

43470

STATE OF IOWA
CRIMINAL HISTORY RECORD INFORMATION
PLAN

43470

Prepared By:

Carroll L. Bidler
TRACIS Executive Director
Iowa Department of Public Safety

I N D E X

INTRODUCTION ii

I. OBJECTIVES OF THE PLAN 1

 A. Completeness and Accuracy 1

 B. Limits on Dissemination 2

 C. Audits and Quality Control 2

 D. Security 3

 E. Access and Review 3

II. APPROACH TO ACHIEVING OBJECTIVES 3

 A. Completeness and Accuracy 3

 1. Central State Repository 3

 2. Disposition Reporting Within 90 Days 5

 3. Query Before Dissemination 7

 4. Systematic Audits 8

 (a) Delinquency Disposition Monitoring 9

 (b) Accuracy Verification 10

 (c) Notice of Errors 10

 B. Limits on Dissemination 12

 1. Criminal Justice Agencies 12

 2. To Implement a Statute 14

 3. For the Administration of Criminal Justice 15

 4. Research and Statistics 16

 5. Security Clearances 16

 6. Court Orders 17

 C. General Policy on Use and Dissemination 17

 1. Dissemination of Arrest Data 17

 2. Limit Use to Purpose for which given 18

 3. Confirmation of Existance of Record 19

 D. Juvenile Records 19

 E. Audit 20

 F. Security 22

G.	Access and Review	22
1.	Review and Copy	22
2.	Administrative Review	24
3.	Administrative Appeal	24
4.	List of Agencies Receiving Copy	39
5.	Notice to Criminal Justice Agencies	39
6.	Limitation on Intelligence Data Access	39
III.	SCHEDULE OF MAJOR MILESTONES	42
IV.	CERTIFICATION OF COMPLIANCE	43
A.	Certification for a Central Repository	43
B.	Outline of Action Instituted	44
1.	Contract between Criminal Justice Agencies	45
2.	Contract for Research, Evaluation of Statistical Agency ..	46
3.	Contract for Non-Criminal Justice Agency	47
C.	Description of Legislation or Executive Order	
1.	Executive Order	49
2.	Draft of Legislation	50
D.	Description of Steps Taken to Overcome Barriers	55
1.	Grant Application	56
E.	Description of Existing System	83
F.	Listing of Non-Criminal Justice Access Authorized By Statute	84
1.	Confidential Records Council Authorization	85
2.	Compilation of Statutes	87
G.	Certification of State and Local Agencies Covered By These Regulations	113

INTRODUCTION

The TRACIS Division of the Iowa Department of Public Safety was established on December 28, 1973 by Governor's Executive Order #18 issued by Governor Robert D. Ray. This Executive Order directed the Department of Public Safety to provide the best possible statistical, informational and data communications services to highway safety and criminal justice agencies in the State of Iowa, while being ever mindful of the spirit and intent of Senate File 115, Acts of the Sixty-fifth General Assembly. Senate File 115, now known as Chapter 749B of the Code of Iowa, places certain restrictions on the dissemination of criminal history and intelligence data and provides for criminal penalties for the improper disclosure of such data.

With the enactment of Chapter 749B of the Code, Iowa became one of the first states in the nation to provide limitations on the use and dissemination of criminal history record information.

This legislation also established the machinery for current disposition reporting, access, review and challenge of individual's records and periodic audits of criminal history files.

In 1973, the United States Congress enacted, by amendment to the Omnibus Crime Control and Safe Streets Act of 1968, Section 524B (42 USC 3771B) which established certain groundrules for the collection, storage and dissemination of criminal history record information maintained in automated systems which receive financial support under Title I of the amended Act.

Pursuant to the provisions of this Act, the United States Justice Department on May 20, 1975, published rules and regulations to assure that criminal history record information, wherever it appears, is collected, stored and disseminated in a manner to insure the completeness, integrity, accuracy and security of such information and to protect the individuals privacy. These regulations became effective on June 19, 1975 and are known as Title 28, Chapter 1, Part 20 of the Code of Federal Regulations.

In brief, the new regulations spell out a broad set of standards applying to all criminal justice information systems which store criminal history record data and which have received the assistance of LEAA funds since July 1, 1973. The regulations require each state to submit a state plan spelling out in detail the steps that will be taken to assure that states compliance with the requirements of the rules and regulations. States are expected to be in full compliance with the access and review provisions of the regulations by March 16, 1975 and in full compliance with all other provisions of the regulations by December 31, 1977.

This criminal history record information plan has been written to comply with the provisions of Section 20.21 of Title 28, Chapter 1, Part 20 of the Code of Federal Regulations.

The Iowa Department of Public Safety has been designated as the agency primarily responsible for the implementation of this Plan.

I. OBJECTIVES OF THE PLAN:

Section 524(b) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, provides--

"(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."

To implement this provision, Section 20.21 of Title 28, Chapter 1, Part 20 of the Code of Federal Regulations, provides that each state plan must set forth operational procedures on:

- (a) completeness and accuracy,
- (b) limitations on dissemination,
- (c) general policies on use and dissemination (relating to non-criminal justice purposes),
- (d) juvenile records,
- (e) audit,
- (f) security, and
- (g) access and review.

A. Completeness and Accuracy:

This plan will set forth procedures to insure that criminal history record information is complete and accurate.

The plan will demonstrate that Iowa currently maintains a central state repository for criminal history record information,

that this repository has instituted procedures designed to insure complete reporting of dispositions from each branch of the criminal justice community, and that audit procedures have been instituted to insure that dispositions have been reported.

Statutory requirements for collection, reporting, disposition logs and follow-up, and procedures designed to bring Iowa into compliance with the auditing requirements, will be demonstrated.

B. Limits on Dissemination:

Iowa currently has comprehensive legislation covering the disposition of criminal history data. This legislation limits disposition of information from the central state repository and redissemination of information received from the central state repository by local criminal justice agencies. The plan will identify those areas in the regulations not covered by the state legislation and spell out legislation or departmental rules designed to bring Iowa into full compliance.

Procedures will also be developed to expand the coverage of Iowa's legislation to those local agencies covered directly by the regulations.

C. Audits and Quality Control:

Chapter 749B of the Iowa Code requires the maintenance of dissemination logs by the central repository and by local agencies redisseminating information received from the central repository. The Confidential Records Council is assigned the responsibility of periodically monitoring the operation of information systems which deal with the collection, storage, use and dissemination of criminal history or intelligence data.

D. Security:

On October 24, the United States Justice Department published in the Federal Register amendments to the security requirements of the regulations. This plan will not address the security requirements until the proposed amendment becomes effective.

Within 60 days of the effective date of these revised regulations, this plan will be amended to include the procedures that Iowa will follow to assure compliance with the revised regulations.

E. Access and Review:

Chapter 749B of the Iowa Code provides for access and review of criminal history record information maintained in the central state repository by the individual or his attorney. The plan will detail the appropriate statutory provisions and administrative regulations designed to implement the statute.

II. APPROACH TO ACHIEVING OBJECTIVES:

A. Completeness and Accuracy:

Section 524(b) of the Safe Streets Act requires that criminal history record information shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included therein, and that procedures be instituted to reasonably insure that all such information is kept current.

The rules and regulations adopted pursuant to this requirement provide for the following:

1. Central state repository,
2. Complete disposition reporting within 90 days,
3. Query of central repository before dissemination,
4. Systematic audit

1. Central State Repository:

The Iowa Department of Public Safety has since its inception in 1939, operated a Division of Identification within the Iowa Bureau of Criminal Investigation. Pursuant

to the following statutory authority, the Division of Identification has served as Iowa's central repository for criminal history record information:

80.9 Duties of department. It shall be the duty of the department of public safety to prevent crime, to detect and apprehend criminals and to enforce such other laws as are hereinafter specified. The members of the department of public safety, except clerical workers therein, when authorized by the commissioner of public safety shall have and exercise all the powers of any peace officer of the state.

2. In more particular, their duties shall be as follows:

d. To collect and classify, and keep at all times available, complete information useful for the detection of crime, and the identification and apprehension of criminals. Such information shall be available for all peace officers within the state, under such regulations as the commissioner may prescribe;

749.1 Criminal identification. The commissioner of public safety may provide in his department a bureau of criminal identification. He may adopt rules and regulations for the same. The sheriff of each county and the chief of police of each city shall furnish to the department criminal identification records and other information as directed by the commissioner of public safety. [C24, 27, 31, 35, 39, §1341G; C46, 50, 54, 58, 62, 66, 71, 73, §749.1; 65GA, ch 1087, §32]

Amendment effective July 1, 1975

749.2 Finger and palm prints—duty of sheriff and chief of police. It shall be the duty of the sheriff of every county, and the chief of police of each city regardless of the form of government thereof and having a population of ten thousand or over, to take the fingerprints of all persons held either for investigation, for the commission of a felony, as a fugitive from justice, or for bootlegging, the maintenance of an intoxicating liquor nuisance, manufacturing intoxicating liquor, operating a motor vehicle while under the influence of an alcoholic beverage or for illegal transportation of intoxicating liquor, and to take the fingerprints of all unidentified dead bodies in their respective jurisdictions, and to forward such fingerprint records on such forms and in such manner as may be prescribed by the commissioner of public safety, within forty-eight hours after the same are taken, to the bureau of criminal investigation. If the fingerprints of any person are taken under the provisions hereof whose fingerprints are not already on file, and said person is not convicted of any offense, then said fingerprint records shall be destroyed by any officer having them. In addition to the fingerprints as herein provided any such officer may also take the palm prints of any such person. [C27, 31, 35, §13417-b1; C39, §13417.1; C46, 50, 54, 58, 62, 66, 71, 73, §749.2]

2. Disposition Reporting Within 90 Days:

In addition to establishing the Bureau of Identification as Iowa's central state repository, the Iowa General Assembly has provided for the reporting of arrest dispositions through the following statutes:

80.9 (2) (d)

d. To collect and classify, and keep at all times available, complete information useful for the detection of crime, and the identification and apprehension of criminals. Such information shall be available for all peace officers within the state, under such regulations as the commissioner may prescribe;

749.4 Fingerprints and photographs at institutions. It shall be the duty of the wardens of the penitentiary and men's reformatory, and superintendents of the women's reformatory, the Iowa training school for boys, and the Iowa training school for girls, to take or procure the taking of the fingerprints, and, in the case of the penitentiary, men's reformatory, and women's reformatory only, Bertillon photographs of any person received on commitment to their respective institutions, and to forward such fingerprint records and photographs within ten days after the same are taken to the division of criminal investigation and bureau of identification, Iowa department of public safety, and to the federal bureau of investigation.

It shall also be the duty of the said wardens and superintendents to procure the taking of five-by seven-inch photographic negative showing a full length view of each convict, prisoner or inmate of the penitentiary, men's reformatory, and women's reformatory in his or her release clothing immediately prior to his or her discharge from the institution either upon expiration of sentence or commitment or on parole, and to forward such photographic negative within two days after the same is taken to the division of criminal investigation and bureau of identification, Iowa department of public safety. [C50. 54, 58, 62, 66, 71, 73, §749.4]

749B.13 Reports to department. When it comes to the attention of a sheriff, police department, or other law enforcement agency that a public offense has been committed in its jurisdiction, it shall be the duty of the law enforcement agency to report information concerning such crimes to the bureau on a form to be furnished by the bureau not more than thirty-five days from the time the crime first comes to the attention of such law enforcement agency. These reports shall be used to generate crime statistics. The bureau shall submit statistics to the governor, legislature and crime commission on a quarterly and yearly basis.

When a sheriff, police department or other law enforcement agency makes an arrest which is reported to the bureau, the arresting law enforcement agency and any other law enforcement agency which obtains custody of the arrested person shall furnish a disposition report to the bureau whenever the arrested person is transferred to the custody of another law enforcement agency or is released without having a complaint or information filed with any court.

Whenever a criminal complaint or information is filed in any court, the clerk shall furnish a disposition report of such case.

The disposition report, whether by a law enforcement agency or court, shall be sent to the bureau within thirty days after disposition on a form provided by the bureau. [65GA, ch 294, §15]

These statutes provide for disposition reporting by the police, courts, and state correctional institutions. The procedures established by the Bureau of Identification for the processing of disposition report forms provide for reporting on actions taken by the prosecutor and for reporting of appeals to the District Court and Supreme Court.

Procedures have also been established for the reporting of the status of individuals paroled from state institutions.

3. Query Before Dissemination:

The Division of Identification of the Bureau of Criminal Investigation, the agency responsible for dissemination of criminal history record information, currently operates a manual recordkeeping and retrieval system. This office is currently staffed on a single shift basis, five-day-per-week, therefore, it is not possible to obtain rapid retrieval of data from the central repository except between the hours of 8 a.m. to 4:30 p.m., Monday through Friday.

During these hours, rapid retrieval of information is available to law enforcement agencies. Immediate requests for information are provided in two ways: (1) through the TRACIS communications network which will provide hardcopy printout by way of teletype terminals tied into the state computer center, and (2) through direct telephone call to the agency requesting the information.

When responses to requests for criminal history record information are provided by telephone, the standard operating procedure is for the individual providing the information to return the call to the requesting criminal justice agency rather than providing the information directly to the person calling. This way, verification of the identity of the requester can be established.

Standard operating procedures for the Division of

Identification is to provide criminal justice agencies with a complete rap sheet each time an arresting agency submits the fingerprints to the Bureau. This way, whenever an individual is arrested the arresting agency receives the most up-to-date information maintained about the individual.

The workload of the Division is such that by providing a staff on a 24-hour-per-day, 7-day-per-week basis, immediate access could be made to requests from criminal justice agencies for criminal history record information. Even after the computerized criminal history file is operational, staff will be required to respond to requests from out-of-state and for requests for information concerning individuals whose records have not been converted to the automated file.

Staff to man the central repository on a full-time basis will be included in the budget request for fiscal year 1978.

The Bureau of Criminal Investigation of the Department of Public Safety will develop the procedures for criminal justice agencies to query the central repository prior to dissemination. These regulations will require any criminal justice agency receiving data from the Bureau to query the Bureau's record system prior to disseminating any information received from the Bureau. These procedures will be developed and implemented prior to December 31, 1977.

4. Systematic Audits:

The requirement that criminal history record information be as complete and accurate as reasonably possible requires that the central repository institute a process of data collection, entry, storage, and systematic audits that will minimize the possibility of recording and storing inaccurate information. Furthermore, upon finding inaccurate information of a material nature, all criminal justice agencies known to have received such information must be notified.

Three parts of the systematic audit have been identified which will result in compliance:

- (a) Delinquency Disposition Monitoring,
- (b) Accuracy Verification,
- (c) Notice of Errors.

(a) Delinquency Disposition Monitoring:

The Iowa General Assembly has recognized the need for monitoring of disposition reports and have provided by statute for annual review of all arrests which are at least one year old and which contain no disposition data.

