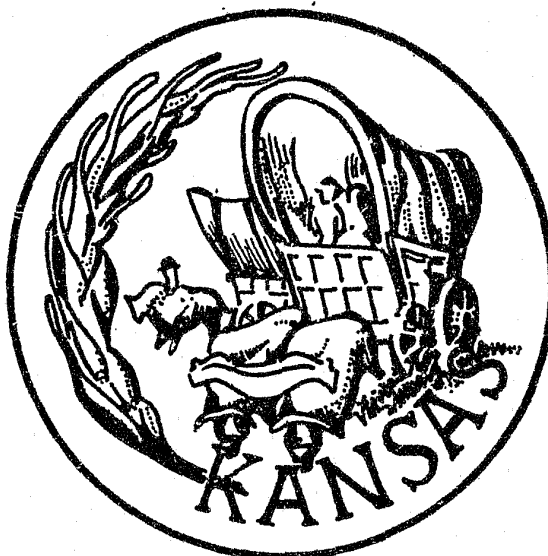


NCJRS

OCT 28 1977

ACQUISITIONS

STATE OF KANSAS
CRIMINAL HISTORY
RECORD INFORMATION PLAN



MARCH 16, 1976

KANSAS BICENTENNIAL MEDAL
DESIGNED BY Mr. PHILLIP E. DAVES

43658



UNITED STATES DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
OFFICE OF THE DEPUTY ADMINISTRATOR
WASHINGTON, D. C. 20530

AUG 26 1976

Mr. William L. Albott, Director
Kansas Bureau of Investigation
3420 Van Buren Street
Topeka, Kansas 66611

Dear Mr. Albott:

This is with reference to the Kansas Privacy and Security plan.

Pursuant to the Department of Justice Criminal Justice Information Systems Regulations, (28 CFR Part 20), LEAA has reviewed the above noted plan. On the basis of this review it is concluded that the plan adequately addresses all requirements of the Regulations and is approved as submitted. As you know, implementation of the procedures outlined in your plan is required by December 1977, in accordance with Section 20.23 of the Regulations.

We recognize the substantial efforts which have been undertaken by your state in connection with the preparation of this plan and feel certain that these efforts will improve the quality of criminal justice system operations within your state.

Sincerely,

Paul K. Wormeli
Deputy Administrator
for Administration

STATE OF KANSAS



OFFICE OF THE GOVERNOR
State Capitol
Topeka

ROBERT F. BENNETT
Governor

March 29, 1976

Col. William L. Albott, Director
Kansas Bureau of Investigation
3420 Van Buren
Topeka, Kansas 66617

Re: State of Kansas Criminal
History Record Information Plan

Dear Col. Albott:

The State of Kansas Criminal History Record Information Plan which you submitted to this office is hereby acknowledged.

Upon review, I find that the Plan as submitted is well within conformity of Federal Regulations and that the proposed implementation is generally well suited for the criminal justice system in Kansas.

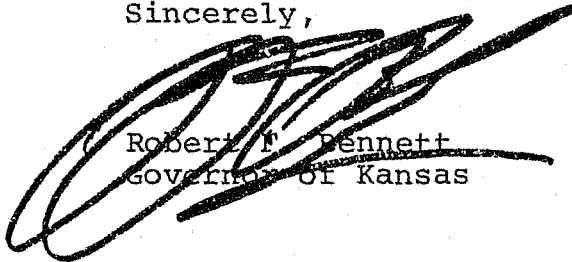
As is stated in the Plan, new and amended legislation will be required to fully implement this Plan. Further, administrative regulations pursuant to the legislation will have to be adopted. In that regard, I feel that the proposed PSAB, if created by the legislature, should be appointed by the Governor with the advice and consent of the Senate. I am in agreement, however, that members of the PSAB should belong to the criminal justice agencies as defined in Section II of the Plan.

