and can not be identified to individual files.

SLED will develop logging and notification procedures to allow for identifying those agencies who have received erroneous criminal history record information. These procedures will be instituted by December, 1976. In the interim, policy will be directed toward all user agencies, requesting users to make

additional inquiries whenever they want criminal history record information on a specific individual rather than maintaining and using a previously obtained criminal history record. When CCH becomes operational, CCH terminal transaction records will be maintained by SLED.

CHAPTER 3
LIMITS ON DISSEMINATION

Federal Regulations require that operational procedures be established to limit the dissemination of criminal history record information. This limitation contained in Section 20.21 of the Regulations only relate to non-conviction information; and therefore, there is no limit on the dissemination of conviction data.

The Regulations describe non-conviction data as "arrest information without disposition if an interval of one year has elapsed from the date of arrest and no active prosecution of the charge is pending;" [Section 20.3(k)] (emphasis added). Additionally, non-conviction data includes information disclosing that the State (police or prosecution) has elected not to proceed with the action or that the defendant was acquitted or the action against him dismissed.

They also describe criminal history record information as "information that has been collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release." [Section 20.3(b)]

It should be noted at this point that when criminal history record information relates to an offense for which the specific individual is currently within the criminal justice system that information may be disseminated without limitations.

A third term must be understood in relation to the two previous definitions. Dissemination, although not specifically defined in the regulations, is the "transmission of criminal history record information to individuals or agencies other than the criminal justice agency which maintains the information." Note, however, that the reporting of data on a particular transaction to another criminal justice agency so as to permit the initiation of subsequent criminal justice proceedings is not dissemination. For example, reporting criminal history record information to the central repository (SLED) or the delivering of arrest warrants with arrest reports to a prosecutor by the police are not considered disseminations and therefore are not limited by the regulations.

The Regulations require that the dissemination of non-conviction record information be pursuant to a state statute, executive order or court rule, decision or order. The authority must specify non-conviction data in order to comply. Effective on December 31, 1977, dissemination of such non-conviction data must be limited to:

- (1) "Criminal justice agencies where the information is to be used for administration of criminal justice purposes and criminal justice agency employment;" [Section 20.21(b)(1)]
- (2) "Individuals and agencies for any purpose authorized by statute, ordinance, executive order, or court rule, decision or order, as construed by appropriate State or local officials or agencies." [Section 20.21(b)(2)]

South Carolina's Freedom of Information Act (R-1605, approved June 14, 1972) has been determined to be in compliance with these requirements.

The Instructions¹, for purposes of this provision, define an "ordinance" as the enactment of the legislative body of a local governmental unit, such as a county, city or municipality.

A court rule, order or decision requiring or authorizing the availability of criminal records to individuals or agencies, or classes of individuals or agencies, would be appropriate authority under the regulations.

USER AGREEMENTS

Any dissemination of the non-conviction record information maintained by the Criminal Justice Agency, whether to individuals or agencies, shall be pursuant to a specific user's agreement. The Criminal Justice Agency must first determine if the request is from an eligible recipient. Then the contractual "user's agreement" must be executed by both parties. The agreement, as between the Criminal Justice Agency and information recipient, shall: "specifically authorize access to data, limit the use of data to purposes for which given, ensure the security and confidentiality of the data consistent with these regulations, and provide sanctions for violations thereof." An example of the type of user's agreement that is proposed between the State Law

¹Privacy and Security Planning Instructions, published April 1976, by LEAA.

Enforcement Division and a recipient is attached in Appendix D.

When information is requested for the express purpose of research, evaluation, or statistical activities, the regulations appear to be more lenient in allowing dissemination. However, the agreement required for these purposes shall specify that the access is for research, evaluative or statistical reasons [Section 20.21(b)(4)] as follows:

- A. Execution of nondisclosure agreements by all participating in the program activities (Appendix E).
- B. Participants having access and using the data shall be subject to the sanctions.
- C. Prior consultation and approval of the Criminal Justice Agency maintaining the desired information.

This section was inserted in the Regulations to permit bona fide private research agencies such as the Vera Institute in New York to receive criminal histories where they perform a necessary administration of justice function such as pre-trial release. Private consulting firms which commonly assist criminal justice agencies in developing information systems would be included here.

CONFIRMATION OF RECORD EXISTENCE

Dissemination includes confirmation of the existence or non-existence of a criminal history record, and thus such confirmation may not be communicated to anyone who would not be eligible to receive the

record themselves."

Neither the present law or rules specifically allow confirmation or non-confirmation of the existence of Criminal History Record Information. However, South Carolina § 53-32 authorizes the State Law Enforcement Division to promulgate rules and regulations necessary for the dissemination (or non-dissemination) of criminal data. SLED anticipates procedures to cover this by December, 1977.

VALIDATING AGENCY RIGHT OF ACCESS

The Department of Justice Regulation § 20.21(b) requires that before any dissemination occurs, disseminating agencies must be certain that the requesting agency or individual is permitted to receive information under the regulations. If a potential non-criminal justice recipient claims to be authorized to receive information pursuant to a statute, ordinance, executive order, or court order, rule or decision and the disseminating agency is not certain that the claimed authorization is proper authority for dissemination, it should refuse to release the information pending an opinion after contacting the appropriate counsel.

DISSEMINATION WITHOUT DISPOSITION

The regulations are clear that "after December 31, 1977, criminal history record information concerning the arrest of an individual may not be disseminated to a non-criminal justice agency or individual [except under Subsection 20.21(b)(2), (3), or (4)], if an interval of one year has elapsed from the date of the arrest and no disposition of the charge (by a prosecutor or court) has been recorded and no active

prosecution of the charge is pending. (Where a person is a fugitive, prosecution is considered to be still active.)"

SLED will develop a program that will alert SLED/CJICS terminal users that certain segments of the criminal history record are subject to restricted dissemination. This will help insure that restricted information is not mistakenly released to unauthorized sources at the terminal locations.

Where criminal history records are maintained manually, procedures will be developed to insure that before dissemination to non-criminal justice agencies takes place, the criminal history record is visually screened for possible restricted information.

Although as general policy, SLED does basically follow the requirements outlined by the regulations, there is no legislation or executive order specifically covering this type of dissemination by all criminal justice agencies. Appropriate legislation or executive order will be issued by December, 1977.

JUVENILE RECORDS

The dissemination of juvenile records information is covered under Section 20.21(d) and is quite explicit concerning dissemination to non-criminal justice agencies. It is prohibited with three exceptions: if there is a detailed "good faith" agreement outlining the pure research use of the information; there is a contract by the recipient to provide criminal justice services to the disseminating agencies; or the dissemination is specifically authorized by statute, court order, or rule of a

court decision. South Carolina presently has no statute authorizing dissemination of juvenile records information to non-criminal justice agencies. Mere authority to receive such information will not suffice. The authority must specifically mention the dissemination of juvenile record information. On the other hand there is limited present law specifically prohibiting such dissemination. Present limitations on the dissemination of juvenile records are controlled by operational and administrative procedures of those agencies maintaining records.

(Appendix F)

It is important to note that the controlling section of the regulations [Section 20.21(d)] is applicable to juvenile records only if there has been an adjudication. Specifically, it concerns any adjudication where it is determined that a child is delinquent or is in need of supervision (truancy or incorrigible). Therefore, the previous areas cover adult records only and do not place requirements of completeness and accuracy or access and review on juvenile records. However, it is anticipated that these issues will be addressed in future legislation or regulations.

MILITARY ACCESS

Federal law requires that one having been convicted of a felony may not enlist in the military, except with special permission. This, however, has been held insufficient as the authority required to allow non-conviction record information to be disseminated. The particular statute, 10 USC 504, provides access to conviction data only, which is

not covered by the regulations anyhow. Additionally, the cited Federal statute does not satisfy the requirements of Section 20.21(d) of the regulations and thus cannot provide authority for military access to juvenile records. South Carolina has no statute covering this particular area.

DISSEMINATION INTENT

The South Carolina criminal justice system has traditionally enjoyed an excellent working relationship with the press, public and private enterprise, and individual citizens of the State.

Dissemination of criminal justice information has been conducted in the past on a right and need to know basis. It is the intent of South Carolina to continue this policy in the future within the framework of the guidelines outlined in Section 524(b) of the Crime Control Act, State statute, executive order, ordinance, or court rule, decision or order.

(Pages 32 and 33 are intentionally left blank)

CHAPTER 4

AUDITS AND QUALITY CONTROL

The Federal Regulations (Secs. 20.21(a) and (e)) require two kinds of audits: a systematic internal audit performed regularly by all criminal history repositories intended primarily to maximize accuracy and completeness and an annual audit of State and local criminal justice users to test compliance with all regulatory requirements. This section of the Plan details the conduct of SLED's systematic audits of the central repository's internal procedures and audits of all users.

SLED field staff and liaison personnel will play a key role in the audit process by collecting and analyzing information as well as discussing problems and corrections with local and state agencies. In order to perform the functions required by Section 20.21(a) and (e), SLED will have to enlarge its staff. Negotiations with the S. C. Budget and Control Board to permit the necessary increases will begin shortly. SLED will receive the initial funding for an audit and quality control group under the OBTS/CCH program.