749B.16 Review and removal. At least every year the bureau shall review and determine current status of all Iowa arrests reported after August 15, 1973, which are at least one year old with no disposition data. Any Iowa arrest recorded within a computer data storage system which has no disposition data after five years shall be removed unless there is an outstanding arrest warrant or detainer on such charge. [65GA, ch 294,§16]

In order to comply with this section of the Iowa Code, the Bureau of Identification has established the following procedures:

1. Whenever a criminal history record is disseminated to any agency, the record is reviewed to determine whether or not arrests are indicated that are over one-year old and for which no disposition report is recorded. In instances where arrests are recorded for which no disposition is indicated, contacts are made with the arresting agency to determine the current status of that arrest.

2. A file is also maintained containing all arrests for which no disposition has been

reported. At least annually, the Bureau reviews those arrests for which no disposition exists and contacts those agencies making arrests for which no disposition has been reported within one year of the time of arrest.

(b) Accuracy Verification:

The only accuracy verification currently carried out by the Bureau takes place when requests for dissemination of records are received, when the records are being reviewed pursuant to 749B.16 of the Iowa Code, or when an individual record is reviewed by an individual or his counsel pursuant to 749B.5 of the Iowa Code.

Section 749B.13 of the Iowa Code requires the establishment of periodic review procedures.

749B.13 Review. The department shall initiate periodic review procedures designed to determine compliance with the provisions of this chapter within the department and by criminal justice agencies and to determine that data furnished to them is factual and accurate. [65GA, ch 294,§13]

Full compliance with this section of the Iowa Code and the requirement of the regulations for systematic audits will require legislation authorizing staff and providing an adequate budget. The Department's budget request for FY78 will contain this requested increase.

(c) Notice of Errors:

Section 749B.5, paragraph 4 of the Iowa Code provides for notification whenever the Bureau corrects or eliminates data when requested by an individual or ordered by the court.

749B.5, paragraph 4

Whenever the bureau corrects or eliminates data as requested or as ordered by the court, the bureau shall advise all agencies or individuals who have received the incorrect information to correct their files. Upon application to the district court and service of notice on the commissioner of public safety, any individual may request and obtain a list of all persons and agencies who received criminal history data referring to him, unless good cause be shown why the individual should not receive said list. {65GA, ch 294,§5, ch 1090,§206}

Amendment effective July 1, 1978

Standard operating procedures, however, dictate that whenever corrections are made to criminal history record information, agencies having received that information in the past are notified. It has been the policy for the bureau to maintain records of all individuals receiving copies of criminal history record information. That record is maintained as a permanent part of each individuals criminal history file. This procedure was codified by the 65th General Assembly and is found in Section 749B.2 and 749B.3 of the Iowa Code.

749B.2 Dissemination of criminal history data. The department and bureau may provide copies or communicate information from criminal history data only to criminal justice agencies, or such other public agencies as are authorized by the confidential records council. The bureau shall maintain a list showing the individual or agency to whom the data is disseminated and the date of dissemination.

Authorized agencies and criminal justice agencies shall request and may receive criminal history data only when:

1. The data is for official purposes in connection with prescribed duties, and
2. The request for data is based upon name, fingerprints, or other individual identifying characteristics.

The provisions of this section and section 749B.3 which relate to the requiring of an individually identified request prior to the dissemination or redissemination of criminal history data shall not apply to the furnishing of criminal history data to the federal bureau of investigation or to the dissemination or redissemination of information that an arrest warrant has been or will be issued, and other relevant information including but not limited to, the offense and the date and place of alleged commission, individually identifying characteristics of the person to be arrested, and the court or jurisdiction issuing the warrant. [65GA, ch 294, §2]

Referred to in §749B.20

749B.3 Redissemination. A peace officer, criminal justice agency, or state or federal regulatory agency shall not redisseminate criminal history data, within or without the agency, received from the department or bureau, unless:

1. The data is for official purposes in connection with prescribed duties of a criminal justice agency, and
2. The agency maintains a list of the persons receiving the data and the date and purpose of the dissemination, and
3. The request for data is based upon name, fingerprints, or other individual identification characteristics.

A peace officer, criminal justice agency, or state or federal regulatory agency shall not redisseminate intelligence data, within or without the agency, received from the department or bureau or from any other source, except as provided in subsections 1 and 2. [65GA, ch 294, §3]

B. Limits on Dissemination:

The rules and regulations require that the plan shall set forth operational procedures to insure that dissemination of criminal history record information has been limited, whether directly or through any intermediary only to:

1. Criminal Justice Agencies:

Criminal justice agencies, for purposes of the administration of criminal justice and criminal justice agency employment;

The Iowa Code provides for the dissemination of criminal history record information only to criminal justice agencies or such other public agencies as are authorized by the Confidential Records Council.

749B.2 Dissemination of criminal history data. The department and bureau may provide copies or communicate information from criminal history data only to criminal justice agencies, or such other public agencies as are authorized by the confidential records council. The bureau shall maintain a list showing the individual or agency to whom the data is disseminated and the date of dissemination.

Authorized agencies and criminal justice agencies shall request and may receive criminal history data only when:

1. The data is for official purposes in connection with prescribed duties, and
2. The request for data is based upon name, fingerprints, or other individual identifying characteristics.

The provisions of this section and section 749B.3 which relate to the requiring of an individually identified request prior to the dissemination or redissemination of criminal history data shall not apply to the furnishing of criminal history data to the federal bureau of investigation or to the dissemination or redissemination of information that an arrest warrant has been or will be issued, and other relevant information including but not limited to, the offense and the date and place of alleged commission, individually identifying characteristics of the person to be arrested, and the court or jurisdiction issuing the warrant. [65GA, ch 294,§2]

Referred to in §749B.20

749B.3 Redissemination. A peace officer, criminal justice agency, or state or federal regulatory agency shall not redisseminate criminal history data, within or without the agency, received from the department or bureau, unless:

1. The data is for official purposes in connection with prescribed duties of a criminal justice agency, and
2. The agency maintains a list of the persons receiving the data and the date and purpose of the dissemination, and
3. The request for data is based upon name, fingerprints, or other individual identification characteristics.

A peace officer, criminal justice agency, or state or federal regulatory agency shall not redisseminate intelligence data, within or without the agency, received from the department or bureau or from any other source, except as provided in subsections 1 and 2. [65GA, ch 294,§3]

These limitations pertain to criminal history record information obtained from the central repository and apply to the redissemination of criminal history record information by the receiving criminal justice agency. Local criminal history record information is not included in this restriction, consequently, local agencies may disseminate information concerning local arrests and the disposition of those arrests as long as they do not receive such information from the central repository.

The Iowa Department of Public Safety will submit legislation to the 1977 session of the Iowa General Assembly to provide legislation on local records that correspond to the limitations placed on records of the central repository.

2. To Implement a Statute:

Such other individuals and agencies which require criminal history record information to implement a statute or executive order that expressly refers to criminal conduct contains requirements and/or exclusions expressly based upon such conduct;

Section 749B.2 of the Iowa Code provides that the Department and bureau may provide copies of or communicate information from criminal history data only to criminal justice agencies, or such other public agencies as are authorized by the Confidential Records Council.

The Confidential Records Council is established by Section 749B.19 of the Code of Iowa. Included as a part of the certification is a list of those agencies authorized access to criminal history record information by the Confidential Records Council.

All requests for criminal history record information from agencies other than criminal justice agencies are referred to the Confidential Records Council for approval

whether or not they have specific statutory authority authorizing access to criminal history record information.

In instances where the Confidential Records Council authorizes access to criminal history record information by agencies without specific statutory authority, the Governor will be asked to approve such authorization by issuing an executive order authorizing such access.

3. For the Administration of Criminal Justice:

Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement. The agreement shall specifically authorize access to data, limit the use of data to purposes for which given, insure the security and confidentiality of the data consistent with these regulations, and provide sanctions for violations thereof;

Chapter 749B.2 and 749B.3 of the Iowa Code provide for dissemination or redissemination of criminal history data only to criminal justice agencies or such other public agencies as are authorized by the Confidential Records Council. This prohibition applies to records originating from the central state repository and not to records of local agencies covering local arrests. Legislation has been submitted to authorized access by individuals and agencies pursuant to contract for purposes of the administration of criminal justice.

4. Research and Statistics:

Individuals and agencies for the express purpose of research, and evaluative, or statistical activities pursuant to an agreement with a criminal justice agency. The agreement shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, insure the confidentiality and security of the data consistent with these regulations and with Section 524(a) of the Act and any regulations implementing Section 524(a), and provide sanctions for any violations thereof;

Section 749B.4 of the Iowa Code provides for the dissemination of criminal history record information for statistical purposes provided that data is not individually identified. No dissemination is made from the central state repository to non-criminal justice agencies of criminal history record information for statistical, evaluative, or research purposes which contain individual identifying characteristics.

This provision also applies only to records originating from the central repository. Criminal history record information of local departments may be disseminated for statistical purposes at will. Legislation covering access for research and statistical purposes has been drafted by the Department of Public Safety for consideration by the 1977 General Assembly.

5. Security Clearances:

Agencies of the state or federal government which are authorized by statute or executive order to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

The discussion concerning paragraph 2 above also applies here. Even in situations where there is a state

or federal statute or an executive order authorizing access, access is prohibited unless and until approved by the Confidential Records Council.

6. Court Orders:

Individuals and agencies are authorized by court order or court rule.

Court order and court rules are followed unless it appears to be in direct conflict with the provisions of the Iowa Code. In those situations, the court issuing the order or rule is asked to review the order in light of the conflict. If, however, the court lets the order or rule stand, the Department complies.

C. General Policies on Use and Dissemination:

Insure adherence to the following restrictions:

1. Dissemination of Arrest Data:

Criminal history record information concerning the arrest of an individual may not be disseminated to a non-criminal justice agency or individual (except under paragraph 20.21(b), (4), (5), and (6),) if an interval of one year has elapsed from the date of the arrest and no disposition charge has been recorded and no active prosecution of charges pending;

It is not anticipated that any non-criminal justice agencies will have direct access to criminal history record information. Current operating procedure requires the review of all arrests over one year old for which no disposition data has been received to determine the status of that arrest.

Section 749B.16 requires annual review of arrest status

where no disposition is recorded.

749B.16 Review and removal. At least every year the bureau shall review and determine current status of all Iowa arrests reported after August 15, 1973, which are at least one year old with no disposition data. Any Iowa arrest recorded within a computer data storage system which has no disposition data after five years shall be removed unless there is an outstanding arrest warrant or detainer on such charge. [65GA, ch 291,§16]

2. Limit Use to Purpose For Which Given:

Use of criminal history record information disseminated to non-criminal justice agencies under these regulations shall be limited to purposes for which it was given and may not be disseminated further.

Redissemination of Iowa criminal history record information is controlled by 749B.3 of the Iowa Code.

749B.3 Redissemination. A peace officer, criminal justice agency, or state or federal regulatory agency shall not disseminate criminal history data, within or without the agency, received from the department or bureau, unless:

1. The data is for official purposes in connection with prescribed duties of a criminal justice agency, and
2. The agency maintains a list of the persons receiving the data and the date and purpose of the dissemination, and
3. The request for data is based upon name, fingerprints, or other individual identification characteristics.

A peace officer, criminal justice agency, or state or federal regulatory agency shall not disseminate intelligence data, within or without the agency, received from the department or bureau or from any other source, except as provided in subsections 1 and 2. [65GA, ch 291,§3]

We feel that the restrictions on redissemination provided in this section are adequate to prevent dissemination to unauthorized parties.

3. Confirmation of Existence of Record:

No agency or individual shall confirm the existence or non-existence of criminal history record information for employment or licensing checks except as provided in paragraphs (b) (1), (b) (2), (b) (5) of this section.

The policy of the Bureau is to neither confirm nor deny the existence of criminal history record information about an individual unless that agency requesting the information is authorized access to criminal history record information.

Legislation has been drafted to insure compliance with the intent of this rule.

D. Juvenile Records:

"Insure that dissemination of records concerning proceedings relating to the adjudication of a juvenile as delinquent or in need of supervision (or the equivalent) to non-criminal justice agencies is prohibited, unless such statute or federal executive order specifically authorizes the dissemination of juvenile records, except to the same extent as criminal history records may be disseminated as provided in paragraph 20.21(b) (3), (4), (6)."

When criminal history record information is furnished to non-criminal justice agencies pursuant to authorization of the Iowa Confidential Records Council, a separate record is prepared from which all juvenile information is removed. All

records are reviewed by supervisory personnel of the Bureau to ascertain compliance with this directive prior to providing a copy of the record to the requesting agency.

Local enforcement agencies maintaining records of juveniles are required to maintain such records separate from records of adults.

232.56 Records kept separate. Peace officers' records of children except for offenses exempted from this chapter by law shall be kept separate from the records of persons eighteen years of age or older. These records shall be public records. [C88, 71, 73, 232.56]

E. Audit:

"Insure that annual audits of a representative sample of state and local criminal justice agencies chosen on a random basis shall be conducted by the state to verify adherence to these regulations and that appropriate records shall be retained to facilitate such audits. Such records shall include but are not limited to the names of persons or agencies to whom information is disseminated and the date upon which information is disseminated."

Section 749B.2 and 749B.3 of the Iowa Code require that maintenance of a list showing the individual or agency to whom data is disseminated and the date of such dissemination.

749B.2 Dissemination of criminal history data. The department and bureau may provide copies or communicate information from criminal history data only to criminal justice agencies, or such other public agencies as are authorized by the confidential records council. The bureau shall maintain a list showing the individual or agency to whom the data is disseminated and the date of dissemination.

Authorized agencies and criminal justice agencies shall request and may receive criminal history data only when:

1. The data is for official purposes in connection with prescribed duties, and
2. The request for data is based upon name, fingerprints, or other individual identifying characteristics.

The provisions of this section and section 749B.3 which relate to the requiring of an individually identified request prior to the dissemination or redissemination of criminal history data shall not apply to the furnishing of criminal history data to the federal bureau of investigation or to the dissemination or redissemination of information that an arrest warrant has been or will be issued, and other relevant information including but not limited to, the offense and the date and place of alleged commission, individually identifying characteristics of the person to be arrested, and the court or jurisdiction issuing the warrant. [65GA, ch 294,§2]

Referred to in 749B.20

749B.3 Redissemination. A peace officer, criminal justice agency, or state or federal regulatory agency shall not redisseminate criminal history data, within or without the agency, received from the department or bureau, unless:

1. The data is for official purposes in connection with prescribed duties of a criminal justice agency, and
2. The agency maintains a list of the persons receiving the data and the date and purpose of the dissemination, and
3. The request for data is based upon name, fingerprints, or other individual identification characteristics.