It is my understanding that the Federal Register, Vol. 41, No. 55 (March 19, 1976) has revised LEAA Regulations with relation to the dissemination of conviction data and non-conviction information which are less restrictive than presently in the Plan. That Court records of public judicial proceedings will also be exempted under the new regulations. And, in addition, information could be disseminated for the purposes of issuing visas and the granting of citizenship.

March 29, 1976

These new regulations will affect the Kansas Plan; and, in my opinion, this Plan should be balanced between the protection of an individual's privacy and the public's right to know.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'RFB', is written over the typed name and title.

Robert F. Bennett
Governor of Kansas

RFB:ma



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

April 1, 1976

Col. W. L. Albott, Director
Kansas Bureau of Investigation
3420 Van Buren
Topeka, KS 66611

Dear Col. Albott:


I have reviewed the Criminal History Record Information Plan as you requested.

I believe the plan to be not only practical and workable, but particularly appropriate in its treatment of the issue of dispositions. I have urged on previous occasions that steps be taken to assure that records maintained on individuals be complete and accurate. Even if it serves no other purpose, I trust the Plan will accomplish that end.

I am informed that Governor Bennett has suggested that the members of the PSAB outlined in Section II should be appointed by the Governor, with the advice and consent of the Senate. I am persuaded that the interests of the State and its citizens are best served by the elimination of political considerations in the selection of PSAB members and certainly by the absence of political considerations in their deliberations. I therefore believe the Governor's suggestion to be an excellent one. I would add only that I feel the KBI Director or his designee should be the statutory chairman of the PSAB.

I am pleased by the Plan, especially in that it is the first step in Kansas' effort to create a truly integrated and coordinated criminal justice system for the State.

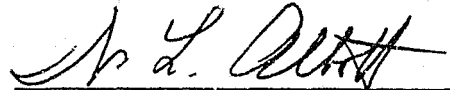
Sincerely,


CURT T. SCHNEIDER
Attorney General

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ACKNOWLEDGEMENT

The Kansas Bureau of Investigation wishes to acknowledge the direct and valuable contribution made in developing this Plan by the criminal justice agencies of the State of Kansas.



W. L. Albott, Director
Kansas Bureau of Investigation

The Plan was originally prepared by Systems Consultants, Inc., Washington, D.C., under Grant No. 76-SS-99-6009 from the Law Enforcement Assistance Administration, Department of Justice.

Revised August, 1977

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For copies of existing Kansas statutes that deal with criminal justice information, including security and privacy aspects, see the Kansas Criminal Records Manual.

SECTION ONE

INTRODUCTION

The keeping of accurate, complete, and secure records is an important part of any governmental activity; it is of particularly great importance in a criminal justice system. As the numbers and types of records containing information about persons have increased, and the methods and technologies available for collecting, storing, processing, and disseminating these records have become more sophisticated, private citizens and governmental bodies at all levels have become concerned that the record-keeping systems be responsive to the public needs and be protective of private rights. In the Omnibus Crime Control and Safe Streets Act, Section 524(b), Congress set certain guidelines for criminal justice information systems. These guidelines were intended to ensure that such systems contain accurate information, that this information is readily available to those agencies responsible for law enforcement and the administration of justice, and that individuals are protected against unauthorized disclosure, misuse, or material errors in their records.

On May 20, 1975, the Law Enforcement Assistance Administration (LEAA), U.S. Department of Justice, published regulations implementing this Section of the Act. These regulations, as later amended, are published in Title 28, Chapter I, Part 20 of the Code of Federal Regulations. (A copy of the federal regulations is included in Appendix D.) These regulations set certain requirements for the States concerning the collection, storage, and dissemination of, and access to, criminal history records information (CHRI). They also set a timetable for the submission and approval of State plans for implementing these requirements. The timetable originally called for the States to submit plans by December 16, 1975; this date was later extended to March 16, 1976 by notice in the Federal Register of October 24, 1975. Each State plan describes how and when the provisions of the regulations will be implemented, with the provision that full implementation be no later than December 31, 1977.