SYSTEMATIC AUDIT

A continuous systematic audit will be designed by SLED staff to automatically edit and monitor the CCH segment of SLED. Some of the functions of the program will be to:

- check all incoming data for completeness;
- locate delinquent dispositions;
- check offense codes and sentencing for appropriateness;

- edit correctness and sequence of dispositions;
- check all designated, required information for entry;
- monitor appropriateness of terminal requests;
- notify management of inappropriate errors or request activity;
- prevent non-criminal justice dissemination where appropriate; and
- provide an audit trail which will permit tracking of individual data elements back to source documents.

In addition, a program will be written to permit the flagging of all teleprocessing output which contains potentially delinquent dispositions or which may be subject to restrictions on further dissemination by reason of the "one year" rule. After December 31, 1977, criminal history record information concerning the arrest of an individual may not be disseminated to a non-criminal justice agency or individual (except under Subsection 20.21(b)(2), (3) or (4)), if an interval of one year has elapsed from the date of the arrest and no disposition of the charge (by a prosecutor or court) has been recorded and no active prosecution of the charge is pending.

SLED is in the process of developing CCH and currently automating the identification segment of the program. The data entered is from the fingerprint card which is subjected to a complete manual quality check which includes all necessary coding, editing and transcription. When required data elements are missing or incorrect, the contributor is contacted and the errors or omissions are corrected.

Following manual checking, all arrest data is key-verified before entry and further automatic edits scan for other possible errors in data entry or sequencing. These include ensuring the presence of required fields, checking field lengths, and alphanumeric composition. The system also edits charge codes for appropriateness. Where errors occur, messages will instruct opera-

tors to re-enter, or in some cases return the document to a previous process for additional research and recoding.

The systematic audit will also involve field personnel who will act as a liaison between SLED and user agencies. The field staff will verify the status of delinquent dispositions, collect information on system functions and use and monitor local operations to insure adherence to the Federal Regulations. The procedures for the systematic audit function will be designed and implemented by March, 1977.

AUDIT TRAIL

SLED will review all procedures currently in use and modify those that do not have sufficient data elements to clearly establish an audit trail. Procedures will be developed that will allow a field staff from SLED, the central repository, to insure that a maximum level of system accuracy is maintained.

DISSEMINATION LOGS

The Regulations require that the audit trail covering input to the system must be followed by records of transactions in disseminating data in the system, so that accountability can be maintained over the full cycle of collection, storage, and dissemination of criminal history record information. Logging is required for the support of the audit process and also as a means of correcting erroneous dissemination.

The Regulations state that criminal justice agencies "upon finding inaccurate information of a material nature, shall notify all criminal justice agencies known to have received such information."

In order to accomplish the above, dissemination logs will have to be maintained. With reference to CCH terminal transaction records, SLED will determine the most feasible and practical method by March, 1977. Due to the current state of OBTS/CCH development and existing hardware, the design, program and procedure will be prepared in 1977 and the system installed in December, 1977.

SLED will develop procedures concerning dissemination logs where data is disseminated manually. Anticipate implementing primary dissemination logs by December, 1976. The procedures at a minimum will include such data elements as:

- date of dissemination;
- ID of individual disseminating the data;
- the agency or individual to which the data was released;
- the individual to whom the data relates;
- the items of data released;
- the record from which the data was extracted.

Local criminal justice agencies, which disseminate criminal history record information to other criminal justice agencies, will be made aware of the requirements for secondary disseminate logs by December, 1976. SLED will identify the minimum data elements necessary for the agency's dissemination logs. State and local agencies receiving criminal histories from SLED will be required through execution of a Use and Dissemination agreement to maintain dissemination logs also listing elements identical to those on the SLED log.

ANNUAL AUDIT

At this time it is not known who shall carry out the independent annual audit. Proper audit practices suggest the auditing agency should be some

other agency other than SLED, since they are substantially involved in the procedures to be audited. The decision on who shall conduct the audit will be up to the next session of the Legislature for inclusion in the appropriate bills, or it may be accomplished in the interim by an executive order.

To meet the requirement of Section 20.21(e) of the regulations, staff from the CJICS Policy Advisory Board will design and implement an audit utilizing random sampling procedures to test compliance by all user agencies both at the State and local level with all applicable provisions of Federal Regulations, South Carolina law, and SLED regulations pertaining to the processing of criminal history records. All users will agree by signing a Use and Dissemination agreement to hold themselves open to such audits and to maintain such documents as are determined to be necessary to facilitate adequate auditing. At a minimum all user agencies which contribute data to SLED must maintain source documents from which such contributions were derived plus full and complete dissemination logs. The annual auditing system will be designed and implemented by December, 1977.

The annual audit will be conducted in three basic parts as follows:

Procedural Audit

This audit will examine the extent to which procedures have been implemented to insure compliance with the Federal Regulations and State Law. This section of the audit will cover:

- completeness of records and disposition reporting procedures;
- accuracy of records;
- dissemination practices (Query, limitations, tracking);
- security (hardware, software, personnel, physical); and

- individual's right of inspection.

Methods used in conducting this audit will include:

- reviews of written procedures and manuals;
- personnel interviews to evaluate understanding and practice;
- observation of the site and operations.

Records Audit

This audit will evaluate the completeness and accuracy of SLED files as measured against records of original entry. It will be conducted by taking a random selection of source documents at local agencies to evaluate:

- the percentage of entry of arrests or dispositions into SLED and/or local files;
- the accuracy of data entry to provide the error rate for critical field data;
- the percentage of delinquent dispositions entered;
- delays in disposition reporting.

All evaluations will be based on statistically significant samples of original entry records.

Audit of Activity Logs

This audit will evaluate the effectiveness of the system's tracking mechanisms. Records to be examined include dissemination logs, record corrections logs, and physical and terminal access logs. Besides inspection of logs, the audit team will:

- review logging procedures;
- interview personnel handling records or processing records corrections;
- and

- observe each system's daily operations.

Sanctions

SLED will utilize the information developed through the annual and systematic audits to evaluate adherence to both Federal and SLED regulations. When an agency is found to be in error, SLED will provide technical assistance and guidance in an effort to correct inappropriate procedures. As indicated in both the Use and Dissemination and Non-Disclosure agreements, SLED reserves the right to suspend the services of the SLED system to any user agency, whether federally funded or not, which knowingly and willfully violates any Federal or State law or regulation respecting the processing of criminal history records.

Through the Governor's office, the CJIS Policy Advisory Board will seek State legislation providing penalties against individuals, criminal justice agencies, and non-criminal justice agencies for knowing and willful violation of laws or regulations pertaining to the use, storage, collection, and dissemination of criminal history record information.

CHAPTER 5

SECURITY

This section of the plan was prepared in response to the Department of Justice publication in the Federal Register on March 19, 1976, on rules and regulations regarding criminal history records.

Both computerized and manual criminal history record systems are covered by the regulations. The operation of shared systems serving various users including criminal justice agencies is now permitted under the revised regulations.

The regulations require that each state shall insure that the requirements are satisfied by security standards established by State legislation, or in the absence of such legislation, by regulations approved or issued by the Governor of the State.

Currently, only the central State repository (SLED) has any legal authority to promulgate rules and regulations covering the security of its operation (South Carolina Code of Laws, 1962 amended, Section 53-32).

Agencies involved with shared systems will develop security regulations to be issued or approved by the Governor. The CJIS Policy Advisory Board will develop recommendations regarding security standards/regulations covering manual criminal history record systems. These will be presented to the Governor for his issuance or approval.

At the present time in South Carolina, there are three types of criminal history record systems:

- (1) the central State repository which is computerized and dedicated to criminal justice;
- (2) two shared systems - one at the county level and one at the state level; and
- (3) manual type record systems.

SOFTWARE AND HARDWARE DESIGNS

Section 20.21(f)(1) states that "where computerized data processing is employed, effective and technologically advanced software and hardware designs are instituted to prevent unauthorized access to such information".

The central State repository computer system is designed to minimize the likelihood of unauthorized access to criminal justice data bases. The design guards against unlawful attempts to penetrate stored information by:

- (1) each terminal's identity and authorization is verified through systems software before accessing the files;
- (2) all terminals outside of the central State repository have inquiry capability only and the terminals are located in approved law enforcement locations;
- (3) software which limits updating, adding or modifying functions to specific terminals located in the central State repository; and
- (4) an automated audit trail of all transactions is maintained.

In the final analysis, it appears that no amount of safeguards can work against systems personnel who would compromise with honesty and integrity to misuse

the information in any manner.

UNAUTHORIZED ACCESS

Standards will be developed to protect against unauthorized access to criminal history record information systems. These procedures will be developed for all systems within the State that are covered by the regulations, both computerized and manual systems.

With regard to automated systems, only specific terminals have the authority to access criminal history record information to modify, change, update, purge or destroy such information. These devices are designed to effectively restrict such access and activities to authorized criminal justice personnel and other authorized persons who provide operational support such as programming or maintenance.