A peace officer, criminal justice agency, or state or federal regulatory agency shall not redisseminate intelligence data, within or without the agency, received from the department or bureau or from any other source, except as provided in subsections 1 and 2. [65GA, ch 294,§3]

Annual audits are not conducted of state and local criminal justice agencies since no funds have been provided to the department or bureau to carry out such audits. The implementation of the annual audit portion of this requirement will require the enactment of a statute authorizing employees of the department to audit local agencies and providing adequate funding and authorization for the employment of such auditors.

The Department will introduce appropriate legislation to accomplish this for consideration by the 1977 Session of the Iowa General Assembly.

F. Security:

This section will be provided after finalization of the amendments filed on October 15, 1975.

G. Access and Review:

"Insure the individual's right to access and review of criminal history information for purposes of accuracy and completeness by instituting procedures so that--

1. Review and Copy:

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 purpose of challenge or correction.

Iowa has recognized the necessity of allowing an individual to review records maintained about him and has provided the necessary legislation to carry out this requirement.

749B.5 Right of notice, access and challenge. Any person or his attorney with written authorization and fingerprint identification shall have the right to examine criminal history data filed with the bureau that refers to the person. The bureau may prescribe reasonable hours and places of examination.

Any person who files with the bureau a written statement to the effect that a statement contained in the criminal history data that refers to him is nonfactual, or information not authorized by law to be kept, and requests a correction or elimination of that information that refers to him shall be notified within

twenty days by the bureau, in writing, of the bureau's decision or order regarding the correction or elimination. Judicial review of the actions of the bureau may be sought in accordance with the terms of the Iowa administrative procedure Act. Immediately upon the filing of the petition for judicial review the court shall order the bureau to file with the court a certified copy of the criminal history data and in no other situation shall the bureau furnish an individual or his attorney with a certified copy, except as provided by this chapter.

Upon the request of the petitioner, the record and evidence in a judicial review proceeding shall be closed to all but the court and its officers, and access thereto shall be refused unless otherwise ordered by the court. The clerk shall maintain a separate docket for such actions. No person, other than the petitioner shall permit a copy of any of the testimony or pleadings or the substance thereof to be made available to any person other than a party to the action or his attorney. Violation of the provisions of this section shall be a public offense, punishable under section 749B.7.

Whenever the bureau corrects or eliminates data as requested or as ordered by the court, the bureau shall advise all agencies or individuals who have received the incorrect information to correct their files. Upon application to the district court and service of notice on the commissioner of public safety, any individual may request and obtain a list of all persons and agencies who received criminal history data referring to him, unless good cause be shown why the individual should not receive said list. [65GA, ch 294,§5, ch 1090,§206]

Amendment effective July 1, 1975

This legislation provides that a certified copy of an individuals record shall be provided to the court upon filing of the petition for judicial review. We are of the opinion that this provision complies with the requirement that a copy be furnished, "when necessary for the purpose of challenge or correction."

In addition to the above statute, the following administrative regulation has been promulgated to implement this statute.

680—4.3(17A, 749, 749B) Identification section. The identification section maintains information necessary to identify persons with criminal histories.

4.3(1) This section collects, classifies and disseminates criminal history data to criminal justice agencies upon request and compiles and updates criminal history records as a continual process.

4.3(2) Information contained in the identification section of the bureau is not a public record and is released only to criminal justice agencies or public agencies authorized and approved by the confidential records council.

4.3(3) Right of notice, access and challenge. Any individual, or that person's attorney with written authorization and fingerprint identification, who has a criminal history record on file with this division has the right to review said record. This right may be exercised only at division headquarters where the individual's identity can be positively established through fingerprint identification.

4.3(4) Persons wishing to review their record may do so during normal business hours by completing Form 680—4.3-B provided for that purpose. The individual may make notes concerning the record on file, but cannot obtain a copy.

4.3(5) If the individual believes inaccuracies exist in his or her criminal history, notice may be filed with the division outlining the alleged inaccuracies accompanied by any available supporting data. In all instances where a notice is so filed, the division contacts the arresting agencies, court of record and institutions to verify record accuracy. Any necessary changes shall be made to the individual's record. Any agency previously receiving a copy of the inaccurate record shall be so notified with a corrected copy. A final report shall be made to the individual who has so filed a notice of correction within twenty days of said filing. If, after notice is filed and the division makes its final report, the individual is still of the opinion that inaccuracies exist within the records, an appeal of the final decision of the division to the Polk county district court may be made.

4.3(6) This section also maintains all uniform crime reports and fingerprint files. It also has personnel for the entry of crime reports to the criminal system.

2. Administrative Review:

Administrative review and necessary correction of any claim by the individual to whom the information relates that the information is inaccurate or incomplete is provided;

Paragraph 2 of Section 749B.5 provides for review and necessary correction of inaccurate records by the Bureau. This statutory requirement is supported by IAC 680 - 4.3(5) requiring correction and notice when records are found to be inaccurate.

3. Administrative Appeal:

The state shall establish and implement procedures for administrative appeal. Chapter 17A, Code of Iowa, has established the Iowa Administrative Code (IAC) and required rules for handling of hearings on contested cases.

IAC 680-10 establishes rules for practice and procedure before the Department of Public Safety.

IAC 680-10.100 through 10.403 establishes the specific procedures for hearing and ruling on contested cases.

IAC 7/1/75

Public Safety[680]

Ch 10, p.1

CHAPTER 10

(Ch 10 as appeared in 1973 IDR, transferred to Transportation Department)

PRACTICE AND PROCEDURE BEFORE THE DEPARTMENT OF PUBLIC SAFETY GENERAL PROVISIONS

680-10.1(17A) Definitions. As used in the rules contained herein the following definitions apply, unless the context otherwise requires:

1. "Department" means the Iowa department of public safety.
2. "Commissioner" means the commissioner of the department or authorized representative.
3. "Act" means the Iowa administrative procedures Act.
4. "Hearing officer" means the person assigned to preside over a proceeding whether that be the commissioner or an administrative hearing officer appointed according to chapter 17A of the Code.
5. "Division" means each division of the department.
6. "Administrative division" means that division referred to in chapter 2 of these rules.
7. "Division director" means the administrator of a division or authorized representative.
8. "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, including intervenors.
9. "License" means the whole or a part of any permit, certificate, approval, registration, charter, or similar form of permission required by statute.
10. "Licensing" means the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.
11. "Contested case" means a proceeding, including licensing, in which the legal rights, duties or privileges of a party are required by constitution or statute to be determined by the commissioner or department after an opportunity for an evidentiary hearing.
12. "Person" means any individual, estate, trust, fiduciary, partnership, corporation, association, governmental subdivision, or public or private organization of any character or any other person covered by the Act other than an agency.
13. "Pleadings" means protest, motion, answer, reply or other document filed in a contested case proceeding.
14. "Petition" means application for declaratory ruling, initiation of rulemaking proceedings or document filed in licensing.
15. "Proceeding" means licensing, rulemaking, declaratory rulings, contested cases, informal procedures.
16. "Protestor" means any person entitled to file a protest which can culminate in a contested case proceeding.

Unless otherwise specifically stated, the terms used in these rules promulgated by the department shall have the meaning defined by the Act.

680-10.2(17A) Scope of rules. The rules contained in this chapter pertaining to practice and procedure are designed to implement the requirements of the Act and aid in the effective and efficient administration of the department and enforcement of the laws of this state. These rules shall govern the practice, procedure and conduct of informal proceedings, contested case proceedings, licensing, rulemaking, and declaratory rulings.

As the design of these rules is to facilitate business and advance justice, any rule contained herein, unless otherwise provided by law, may be suspended or waived by the department to prevent undue hardship in any particular instance or to prevent surprise or injustice.

680-10.3(17A) Business hours. The principal office of the department in the Lucas State Office Building in Des Moines, Iowa shall be open between the hours of 8:00 a.m. to 4:30 p.m. each weekday except Saturdays, Sundays and legal holidays as prescribed in the Code, for the purpose of receiving protests, pleadings, petitions, motions, requests for public

information, copies of official documents, or for the opportunity to inspect public records.

All documents or papers required to be filed with the department by these rules shall be filed with the administration division in the principal office of the department at the Lucas State Office Building, Des Moines, Iowa 50319. Requests for public information or copies of official documents or the opportunity to inspect public records shall be made in the administration division's office at the department's principal office.

680—10.4(7A) Computation of time, filing of documents. In computing any period of time prescribed or allowed by these rules or by an applicable statute, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. Legal holidays are prescribed in the Code.

10.4(1) All documents or papers required to be filed with the department shall be delivered to the department's principal office within such time limits as prescribed by law or by rules or orders of the department. No papers shall be considered filed until actually received by the department.

10.4(2) In all cases where the time for the filing of a protest or an appeal or the performance of any other act shall be fixed by law, the time so fixed by law shall prevail over the time fixed in these rules.

680—10.5(17A) Form and style of papers. All pleadings, petitions, briefs and motions or other documents filed with the department, shall be typewritten, shall have a proper caption, and a signature and copies as herein provided or as specified in some other rule.

10.5(1) Papers shall be typed on only one side of plain white paper. Pleadings, petitions, motions, orders and other similar papers shall be on paper 8½ inches wide x 11 inches long and briefs may be on paper 8½ inches wide x 11 inches long. Citations shall be underscored.

10.5(2) The proper caption shall be placed in full upon the first paper filed.

10.5(3) The signature of the petitioner, party, or authorized representative, shall be subscribed in writing to the original of all pleadings, petitions, briefs or motions and shall be an individual and not a firm name except that the signature of a corporation shall be the name of the corporation by one of its active officers. The name and mailing address of the party or representative actually signing shall be typed or printed immediately beneath the written signature. The signature shall constitute a certification that the signer has read the document; that to the best of the signer's knowledge, information and belief every statement contained in the document is true and no such statement is misleading; and that it is not interposed for delay.

10.5(4) Every pleading, brief or motion shall bear proof of service upon the opposing party as provided by the Iowa rules of civil procedure.

10.5(5) Except as otherwise provided in these rules or ordering by the department, an original and three copies of every pleading, brief, motion or petition shall be filed. This shall not be construed to apply to exhibits, documents or papers offered as evidence.

10.5(6) All copies shall be clear and legible out may be on any weight paper.

10.5(7) Upon motion of an opposing party or on its own, the department may, in its discretion, if a person or party has failed to comply with this rule, require such person or party to follow the provisions of this rule pointing out the defects and detail needed to comply with the rule prior to filing.

680—10.6(17A) **Persons authorized to practice before the department.** Due to the legal questions involved and the technical aspects of fire safety regulations and other departmental activities, persons are encouraged to seek the aid, advice, assistance and counsel of practicing attorneys.

The right to practice before the department in connection with any proceeding shall be limited to the following classes of persons:

10.6(1) Persons representing themselves.

10.6(2) Attorneys duly qualified and entitled to practice in the courts of the state of Iowa.

10.6(3) Attorneys entitled to practice before the highest court of record of any other state.

10.6(4) Duly authorized directors or officers of corporations representing the corporation of which they are respectively a director or officer.

10.6(5) Partners representing their partnership.

10.6(6) Fiduciaries.

10.6(7) Government officials authorized by law.

10.7 to 10.99 Reserved.

CONFLICT RESOLUTIONS

680—10.100(17A) **Resolution discussions.** Unless an appeal has been filed as provided hereinafter, persons interested in any dispute, claim, licensing matter or any other matters may discuss the resolution of such matters with personnel in the appropriate division or the appropriate officer.

680—10.101(17A) **Protests.** Any person wishing to contest a claim or any other department action, except licensing, which may culminate in a contested case proceeding shall file a protest with the administration division within the time prescribed by the applicable statute or rule for filing notice of application to the department or commissioner for a hearing. Failure to timely file a written protest will be construed as a waiver of opposition to the matter involved unless the commissioner on the commissioner's own motion pursuant to statutory authority exercises the commissioner's power of abatement. Upon failure of a person to submit a proper protest, the department may, in its discretion, either require such person to follow the provisions of this rule pointing out the defects and details needed to comply with the rule before accepting for filing or dismiss the protest for failure to comply with this rule.

10.101(1) All protests to be filed with the department shall be filed either by certified mail return receipt requested or by personal delivery in the administration division's office, during business hours.

10.101(2) The protest shall be brought by and in the name of the interested or affected person or by and in the full descriptive name of the fiduciary legally entitled to institute a proceeding on behalf of such person or by an intervenor in contested case proceedings. In the event of a variance in the name set forth in the protest and the correct name, a statement of the reason for such discrepancy shall be set forth in the protest.

10.101(3) A protest which is filed shall contain:

a. A caption in the following form:

**BEFORE THE IOWA STATE DEPARTMENT OF PUBLIC SAFETY
LUCAS STATE OFFICE BUILDING
DES MOINES, IOWA**

IN THE MATTER OF _____ ☆ PROTEST

(state protestor's name, address and des- ☆ DOCKET NO. _____
ignate type of proceeding e.g. building ☆ (filled in by department)
plan approval)

☆

- b.* Substantially state in separate numbered paragraphs the following:
- (1) Proper allegations showing jurisdiction of the department;
 - (2) A statement of the claim or department action;
 - (3) Clear and concise statements of each and every error which the protestor alleges to have been committed by the department. Each assignment of error shall be separately numbered;
 - (4) Clear and concise statements of all relevant facts upon which the protestor relies;
 - (5) Refer to any particular statute or statutes and any rule or rules involved;
 - (6) A prayer setting forth the relief sought by the protestor;
 - (7) The signature of the protestor or that of representative;
 - (8) A copy of any written information from the department with accompanying statements, if any, so far as material to the issues set forth in the assignments of error shall be appended to the protest;
 - (9) Description of records or documents which were not available or were not presented to department personnel prior to the filing of the protest;
 - (10) Any other matters deemed relevant and not covered in the above paragraphs;
 - (11) The wish of protestor to waive informal or contested case proceedings if so wished; unless the protestor so indicates a waiver, informal procedures will be initiated.
- 10.101(4)** The protestor may amend the protest at any time prior to the filing of an answer by the department. After an answer is filed, a protest may be amended only by consent of the department.
- 10.101(5)** Upon receipt of the protest, the administration division shall docket the protest in the docket kept for that purpose and shall assign a number to the case which number shall be placed on all subsequent pleadings filed in the case. An original and six copies of the protest shall be filed, one copy of which shall be promptly served by the administration division upon the commissioner.

680—10.102(17A) Docket. The administration division shall maintain a docket of all proceedings and each of the proceedings shall be assigned a number. Every matter coming within the purview of these rules shall be assigned a docket number which shall be the official number for the purposes of identification. Upon receipt of a protest, petition for declaratory ruling or petition to initiate rulemaking proceedings, the proceeding will be docketed and assigned a number, and the parties notified thereof. This number shall be placed by the parties on all papers thereafter filed in the proceeding.