Governor Bennett designated that Kansas Bureau of Investigation (KBI) as the agency responsible for the security and privacy of CHRI for the State of Kansas. This document represents the Kansas Plan. It identifies the extent to which Kansas is currently in compliance with the federal requirements and defines the actions to be taken by the State to fully comply with the requirements by December 1977.

Section Two of this document presents an overview of the criminal justice activity in the State of Kansas and relates the federal requirements to the Kansas environment. Sections Three through Seven describe the major aspects of the federal regulations as they relate to the State of Kansas. The major aspects covered are as follows:

Section Three	Completeness and Accuracy
Section Four	Limits on Dissemination
Section Five	Audits and Quality Control
Section Six	Security
Section Seven	Access and Review

Section Eight of this document contains a list of the Kansas issued and pending legislation, and a summary of planned milestones showing responsible agency and date of achievement.



SECTION TWO
KANSAS OVERVIEW

This section of the Plan discusses the requirements of the federal regulations as they relate to the State of Kansas. A summary of the federal regulations is presented, including definitions. Following that, each major component of the Kansas criminal justice activity is briefly described.

Federal Regulations

The federal regulations apply directly to all state and local agencies which collect, store, or disseminate CHRI processed by manual or automated operations where such collection, storage, or dissemination has been funded -- in whole or in part -- by LEAA after July 1, 1973. The regulations do not directly apply to agencies not in this category. However, in implementing this plan, which provides for the systematic development of a much more responsive criminal history record system, all agencies which collect, store, or disseminate criminal history record information are affected to some extent.

The term "criminal justice agency" means either a court or government agency (or sub-unit 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. The term "substantial" is defined to mean more than 50% of the annual budget. Because there are a variety of accounting methods which could be used to determine the 50% threshold, the commentary to the federal regulations specifies that to qualify as a criminal justice agency the organization must perform, as its principal function, one of the following activities pertaining to accused persons or criminal offenders:

- o detection
- o apprehension
- o detention
- o pretrial release
- o post-trial release
- o prosecution
- o adjudication
- o correctional supervision
- o rehabilitation
- o identification activities
- o collection, storage, or dissemination of CHRI

The following Kansas organizations therefore qualify as a criminal justice agency:

- o Attorney General
- o Kansas Bureau of Investigation
- o Kansas Highway Patrol
- o County Sheriffs
- o City Marshals
- o Police Departments
- o Prosecution (City, County, and District Attorneys)
- o Courts
- o Kansas Correctional System

Any of these organizations which have received LEAA funds since July 1, 1973 for manual or automated systems which collect, store, or disseminate criminal justice record information are thus subject to the federal regulations.

The regulations apply only to criminal history record information (CHRI). Agencies which do not collect, store, or disseminate CHRI are not subject to the regulations. The term "criminal history record information" means information collected by criminal justice agencies on individuals consisting of both:

- o identifiable descriptions, and
- o notations regarding any formal criminal justice transactions involving the identified individual (arrest, detention, indictment, sentencing, release, etc.)

The definition of CHRI is intended to include all of the OBTS/CCH (Offender Based Transaction Statistics/Computerized Criminal History) data elements.

The regulations do not apply to information contained in:

- (1) Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons. However, K.S.A. 21-3827 describes the crime of unlawful disclosure of a warrant, and does place restrictions on the dissemination of information in this area.
- (2) Original records of entry such as police blotters or jail calendars maintained by criminal justice agencies, compiled chronologically and required by law or long-standing custom to be made public, if such records are accessed on a chronological basis.
- (3) Court records of public judicial proceedings.
- (4) Published court or administration opinions or public judicial, administrative or legislative proceedings.
- (5) Records of traffic offenses maintained by State departments of transportation, motor vehicles, or the equivalent thereof, for the purpose of regulating the issuance, suspension, revocation, or renewal of driver's, pilot's, or other operators' licenses. Although not specifically excluded with precise language, records of traffic offenses maintained at the local level are also not covered by the regulations. LEAA did not intend to define local traffic records as criminal records, in addition, local traffic records do not meet the definition criteria to be considered as CHRI.
- (6) Announcements of executive clemency.