Access to systems documentation is restricted to the minimum number of personnel necessary to satisfactorily perform that function. The same policy holds true for the data file contents whether in use or when stored in a media library.

It is the responsibility of the criminal justice agency that has a terminal with access to the criminal history data base, that security procedures be maintained to avoid indirect access to data obtained through the terminal. The right-to-know and need-to-know should be the guiding principle for determining which agencies and individuals are permitted access to criminal history record information.

For both manual and automated systems, procedures will be implemented that will assure that persons authorized to have direct access to information

(that is, access to the data base itself rather than indirect access through another person or agency) is held accountable for the physical security of any accessed information under their control or in their custody and the protection of such information from unauthorized disclosure or dissemination.

COMPUTER SYSTEMS

Section 20.21(f)(3)(A) of the regulations require that "computer operations, whether dedicated or shared, which support criminal justice information systems, operate in accordance with procedures developed or approved by the participating criminal justice agencies".

In South Carolina, this section will affect three computer systems which are divided into two categories: (A) the central State repository; and (B) shared systems.

- A. Central State Repository - the central State repository in South Carolina is a dedicated computerized system. The equipment is physically housed in the headquarters building of the State Law Enforcement Division (SLED).

The Instructions¹ state that where the computer is "owned" by a criminal justice agency and the agency's staff is responsible for all operations, the required policy authority is present and will be exercised directly. Such is the case with the CJIS system at SLED.

In computerized systems, including the shared systems, the programs specified in Sections 20.21(f)(3)(A)(ii) and (iv)

¹Privacy and Security Planning Instructions, Revised, Published April, 1976, by LEAA.

will be "known only to criminal justice agency employees responsible for criminal history record information system control or individuals and agencies pursuant to a specific agreement with the criminal justice agency to provide such programs and the program(s) are kept continuously under maximum security conditions". This is true at SLED and procedures will be developed by the shared systems to insure the same.

- B. Shared Systems - (1) The South Carolina Department of Corrections. The Department of Corrections has recently received a discretionary grant to implement a Corrections Information System (CIS). The system is being developed on a computer system operated and maintained by a State government agency - the General Services Administration (GSA).

Operational policies and procedures will be developed jointly by the Department of Corrections and GSA. The Department of Corrections will have the right to audit, monitor and inspect security procedures to assure that they are being implemented in a manner agreeable to them and in compliance with the regulations.

In addition to the computer main frame at GSA, the CIS system will utilize a statewide terminal network and a remote job entry (RJE) system. These devices and functions will all be operated by Corrections personnel and located in Corrections facilities.

The Department of Corrections will develop internal procedures with respect to terminal and operator personnel security and physical protection of hardware against unauthorized access, theft, sabotage, fire, flood, wind, or other natural or man-made disasters by utilizing the latest state-of-the-art technology.

In addition to its own personnel, the Department of Corrections will educate the GSA personnel on-site with the intent and substance of the rules and regulations of the Department of Justice as interpreted by the Law Enforcement Assistance Administration in their publication entitled "Privacy and Security Planning Instructions". The Department of Corrections will maintain close liaison with GSA in this regard.

2. Charleston Area Law Enforcement System (CALES)

The CALES system is very similar to the type of operation of the Department of Corrections and GSA. CALES is a computer system owned by the county and shared with local law enforcement agencies. The county operates and maintains the computer main frame which supports a local terminal network with the terminals located only in law enforcement centers.

The law enforcement agencies will develop operational policies and procedures jointly with the county. As with the Department of Corrections, the law enforcement agencies will have the right to audit, monitor, and inspect the procedures to assure that they too are being implemented in a manner agreeable to them and in compliance with the regulations.

Internal procedures will be developed by the law enforcement agencies with respect to records and terminal personnel security. Procedures will also cover physical protection of hardware, manual records and source documents against unauthorized access, theft, sabotage, fire, flood, wind, or other natural or man-made disasters by utilizing the latest technology.

Local law enforcement agencies and county computer personnel enjoy a close working relationship and are both covered by these regulations. They are therefore kept advised of the latest developments and requirements in relation to security and privacy in criminal history records.

PHYSICAL SECURITY

Within the framework of uniform standards developed by the CJIS Policy Advisory Board, individual agencies will be required to develop their own plans for physical security.

The Central State Repository (SLED) has developed procedures in the following areas and will continue to monitor and improve them as needs dictate.

Theft, Sabotage:

The SLED computer facility is manned twenty-four (24) hours a day, seven (7) days a week by qualified computer operators. Only persons assigned to the Criminal Justice Information System are authorized to enter and depart freely; all others are screened before entry and required to sign in and out. The entrance to the information system is accessed through a remote control door. All attempts of illegal entry are immediately reported to the duty officer and the operations supervisor.

Fire, Flood, Other Natural:

The computer facility is equipped with smoke detectors, fire extinguishers, and emergency lighting. An emergency power generator is available with sufficient output to supply the entire computer facility in the event of a primary power failure. A fireproof vault has been provided for the safe storage of all master files. Remote storage has also been established.

Manual Systems:

All physical records are maintained in a secured area. Records are also microfilmed and placed in a fireproof storage.

Access to records is only authorized for identification personnel following a thorough background investigation.

Alarm equipment prevents access after hours.

To review their record, an individual must positively identify himself or be properly represented by counsel.

PERSONNEL

As pointed out in the Instructions¹ the regulations distinguish two levels of authority to be assigned to criminal justice agencies relative to personnel assignment. First, where employees of a criminal justice agency (employees include civil service staff, contract employees, and anyone else who is totally supervised by the agency) are the only persons who handle data or files, it is assumed that the requisite authority is achieved.

The second level is from section 20.21(f) (4) (A) of the regulations which states that a "criminal justice agency will screen and have the right to reject for employment, based on good cause, all personnel to be authorized to have direct access to criminal history record information". This second level then is one of primary concern in the case where personnel of a noncriminal justice agency are involved. As stated earlier, there are only two such cases in South Carolina--the Department of Corrections and the CALES system.

The Instructions further outline that in such cases, the designated criminal justice agency must have the power to exclude, for good cause, individuals from having direct access to criminal justice records. This power is limited to a veto over personnel assignment, and does not imply any right to make personnel selections. It would apply to secretaries, guards, maintenance personnel and computer operators who work in areas where criminal justice records are stored and who have the opportunity and capability to access the records, as well as individuals whose duties clearly require direct access (file clerks, applications programmers, etc.).

Section 20.21(f) (4) (B) of the regulations continues in this area in that a criminal justice agency will "have the right to initiate or cause to be initiated administrative action leading to the transfer or removal of personnel authorized to have direct access to such information where such personnel violate the provisions of these regulations or other security requirements established for the collection, storage, or dissemination of criminal history record information." It is then the criminal justice agency that must make the final decision as to the acceptability of the person and be able to cause administrative action to transfer or remove persons who violate security requirements or other procedures required by the regulations. Procedures will be developed in the two cases previously described.

In South Carolina the central State repository is a dedicated computer facility. Personnel applying for positions within the Criminal Justice Information System are required to consent to an investigation of their character, habits, previous employment and other matters necessary to establish their good moral character, reputation and honesty. Giving false information of a substantial nature will disqualify an applicant from employment.

All new employees are indoctrinated regarding procedures and operational manuals. Each new employee is placed under the close supervision of a senior operator for a minimum of 60 days. Additionally, all current employees as

well as new employees working with or having access to criminal history record information shall be made familiar with the substance and intent of these regulations. Also, operational personnel are informed by written policy as to criminal history procedures.

The Instructions outline that the use of noncriminal justice personnel (such as individuals from other government agencies or contractor services) is permissible under the regulations for purposes of system development and operation, including programming and data conversion. Access to criminal history data by these individuals is authorized by Section 20.21(f) (4) (E), but only to the extent that such access is "essential to the proper operation of the criminal history record information system." Access will be granted by means of an agreement or contract which specifies limitations on use and provides sanctions for the breach of security procedures. When such personnel are utilized, they are under the direction of and performing duties for the benefit of a criminal justice agency.

CHAPTER 6

INDIVIDUAL RIGHT OF ACCESS AND REVIEW

The Department of Justice regulations (20.21(g) (1)) provide that any individual shall, "upon satisfactory verification of his identity, be entitled to review, without undue burden to either the criminal justice agency or the individual, any criminal history record information maintained about the individual and obtain a copy thereof when necessary for the purposes of challenge or correction." The operational procedures to ensure the "individuals right of access and review of criminal history information for purposes of accuracy and completeness" are to be operational at the time of plan submittal.

Verification Method

Verification of such individuals' identity may only be affected through submission of name, date of birth, and a set of rolled ink fingerprints to the State Law Enforcement Division (SLED). The request for review may be made at SLED Headquarters, Broad River Road, Columbia, South Carolina or through any South Carolina criminal justice agency covered by these regulations.

If a request is made at a location other than SLED Headquarters, then after positive identification by SLED of the fingerprints submitted, a copy of the criminal history record, along with the fingerprints submitted for that purpose, will be forwarded to the criminal justice agency to whom the request was made. The fingerprint card will immediately be returned to the individual originating the request.