680—10.103(17A) Informal procedures. Persons are encouraged to utilize the informal procedure provided herein so that a settlement may be reached between the parties without the necessity of initiating contested case proceedings. Therefore, unless the protestor indicates a desire to waive the informal procedures in the protest or the department waives informal procedures upon notification to the protestor, such informal procedures will be initiated as herein provided upon the filing of a proper protest.

10.103(1) *Protested matters involving administrative actions of the department.* Administrative actions protested shall be informally reviewed by the appropriate division director or delegate. Such review shall include holding of informal conferences with the protestor or representative, correspondence, or such other procedures as may be agreed upon between the protestor and the department. The provisions of 10.103(2) shall not apply to matters covered in this subrule.

10.103(2) *Review.* Whether or not protestor waives informal procedures, a review by the appropriate division director or other departmental employees designated by the commissioner will review the protest. The reviewer may refer the matter to the appropriate division for possible resolution or further information. The reviewer shall have the right to request that members of the attorney general's staff provide advice.

10.103(3) *Informal procedures.* After review of the protest, the reviewer may delete any items contained in the protest which it determines should not be controverted by the department and, if a protestor has not waived informal procedures, the reviewer may request the protestor and representative to attend an informal conference with the reviewer to explore the possibility of reaching a settlement without the necessity of initiating contested case proceedings or of narrowing the issues presented in the protest if no settlement can be made. The reviewer's proposed findings may be subject to review by the commissioner. The reviewer shall notify the protestor of the reviewer's ultimate findings.

10.103(4) *Settlements and stipulations.* Whether or not informal procedures have been waived, if a settlement is reached during informal procedures on all issues, the administration division shall be notified of the settlement reached and an order to that effect shall be drawn up at the request of any party or in the discretion of the administration division, served on the parties, and the case terminated. If informal procedures have not been waived and a settlement is reached during informal procedures on some but not all issues, the administration division shall be notified of the issues settled and an order to that effect shall be drawn up, served on the parties and the order shall govern the issues in protest in any further proceedings.

10.103(5) *Prior to case proceedings.* If informal procedures are not utilized or if no settlement can be reached mutually agreeable to the protestor and the department during informal procedures when same are not waived, the protestor and the department are encouraged to stipulate as to all facts on which the parties can agree prior to initiation of contested case proceedings to expedite and facilitate contested case proceedings. The desirability of waiving any provisions of the Act relating to contested case proceedings should also be considered.

680—10.104(17A) *Answer.* On matters covered by 10.103(1), the department shall file an answer to the protest within thirty days of notification to the protestor of the appropriate division director or delegate's written findings and the protestor's written statement to the department that the protestor does not agree with such findings. On matters covered by 10.103(2), the department shall file an answer within thirty days of the notification to the protestor of the reviewer's written findings and the protestor's written statement to the department that the protestor does not agree with the reviewer's findings, except that the department need not file an answer in matters involving application of statutes.

10.104(1) The answer shall be drawn fully and completely so as to advise the protestor and the administration division of any facts which are admitted or denied or of any defenses to be asserted by the department. It shall contain a specific admission or denial of each material allegation of fact contained in the protest, a statement of any facts or law upon which the department relies for a defense, and shall contain any affirmative allegations to be relied upon by the department.

10.104(2) Each paragraph contained in the answer shall be numbered to correspond with the paragraphs of the protest, unless certain issues presented in the protest have been resolved. An original and three copies of the answer shall be filed with the administration division and shall be signed by the commissioner or counsel.

10.104(3) The department shall forthwith serve a copy of the answer upon the representative of record, or if there is no representative of record then upon the protestor, and shall file proof of service with the administration division at the time of filing of the answer.

680—10.105(17A) Subpoenas. Prior to the commencement of a contested case, the department may exercise the authority to subpoena books, papers, records and shall have all other subpoena powers conferred upon it by law.

10.106 to 10.199 Reserved.

PREHEARING PROCEDURE

680—10.200(17A) Commencement of contested case proceedings. After the filing of the answer and the administration division notifying the hearing officer or obtaining or designating a hearing officer, the case proceedings will be commenced by the hearing officer through delivery of notice by certified mail return receipt requested to the parties. The notice shall include:

1. A statement of the time (which shall allow for a reasonable time to conduct discovery), place and nature of the hearing;
2. A statement of the legal authority and jurisdiction under which the hearing is held;
3. A reference to the particular sections of the statutes and rules involved;
4. A short and plain statement of the matters asserted.

10.200(1) After the delivery of the notice commencing the contested case proceedings, the hearing officer may allow such further responsive pleadings by the parties as in the officer's discretion is deemed necessary or appropriate.

10.200(2) Potential parties to a contested case proceeding may jointly submit to the hearing officer a request to issue the notice as prescribed herein.

680—10.201(17A) Discovery. The rules of the supreme court of the state of Iowa, as amended, applicable in civil proceedings with respect to depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission shall apply to discovery procedures in contested case proceedings.

10.201(1) All applications for the taking of discovery shall be submitted to the hearing officer who shall determine the frequency of use of these discovery methods as in the officer's discretion is deemed necessary or appropriate to aid the parties in preparation of the contested case proceeding, narrowing issues or other valid reasons.

10.201(2) When the department relies on a witness in a contested case, whether or not a departmental employee, who has made prior statements or reports with respect to the subject matter of the witness' testimony, it shall, on request, make such statements or reports available to a party for use on cross-examination, unless those statements or reports are otherwise expressly exempt from disclosure by constitution or statute. Identifiable departmental records that are relevant to disputed material facts involved in a contested case, shall, upon request, promptly be made available to the party unless the requested records are expressly exempt from disclosure by constitution or statute.

10.201(3) Evidence obtained in such discovery may be used in contested case proceedings if that evidence would otherwise be admissible in the contested case proceedings.

680—10.202(17A) Prehearing conference. The hearing officer, upon the officer's own motion or upon the written request of one of the parties, may, in the officer's discretion and

upon written notice, direct the parties to appear at a specified time and place before the hearing officer for a prehearing conference to consider:

1. The possibility or desirability of waiving any provisions of the Act relating to contested case proceedings by written stipulation representing an informed mutual consent.
2. The necessity or desirability of setting a new date for hearing.
3. The simplification of issues.
4. The necessity or desirability of amending the pleadings either for purpose of clarification, amplification or limitation.
5. The possibility of agreeing to the admission of facts, documents or records not substantially controverted, to avoid unnecessary introduction of proof.
6. The procedure at the hearing.
7. Limiting the number of witnesses.
8. The names and identification of witnesses and the facts each party will attempt to prove at the hearing.
9. Such other matters as may aid in, expedite or simplify the disposition of the proceeding.

10.202(1) Since stipulations are encouraged, it is expected and anticipated that the parties proceeding to a hearing will stipulate to evidence to the fullest extent to which complete or qualified agreement can be reached including all material facts that are not or should not fairly be in dispute.

10.202(2) Any action taken at the prehearing conference shall be recorded in an appropriate manner, unless the parties enter upon a written stipulation as to such matters or agree to a statement thereof made on the record by the hearing officer.

10.202(3) When an order is issued at the termination of the prehearing conference, a reasonable time shall be allowed to the parties to present objections on the ground that it does not fully or correctly embody the agreements at such conference. Thereafter, the terms of the order or modification thereof, shall determine the subsequent course of the proceedings relative to matters it includes, unless modified to prevent manifest injustice.

10.202(4) Without the necessity of proceeding to an evidentiary hearing on a contested case, the parties may agree in writing to informally dispose of the case by stipulation, agreed settlement, consent order or default or by another method agreed upon. If such informal disposition is utilized, the parties shall so indicate to the hearing officer that the case has been settled.

10.203 to 10.299 Reserved.

HEARING PROCEDURES

680—10.300(17A) Contested case proceedings. Unless the parties to a contested case proceeding have, by written stipulation representing an informed mutual consent, waived the provisions of the Act relating to such proceedings, contested case proceedings shall be initiated and culminate in an evidentiary hearing open to the public. Evidentiary hearings shall be held at the department's principal office, Lucas State Office Building, Des Moines, Iowa 50319, except that a case may be assigned for hearing elsewhere when deemed necessary to afford a party an opportunity to appear at the hearing with as little inconvenience and expense as practicable. Parties shall have been notified of the date and place of the hearing at least thirty days prior thereto.

680—10.301(17A) Conduct of proceedings. A proceeding shall be conducted by a hearing officer who, among other things, shall:

1. Open the record and receive appearances;
2. Administer oaths, and issue subpoenas;
3. Enter the notice of hearing into the record;
4. Receive testimony and exhibits presented by the parties;

5. In the officer's discretion, interrogate witnesses;
6. Rule on objections and motions;
7. Close the hearing;
8. Issue an order containing findings of fact and conclusions of law.

10.301(1) Evidentiary proceedings shall be oral and open to the public and shall be recorded either by mechanical means or by certified shorthand reporters. Parties requesting that the hearing be recorded by certified shorthand reporters shall bear the appropriate costs. The record of the oral proceedings or the transcription thereof shall be filed with and maintained by the department for at least five years from the date of the decision.

10.301(2) An opportunity shall be afforded to the parties to respond and argue on all issues involved and to be represented by counsel at their own expense. Unless otherwise directed by the hearing officer, evidence will be received in the following order:

- a. Protestor or appellant.
- b. Intervenor (if applicable).
- c. Department.
- d. Rebuttal by protestor or appellant.
- e. Oral argument by parties (if necessary).

10.301(3) If the protestor or appellant is not represented by anyone qualified by these rules to make an appearance, the hearing officer shall explain to the protestor or appellant the rules of practice and procedure and generally conduct a hearing in a less formal manner than that used when a protestor or appellant has a representative qualified to appear. It should be the purpose of the hearing officer to assist any protestor or appellant who appears without such a representative to the extent necessary to allow a fair presentation of evidence, testimony and arguments on the issues.

10.301(4) If the parties have mutually agreed to waive the provisions of the Act in regard to contested case proceedings, the hearing will be conducted in a less formal manner or in accordance with the terms of waiver agreement.

10.301(5) If a party fails to appear in a contested case proceeding after proper service of notice, the hearing officer may, upon the officer's own motion or upon the motion of the party who has appeared, adjourn the hearing or proceed with the hearing and make a decision in the absence of the party.

10.301(6) Contemptuous conduct by any person appearing at a hearing shall be grounds for that person's exclusion from the hearing by the hearing officer.

680—10.302(17A) **Rules of evidence.** In evaluating evidence, the department's experience, technical competence, and specialized knowledge may be utilized.

680—10.303(17A) **Oath.** All testimony presented before the hearing officer shall be given under oath which the hearing officer has authority to administer.

680—10.304(17A) **Production of evidence and testimony.** The hearing officer may issue subpoenas to a party on request, as permitted by law, compelling the attendance of witnesses and the production of books, papers, records or other real evidence.

680—10.305(17A) **Subpoena.** When a subpoena is wished after the commencement of a contested case proceeding, the proper party shall indicate to the hearing officer the name of the case, the docket number and the last known addresses of the witnesses to be called. If evidence other than oral testimony is required, each item to be produced must be adequately described. When properly prepared by the hearing officer, the subpoena will be returned to the requesting party for service. Service may be made personally or by certified mail return receipt requested before the hearing date of the cause which the witness is required to attend. No costs for serving a subpoena will be allowed.

680—10.306(17A) Evidence having probative value. Although the hearing officer is not bound to follow the technical common law rules of evidence, a finding shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial. Therefore, the hearing officer may admit and give probative effect to evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs.

10.306(1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The hearing officer shall give effect to the rules of privilege recognized by law.

10.306(2) Evidence not provided to a requesting party by subpoena, through discovery or during any informal procedures shall not be admissible at the hearing.

10.306(3) Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified written form by the hearing officer.

10.306(4) Objections to evidentiary offers may be made at the hearing and the hearing officer's ruling thereon shall be noted in the record.

680—10.307(17A) Evidence of a federal determination. Evidence of a federal determination whether it be a department ruling or regulation or determination letter, a federal court decision or a public law relating to issues raised in the proceeding shall be admissible, and the protestor or appellant shall be presumed to have conceded the accuracy of it unless the protestor or appellant specifically states wherein it is erroneous.

680—10.308(17A) Copies of evidence. A copy of any book, record, paper or document may be offered directly in evidence in lieu of the original, if the original is not readily available or if there is no objection. Upon request, the parties shall be given an opportunity to compare the copy with the original, if available. When an original is admitted in evidence, a copy may be substituted later for the original or such part thereof as may be material or relevant upon leave granted in the discretion of the hearing officer.

680—10.309(17A) Exhibits.

10.309(1) *Identification of exhibits.* Exhibits attached to a stipulation or entered in evidence which are offered by protestors or appellants shall be numbered serially, i.e., 1, 2, 3, etc.; whereas, those offered by the department shall be lettered serially, i.e., A, B, C, etc.; and those offered jointly shall be numbered and lettered, i.e., 1-A, 2-B, 3-C, etc.

10.309(2) *Disposition of exhibits.* After an order has become final, either party desiring the return, at that party's own expense, of any exhibit belonging to that party shall make application in writing to the hearing officer within thirty days suggesting a practical manner of delivery; otherwise, exhibits may be disposed of as the hearing officer deems advisable.

680—10.310(17A) Official notice. The hearing officer may take official notice of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the department. Parties shall be notified at the earliest practicable time, either before or during the hearing, or by reference in preliminary reports, preliminary decisions or otherwise, of the facts proposed to be noticed and their source, including any staff memoranda or data. The parties shall be afforded an opportunity to contest such facts prior to the issuance of the decision in the contested case proceeding unless the hearing officer determines as a part of the record or decision that fairness to the parties does not require an opportunity to contest such facts.

680—10.311(17A) Evidence outside the record. Except as provided by these rules, the hearing officer shall not consider factual information or evidence in the determination of any proceeding unless the same shall have been offered and made a part of the record in the proceeding.

680—10.312(17A) Presentation of evidence and testimony. In any hearing, each party thereto shall have the right to present evidence and testimony of witnesses and to cross-examine any witness who testified on behalf of an adverse party. A person whose testimony has been submitted in written form, if available, shall also be subject to cross-examination by an adverse party. Opportunity shall be afforded each party for redirect examination and recross examination and to present evidence and testimony as rebuttal to evidence presented by another party, except that unduly repetitious evidence shall be excluded.

680—10.313(17A) Offer of proof. An offer of proof may be made through the witness or by statement of counsel. The party objecting may cross-examine the witness without waiving any objection.

680—10.314(17A) Motions. After commencement of contested case proceedings, appropriate motions may be filed by any party with the hearing officer when facts requiring such motion come to the knowledge of the party. All motions shall state the relief sought and the grounds upon which the same are based.