In item (2) above, original records of entry include police and other criminal justice agency records which traditionally have been used to give the public direct access to information relating to the identity of persons under the supervision of a criminal justice agency.

The purpose of exception item (3) is to permit access to records which traditionally have been open to the public, defendants, or members of the bar.

While it is not required by the federal regulations, the Director of the KBI expects to establish and convene a Privacy and Security Advisory Board (PSAB) that is representative of and acceptable to criminal justice agencies throughout the State. The initial purpose of the PSAB would be to guide, supervise, and facilitate the development and implementation of procedures in response to the federal regulations and to provide a focal point for privacy and security matters.

Because of the effect of the federal regulations on so many agencies and the variety of organizational placements of the agencies, a Privacy and Security Advisory Board is essential. Although a committee is typically ineffective in administering any operational function, in this instance it is

essential to provide the uniformity necessary in the development of an effective criminal history record information system and overseeing the implementation of the plan.

The Board will be limited to not more than 11 people consisting of the following:

- o A member of the general public
- o The Superintendent of the Kansas Highway Patrol
- o A Sheriff or head of a county PD
- o A Police Chief
- o A county or District Attorney
- o An Assistant Attorney General
- o A District Court Clerk or Judicial Administrator
- o The Secretary of Corrections
- o Two members of the Kansas Legislature

The members of the PSAB will be appointed by the KBI Director, who will be the chairman. Each member will represent the appropriate segment of the community and must speak with authority and competence on criminal justice security and privacy matters.

Kansas Bureau of Investigation

The 1939 Kansas Legislature established the KBI by statutes K.S.A. 75-711 and 75-712 as a division of the Attorney General's Office. The legislature vested the bureau with the duty of establishing and maintaining criminal justice records for use by Kansas criminal justice agencies and for the exchange of such records with authorized agencies.

The Identification/Information Services (I/IS) Section of the Division of Criminal Justice Services is the center for the input, storage, updating, and dissemination of the criminal records and identification data of the State of Kansas. At the close of the 1977 Fiscal Year, the KBI maintained files with more than 275,000 criminal history abstracts, over 750,000 master name file entries, 66,000 photographs, and 500,000 fingerprint entries.

Reports of offenses, stolen property, wanted/missing persons, and investigations are maintained and made available to proper authorities through the Law Enforcement Bulletin and responses to individual requests.

The Kansas Law Enforcement and Civil Defense Communications Committee was established by the 1986 Kansas Legislature to provide a badly needed communications link between criminal justice agencies at the local level, as well as to provide access for those agencies to state and national records/communications services. Governing authority was placed in the Committee, and responsibility for administering the resulting network was given to the KBI.

In 1974, steps were taken to increase the level of service to that which is essential to properly support effective criminal justice activity. The network was upgraded and re-named Automated Statewide Telecommunications and Records Access (ASTRA). ASTRA circuits are directly connected to a computer located in the Division of Computer Services (DCS), Department of Administration. Circuits connected to the DCS equipment allow access to the:

- o National Law Enforcement Telecommunications System (NLETS)
- o Kansas Highway Information System
- o National Crime Information Center (NCIC)
- o Division of Motor Vehicles Files (Kansas)
- o Department of Revenue Files (Missouri)
- o ALERT system of the Kansas City, Missouri Police Department
- o Missouri Uniform Law Enforcement System (MULES)

All traffic (with the exception of nationwide APB requests) that is properly coded and formatted is handled automatically by the DCS equipment without human intervention. The Control Center provides assistance as necessary, monitors the network, oversees security, and resolves routing and delivery problems for improperly coded messages.