Rules for Access

The regulations require public notice of the procedures for inspection of and challenge to criminal history records. These procedures will be

published in the public notice sections of all major newspapers and notices will be sent to the Commissioner of the South Carolina Department of Corrections and the head of all local correctional agencies for posting on bulletin boards. These notices will include the time and places for review, applicable fees, procedures for verification of identity, the rules regarding counsel and submission of explanatory materials.

The review of an individual's record at SLED Headquarters in Columbia will be conducted between the hours of 9:00 a.m. and 5:00 p.m. in the Records Section. There will not be any fee for this service at the present time. However, this is subject to review and if deemed necessary a "reasonable" fee may be charged to cover actual costs. Review must be in person or by counsel, provided the counsel has a fingerprint card and a written authorization of the person requesting a review.

Point of Review

The regulations provide that the individual's right to review applies to "any criminal history record information maintained about the individual." The individual or his counsel may apply to the State Central Repository, which in this state will be the Records Section at the State of South Carolina Law Enforcement Division in Columbia. Normally, however, the review should take place at the agency that has custody or control of the record. This would, of course, not be required where complete records are maintained only at a central repository located in another city. In such a case, the review may take place at a criminal justice agency (covered by these regulations) convenient to the individual. Record review shall be allowed during normal working hours in all such agencies.

Obtaining A Copy

Copies of the individual's record shall be made available to the individual or his counsel only when such copies are required for the purpose of initiating a challenge to the record.

The individual or his counsel shall be provided with a copy of his record if after review he actually initiates a challenge and indicates a record copy is needed to pursue the challenge, unless because of the nature of the challenge it is clear that a copy is not necessary.

Such record copy shall be prominently marked or stamped to indicate that the copy is for review and challenge only and that any other use thereof would be a violation of 42 USC, page 3771.

The agency may charge a reasonable fee to cover actual costs. Actual costs would cover such things as labor and materials.

Challenge By Individual

Data included in the individual's criminal history record file maintained at the central repository (SLED), is obtained from contributing criminal justice agencies.

If after review of the information concerning himself as maintained in the criminal history record, the individual believes that it is incomplete or incorrect in any respect, and wishes changes, corrections, or updating of the alleged deficiency, he should take the following action.

He must make application directly to the contributor of the questioned information. This must be on a standard form provided by the agency which shall include; the name of the subject, the date, and any exceptions taken or explanatory material offered. The person making such a challenge will fill in the form himself, unless he cannot do so, and swear to the truth and accuracy of statements he makes in the challenge.

The agency in which the record is reviewed and challenged shall then forward the original challenge form to the Records Section at SLED, and the agency shall keep a copy of the challenge form. SLED, upon receipt of the original challenge form shall cause the individual's record in computerized and non-computerized files to be flagged with the message that the record is under challenge. This flag shall accompany all disseminations of this information while the record is being checked.

Upon receipt of an official communications directly from the agency which contributed the original information, SLED will make any changes necessary in accordance with the information supplied by the agency. The agency where the review and challenge occurred shall notify the individual or his counsel of the action taken. This should occur within 45 days after the initial challenge to the record has been made.

Administrative Review

Any individual who challenges his record is entitled to have the record appropriately removed, modified or corrected if there is no factual controversy concerning such challenge. If there is factual controversy and it is resolved against him, he is entitled to a review of that decision by someone in the agency other than the person who made the decision. The individual shall be notified of the decision of the reviewing official within 30 days of submission of the written request.

Administrative Appeal

It is anticipated that where an individual's challenge or a portion of the challenge is denied with respect to the accuracy or completeness of the record, then the individual would within thirty days of receipt of the denial be able to appeal the denial by petitioning the CJIS Policy Advisory Board.

The individual upon requesting an administrative appeal, would receive a hearing at which the individual or his counsel could present evidence. Where the individual's appeal is denied, the individual would be notified in writing of the reason for the decision and the right to a judicial appeal.

Correction and Notification of Error

It shall be the responsibility of the agency of record to notify all criminal justice recipients of any corrected information. Each criminal justice agency shall maintain a "log" of all non-criminal justice agencies furnished any criminal history information. An individual may be furnished a listing of non-criminal justice recipients upon request. These regulations pertaining to individual's right to review criminal history records only extends to that information concerning him. The individual is entitled to review information that records essentially the fact, date and results of each formal stage of the criminal justice process. He shall not review intelligence or investigative information, nor substantive information compiled by criminal justice agencies.

MILESTONE CHART

DATE	ACTIVITY	RESPONSIBLE AGENCY
3-76	Receipt of Certifications from Criminal History Record Information Systems other than the Central State Repository (SLED)	State & Local Agencies
3-76	Inspection and challenge procedures to be operational at State and local criminal justice agencies in compliance with Federal Regulations	State & Local Agencies
3-76	Promulgation of procedures regarding appeals of challenged decisions	CJIS Policy Board
12-76	Develop procedures that will assist other criminal justice agencies in complying with Regulations pertaining to completeness and query SLED before dissemination	SLED
12-76	Develop logging and notification procedures to identify those agencies that have received erroneous criminal history record information	SLED
12-76	Develop and implement primary and secondary dissemination logs where information is disseminated manually. User agencies made aware of these regulations	SLED
3-77	Promulgate and implement procedures for systematic audit	SLED
3-77	Determine most feasible method to record CCH terminal transactions	SLED
3-77	Develop and implement user's agreements	SLED, CJIS Policy Board
7-77	Develop recommendations regarding security standards/regulations covering manual criminal history record systems	CJIS Policy Board
12-77	Review existing legislation and executive orders regarding criminal history record information and propose amended and/or new legislation or executive orders	CJIS Policy Board
12-77	Implement CCH terminal transaction logging procedures	SLED
12-77	Develop and implement procedures for complete disposition reporting within 90 days	SLED, CJIS Policy Board
12-77	Develop security regulations as they relate to shared computer systems	State and local agencies, CJIS Policy Board

DATE	ACTIVITY	RESPONSIBLE AGENCY
12-77	Develop and implement a program that will alert SLED/CJICS terminal users certain segments of data are subject to restricted dissemination	SLED
12-77	Procedures will be developed and implemented to ensure that manual criminal history record systems do not release restricted information	State and Local Agencies
12-77	Develop and implement annual auditing system	CJIS Policy Board

APPENDIX A
TERMS AND DEFINITIONS

APPENDIX A

TERMS, DEFINITIONS AND APPLICABILITY

The following terms have been used as key concepts in the development of the South Carolina Plan for Privacy and Security of Criminal History Record Information. These terms have been used with regard to the meaning given them in Department of Justice and LEAA documents.

The following documents are cited as reference points for definitions and applicability of the terms:

Ref. (1) - Department of Justice Regulations, Federal Register, May 20, 1975.

Ref. (1a)- Commentary - Department of Justice Regulations

Ref. (2) - LEAA Planning Instructions, June 30, 1975.

Ref. (3) - LEAA Supplement No. 1, August 20, 1975.

Ref. (4) - LEAA Supplement No. 2, September 30, 1975.

Exceptions to the meaning of the term or from the applicability of the Regulations have been noted with an asterisk (*).

ACCURATE: Ref. (2)

Means containing no erroneous information of a material nature.

ACT: Ref. (1)

Means the Omnibus Crime Control and Safe Streets Act, 42 U.S.C. 3701 et seq. as amended.

Administration of Criminal Justice: Ref. (1)

Means performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders; and shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.

"Court records of public judicial proceedings compiled chronologically": Ref. (2)

Means the various parts of a record arranged according to an ordered time sequence, and results from criminal charges filed in a single case; such records are exempt from the regulations in order to permit access to records which traditionally have been open to the public, defendants, or members of the bar.

* "Rap sheets"

Or summary criminal histories are sometimes included in such files. These documents are not considered "court records" under this section and are not exempt from coverage under the regulations.

* Alphabetical indexes to court records are generally not exempt.

Criminal History Record Information: Ref. (1)

Means information collected by criminal justice agencies on individuals, consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any dispositions arising therefrom, sentencing, correctional supervision, and release.

* does not include: identification, information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system;

Ref. (1a)

The definition of criminal history record information is intended to include the basic offender based transaction statistics/computerized criminal history (OBTS/CCH) data elements (see Appendix B).

If notations of an arrest, disposition, or other formal criminal justice transactions occur in records other than the traditional "rap sheet", any criminal history record information contained in such reports comes under the definition of this subsection;

* The definition, however, does not extend to other information contained in criminal history reports. Intelligence or investigative information (e.g., suspected criminal activity, associates, hangouts, financial information, ownership of property and vehicles) is not included in the definition of criminal history information.

Ref. (2)

*Criminal history record information does not include statistics which do not reveal the identity of individuals.

* criminal records of corporations are not included in criminal history record information.

Ref. (3)

Criminal history record information must contain both:

- 1) identification data sufficient to identify the subject of the record and;
- 2) notations regarding any "formal criminal justice transaction" involving the identified individual.

* Fingerprints are not required for a record to be criminal history record information, if ~~it~~ otherwise is covered by the definition.