10.314(1) Motions made prior to a hearing shall be in writing and a copy thereof served on all parties and attorneys of record. Such motions shall be ruled on by the hearing officer. The hearing officer shall rule on the motion by issuing an order. A copy of the motion with the ruling noted thereon shall be mailed to the parties and attorneys of record. Motions may be made orally during the course of a hearing; however, the hearing officer may request that it be reduced to writing and filed.

10.314(2) To avoid a hearing on a motion, it is advisable to secure the consent of the opposite party prior to filing the motion. If consent of the opposite party to the motion is not obtained, a hearing on the motion may be scheduled and the parties notified. The burden will be on the party filing the motion to show good cause why the motion should be granted.

10.314(3) The party making the motion may annex thereto such affidavits as are deemed essential to the disposition of the motion, which shall be served with the motion and to which the opposite party may reply with counter affidavits. Types of motions include but are not limited to:

- a. Motion for continuance.
- b. Motion for dismissal.
- c. Motion for default judgment.
- d. Motion to delete confidential matter in the decision.

680—10.315(17A) Briefs. At any time, whether upon the request of any party or not, the hearing officer may require the filing of briefs on any of the issues before the officer prior to or at the time of hearing or at a subsequent time. If briefs have been filed prior to a hearing, the parties should be prepared to make oral arguments as to the law set forth in the briefs at the conclusion of a hearing if the hearing officer so directs.

10.315(1) An original and two copies of all briefs shall be filed. Filed briefs shall conform to the requirements of 10.5(17A).

10.315(2) Reserved.

680—10.316(17A) Orders. At the conclusion of the hearing, the hearing officer, in the officer's discretion, may request or allow the parties to submit proposed findings of fact or conclusions of law, or both.

10.316(1) The decision in a contested case is an order which shall be in writing or state in the record. The order shall include findings of fact prepared by the person presiding at the hearing unless unavailable and based solely on the evidence in the record and on matters officially noticed and shall include conclusions of law. The findings of fact and

conclusions of law shall be separately stated. Findings of fact shall be prefaced by a concise and explicit statement of underlying facts supporting the findings. If a party has submitted proposed findings of fact, the order shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by cited authority or by a reasoned opinion.

10.316(2) When a motion has been made to delete identifying details in an order on the basis of personal privacy or trade secrets, the justification for such deletion or refusal to delete shall be made by the moving party and shall appear in the order.

10.316(3) When the commissioner initially presides at a hearing or considers an appeal from, or review of the administrative hearing officer's decision, the order becomes the final order of the department for purposes of judicial review or rehearing unless there is an appeal to, or review on motion of a second agency within the time provided by statute or rule. When an administrative hearing officer presides at the hearing, the order becomes the final order of the department for purposes of rehearing unless there is an appeal to, or review on motion of, the commissioner within thirty days of the date of the order. On an appeal from or review of the administrative hearing officer's order, the commissioner has all the power which the commissioner would initially have had in making the decision, however, the commissioner will only consider those issues or selected issues presented at the hearing before the administrative hearing officer. The parties will be notified of those issues which will be considered by the commissioner.

10.316(4) Orders will be issued within thirty days of the termination of the hearing unless good cause exists for a further period of time not to exceed a reasonable period. Parties shall be promptly notified of each order by delivery to them of a copy of such order by personal service or certified mail return receipt requested.

680—10.317(17A) Record. The record in a contested case shall include:

1. All pleadings, motions and rulings;
2. All evidence received or considered and all other submissions;
3. A statement of all matters officially noticed;
4. All questions and offers of proof, objections, and rulings thereon;
5. All proposed findings and exceptions;
6. The order of the hearing officer.

680—10.318(17A) Rehearing. Any party may file an application with the hearing officer for a rehearing in the contested case, stating the specific grounds therefor and the relief sought. The application must be filed within twenty days after the department has issued a final order. A copy of such application shall be timely mailed by the applicant to all parties. The hearing officer shall have twenty days from the filing of the application to grant or deny the rehearing. If the application is granted, a notice will be served on the parties stating the time and place of such rehearing. An application for rehearing shall be deemed denied if not granted by the hearing officer within twenty days after filing.

10.318(1) The application for rehearing which is filed shall contain:

- a. A caption in the following form:

BEFORE THE IOWA STATE DEPARTMENT OF PUBLIC SAFETY
LUCAS STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF _____
(state the appellant's name, address
and designate type of proceeding,
e.g. license application)

- *
- *
- *
- *

APPLICATION
FOR
REHEARING
DOCKET NO. _____

b. Substantially state in separate numbered paragraphs the following:

(1) Clear and concise statements of the reasons for requesting a rehearing and each and every error which the party alleges to have been committed during the contested case proceedings;

(2) Clear and concise statements of all relevant facts upon which the party relies;

(3) Refer to any particular statute or statutes and any rule or rules involved;

(4) The signature of the party or that of representative.

10.318(2) A party's administrative remedies will not be considered exhausted unless an appeal has been made to the commissioner, when applicable, or unless an application for rehearing has been filed.

10.319 to 10.399 Reserved.

HEARING RULES

680—10.400(17A) **Service.** All papers or documents required by law or these rules to be filed with the department, hearing officer, with the opposing party or other person shall be served by personal service or by certified mail return receipt requested unless another rule specifically refers to another method. All notices required by law or these rules to be served on parties or persons by the department or hearing officer shall be served by personal service or certified mail return receipt requested.

680—10.401(17A) **Standards of conduct.** All persons appearing in any proceeding before the department in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Iowa. If any such person does not conform to such standards, the department may decline to permit such a person to appear in a representative capacity in any future proceeding before the department.

680—10.402(17A) **Ex parte communications.**

10.402(1) **Hearing officers.** If the hearing officer wishes to communicate with any party or person with a personal interest in or engaged in prosecuting or advocating in either the case under consideration or a pending factually related case involving the same parties, the hearing officer shall notify such persons or parties indicating the time and place at which all affected persons or parties may meet to discuss the matters or shall, if the parties agree, exchange written communications provided each party and representative receives a copy of each written communication and has an opportunity to respond.

10.402(2) **Parties or their representatives.** If any party or representative wishes to discuss certain matters with the hearing officer, the hearing officer and the opposing party shall be so notified and the hearing officer upon notification of such wish shall advise the parties or their representatives of the time and place at which the affected persons or parties may meet to discuss any matters or exchange written communications as provided in 10.402(1).

680—10.403(17A) **Sanctions.** Any party to a contested case proceeding may file a timely and sufficient affidavit asserting personal bias of an individual participating in the making of any proposed or final decision in that case. The department shall determine the matter as part of the record in the case. When the department in these circumstances makes such a determination with respect to a department member, that determination shall be subject to de novo judicial review in any subsequent review proceeding of the case.

10.403(1) The recipient of a prohibited communication as provided in section 17A.17 may be required to submit the communication, if written, or a summary of the communication, if oral, for inclusion in the record of the proceeding. As sanctions for violations of any prohibited communication provided in section 17A.17, a decision may be rendered against a party who violates these rules, or for reasonable cause shown the commissioner may censor, suspend, or revoke a privilege to practice before the department, or for reasonable cause shown after notice and opportunity to be heard, the commissioner may censor, suspend, or dismiss any departmental personnel.

10.403(2) A hearing officer receiving any prohibited communication without immediately notifying all parties shall be subject to censure, suspension or dismissal or recommendation of dismissal.

10.404 to 10.499 Reserved.

LICENSES

680—10.500(17A) Denial of license, refusal to renew license. When the department is required by constitution or statute to provide notice and an opportunity for an evidentiary hearing prior to the refusal or denial of a license, a notice, as prescribed in 10.200(17A), shall be served by the department upon the licensee or applicant. Prior to the refusal or denial of a license, the department shall give thirty-days written notice to the applicant or licensee in which to appear at a hearing to show cause why a license should not be refused or denied. In addition to the requirements of 10.200(17A), the notice shall contain a statement of facts or conduct and the provisions of law which warrant the denial of the license or the refusal to renew a license. If the licensee wishes, a petition may be filed as provided in 10.502(17A) with the hearing officer within the thirty days prior to the hearing. The department may, in its discretion, file an answer to a petition filed by the licensee prior to the hearing. Thereafter, the rules contained in this chapter governing contested case proceedings shall apply.

When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the department, and, in case the application is denied or the terms of the new license limited, until the last date for seeking judicial review of the department's order or a latter date fixed by order of the department or the reviewing court.

680—10.501(17A) Revocation of license. The department shall not revoke, suspend, annul or withdraw any license until written notice is served pursuant to 10.200(17A) within the time prescribed by the applicable statute and the licensee whose license is to be revoked, suspended, annulled or withdrawn is given an opportunity to show at an evidentiary hearing conducted pursuant to the rules governing contested case proceedings in this chapter compliance with all lawful requirements for the retention of the license. In addition to the requirements of 10.200(17A), the notice shall contain a statement of facts or conduct and the provisions of law which the revocation, suspension, annulment, or withdrawal of the license. A licensee whose license may be revoked, suspended, annulled, or withdrawn may file a petition as provided in 10.502(17A) with the hearing officer prior to the hearing. The department may, in its discretion, file an answer to a petition filed by the licensee prior to the hearing. Thereafter, the rules contained in this chapter governing contested case proceedings shall apply. The notice referred to herein shall be served by personal service or by restricted certified mail.

Notwithstanding the above, if the department finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in an order to the licensee, summary suspension of a license shall be ordered pending proceedings as provided herein. These proceedings shall be promptly instituted and determined. When a summary suspension as provided herein is ordered, a notice of the time, place and nature of the evidentiary hearing shall be attached to the order.

680—10.502(17A) Petition. When a person desires to file a petition as provided in 10.501(17A) and 10.502(17A), the petition to be filed shall contain:

1. A caption in the following form:

BEFORE THE IOWA STATE DEPARTMENT OF PUBLIC SAFETY
LUCAS STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF _____
(state petitioner's name, address
and type of license)

PETITION
DOCKET NO. _____
(filled in by department)

2. Substantially state in separate numbered paragraphs the following:
- a. The full name of the petitioner and address;
 - b. Refer to the type of license and the relevant statutory authority;
 - c. Clear, concise and complete statements of all relevant facts showing why petitioner's license should not be acted against;
 - d. Whether a similar license has previously been issued or held by petitioner and if previously acted against the reasons therefor;
 - e. The signature of the petitioner.

10.503 to 10.599 Reserved.

DECLARATORY RULINGS

680—10.600(17A) Request and issuance procedure. Any oral or written advice or opinion rendered to members of the public by departmental personnel not pursuant to a petition for a declaratory ruling is not binding upon the department. However, departmental personnel, including field personnel, ordinarily discuss substantive issues with a member of the public or representative prior to the receipt of a petition for a declaratory ruling, but such oral or written opinions or advice are not binding on the department. This should not be construed as preventing members of the public or their representatives from inquiring whether the department will issue a declaratory ruling on a particular question. In such cases, however, the name of the inquirer shall be disclosed. The department will also discuss questions relating to certain procedural matters as, for example, submitting a request for a declaratory ruling or submitting a petition to initiate rulemaking procedures. Members of the public, may, of course, seek oral technical assistance from a departmental employee in regard to the proper preparation of an application or method of administratively interacting with or filing required information or reports with the department. Such oral advice is advisory only and the department is not bound to recognize it. If a declaratory ruling is requested by a petitioner with a matter currently pending before the department, such ruling will not be issued until after the termination of the matter unless the commissioner wishes to issue one.

10.600(1) Declaratory rulings will not be issued by the department on matters in litigation. Declaratory rulings petitioned by one not a party to a contested case will not be issued in the event that the matter is involved in a contested case. The commissioner may issue a declaratory ruling to a protestor who petitioned for one, provided the commissioner determines that the matter can be more expeditiously resolved by a declaratory ruling than by the initiating or completing of contested case proceedings.

10.600(2) Upon the filing of an original and four copies of a proper petition of an interested person with the administration division, the department may issue a declaratory ruling as to the applicability of any rule or order of the department or the applicability of any statutory provision.

4. List of Agencies Receiving Copy:

Upon request, an individual whose record has been corrected shall be given the names of all non-criminal justice agencies to whom the data has been given; Section 749B.5(4) of the Code provides that an individual may request and obtain a list of all persons and agencies who receive criminal history data referring to him, unless good cause be shown why the individual should not receive said list.

5. Notice to Criminal Justice Agencies:

The correcting agency shall notify all criminal justice recipients of corrected information; and Section 749B.5 paragraph 4, provides that whenever the bureau corrects or eliminates data as requested or as ordered by the court, the bureau shall advise all agencies or individual who have received the incorrect information to correct their files.

6. Limitation on Intelligence Data Access:

The individual's right to access and review of criminal history record information shall not extend to data contained in intelligence, investigatory, or other related files and shall not be construed to include any other information than that defined by § 20.3(b).

The right to review criminal history data provided in Section 749B.5 of the Code pertains only to criminal history data as defined by 749B.1.

749B.1 Definitions of words and phrases.
As used in this chapter, unless the context otherwise requires:

1. "**Department**" means the department of public safety.

2. "**Bureau**" means the department of public safety, division of criminal investigation and bureau of identification.

3. "**Criminal history data**" means any or all of the following information maintained by the department or bureau in a manual or automated data storage system and individually identified:

- a. Arrest data.
- b. Conviction data.
- c. Disposition data.
- d. Correctional data.

4. "**Arrest data**" means information pertaining to an arrest for a public offense and includes the charge, date, time and place. Arrest data includes arrest warrants for all public offenses outstanding and not served and includes the filing of charges, by preliminary information when filed by a peace officer or law enforcement officer or indictment, the date and place of alleged commission and county of jurisdiction.

5. "**Conviction data**" means information that a person was convicted of or entered a plea of guilty to a public offense and includes the date and location of commission and place and court of conviction.

6. "**Disposition data**" means information pertaining to a recorded court proceeding subsequent and incidental to a public offense arrest and includes dismissal of the charge, suspension or deferral of sentence.

7. "**Correctional data**" means information pertaining to the status, location and activities of persons under the supervision of the county sheriff, the division of corrections of the department of social services, board of parole or any other state or local agency performing the same or similar function, but does not include investigative, sociological, psychological, economic or other subjective information maintained by the division of corrections of the department of social services or board of parole.

8. "**Public offense**" as used in subsections 4, 5 and 6 does not include nonindictable offenses under either chapter 321 or local traffic ordinances.

9. "**Individually identified**" means criminal history data which relates to a specific person by one or more of the following means of identification:

- a. Name and alias, if any.
- b. Social security number.
- c. Fingerprints.
- d. Other index cross-referenced to paragraphs "a", "b", or "c."
- e. Other individually identifying characteristics.

10. "**Criminal justice agency**" means any agency or department of any level of government which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders.

11. "**Intelligence data**" means information collected where there are reasonable grounds to suspect involvement or participation in criminal activity by any person.