Kansas Highway Patrol

The Kansas Highway Patrol was created in 1933; its role was expanded in 1972. While the principal function of the Kansas Highway Patrol remains the enforcement of the traffic and other laws of this state relating to highways (vehicles and drivers of vehicles), members of the Patrol were also granted the power and authority of peace, police, and law enforcement officers anywhere within this state regardless of county lines.

The primary duties of the Kansas Highway Patrol are: (1) to execute and enforce the law with reference to inspections now and hereafter required to be made by law by the Kansas Corporation Commission as to motor vehicles and transportation by motor vehicles; (2) to execute and enforce the law with reference to inspections now and hereafter required to be made by law by the Division of Vehicles Department of Revenue as to license tags; (3) to execute and enforce the law relating to drivers' and chauffeurs' licenses; (4) to execute and enforce laws relating to safety of life and property upon the State highways; and (5) to perform such other duties as may be place upon the Patrol by law or by the Superintendent.

In the performance of these duties, the Kansas Highway Patrol maintains records of traffic violations. Juvenile records are sealed and all records are purged after five years.

Alcoholic Beverage Control

The Alcoholic Beverage Control agency is charged with the enforcement of the Kansas Liquor Control Act and is empowered to set policies and to enforce rules and regulations promulgated by this agency. The Director and his agents are authorized to conduct administrative hearings and have authority to suspend or revoke licenses for violating said laws, rules and regulations.

The Alcoholic Beverage Control office is responsible for maintaining an orderly liquor market in the State of Kansas. The Chief Enforcement Officer and staff are authorized full police powers to make arrests in connection with violations.

State Fire Marshal

The primary purpose of the office of the State Fire Marshal is the administration and enforcement of laws set out in the statutes designed to protect the lives and property of the general public against the dangers of fire. The office of the State Fire Marshal was established in compliance with the requirements of KSA 75-1510. The powers and duties of this office, in part, are set out in KSA 75-1511.

The State Fire Marshal is responsible for investigating all fires reported as being of suspected incendiary origin (KSA 31-137 and 31-138). He is also authorized to make building inspections to enforce rules and regulations (KSA 31-139). He has powers of arrest in arson and related cases.

County Sheriffs

Sheriffs are salaried county officers elected to office in each county except Riley; there are 104 sheriffs in the State.

The Sheriff functions in the following capacities:

1. As an officer of the court. The Sheriff serves as an officer of the various courts of the State, both civil and criminal, that have jurisdiction within the county. As an officer of the court, the Sheriff attends court sessions, makes arrests for contempt of court, serves subpoenas as necessary to bring persons into court in certain cases, and prepares and inserts legal advertisements.
2. As a police officer. In this capacity, the Sheriff is responsible for maintaining order throughout the county and for preventing and quelling riots and uprisings. The Sheriff makes arrests, both with and without warrants, may execute search warrants, may seize illegal property used in violation of the law, and may remove certain nuisances on order of the court. The Sheriff has certain responsibilities in extradition procedures and serves as a coroner when the office is vacant and thereby has further powers of law enforcement.
3. Control over county jail. The Sheriff is in full charge of the jail within the county, including conveying prisoners between places for trial and sentenced prisoners to their appointed places of incarceration in all counties.

The size of sheriff's departments range from 75 deputies in large counties to as few as 1 - the Sheriff - in several of the counties in the western portion of the State.

Sheriffs maintain a variety of criminal records. Some may maintain very few, if any, records while others will have extensive records. In some counties, the Sheriff utilizes computer systems to support the record keeping function.

City Marshall(s)

The office of city marshal is the smallest to be described at the various levels of law enforcement in Kansas. There are approximately 200 cities of third class stature, with a population range of 500 to 2000 that are usually policed by up to three officers who, if the city is incorporated, serve at the pleasure of the city government. In towns of less than 500 persons, the marshal is usually deputized and acts with authority of the county Sheriff.