* Criminal history record information does not include the document originally prepared to record facts about the transaction (e.g., the report of a crime scene investigation, individual arrest report, report of court action on an individual.)

Criminal History Record Information Collection: Ref. (2)

Means criminal justice information systems which contain data on arrests and other criminal justice system transactions; for example subject-in-process, prosecution management, and inmate records systems.

* does not apply to:

- (1) posters, announcements, or lists for identifying or apprehending fugitives or wanted persons.
- (2) original records of entry, compiled chronologically and required by law or long-standing custom to be made public, if such records are accessed on a chronological basis.
- (3) court records of public judicial proceedings compiled chronologically, if such files are solely within the management and control of a court system.
- (4) published court opinions or public judicial proceedings.
- (5) record of traffic offenses maintained by State departments for the purpose of regulating the issuance, suspension, revocation, or renewal of driver's or other operator's licenses.
- (6) announcement of executive clemency.

Ref. (3)

Source documents that are refiled alphabetically, thereby allowing a search by name for retrieval of all such records related to an individual are criminal history record information; an index system which permits a search of the documents by name would be, in conjunction with the documents,

criminal history record information.

Ref. (4)

Regulations apply to combinations of any non-chronological index and file which might be used to assemble or permit retrieval of a summary criminal history on an individual. If as a result of automatic data processing, the equivalent to an alphabetical manual index exists, such automated files would likewise be subject to the regulations.

Criminal History Record Information System: Ref. (1)

Means system including the equipment, facilities, procedures, agreements, and organization thereof, for the collection, processing, preservation or dissemination of criminal history information.

Criminal Justice Agency: Ref. (1)

Means courts, and a government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.

Ref. (1a)

Traditional police, courts, and corrections agencies as well as subunits of non-criminal justice agencies performing a function of the administration of criminal justice pursuant to Federal or State statute or executive order; umbrella-type administrative agencies supplying criminal history information services (e.g., South Carolina's State Law Enforcement Division).

Ref. (2)

A governmental agency or subunit thereof would be one having an agency head administratively responsible to elected public officials or to persons appointed by elected public officials; must be expressly authorized by statute or executive order to perform one of the functions of the administration of criminal justice; and must allocate a substantial part of its annual budget to the administration of criminal justice; this agency should have as its principal function one of the functions of the administration of criminal justice.

* Does not mean that such an agency be exclusively performing administration of criminal justice functions.

* Does not mean corporations and other private agencies which by contract perform important functions related to criminal justice.

Ref. (2)

Criminal justice agency may include subunits of non-criminal justice agencies performing a function of the administration of criminal justice pursuant to a Federal or State statute or executive order; it is possible for a functional subunit of a data processing agency to qualify as a criminal justice agency.

Ref. (2)

The level in the organization defined to be a criminal justice agency must be construed narrowly to meet the intent of the regulations;

* general rule is that agencies and individuals which provide only funding, oversight, staff services, general supervision, or policy guidance without regularly engaging in the day-to-day management or administration of criminal justice activities are not criminal justice agencies under the regulations; in infrequent and exceptional cases a chief executive may be considered as part of a criminal justice agency.

Correctional and release information

Means information on an individual compiled in connection with bail or pretrial or posttrial proceedings, reports on the physical or mental condition of an alleged offender, reports on presentence investigations, reports on inmates in correctional institutions or participants in rehabilitation programs, and probation and parole reports. The term does not include information describing changes in custodial status which are a part of criminal history record information.

COMPLETE: Ref. (2)

Means in general that arrest records should show all subsequent dispositions as the case moves through the various segments of the criminal justice system.

Criminal Justice Intelligence Information - See the last two pages of this Appendix

Criminal Justice Investigative Information - See the last two pages of this Appendix

Disposition: Ref. (1)

Means information disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings and also disclosing the nature of the termination in the proceedings; or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such a postponement; (1a) other unspecified transactions concluding criminal proceedings within a particular agency;

Ref. (1)

Dispositions shall include, but not be limited to; acquittal, acquittal by reason of insanity, acquittal by reason of mental incompetence, case continued without finding, charge dismissed, charge dismissed due to insanity, charge dismissed due to mental incompetency, charge still pending due to insanity, charge still pending due to mental incompetence, guilty plea, nolle prosequi, no paper, nolo contendere plea, convicted, youthful offender determination, deceased, deferred disposition, ~~dismissed-~~ civil action, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial - defendant discharged, executive clemency, placed on probation, paroled, or released from correctional supervision.

Ref. (1a)

The above are examples only and are not to be construed as excluding other unspecified transactions concluding.

Ref. (2)

The formal conclusion of each stage of a case as it moves from arrest through the criminal justice system; includes police, prosecutor, court, and corrections actions; and such other actions as pardons or executive clemency or appellate court decisions reversing or modifying earlier actions.

Dissemination: Ref. (2)

Means transmission of criminal history record information to individuals and agencies other than the criminal justice agency which maintains the criminal history record information; includes confirmation of the existence or non-existence of a criminal history record;

Ref. (3)

The release of criminal history record information by an agency to another agency or individual;

* use of the information by an employee or officer of the agency maintaining the records does not constitute dissemination.

* reporting the occurrence of the circumstances of a criminal justice transaction is not dissemination; (the reporting of an arrest or other transaction to a Local or State repository is not dissemination).

* reporting data on a particular transaction to another criminal justice agency so as to permit the initiation of subsequent criminal justice proceedings is not considered to be dissemination.

Ref. (4)

Reporting of criminal history record information to the FBI is similar to reporting to a central state repository and does not constitute dissemination.

Executive Order: Ref. (1)

Means an order of the President of the United States or the Chief Executive of a State which has the force of law and which is published in a manner permitting regular public access thereto.

Sanction (Penalties): Ref. (1)

Any agency or individual violating sub-part B of these regulations shall be subject to a fine not to exceed \$10,000. In addition, LEAA may initiate fund cut-off procedures against recipients of LEAA assistance.

Statute: Ref. (1)

Means an Act of Congress or State legislature or a provision of the Constitution of the United States or of a State.

Transmission of Criminal History Record Information: Ref. (3)

The regulations are silent on the direct question of controlling transmission of these records via various kinds of networks. However, the regulations do require that direct access to the records shall be limited to employees and officers of a criminal justice agency. Therefore, the use of any transmission medium which does not afford reasonable assurances that access is so controlled would be prohibited under the regulations.

Based on the present level of experience, it would appear that the probability of telephone line interception for the purpose of gaining access to criminal history information is so low as to permit the use of telephone lines for this purpose. Also, information transmitted in digital form, using standard telecommunications codes, would be sufficiently difficult to reconstruct so as to permit such transmission unless the transmitting agency has reason to doubt the security.

On the other hand, uncoded voice transmission over radio links are easily intercepted, and it is unlikely that such transmissions could be protected to the extent required.

The transmitting agency must also assure itself that the receiving site sustains a reasonable level of security.

CRIMINAL JUSTICE INTELLIGENCE INFORMATION

and

CRIMINAL JUSTICE INVESTIGATIVE INFORMATION

This plan is not intended to address the subject of this appendix since criminal justice intelligence and investigative files are not included in the definition of criminal history record information. However, any criminal history record information contained therein would be included in that definition. The following are definitions and provisions contained in S.2008 introduced in the Senate of the United States June 25, 1975.

DEFINITIONS

1. "Criminal justice intelligence information" means information associated with an identifiable individual compiled by a criminal justice agency in the course of conducting an investigation of an individual relating to possible future criminal activity of an individual, or relating to the reliability of such information, including information derived from reports of informants, investigators, or from any type of surveillance. The term does not include criminal history recorded information nor does it include initial reports filed by a criminal justice agency describing a specific incident, not indexed or accessible by name and expressly required by State or Federal statute to be made public.
2. "Criminal justice investigative information" means information associated with an identifiable individual compiled

by a criminal justice agency in the course of conducting a criminal investigation of a specific criminal act including information pertaining to that criminal act derived from reports of informants and investigators, or from any type of surveillance. The term does not include criminal history record information nor does it include initial reports filed by a criminal justice agency describing a specific incident, not indexed or accessible by name and expressly required by State or Federal statute to be made public.

APPENDIX B
OBTS/CCH DATA ELEMENTS

APPENDIX B

Offender Based Transaction Statistics

(OBTS) Data Elements

Source: The data elements which follow were obtained from SEARCH Technical Memorandum #4, January 1972: Implementing State-wide Criminal Justice Statistics Systems - The Model and Implementation Environment. All data elements for the South Carolina OBTS have not been determined, at this time, by the Criminal Justice Information and Communications System Policy Advisory Board. They will, however, as a minimum, include the following type outlined below.

POLICE/PROSECUTOR DATA ELEMENTS

1. State ID Number
2. FBI Number (if available)
3. Arresting Agency (NCIC code) agency, county
4. Date--Arrest
5. Charged Offense--Most Serious (NCIC code, 2 level)

This is the first two digits of the NCIC offense code most appropriate to describe the felony offense. "Most serious" is determined by the NCIC ranking of felony offenses.