12. "**Surveillance data**" means information on individuals, pertaining to participation in organizations, groups, meetings or assemblies, where there are no reasonable grounds to suspect involvement or participation in criminal activity by any person. (65GA, ch 294,§1)

Section 749B.8 of the Code controls the collection and use of intelligence data and does not provide for access and review by the individual except when such data is being used for sentencing by the courts.

749B.8 Intelligence data. Intelligence data contained in the files of the department of public safety or a criminal justice agency shall not be placed within a computer data storage system.

Intelligence data in the files of the department may be disseminated only to a peace officer, criminal justice agency, or state or federal regulatory agency, and only if the department is satisfied that the need to know and the intended use are reasonable. Whenever intelligence data relating to a defendant for the purpose of sentencing has been provided a court, the court shall inform the defendant or his attorney that it is in possession of such data and shall, upon request of the defendant or his attorney, permit examination of such data.

If the defendant disputes the accuracy of the intelligence data, he shall do so by filing an affidavit stating the substance of the disputed data and wherein it is inaccurate. If the court finds reasonable doubt as to the accuracy of such information, it may require a hearing and the examination of witnesses relating thereto on or before the time set for sentencing. [65GA, ch 294,§8]

SCHEDULE OF MAJOR MILESTONES

<u>DATE</u>	<u>ITEM</u>
7-1-76	Approval of Executive Order authorizing Iowa Law Enforcement Academy access to Criminal History Data of applicants.
7-1-76	Approval of grant application providing funding to assist the Department in programming, computerized criminal histories, and providing staff necessary to keep the offices open more than 40 hours per week.
9-3-76	Budget request for 1977-79 biennium due to State Comptroller's Office. This will include requests for audit staff necessary to carry-out audits required by the federal regulations.
12-31-76	Offices of the central repository (Iowa Bureau of Criminal Investigation) open on weekends and between the hours of 4:30 p.m. and midnight (weekdays to allow expanded access to criminal history record information.
2-1-77	Legislation introduced to the 1977 Session of the Iowa General Assembly expanding coverage of the Iowa Chapter 749B in compliance with the federal regulations.
12-31-77	Rules approved spelling-out requirements for query of central repository prior to dissemination by criminal justice agencies.
12-31-77	Audit procedures developed and implemented.

UNITED STATES DEPARTMENT OF JUSTICE
Law Enforcement Assistance Administration
National Criminal Justice Information and
Statistics Service
Washington, D.C. 20531

CERTIFICATION FOR A
CENTRAL STATE REPOSITORY

NAME/ADDRESS OF SUBMITTING AGENCY
Iowa Department of Public Safety
Bureau of Criminal Investigation
Lucas State Office Building
Des Moines, Iowa 50319

APPLICABLE STATE
Iowa

DATE PREPARED
2-23-76

CONTACT NAME
Emmet Rathbun

TELEPHONE NO. (Give area code)
515-281-3167

INSTRUCTIONS: Complete the following as appropriate.

OPERATIONAL PROCEDURES

- Completeness and Accuracy
 - Central State Repository:
 - Statutory/Executive Authority
 - Facilities and Staff
 - Complete Disposition Reporting in 90 days from:
 - Police
 - Prosecutor
 - Trial Courts
 - Appellate Courts
 - Probation
 - Correctional Institutions
 - Parole
 - Query Before Dissemination:
 - Notices/Agreements-Criminal Justice
 - Systematic Audit:
 - Delinquent Disposition Monitoring
 - Accuracy Verification
 - Notice of Errors
 - Limits on Dissemination
 - Contractual Agreements/Notices and Sanctions in Effect for:
 - Criminal Justice Agencies
 - Non-Criminal Justice Agencies Granted Access by Law or Executive Order
 - Service Agencies Under Contract
 - Research Organizations
 - Violating Agency Right of Access Restrictions to:
 - Inventive Record Dissemination
 - Continuation of Record Existence
 - Secondary Dissemination by Non-Criminal Justice Agencies
 - Dissemination Without Disposition
 - Audits and Quality Control
 - Audit Trail:
 - Recreating Data Entry
 - Primary Dissemination Logs
 - Secondary Dissemination Logs
 - Annual Audit

NOW IMPLEMENTED	REASONS FOR NON-IMPLEMENTATION			ESTIMATED IMPLEMENTATION DATE
	COST	TECHNICAL	LACK OF AUTHORITY	
X				
X				
X				
X				
X				
X				
X				
X				
	X	X	X	12-31-77
X				
X	X			12-31-77
X				
X				
(1)				
(1)				
X				
X				
X				
X				
	X			12-31-77
X				
X				
	X		X	12-31-77

§ 20.22 Certification of Compliance.

(a) Each State to which these regulations are applicable shall with the submission of each plan provide a certification that to the maximum extent feasible action has been taken to comply with the procedures set forth in the plan. Maximum extent feasible, in this subsection, means actions which can be taken to comply with the procedures set forth in the plan that do not require additional legislative authority or involve unreasonable cost or do not exceed existing technical ability.

(b) The certification shall include—

(1) An outline of the action which has been instituted. At a minimum, the requirements of access and review under 20.21(g) must be completely operational;

B. OUTLINE OF ACTION INSTITUTED:

1.1 Drafted Executive Order authorizing the Iowa Law Enforcement Academy access to criminal history record information concerning prospective employees of the academy and peace officer applicants required to be certified by the academy.

1.2 Legislation drafted and submitted to Iowa General Assembly covering the following:

- a. Expanding coverage of 749B of Iowa Code to all criminal justice agencies.
- b. Limiting dissemination of local records.
- c. Authorizing dissemination for research or statistical purposes, pursuant to contract and approval of confidential records council.
- d. Authorizing release of information which is reasonably contemporaneous with event.
- e. Authorizing contracts for the performance of services necessary for the administration of criminal justice.
- f. Prohibits the confirmation of the existence or non-existence of a record.

1.3 Proposed dissemination agreements designed for use in:

- a. Dissemination of information between covered and non-covered agencies.
- b. Dissemination of information for research, evaluation or statistical activities.
- c. Dissemination of information to non-criminal justice agencies for the purpose of providing services necessary for the administration of criminal justice.

CRIMINAL JUSTICE AGENCY
CRIMINAL HISTORY RECORD DATA
DISSEMINATION AGREEMENT

_____ hereby agrees to furnish Criminal History Record Information to _____ (a criminal justice agency) for the express purpose of the administration of criminal justice and criminal justice agency employment.

_____ agrees that Criminal History Record Data furnished pursuant to this agreement will be used only for the purposes for which provided.

_____ further agrees to keep the data secure and confidential consistent with Title 28, Chapter 1, Part 20 of the Code of Federal Regulations, and Section 524 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1973, Pub. L. 93-83.

I, _____, administrator of the above-named criminal justice agency, understand that failure to observe the security and privacy provisions of Title 28, Chapter 1, Part 20 of the Code of Federal Regulations is cause for prosecution, subject to a fine not to exceed \$10,000, as set forth in Section 20.25, thereof.

APPROVED:

Disseminating Agency

Witness:

Receiving Agency

Date _____

Time _____

RESEARCH, EVALUATIVE, OR STATISTICAL AGENCY

CRIMINAL HISTORY RECORD DATA

DISSEMINATION AGREEMENT

The _____ hereby agrees to furnish Criminal History Record Information to _____ for the express purpose of research, evaluation, or statistical activities as follows:

I, _____ agree that Criminal History Record Data furnished pursuant to this agreement will be used only for the purposes for which provided. I further agree to keep the data secure and confidential consistent with Title 28, Chapter 1, Part 20 of the Code of Federal Regulations, and Section 524 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1973, Pub. L. 93-83.

I, _____, understand that failure to observe the security and privacy provisions of Title 28, Chapter 1, Part 20 of the Code of Federal Regulations is cause for prosecution, subject to a fine not to exceed \$10,000, as set forth in Section 20.25, thereof.

APPROVED:

Criminal Justice Agency

Research Agency

Witness:

Date _____
Time _____

NON-CRIMINAL JUSTICE AGENCY
CRIMINAL HISTORY RECORD DATA
DISSEMINATION AGREEMENT

The _____ hereby agrees to furnish Criminal History Record Information to _____ for the express purpose of providing services necessary for the administration of criminal justice, as follows:

I, _____ agree that Criminal History Record Data furnished pursuant to this agreement will be used only for the purposes for which provided. I further agree to keep the data secure and confidential consistent with Title 28, Chapter 1, Part 20 of the Code of Federal Regulations, and Section 524 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1973, Pub. L. 93-38.

I, _____, understand that failure to observe the security and privacy provisions of Title 28, Chapter 1, Part 20 of the Code of Federal Regulations is cause for prosecution, subject to a fine not to exceed \$10,000, as set forth in Section 20.25, thereof.

APPROVED:

Criminal Justice Agency

Contracting Agency

Witness:

Date _____

Time _____

C. Description of Legislation or Executive Order

(2) A description of any legislation or executive order, or attempts to obtain such authority that has been instituted to comply with these regulations:

1. Copy of Executive Order
2. Draft of legislation

EXECUTIVE ORDER NUMBER _____

WHEREAS, on the twentieth day of May, 1975, the United States Justice Department promulgated rules and regulations covering Criminal History Record Information Systems; and

WHEREAS, Section 20.21B of said regulations limit the dissemination of criminal history record information to non-criminal justice agencies which require criminal history record information to implement a statute or executive order which expressly refers to criminal conduct and contains requirements and/or exclusions expressly based upon such conduct; and

WHEREAS, Section four hundred point seventeen (400.17), Code of Iowa, prohibits the appointment of peace officers under Civil Service who have been convicted of a felony; and

WHEREAS, the Iowa Law Enforcement Academy established under the provisions of eighty B (80B), Code of Iowa, has been delegated the responsibility of certifying individuals as having met the minimum requirements for law enforcement officers; and

WHEREAS, the Iowa Confidential Records Council established pursuant to Chapter seven hundred forty-nine B (749B), Code of Iowa, has authorized the dissemination of criminal history data concerning peace officer applicants to and employees of the Iowa Law Enforcement Academy;

NOW, THEREFORE, I, Robert D. Ray, Governor of the State of Iowa, do hereby authorize the Iowa Law Enforcement Academy to receive criminal history data concerning applicants for employment by the Academy and for applicants for peace officer positions required to complete basic law enforcement training furnished or approved by the Iowa Law Enforcement Academy.

In testimony whereof, I have here unto subscribed my name and cause the great seal of the State to be affixed.
Done at Des Moines this _____ day of _____ in the year of our Lord one thousand nine hundred seventy-six.

ATTEST:

SECRETARY OF STATE

GOVERNOR

AN ACT

RELATING TO DISCLOSURE OF CRIMINAL HISTORY AND INTELLIGENCE DATA

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section seven hundred forty-nine B point one (749B.1), subsection three (3), Code 1975, is amended to read as follows:

3. "Criminal history data" means any or all of the following information maintained by a criminal justice agency in a manual or automated data storage system and individually identified:

- a. Arrest data.
- b. Conviction data.
- c. Disposition data.
- d. Correctional data.

Sec. 2. Section seven hundred forty-nine B point one (749B.1), subsection four (4) Code 1975, is amended to read as follows:

4. "Arrest data" means information pertaining to the arrest of an individual for a public offense and includes the charge, date, time, and place.

Sec. 3. Section seven hundred forty-nine B point two (749B.2), Code 1975, is amended to read as follows:

749B.2 DISSEMINATION OF CRIMINAL HISTORY DATA.

A criminal justice agency may provide copies or communicate information from criminal history data only to another criminal justice agency, or such other public agency as may be authorized by the confidential records council. ~~The bureau~~ Each agency shall maintain a list showing the individual or agency to whom the data is disseminated and the date of dissemination.

Authorized agencies and criminal justice agencies shall request and may receive criminal history data only when:

1. The data is for official purposes in connection with prescribed duties, and
2. The request for data is based upon name, fingerprints, or other individual identifying characteristics.

The provisions of this section and section three (3) of this Act

shall not apply to the furnishing of criminal history data to the department or to the federal bureau of investigation.

Sec. 4. Section seven hundred forty-nine B point three (749B.3), Code 1975, is hereby repealed and the following enacted in lieu thereof

749B.3 REDISSEMINATION. A non-criminal justice agency authorized access to criminal history data pursuant to the provisions of this Act, shall keep the criminal history data confidential and shall not redisseminate such data to any agency

or individual without specific statutory authority or the approval of the Confidential Records Council.

Sec. 5. Section seven hundred forty-nine B point four (749B.4) Code 1975, is amended to read as follows:

749B.4 STATISTICS. The department, bureau, or a criminal justice agency may compile and disseminate criminal history data in the form of statistical reports derived from such information or as the basis of further study provided individual identities are not ascertainable.

A criminal justice agency may, with the approval of the confidential records council, disseminate criminal history data to persons conducting bona fide research, evaluative or statistical activities, provided the person enters into a contract with the criminal justice agency to keep such data confidential and to limit its use to the purpose for which it was provided.

Sec. 6. Section seven hundred forty-nine B point seventeen (749B.17), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

749B.17 EXCLUSIONS. Arrest and disposition data after the person has been acquitted or the charges dismissed shall be removed from computer data storage systems in those instances where no conviction data is on file concerning the individual.

Sec. 7 Chapter seven hundred forty-nine B (749B) is hereby amended by adding the following new section:

NEW SECTION. Nothing in this Act shall prohibit a criminal justice agency from disclosing to the public factual information concerning the status of an investigation, the apprehension, arrest, release or prosecution of an individual, the adjudication of charges, or the correctional status of an individual, when such disclosure is reasonably contemporaneous with the event to which the information relates. Nor is a criminal justice agency prohibited from confirming prior criminal history record information to members of the news media or any other person upon specific inquiry as to whether a named individual was arrested, detained, indicted, or whether an informal or formal charge was filed, on a specified date, if the arrest record information or criminal record information disclosed is based upon data excluded by Section 10 of this Act.

Sec. 8. Chapter seven hundred forty-nine B (749B) is hereby amended by adding the following new section:

NEW SECTION. A criminal justice agency may disseminate criminal history data to private individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement. The agreement shall specifically authorize access to data and limit the use of data to purposes for which given, and insure the security and confidentiality of the data consistent with this Act.

Sec. 9. Chapter seven hundred forty-nine B (749B) is hereby amended by adding the following new section:

NEW SECTION. No agency or individual having access to criminal history data shall confirm the existence or non-existence of a criminal history record unless the agency or individual requesting the information is authorized access to criminal history data pursuant to the provisions of this Act.

Sec. 10. Chapter seven hundred forty-nine B (749B) is hereby amended by adding the following new section:

NEW SECTION. Provisions of this Act shall not apply to criminal history record information contained in:

- (1) posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;
- (2) original records of entry maintained by criminal justice agencies and compiled chronologically;
- (3) court records of public judicial proceedings compiled chronologically;
- (4) published court opinions or public judicial proceedings;
- (5) records of traffic offenses maintained by the Department of Transportation for the purpose of regulating the issuance, suspension, revocation or renewal of driver's, or other operator's licenses;
- (6) announcements of executive clemency.