Police Departments

Police departments are charged with the responsibility of the enforcement of state statutes and city ordinances. Municipal police officers' jurisdictional authority terminates at the city limits in most instances; however, in virtually all of the 105 counties, municipal police are deputized by the Sheriff of that county, thus extending the municipal law enforcement agency's jurisdiction to that county's perimeter.

The number of police department personnel range from one officer in a small town to over 300 officers in large cities. The Riley County Police Department is the only county-wide Police Department under Kansas statutes. This department functions as the Sheriff for Riley county as well as being the Police department for all cities in the county.

Police departments maintain a variety of records. A small department may have few records. A large police department will have extensive records and, in some instances, are supported by data processing capability.

Prosecution

Each county elects either a county or district attorney who has the responsibility to prosecute or defend on behalf of the people all suits, applications, or motions, whether civil or criminal, arising under the laws of the State and to which the State or county is a party. Additional responsibilities include the training of local law enforcement officers regarding constitutional arrest, search and seizure, and gathering of evidence. The county or district attorney is required to sit with the grand jury when requested for the purpose of examining witnesses, rendering advice, issuing subpoenas, and drawing indictments.

The county or district attorney may receive assistance from the Attorney General, either upon request or at the discretion of the Attorney General. The Attorney General is required to appear in proceedings before the Supreme Court whenever the State is a part to such proceedings.

Courts

There is one court of justice in the State, divided by the Constitution into a Supreme Court, District Courts, and such other courts as may be provided by law.

The Supreme Court has original jurisdiction stemming from the constitution in proceedings in quo warranto, mandamus, and habeas corpus. An intermediate Court of Appeals was created by a 1975 statute to enhance the right to a speedy appeal from the decision of a trial court.

In the case of more serious felonies and where a state statute has been declared unconstitutional by a district court an appeal may be taken directly to the supreme court. In all other cases, appeals from the district court are to the court of appeals. The appellate procedure now in effect permits either the court of appeals or the supreme court to transfer cases from the intermediate court to the higher court before a decision is handed down by the court of appeals if the need to do so arises. An interlocutory appeal may be taken during the trial of a case and before final judgement under certain circumstances and with permission of the appellate court.

In criminal cases, an appeal may be taken by the defendant as a matter of right from any judgement against him. However, no appeal is available from a judgement of conviction upon a guilty plea or a plea of nolo contendere. Appeals by the prosecution may be taken from an order dismissing a complaint, from an order arresting judgement, or upon a question reserved by the prosecution.

The supreme court has exclusive jurisdiction over the admission and discipline of attorneys and over the certification of court reporters.

Kansas Statutes provide for trial courts called "district courts" in each of the counties, for the organization of counties into districts and for the organization of the judicial districts into judicial departments. There are 105 counties in the state, and an equal number of district courts. However, in more sparsely populated areas of the state, one district judge may serve in more than one county.

There are twenty-nine judicial districts in the state. Seventeen districts vary in size from three to seven counties. Five districts contain only two counties, and seven districts consist of one county. The same judge acts as the district judge in a number of counties in sparsely populated areas of the state, while in the greater populated counties, the district court may have from two to thirteen district judges. According to the Judicial Department Reform Act of 1965, the various districts were organized into six departments, with one supreme court justice assigned as the departmental justice for each.

The district courts, organized as courts of record, have general original jurisdiction in civil and criminal matters, not otherwise provided by law. An exception to the general trial jurisdiction of a district court is prosecution for violations of city ordinances (which originate in a municipal court). Original jurisdiction in habeas corpus, quo warranto and mandamus is concurrent with the jurisdiction of the supreme court.

The district courts hear appeals de novo from all municipal courts. Their appellate jurisdiction also extends to various administrative boards and commissions; for example, the State Board of Tax Appeals. There are three classes of judges of the district courts; district judges, associate district judges, and district magistrate judges. An associate district judge has concurrent jurisdiction powers and duties with a district judge, except that an associate district judge does not have jurisdiction or cognizance of class actions or actions in quo warranto or mandamus.