6. Police Disposition
 1. Transfer other Law Enforcement Agency
 2. Transfer other Agency
 3. Released
 4. Other

Police disposition includes only actions which the police can take to terminate the tracking process.

7. Birthdate
8. Sex
 1. Male
 2. Female
 3. Not Stated
9. Race
 1. White
 2. Negro
 3. Chinese
 4. Japanese
 5. American Indian
 6. Other

7. Unknown

10. Prosecutive Disposition

1. Felony Charge
2. Misdemeanor Charge
3. Declined to Prosecute
4. Other

A case which has a police disposition cannot have a prosecutive disposition. These elements are mutually exclusive.

11. Date--Prosecutive/Police Disposition

LOWER CRIMINAL COURT DATA ELEMENTS

12. Court ID Number

13. Date--Initial Appearance

14. Release Action (initial opportunity)

1. Own Recognizance
2. Bail
3. Committed in Default
4. Committed without Bail
5. Other

15. Date--Release Action

16. Charged Offense--Most Serious

17. Date--Lower Court Disposition

18. Final Charge--Most Serious

19. Type of Charge

1. Felony
2. Misdemeanor
3. Other

20. Type of Trial

1. Non-Jury
2. Jury
3. Transcript
4. Other

If the charge is reduced to a misdemeanor and a trial takes place, this and the appropriate following lower criminal court data elements are completed. A transcript trial takes place when a judge decides the case on the basis of the transcript of the preliminary hearing.

21. Plea

1. Not Guilty
2. Guilty
3. Nolo
4. Other
5. Unknown

This is the plea entered at the misdemeanor trial in lower criminal court.

22. Disposition

1. Bound Over/Held to Answer
2. Dismissed/Noli
3. Acquitted
4. Convicted
5. Civil Procedure
6. Off Calendar/Stet
7. Other

The lower criminal court disposition indicates the end result of the processing at this level--movement to felony trial court, movement to corrections, or exit from the system. Off calendar is an action whereby the case is removed from the court calendar without being adjudicated.

23. Date of Sentence

24. Type of Sentence

1. Prison
2. Probation (supervised)
3. Probation and Jail (supervised)
4. Probation (unsupervised)
5. Jail and Fine
6. Jail
7. Fine
8. Suspended/Imposition/Execution
9. Other

A sentence which contains two components such as probation and jail but one component is suspended, record only the other-- the one that is actually imposed. The suspended code is only used when the entire imposition or execution of sentence is suspended.

25. Imprisonment Sentence (days/months)

26. Probation Sentence (months)

27. Type of Counsel

1. Private
2. Public-Appointed
3. Public Defender
4. Self
5. Other

FELONY TRIAL COURT DATA ELEMENTS

28. Court ID Number

29. Date--Filing

30. Type of Filing

1. Information
2. Grand Jury

3. Other
31. Felony Filing Procedure
 1. Indictment/Accusation
 2. No Bill
 3. Refer to Lower Court/Reduced Charge
 4. Dismissed
 5. Information
32. Charged Offense--Most Serious
33. Date--Arrest
34. Initial Plea
 1. Not Guilty
 2. Guilty
 3. Nolo
 4. Other
 5. Unknown
35. Final Plea (same code as Initial Plea)
36. Date--Trial Commences
37. Type of Trial
 1. Non-Jury
 2. Jury
 3. Transcript
 4. Other
38. Date--Trial Ends/Disposition
39. Final Charge--Most Serious
40. Type of Charge
 1. Felony
 2. Misdemeanor
 3. Other

41. Release Action

1. Own Recognizance
2. Bail
3. Committed to Default
4. Committed without Bail
5. Other

42. Date--Release Action

43. Disposition

1. Dismissed
2. Acquitted
3. Convicted
4. Civil Procedure
5. Off Calendar/Stet
6. Other

44. Date--Sentencing

45. Sentence Type

1. Prison
2. Probation (supervised)
3. Probation and Jail (supervised)
4. Probation (unsupervised)
5. Jail and Fine
6. Jail
7. Fine
8. Suspended/Imposition/Execution
9. Other
10. Sentenced to Time-Served and Released

46. Prison (years) (min and max)

Indeterminant sentences are coded with a special code in the maximum field of prison.

47. Jail (days/months)

48. Probation (months)

49. Type of Counsel

1. Private
2. Public-Appointed
3. Public Defender
4. Self
5. Other

CORRECTIONS DATA ELEMENTS

The corrections data elements are recorded in cycles repetitively as movements are made and status changes. For example, an offender might enter a state institution under a status of custody. At a later date he might be put on work furlough but remain in the state institution at night. This second "cycle" would record receiving agency as state institution but change status to code 2--part-time release.

50. Agency ID Number

51. Receiving Agency

1. State Institution
2. Local Prison
3. Jail/Local Institution
4. Probation
5. Parole
6. Other

Code 2 refers to local institutions which by law are permitted to keep offenders in custody for one year or more. Code 3, on the other hand, refers to local institutions which house offenders for sentences of less than one year.

52. Status

1. Custody
2. Part-Time Release

3. Full-Time Release

4. Abscond

5. Other

Part-time release includes programs which place offenders in the community for substantial periods of time while under the control of corrections. The most common example is the work furlough program. New cycles should be recorded when movement between receiving agencies takes place or when conscious decisions are made to change the status of an offender.

53. Date--Received

54. Date--Agency Move/Status Change/Exit

55. Exit

1. Discharge/Pardon/Commutation

2. Court Order Discharge

3. Return to Court--Revocation

4. Return to Court--New Offense

5. Other

This exit is the last method by which an offender can leave the system. At present there is no provision for re-instituting the tracking of an offender who leaves corrections by exit to a court.

APPENDIX B

COMPUTERIZED CRIMINAL HISTORY (CCH) DATA ELEMENTS

Source: The data elements which follow are required by the FBI National Crime Information Center (NCIC).

Identification Segment

Originating Agency
FBI Identification No.
Name
Sex
Race
Place of Birth
Date of Birth
Height
Weight
Color of Eyes
Color of Hair
Skin Tone
Scars, Marks, Tattoos, etc.
Social Security No.
Miscellaneous Identification No.
Fingerprint Classification
Identification Comments
State Establishing Record
Data Record Established
Date of Latest Update

Arrest Segment

Arrest Agency Identifier
Date of Birth
State Identification No.
FBI Identification No.
Alias Name
Date of Arrest
Arrest Charge No.
Date of Offense
Statute Citation
General Offense Character
Arrest Offense--Numeric
Arrest Offense--Literal
Arrest Disposition--Numeric
Additional Arrest Disposition Data

Judicial Segment

Agency Identifier
 State Identification No.
 FBI Identification No.
 Date of Arrest
 Court Count No.
 Court Disposition Date
 Statute Citation
 General Offense Character
 Court Offense Classification--Numeric
 Court Offense Classification--Literal
 Court Disposition--Numeric
 Sentence Suspended
 Confinement
 Probation
 Fine
 Other Court Sentence Provisions--Literal
 Other Court Sentence Provisions--Numeric
 Date Case Appealed
 On Bail Pending Results of Appeal

Supplemental Segment

Agency Identifier
 State Identification No.
 FBI Identification No.
 Date of Arrest
 Court Count No.
 Court Disposition Date
 Court Disposition
 Sentence Suspended
 Confinement
 Probation
 Fine
 Other Court Sentence Provisions--Literal
 Other Court Sentence Provisions--Numeric

Custody--Supervision Segment

Agency Identifier
 State Identification No.
 FBI Identification No.
 Date of Arrest
 Status Change Character
 Custody or Supervision Status Starting Date
 Custody or Supervision Status--Numeric
 Custody or Supervision Status--Literal Extended

APPENDIX C

APPLICABILITY AND IMPACT OF REGULATIONS

APPENDIX C

APPLICABILITY AND IMPACT OF REGULATIONS

Find the column that characterizes your agency in terms of the four applicability criteria, then read down the column to find the impact of the regulations.

Possible Combinations of Applicability Criteria

APPLICABILITY CRITERIA:	1	2	3	4	5	6	7	8	9	10	11	12	13	
Received LEAA Funds for CHRI	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	
Collects/Maintains CHRI	No	Yes	Yes	No	Yes	Yes	No	No	Yes	No	Yes	Yes	Yes	
Disseminates CHRI	No	No	Yes	No	No	Yes	Yes	No	No	Yes	No	Yes	Yes	
Receives CHRI	No	No	No	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	Yes	
	Totally Unaffected By Regulations			Required to Comply Only As Specified in CHRI Use Agreements										
<u>OPERATIONAL PROCEDURES REQUIRED:</u>														
Required to submit certification									X	X	X	X	X	
Completeness (Disposition Reporting)												X	X	
Query before dissemination										X		X	X	
Accuracy--quality control and audit									X		X	X	X	
Prepare procedures/agreements limiting dissemination										X		X	X	
Maintain dissemination logs										X		X	X	
Technical provisions limiting access									X	X	X	X	X	
Control of computer operations									X	X	X	X	X	
Physical security/protection									X	X	X	X	X	
Individual right of access									X		X	X	X	

APPENDIX D
USE AND DISSEMINATION AGREEMENT
(CRIMINAL JUSTICE AGENCY)

P R O P O S E D

APPENDIX D

P R O P O S E D

USE & DISSEMINATION AGREEMENT

between

the South Carolina State Law Enforcement Division

and

The South Carolina State Law Enforcement Division (hereinafter SLED) and _____, a criminal justice agency of the State of South Carolina or a political subdivision thereof, (hereinafter the "User Agency") hereby agree to exchange data pertaining to the administration of criminal justice, including such criminal history information, wanted persons information and missing persons information as may be contained in the files of the User Agency, SLED or the National Crime Information Center (hereinafter NCIC), on the following terms and conditions:

1. Duties of SLED:

Upon receipt of inquiries for information from the User Agency which contain all data elements required by SLED Administrative Regulations, SLED will promptly search its files and return, in as expeditious manner as possible consistent with delivery systems available to it, such criminal history record information, wanted persons information or missing persons information as may be contained in its files.