D. Description of Steps Taken to Overcome any Fiscal, Technical and Administrative Barriers to Complete and Accurate Criminal History Record Information.

The Department feels that Iowa is in compliance with all provisions of the regulations relating to completeness and accuracy with the exception of the requirement to query the central repository prior to dissemination and the requirement to verify the accuracy of data.

The central repository is currently staffed only 40 hours per week. Since this operation is not currently automated the only method of providing rapid access to data is to provide staff for weekends and evening hours. A grant application has been submitted to the Iowa Crime Commission for LEAA funds to hire the required staff.

Development work on CCH has also began which, when completed, will allow the query of the central file via remote terminals located in criminal justice agencies.

The staff necessary to conduct verification audits is also being requested in the above mentioned grant applications.

STATE OF IOWA
IOWA CRIME COMMISSION
STATE PLANNING AGENCY



State Capital
Des Moines, Iowa
50319

APPLICATION FOR GRANT

1. APPLICANT: (Name and Address) Iowa Department of Public Safety Lucas State Office Bldg. Des Moines, Iowa 50319	2. PROJECT NO. 3. PROJECT TITLE: <p style="text-align: center;">Computerized Criminal History</p> 4. ARLA AGENCY: 5. PROJECT PERIOD: <p style="text-align: center;">7-1-76 to 6-30-77</p>
---	---

6. TYPE OF APPLICATION:

<input checked="" type="checkbox"/> Initial	<input type="checkbox"/> Continuation	<input type="checkbox"/> Revision	<input type="checkbox"/> Reversion
<input type="checkbox"/> Planning			
<input checked="" type="checkbox"/> Action			

Grant No. _____ Year Funding _____

7. PROJECT DIRECTOR: (Name, Address, Phone) Carol L. Bidler, Executive Director TRACIS GMC Bldg. Des Moines, Iowa 50319 (515) 281-5330	8. FISCAL OFFICER: (Name, Address, Phone) Marge Sorenson Department of Public Safety Lucas Office Bldg. Des Moines, Iowa 50319 (515) 281-3211
--	---

9. PROJECT BUDGET AND FUNDING SUMMARY	10. EXPLANATION OF APPLICANT CONTRIBUTION																																										
<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">EXPLNSL CLASS</th> <th style="text-align: right;">AMOUNT REQUESTED</th> </tr> </thead> <tbody> <tr><td>Salaries</td><td style="text-align: right;">112,000.00</td></tr> <tr><td>Personnel Benefits</td><td style="text-align: right;">14,380.00</td></tr> <tr><td>Contract Services</td><td style="text-align: right;">50,000.00</td></tr> <tr><td>Travel</td><td style="text-align: right;">2,400.00</td></tr> <tr><td>Tuition</td><td style="text-align: right;">87,400.00</td></tr> <tr><td>Equipment</td><td style="text-align: right;">100,800.00</td></tr> <tr><td>Construction</td><td style="text-align: right;">336,980.00</td></tr> <tr><td>Supplies & Operating Expenses</td><td style="text-align: right;">336,980.00</td></tr> <tr> <td>TOTAL PROJECT BUDGET</td> <td style="text-align: right;">\$ 336,980.00</td> </tr> </tbody> </table>	EXPLNSL CLASS	AMOUNT REQUESTED	Salaries	112,000.00	Personnel Benefits	14,380.00	Contract Services	50,000.00	Travel	2,400.00	Tuition	87,400.00	Equipment	100,800.00	Construction	336,980.00	Supplies & Operating Expenses	336,980.00	TOTAL PROJECT BUDGET	\$ 336,980.00	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">IN-KIND</th> <th style="text-align: left;">BY WHOM</th> </tr> </thead> <tbody> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr> <td>TOTAL IN-KIND</td> <td>\$ _____</td> </tr> </tbody> </table>	IN-KIND	BY WHOM	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	TOTAL IN-KIND	\$ _____
EXPLNSL CLASS	AMOUNT REQUESTED																																										
Salaries	112,000.00																																										
Personnel Benefits	14,380.00																																										
Contract Services	50,000.00																																										
Travel	2,400.00																																										
Tuition	87,400.00																																										
Equipment	100,800.00																																										
Construction	336,980.00																																										
Supplies & Operating Expenses	336,980.00																																										
TOTAL PROJECT BUDGET	\$ 336,980.00																																										
IN-KIND	BY WHOM																																										
_____	_____																																										
_____	_____																																										
_____	_____																																										
_____	_____																																										
_____	_____																																										
_____	_____																																										
_____	_____																																										
_____	_____																																										
_____	_____																																										
TOTAL IN-KIND	\$ _____																																										
<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">11. FUNDING CATEGORY</th> <th style="text-align: right;">AMOUNT REQUESTED</th> </tr> </thead> <tbody> <tr> <td>SPA Funds 75 %</td> <td style="text-align: right;">\$ 275,235.00</td> </tr> <tr> <td>State Buy-In:</td> <td></td> </tr> <tr> <td style="padding-left: 20px;">Cash</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td style="padding-left: 20px;">In Kind</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td>Applicant Agency Match:</td> <td></td> </tr> <tr> <td style="padding-left: 20px;">Cash</td> <td style="text-align: right;">\$ 91,745.00</td> </tr> <tr> <td style="padding-left: 20px;">In Kind</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td>TOTAL GRANT</td> <td style="text-align: right;">\$ 366,980.00</td> </tr> </tbody> </table>	11. FUNDING CATEGORY	AMOUNT REQUESTED	SPA Funds 75 %	\$ 275,235.00	State Buy-In:		Cash	\$ _____	In Kind	\$ _____	Applicant Agency Match:		Cash	\$ 91,745.00	In Kind	\$ _____	TOTAL GRANT	\$ 366,980.00	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">CASH AMOUNT</th> <th style="text-align: left;">BY WHOM</th> </tr> </thead> <tbody> <tr> <td style="text-align: right;">91,745.00</td> <td>_____</td> </tr> <tr> <td>_____</td> <td>_____</td> </tr> <tr> <td>_____</td> <td>_____</td> </tr> <tr> <td>_____</td> <td>_____</td> </tr> <tr> <td>TOTAL CASH</td> <td>\$ _____</td> </tr> <tr> <td>TOTAL CASH AND IN-KIND</td> <td>\$ _____</td> </tr> </tbody> </table>	CASH AMOUNT	BY WHOM	91,745.00	_____	_____	_____	_____	_____	_____	_____	TOTAL CASH	\$ _____	TOTAL CASH AND IN-KIND	\$ _____										
11. FUNDING CATEGORY	AMOUNT REQUESTED																																										
SPA Funds 75 %	\$ 275,235.00																																										
State Buy-In:																																											
Cash	\$ _____																																										
In Kind	\$ _____																																										
Applicant Agency Match:																																											
Cash	\$ 91,745.00																																										
In Kind	\$ _____																																										
TOTAL GRANT	\$ 366,980.00																																										
CASH AMOUNT	BY WHOM																																										
91,745.00	_____																																										
_____	_____																																										
_____	_____																																										
_____	_____																																										
TOTAL CASH	\$ _____																																										
TOTAL CASH AND IN-KIND	\$ _____																																										

12. OTHER FEDERAL FUNDS RECEIVED AND/OR SUBMISSION:

13. State Department or Area Crime Commission:

Category:

Project Title and Program Number:

Unit(s) of government involved in project:

1. Objective:

The purpose of this grant is to assist the Iowa Department of Public Safety in meeting the requirements established by the Code of Federal Regulations, Title 8, Chapter 1, part 20 (see enclosed). Specifically, Section 20.21A of these regulations require that states operating a central repository for criminal history information maintain this information in such a way that criminal justice agencies can query criminal history record information prior to the dissemination of such information to ascertain a most current information available about an individual. In order to fully meet this objective, it is necessary that a computerized criminal system be developed with on-line access to that appropriate Criminal Justice Agencies.

Section 20.21F of the regulations as adopted on May 20, 1975 required dedicated computer equipment for complete control by Criminal Justice Agency personnel. On October 15, 1975, the Justice Department published proposed rules amending Section 20.21F to provide for the use of shared computer equipment for the storage of Criminal History record information provided that criminal justice agency employees maintain control over certain aspects of the hardware and software used in the collection, storage and dissemination of such data.

Section 20.21A and Section 20.21E require that criminal history record information be maintained in an accurate and an up-to-date fashion. Also audit procedures must be established to insure that the data is up to date and accurate.

Standard 24.3 of the Police Standards and Goals states:

Every police agency should establish a cost-effective, compatible information system to collect, store, and retrieve information moving through the agency. The use of such a system should be directed toward crime reduction without sacrificing local autonomy.

1. Every police agency should, by 1975, have the capability to retrieve statewide criminal information and provide it to field personnel within three minutes of the time requested for noncomputerized systems and within 30 seconds for computerized systems. This capability should at least include information on:

- a. Individuals who are the subject of an arrest warrant for a felony or serious misdemeanor;
- b. Individuals known to have been armed, considered dangerous, or known to have resisted arrest;
- c. Unrecovered stolen vehicles;
- d. Vehicles wanted in connection⁵⁷ with the investigation of felonies or serious misdemeanors;
- e. Unrecovered stolen Vehicle Information Number plates and serially identified engines and transmissions;
- f. Unrecovered stolen or missing license plates;
- g. Serially identified stolen or lost weapons; and
- h. Serially numbered stolen property items.

Objective--3

2. Every police agency using, or planning to use, a computer-based information system should take immediate steps to insure that the primary objective of such a system is rapid response to the information needs of field units. Agencies developing or operating a computer-based information system should immediately identify critical information groups and assign priorities to them according to the requirements of the system user. Critical information groups should include at least:

- a. Information on wanted persons;
- b. Abstract data on criminal convictions, parole status, penitentiary releases, and vital criminal record information;
- c. Information that forewarns an officer of persons known to have been armed, and other potential dangers; and
- d. Information on stolen property and vehicles.

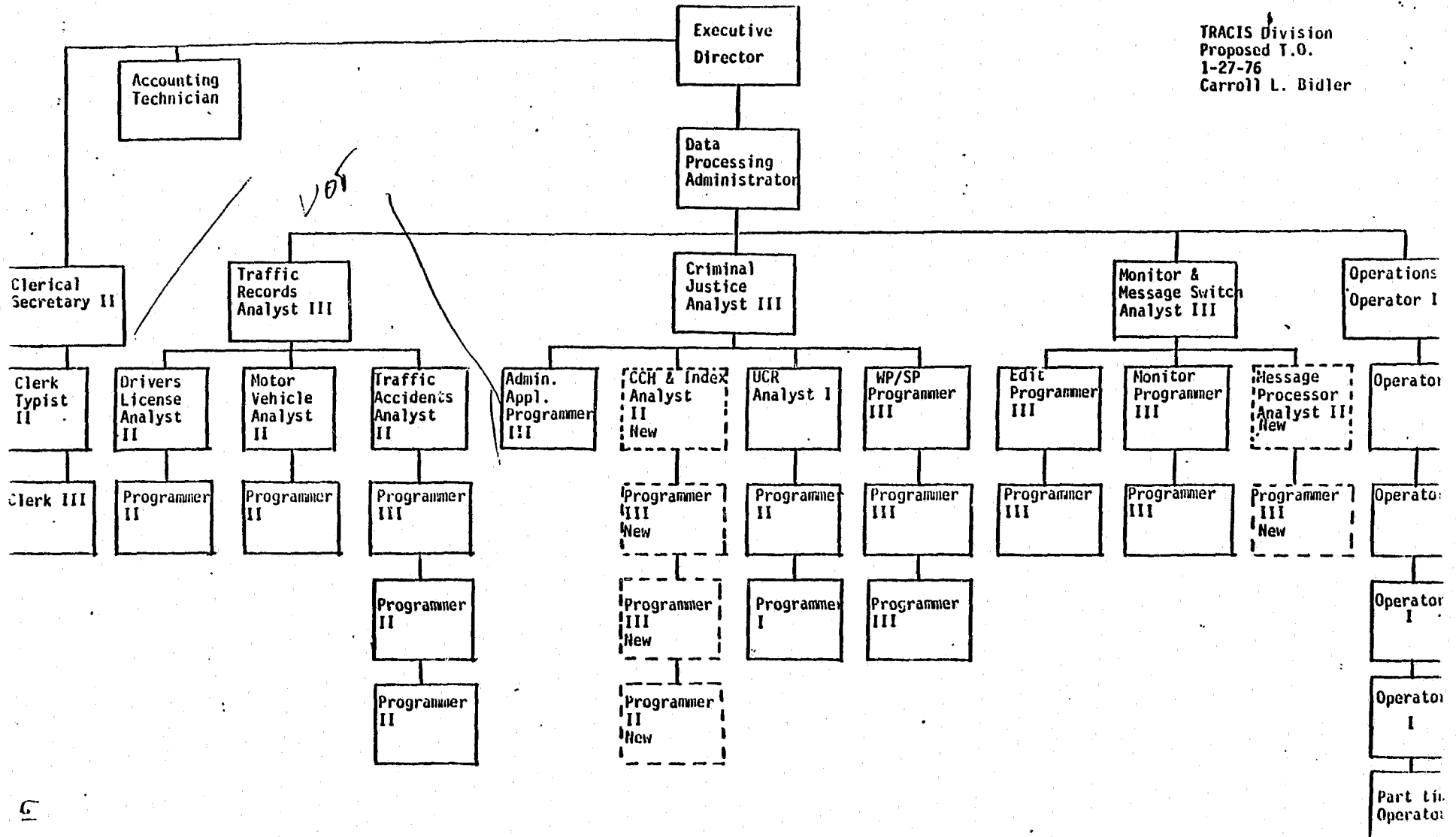
3. Every agency developing or operating a computer-based system should immediately establish advisory user groups consisting of field policemen, police managers, computer technicians, and hardware engineers. User groups should be charged with the responsibility for system implementation and operating strategies.

Although the Federal regulations as amended will not call for dedicated computer hardware for computerized criminal histories (CCH), the need for responsiveness and the problems inherent in upgrading the existing message processors dictate that the TRACIS System acquire a dedicated message switcher. This dedicated message switching equipment will result in the upgrading of the TRACIS telecommunications network to more modern terminal devices and will make operations in the field simplified. At the same time, the equipment will provide necessary security for the transmission of data as well as the logging of messages going to and from the computerized criminal history files.

The specific objectives of this grant are as follows:

1. Acquire dedicated message switching hardware for the TRACIS project.
2. Implement by late summer level 2 CCI participation with the FBI's National Crime Information Center.
3. Implement by late fall 1976 full level 3 computerized criminal history participation.
4. Implement Criminal Index including all offenders on which the Iowa Bureau of Criminal Investigation maintains criminal history files.
5. Develop the staff necessary to comply with the federal regulations as well as implement and maintain the above.
(See enclosed table of organization).
6. Expand twenty-two additional terminals (includes terminals for each Patrol Post).

TRACIS Division
 Proposed T.O.
 1-27-76
 Carroll L. Bidler



14. Method of Implementation:

The State of Iowa is currently in the process of developing a computerized criminal history system which is divided into two separate phases. The first phase will be the implementation of level II CCH (Computerized Criminal History) with the National Crime Information Center while the second phase will provide full Iowa participation in the National CCH System. The Systems design and program development work for the implementation being provided by the State Comptroller's personnel.

Federal regulations as proposed under Section 20.21F (see Objectives paragraph two) mandates that Criminal Justice Agency personnel be responsible for the following:

1. Certify that criminal history data stored in a central computer cannot be modified, destroyed, accessed, changed, purged, or overlaid in any fashion by non-criminal justice terminals.
2. Specify and certify for operational use, programs that will prohibit inquiry, record updates or destruction of records from any terminal other than Criminal Justice System terminals which are so designated.
3. Limit destruction of records to terminals specifically authorized.
4. Specify and certify for operational use such programs to detect and store for output all authorized attempts to penetrate any criminal history record information system.

The Department of Public Safety does not currently have the necessary staff nor the authorization to hire the necessary staff to meet these federally mandated requirements. Two additional computer programs/analysts will be required to certify and maintain the computerized criminal history program that is currently being developed.

In addition to the development of the CCH programs and the certification of such programs for operational use the Department also anticipates computerizing and making available online the entire criminal index maintained by the Bureau of Criminal Investigation. The Wisconsin Criminal index is compatible with the Iowa TRACIS software in operational use in Iowa. We anticipate that it will require two (2) computer programmers/analysts approximately one (1) year to modify the Wisconsin programs and prepare them for operational use.

Finally the requirement that the Criminal Justice Agency control access to CCH data requires that the Department of Public Safety personnel maintain the software for the TRACIS message processing computer. This grant anticipates approval to lease a message processor dedicated to the TRACIS Project and to hire the staff necessary to implement this message processor and to maintain it after implementation.

Two (2) teletype operators, a fingerprint technician and a field representative will be employed to comply with Section 20.21A.

The addition of two teletype operators to the existing work force of BCI would allow for an extended work week. During these additional hours, criminal history data would be available to criminal justice agencies for "inquiry before dissemination" which is required by the justice regulations. Additionally, these positions could review the delinquent disposition reports and request disposition data from contributing agencies to update the criminal history files.

An additional fingerprint technician added to the Bureau staff will provide the additional help needed to verify through fingerprints final disposition reports with a previously recorded arrest. Currently, this identification is not made and dispositions are added to criminal history records on the basis of name and date of arrest. Included in this verification procedure is an audit of the disposition information whereby the typed criminal history record could be compared with the disposition information reported to the Bureau. This audit procedure is required by the newly established Federal regulations.

With the growing number of terminals and responsibilities, current field representatives do not have time to audit any logs recording requests for criminal history data. The addition of one field representative would allow for smaller areas and all representatives would have additional time to perform this auditing function. Representatives would be able to review actual records received by Bureau headquarters with the "request for records" log maintained at the terminal sites. Additional education would also be provided concerning the use of criminal history data as required by Section 749B of the Iowa Code.

The field worker would need an automobile, subsistence and a typewriter.

The schedule on the following page provides a realistic approach to meeting the objectives listed in this application:

1976 1977

July Aug. Sept. Oct. Nov. Dec. Jan. Feb. March April May June

Personnel Employed

Four (4) programmer/analyst
(continued)

Two (2) programmer/analyst-----x
 Two (2) teletype operators-----x
 One (1) fingerprint tech. -----x
 Field representative -----x

Operations

Approval of system design and
interface specification from NCIC---x

Have level II programs certified
for operation use -----x

Level III programs ready for
certification -----x

Level III programs certified and
approved for operational use -----x

Level III CCH implement -----

BCI index ready for operational use-----x

Delivery of the replacement
processor -----x

All software and interfaces written
for a new communication controller -----x

All systems tested and ready for
conversion -----x

Convert from Collins C-System to
message processor -----x

Additional terminals -----x

9n

15. Impact and Results:

By the end of this grant period, the State of Iowa anticipates having online and fully operational Level III computerized criminal histories including full participation in the national CCH system and the ability to provide statistical data from the Iowa CCH files. The implementation of this system will allow local terminals immediate access to CCH data and will also provide the State planning agencies necessary statistical reports concerning offender based statistics to meet their planning requirements.

The State will also have converted from the current message switcher to a more modern message switching computer and will have begun conversion of the TRACIS field terminals from the existing ASR37 teletypes to the more modern CRT/Printer devices. This conversion will allow easier operation by the agencies in the field and will provide more rapid access to data as well as more flexible operating environment.

Federal Regulations, Title 28, Chapter 1, Part 20 will be complied with.

Journal of
Criminal Justice
Information Systems

TUESDAY, MAY 20, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 98

PART IV



DEPARTMENT OF
JUSTICE

■

CRIMINAL JUSTICE
INFORMATION SYSTEMS

Brown

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

[28 CFR Part 20]

CRIMINAL HISTORY RECORDS

Collection, Storage, and Dissemination of Information

This proposed regulation amends the regulations pertaining to the collection, storage and dissemination of criminal history record information.

These amendments are based upon a reevaluation of the dedication requirement by the Department of Justice and the persuasive comments of many State and local officials who have stated that dedication of the criminal justice information system would cause highly excessive increases in present criminal justice system expenditures and that other appropriate methods are available to assure the security of criminal justice information.

The amendments also extend the date which the State plan must be submitted.

Hearings on the proposed changes will be held November 17, and if necessary November 18, 1975, beginning at 10 a.m. in the 3rd Floor Conference Room, 633 Indiana Avenue, N.W., Washington, D.C. Two other hearings are planned to be held November 21, 1975, in Atlanta, Georgia and December 4, 1975, in San Francisco, California. Interested persons who wish to testify should notify Thomas J. Madden, General Counsel, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue, N.W., Washington, D.C. 20531 no later than five days before each hearing.

The selected commentary dealing with the proposed amendments are deleted: § 20.21, the second sentence; § 20.21(f) (2) in its entirety.

Written views on the proposed regulations should be submitted to the LEAA Office of General Counsel no later than December 5, 1975.

Pursuant to the authority vested in the Law Enforcement Assistance Administration by sections 501 and 524 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1972, Pub. L. 93-413, 87 Stat. 197 (42 U.S.C. 3701 et seq.) (Aug. 6, 1973), this amendment to Chapter I of Title 28 of the Code of Federal Regulations is proposed.

In § 20.21 the first sentence of the introductory text is deleted and the following two sentences are added and paragraph (f) is revised to read as follows:

§ 20.21 Preparation and submission of a Criminal History Record Information Plan.

A plan shall be submitted to LEAA by each State on or before March 16, 1976, to set forth all operational procedures, except those contained in paragraph (f) of this section. A supplemental plan covering paragraph (f) of this section shall be submitted no later than 60 days after the amendment to paragraph (f) of this section becomes effective.

(f) Security. Insure confidentiality and security of criminal history record information by providing that wherever criminal history record information is collected, stored, or disseminated, each State shall ensure that:

(1) Where computerized data processing is employed, effective and technologically advanced software and hardware designs are instituted to prevent unauthorized access to such information.

(2) Access to criminal history record information system facilities, systems operating environments, data file contents whether while in use or when stored in a media library, and system documentation conforms with security standards established by State legislation or, in the absence of such legislation, by regulations approved or issued by the governor of the State.

(3) A criminal justice agency shall have authority to set and enforce policy concerning those computer operations which support criminal history record information processing, by specifically providing that:

(i) Criminal history record information be stored by the computer in such manner that it cannot be modified, destroyed, accessed, changed, purged, or overlaid in any fashion by non-criminal justice terminals.

(ii) A designated criminal justice agency employee will specify and certify for operational use programs that will prohibit inquiry, record updates, or destruction of records from any terminal other than criminal justice system terminals which are so designated.

(iii) The destruction of records is limited to specifically designated terminals under the direct control of the criminal justice agency responsible for creating or storing the criminal history record information.

(iv) Designated criminal justice agency employees will specify and certify for operational use such programs to detect and store for their output all unauthorized attempts to penetrate any criminal history record information system, program, or file.

(v) Such programs shall 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 programs kept continuously under maximum security conditions.

(4) A criminal justice agency will:

(i) Select and supervise all personnel authorized to have direct access to such information.

(ii) Assure that an individual or agency authorized direct access is responsible for (A) the physical security of criminal history record information under its control or in its custody and (B) the protection of such information from unauthorized access, disclosure, or dissemination.

(iii) Institute procedures to reasonably protect any central repository of criminal history record information from unauthorized access, theft, sabotage, fire, flood, wind, or other natural or man-made disasters.

(iv) Provide that each employee working with or having access to criminal history record information is familiar with the substance and intent of these regulations; and

(v) Provide that direct access to criminal history records information shall be available only to authorized officers or employees of a criminal justice agency and, as necessary, other authorized personnel essential to the proper operation of the criminal history record information system.

2. Section 20.23 is revised to read as follows:

§ 20.23 Documentation: Approval by LEAA.

Within 90 days of that receipt of the plan, LEAA shall approve or disapprove the adequacy of the provisions of the plan and certification. Evaluation of the plan by LEAA will be based upon whether the procedures set forth will accomplish the required objectives. The evaluation of the certification(s) will be based upon whether a good faith effort has been shown to initiate and/or further compliance with the plan and regulations. All procedures in the approved plan must be fully operational and implemented by December 31, 1977. Certification shall be submitted in December of each year to LEAA until such complete compliance. The yearly certification shall update the information provided under § 20.21.

Richard W. Veloz, Administrator

OCTOBER 15, 1975.
[FR Doc. 75-28732 Filed 10-23-75; 8:45 am]

Title 28—Judicial Administration
CHAPTER I—DEPARTMENT OF JUSTICE
 (Order No. 601-76)

PART 20—CRIMINAL JUSTICE
INFORMATION SYSTEMS

This order establishes regulations governing the dissemination of criminal record and criminal history information and includes a commentary on selective sections as an appendix. Its purpose is to afford greater protection of the privacy of individuals who may be included in the records of the Federal Bureau of Investigation, criminal justice agencies receiving funds directly or indirectly from the Law Enforcement Assistance Administration, and interstate, state or local criminal justice agencies exchanging records with the FBI or these federally-funded systems. At the same time, these regulations preserve legitimate law enforcement need for access to such records.

Pursuant to the authority vested in the Attorney General by 28 U.S.C. 509, 510, 534, and Pub. L. 92-544, 86 Stat. 1115, and 5 U.S.C. 301 and the authority vested in the Law Enforcement Assistance Administration by sections 501 and 524 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1973, Pub. L. 93-83, 87 Stat. 197 (42 U.S.C. § 3701 et seq. (Aug. 6, 1973)), this addition to Chapter I of Title 28 of the Code of Federal Regulations is issued as Part 20 by the Department of Justice to become effective June 19, 1975.

This addition is based on a notice of proposed rule making published in the FEDERAL REGISTER on February 14, 1974 (39 FR 5636). Hearings on the proposed regulations were held in Washington, D.C. in March and April and in San Francisco, California in May 1974. Approximately one hundred agencies, organizations and individuals submitted their suggestions and comments, either orally or in writing. Numerous changes have been made in the regulations as a result of the comments received.

Subpart A—General Provisions

- Sec.
 20.1 Purpose.
 20.2 Authority.
 20.3 Definitions.

Subpart B—State and Local Criminal History Record Information Systems

- 20.20 Applicability.
 20.21 Preparation and submission of a Criminal History Record Information Plan.
 20.22 Certification of Compliance.
 20.23 Documentation: Approval by LEAA.
 20.24 State laws on privacy and security.
 20.25 Penalties.
 20.26 References.

Subpart C—Federal System and Interstate Exchange of Criminal History Record Information

- 20.30 Applicability.
 20.31 Responsibilities.
 20.32 Includable offenses.
 20.33 Dissemination of criminal history record information.
 20.34 Individual's right to access criminal history record information.

- Sec.
 20.35 National Crime Information Center Advisory Policy Board.
 20.36 Participation in the Computerized Criminal History Program.
 20.37 Responsibility for accuracy, completeness, currency.
 20.38 Sanction for noncompliance.
 Authority: Pub. L. 93-83, 87 Stat. 197, (42 U.S.C. 3701, et seq.; 28 U.S.C. 534); Pub. L. 92-544, 86 Stat. 1115.

Subpart A—General Provisions

§ 20.1 Purpose.

It is the purpose of these regulations to assure that criminal history record information wherever it appears is collected, stored, and disseminated in a manner to ensure the completeness; integrity, accuracy and security of such information and to protect individual privacy.

§ 20.2 Authority.

These regulations are issued pursuant to sections 501 and 524(b) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1973, Pub. L. 93-83, 87 Stat. 197, 42 U.S.C. 3701, et seq. (Act), 28 U.S.C. 534, and Pub. L. 92-544, 86 Stat. 1115.

§ 20.3 Definitions.

As used in these regulations:

(a) "Criminal history record information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation or dissemination of criminal history record information.

(b) "Criminal history record information" 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 disposition arising therefrom, sentencing, correctional supervision, and release. The term 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.

(c) "Criminal justice agency" means: (1) courts; (2) 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.

(d) The "administration of criminal justice" 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. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.

(e) "Disposition" 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 postponement. 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 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.

(f) "Statute" means an Act of Congress or State legislature of a provision of the Constitution of the United States or of a State.

(g) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(h) An "executive order" 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.

(i) "Act" means the Omnibus Crime Control and Safe Streets Act, 42 U.S.C. 3701 et seq. as amended.

(j) "Department of Justice criminal history record information system" means the Identification Division and the Computerized Criminal History File systems operated by the Federal Bureau of Investigation.

Subpart 3—State and Local Criminal History Record Information Systems

§ 20.20 Applicability.

(a) The regulations in this subpart apply to all state and local agencies and individuals collecting, storing, or disseminating criminal history record information processed by manual or automated operations where such collection, storage, or dissemination has been funded in whole or in part with funds made available by the Law Enforcement Assistance Administration subsequent to July 1, 1973, pursuant to Title I of the Act.

(b) The regulations in this subpart shall not apply to criminal history record information contained in: (1) pre-trial, announcements, or pre-trial "hot" files or announcements; (2) files of wanted persons; (3) criminal record entries such as police blotter maintained by criminal justice agencies compiled chronologically and required by law or