2. Duties of the User Agency:

The User Agency agrees to collect, receive, store, use and exchange all information covered by the terms of this agreement in strict compliance with all present and future Federal and State laws and regulations. In particular, the User Agency will familiarize its personnel with and fully adhere

to Sec. 524(b) of the Crime Control Act of 1973 (42 USC 3771(b)) and regulations issued pursuant thereto, regulations issued by SLED entitled Processing of Criminal History Information and the State Plan submitted pursuant to 42 USC 3771(b). Federal and SLED regulations referred to above are attached hereto and incorporated herein by reference.

3. Audits:

The User Agency hereby agrees to make its records available to SLED for the purpose of conducting periodic audits of the User's compliance with all laws and regulations regarding the processing of information furnished to the User Agency under the terms of this agreement. The User Agency agrees to keep such records as SLED may from time to time direct to facilitate such audits. At a minimum the User Agency shall record all disseminations of criminal history records received from SLED on a log showing the date of the dissemination, the purpose, the authority and the name of the requesting agency.

4. Executory Clause:

It is understood by and between the parties hereto that SLED is obligated to provide the services described in paragraph 1 above to the User Agency only to the extent that State funds are made available to SLED for that purpose. SLED shall incur no liability on account of the undertakings described in paragraph 1 above beyond the money made available to it for such purposes.

5. Suspension of Service, Cancellation, Fires:

SLED may immediately suspend furnishing all or part of the information covered by the terms of this agreement to the User Agency for violation of any Federal law or regulation or any South Carolina State law or administrative regulation. The User hereby agrees that knowing violation of Section 42 USC 3771(b) and regulations issued pursuant thereto by the User

or its employees will subject the User to fines of up to \$10,000 and may result in suspension of all federal funds. SLED shall resume furnishing any information authorized hereunder when it is satisfied that all violations have been eliminated. Either SLED or the User Agency may, on 30 days written notice, terminate this agreement for any reason.

6. Indemnification of SLED:

The User Agency agrees to indemnify and save harmless SLED, its officers and employees, from and against any and all claims, demands, actions, suits and proceedings brought by others arising out of the terms of this agreement or founded upon the negligence or other tortious conduct of the User Agency including but not limited to, any liability for loss or damages by reason of any claim of false imprisonment or false arrest.

7. Effective Date:

This agreement shall become effective when signed by the Chief of SLED or his designee and the official having legal authority to bind the User Agency.

South Carolina
State Law Enforcement Division

by: _____
Title:

User Agency

by: _____
Title:

APPENDIX E
NON-DISCLOSURE AGREEMENT

P R O P O S E D

APPENDIX E

P R O P O S E D

STATE LAW ENFORCEMENT DIVISION

Non-Disclosure Agreement

WHEREAS, _____ (hereinafter "Researcher") has requested permission from the South Carolina State Law Enforcement Division (hereinafter SLED) to analyze certain criminal history data maintained by SLED in connection with a project defined in a letter to SLED dated _____; and

WHEREAS, the Chief of SLED or his authorized designee has approved said request by a letter to Researcher dated _____;

NOW, THEREFORE, in consideration of SLED's furnishing such information to Researcher, the parties agree as follows:

1. The following items of information shall be supplied by SLED to Researcher, to the extent that such items are contained in the files of SLED:

2. Researcher acknowledges the confidential nature of the criminal history data to be supplied to it and agrees to not disclose any such data in a form which is identifiable to an individual to anyone not immediately concerned with the research project pursuant to which such data is furnished.

3. In order to conceal the identity of persons whose criminal history records are supplied to Researcher, Researcher agrees:

- a) to use the information furnished under this agreement only for the purpose described in a letter from Researcher to SLED dated _____;
- b) to, so far as possible, replace the name and address of any record subject with an alpha-numeric or other appropriate code;
- c) to restrict access to all data supplied to SLED to those employees whose responsibilities cannot be accomplished without such access;
- d) to store all data received from SLED in secure, locked containers;
- e) to refrain from copying any data furnished by SLED and to retain such data only so long as may be necessary to effectuate the purposes of the project referred to in a letter from Researcher to SLED dated _____; and

f) to permit SLED to monitor, audit and review the activities and policies of Researcher in implementing this agreement in order to assure compliance therewith.

4. Researcher agrees to insert in the preface to any report of the study conducted pursuant to this agreement, whether published or unpublished, a statement of the nature of the data furnished to Researcher by SLED, the form in which such data was furnished to it and a disclaimer of SLED's responsibility for the methods of statistical analysis as well as the conclusions derived therefrom contained in such report.

5. Researcher will hold SLED harmless from any damages or other liability which might be assessed against SLED as a result of disclosure by Researcher of any information received from SLED pursuant to the terms of this agreement and the letter referred to in paragraph 3 above.

6. Researcher will pay to SLED the sum of \$3.75 for each search for a criminal history which SLED performs at Researcher's request. Payment will be made once every three months beginning at the time when Researcher first requests SLED to search its records.

7. In the event that Researcher fails to comply with the terms of this agreement, SLED may cease to supply criminal histories to Researcher and may demand the return of all criminal histories previously furnished to Researcher and take such other actions as it deems appropriate.

In witness whereof the parties have signed their names hereto this _____ day of _____, 1976.

State of South Carolina
State Law Enforcement Division

by: _____

by: _____

Name:

Name:

Title:

Title:

APPENDIX F
LEGISLATION ON JUVENILE
RECORDS/INFORMATION

§ 15-1095.15

1974 CUMULATIVE SUPPLEMENT

§ 15-1095.17

case, where the delinquency proceedings may result in commitment to an institution in which the child's freedom is curtailed, the child or his parents or guardian shall be given written notice, with particularity of the specific charge or factual allegations to be considered at the hearing. Such notice shall be given as soon as practicable and sufficiently in advance to permit preparation. The child or his parent or guardian shall also be advised in such notice of their right to be represented by counsel and that, if they are unable to employ counsel, counsel will be appointed to represent them. In any such hearing, the parent and child shall likewise be so expressly informed and shall be specifically required to consider whether they do or do not waive the right of counsel. (1968 (55) 2718.)

§ 15-1095.15. Service of summons, process or notice.—Service of summons and any process of the court shall be made as provided by law for service in the court of common pleas. *Provided*, that if the judge is satisfied that it is impracticable to serve personally the summons or the process, he may order service by registered or certified mail, addressed to the last known address, or by publication thereof, or both. It shall be sufficient to confer jurisdiction if service is effected at least forty-eight hours before the time fixed in the summons or process for the return thereof.

Service of summons, process or notice required by this chapter may be made by any suitable person under the direction of the court, and upon request of the court shall be made by any peace officer. (1968 (55) 2718.)

§ 15-1095.16. Failure to obey summons or process; issuance of warrant.—If any person summoned as herein provided shall, without reasonable cause, fail to appear, he may be proceeded against for contempt of court. In case the summons or process cannot be served, or the parties served fail to obey the same, or in any case when it shall be made to appear to the judge that the service will be ineffectual, or that the welfare of the child requires that he be brought forthwith into custody of the court, a warrant may be issued for the child, parent or guardian of the child, or any person who may have control or possession of the child, to immediately bring the child before the court. (1968 (55) 2718.)

§ 15-1095.17. Taking child into custody; release; transportation; peace officers' records.—(a) When any child found violating any law or ordinance, or whose surroundings are such as to endanger his welfare, is taken into custody such taking into custody shall not be termed as arrest. The jurisdiction of the court shall attach from the time of such taking into custody. When a child is so taken into custody, such officers shall notify the parent, guardian or custodian of the child as soon as possible. Whenever possible, unless otherwise ordered by the court, the child shall be released to the custody of his parents or other responsible adult upon the written promise, signed by such person, to bring the child to the court at a stated time or at such time as the court may direct. Such written promise, accompanied by a written report by the officer, shall be submitted to the

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court as soon as possible. If such person shall fail to produce the child as agreed, or upon notice from the court, a summons or a warrant may be issued for the apprehension of such person or of the child.

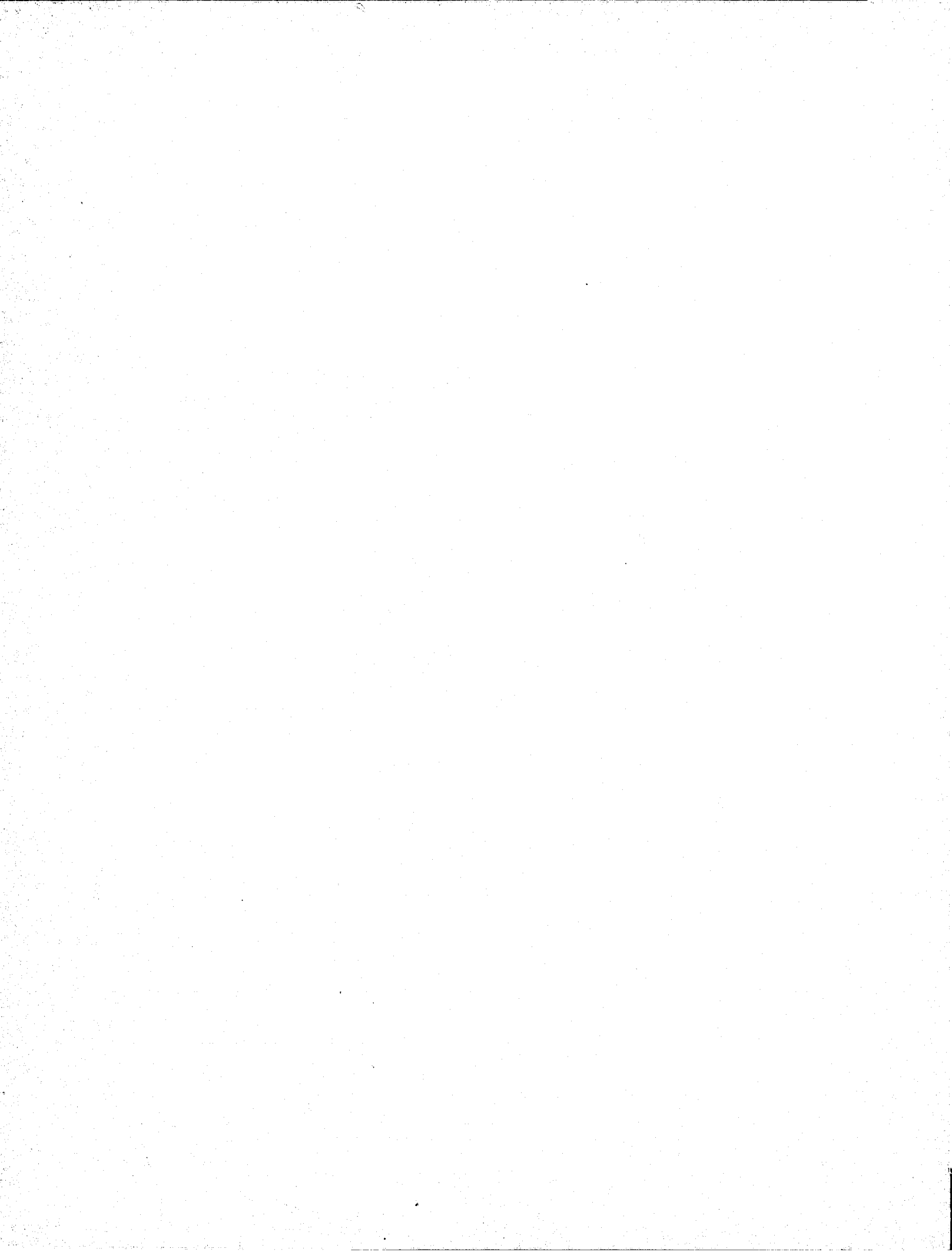
(b) If the child is not released, as hereinabove provided, he shall be taken without unnecessary delay to the court or to the place of detention designated by the court, and as soon as possible thereafter the fact of such detention shall be reported to the court, accompanied by a written report by the officer taking the child into custody stating: (1) the facts of the offense; and (2) the reason why the child is not released to the parent. Pending further disposition of the case, the court may release such child to the custody of the parent or other person, or may detain the child in such place as the court shall designate, subject to further order, but no child shall be held in detention longer than two days, excluding Sundays and holidays, unless an order for such detention is signed by the judge.

(c) No child shall be transported in any police vehicle which also contains adults under arrest. No child shall at any time be placed in a jail or other place of detention for adults, but shall be placed in a room or ward entirely separate from adults.

(d) Peace officers' records of children shall be kept separate from records of adults and shall not be open to public inspection, and shall be open to inspection only by such governmental agencies as authorized by the judge. (1968 (55) 2718.)

§ 15-1095.18. Temporary detention of children. — Provision shall be made for a detention home or homes for the temporary detention of children, to be conducted by the court, or, subject to the approval and supervision of the court, by other appropriate public agency; or the court may arrange for the use of private homes for such detention, subject to the supervision of the court or other agency, or may arrange with any institution or agency to receive for temporary care and custody children within the jurisdiction of the court. (1968 (55) 2718.)

§ 15-1095.19. Conduct of hearings.—All cases of children shall be dealt with as separate hearings by the court and without a jury. The hearings shall be conducted in an informal manner and may be adjourned from time to time. Stenographic notes or other transcript of the hearings shall be required only if the court so orders. The general public shall be excluded and only such persons admitted as the judge shall find to have a direct interest in the case or in the work of the court. The presence of the child in court may be waived by the court at any stage of the proceedings. Hearings may be held at any time or place within the county designated by the judge. In any case where the delinquency proceedings may result in commitment to an institution in which the child's freedom is curtailed, the privilege against self-incrimination and the right of cross-examination shall be preserved. In all cases where required by law, the child shall be accorded all rights enjoyed by adults, and where not required by law the



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required to pay support up to five percent of the amount thereof, and in other cases such court costs as now provided by law in the court of common pleas. The judge may waive payment of costs and fees where the imposition thereof would work a hardship. (1968 (55) 2718.)

§ 15-1095.40. Records; information privileged; names, pictures, etc., of children not to be made public.—The court shall make and keep records of all cases brought before it and shall devise and cause to be printed such forms for social and legal records and such other papers as may be required. The court's official records shall be open to inspection only by consent of the judge to persons having a legitimate interest therein. All information obtained and social records prepared in the discharge of official duty by an employee of the court shall be privileged and shall not be disclosed directly or indirectly to anyone other than the judge or others entitled under this chapter to receive such information, unless and until otherwise ordered by the judge. The name or picture of any child under the jurisdiction of the court shall not be made public by any newspaper, radio or TV station, except as authorized by order of the court, nor shall the fingerprints of any child be taken without an order from the judge. (1968 (55) 2718.)

§ 15-1095.41. Cooperation of other agencies.—The court is authorized to seek the cooperation of all societies or organizations, public or private, having for their object the protection or aid of delinquent or neglected children, to the end that the court may be assisted in every reasonable way to give to all such children the care, protection and assistance which will conserve the welfare of such children. It is made the duty of every county, town or municipal official or department to render such assistance and cooperation within his or its jurisdictional power to further the objects of this chapter. All institutions, associations or other custodial agencies in which any child may be, coming within the provisions of this chapter, are required to give such information to the court, or any of the officers appointed by it, as the court or officers may require for the purposes of this chapter. (1968 (55) 2718.)

§ 15-1095.42. Appeals.—In all cases in which the court shall have jurisdiction, the right of appeal shall be to the Supreme Court of the State in the same manner and pursuant to the same rules, practices and procedure that govern appeals from the circuit court.

The pendency of an appeal or application therefor shall not suspend the order of the family court regarding a child, nor shall it discharge the child from the custody of that court or of the person, institution or agency to whose care such child shall have been committed; nor shall it suspend payments for support and maintenance of the wife and child. (1968 (55) 2718.)

§ 15-1095.43. Family Court Council of State.—The judges of all the courts shall constitute The Family Court Council of the State, organizing

APPENDIX G

SECTION 524(b)

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT

APPENDIX G



Public Law 93-83
93rd Congress, H. R. 8152
August 6, 1973

An Act

87 STAT. 197

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to improve law enforcement and criminal justice, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Crime Control Act of 1973".

Sec. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

Crime
Control Act
of 1973.
82 Stat. 197;
84 Stat. 1881.
.42 USC 3701.

"TITLE I—LAW ENFORCEMENT ASSISTANCE

EXTRACT

"Sec. 524. (a) Except as provided by Federal law other than this title, no officer or employee of the Federal Government, nor any recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Copies of such information shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

"(b) All criminal history information collected, stored, or disseminated through support under this title shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included therein. The collection, storage, and dissemination of such information shall take place under procedures reasonably designed to insure that all such information is kept current therein; the Administration shall assure that the security and privacy of all information is adequately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes. In addition, an individual who believes that criminal history information concerning him contained in an automated system is inaccurate, incomplete or maintained in violation of this title, shall, upon satisfactory verification of his identity, be entitled to review such information and to obtain a copy of it for the purpose of challenge or correction.



END