A district magistrate judge has jurisdiction, power and duty, in any case in which a violation of the laws of the state is charged, to conduct trial of misdemeanor charges and preliminary examination of felony charges. In civil cases, a district magistrate judge has concurrent jurisdiction, powers and duties with a district judge, except that, a district magistrate judge does not have jurisdiction or cognizance over civil suits of more than \$3,000, comparable actions in real estate and actions against state officers for misconduct.

Notwithstanding the foregoing limitations, in the absence, disability or disqualification of a district judge or associate district judge, a district magistrate judge may:

- (1) Grant a restraining order,
- (2) appoint a receiver,
- (3) make any order pertaining to domestic relations.

Any appeal permitted to be taken from an order or final decision of a district magistrate judge is tried and determined de novo by a district judge or an associate district judge.

In summary all civil and criminal cases of any kind may be commenced before the district courts of the state, except prosecutions for violations of city ordinances. These cases include all felonies, misdemeanors, suits involving contracts and property rights, injunction cases, probate cases, divorce cases, and any other civil dispute. Cases of habeas corpus, or quo warranto, mandamus may also be brought in these courts if desired.

Probate, County, City and Magistrate Courts; these former courts of limited jurisdiction were abolished by the Court Unification Act of 1976.

Under a recent statute, district courts may adjudicate small claims actions for money or property where the dollar amount claimed or the value of the property claimed does not exceed \$300. Such actions are handled under simplified procedures without attorneys.

District courts have jurisdiction of proceedings concerning minors who are charged with being delinquent, traffic offenders, wayward, miscreant, or truant, and have responsibility for providing care and treatment for dependent and neglected children. The age of majority in the state of Kansas is eighteen years.

Called police courts until 1967, municipal courts can be created by city ordinances pursuant to general enabling statutes. Although a potential of 625 such courts exists within the state, there were reported in 1973 to be approximately 369 municipal courts. Municipal courts have no civil jurisdiction and are limited to handling violations of local ordinances. Although no other Kansas court has original jurisdiction over municipal ordinances, many ordinances are exact duplicates of state statutes. Thus, municipal courts are adjudicating the same kinds of law violations as the district courts. Jury trials are available in the district courts, but not in municipal courts, despite the municipal court's similar power to imprison convicted persons. After conviction in a municipal court, a litigant may appeal to the district court and thereby receive a jury trial.

Kansas Correctional System

The Kansas Correctional System is under the jurisdiction of the Department of Corrections, headed by the Secretary of Corrections, a cabinet-level officer. The department maintains divisions of management services, institutions, operations, and probation and parole, each headed by a deputy secretary. The Secretary is given sole responsibility for an inmate sentenced to his custody during the period he is within the correctional system. He is also responsible for the supervision of persons on probation and parole.

The Department currently maintains five institutions:

- o The Kansas State Penitentiary
- o The Kansas Correctional Institution for Women
- o The Kansas State Industrial Reformatory
- o The Kansas Reception and Diagnostic Center (KRDC)
- o The Kansas Correctional Vocational Training Center

The Department also maintains one honor camp. Three additional organizations are involved in the administration of the corrections system:

(1) Kansas Adult Authority: the Kansas Adult Authority (formerly the Board of Probation and Parole) consists of five part-time appointive positions. The Kansas Adult Authority is assigned the responsibility for granting and revoking paroles and for final discharge from parole. They also interview inmates who have applied for executive clemency and provide the Governor with their recommendations in such cases.

(2) Citizens Advisory Board: this Board consists of fifteen members appointed to staggered four year terms. The Citizens Advisory Board is to have the following powers and duties: make recommendations to the Secretary concerning planning operation and facilities of the correctional system; make recommendations to the Governor for selection of a Secretary of Corrections when a vacancy occurs; and appoint an ombudsman of correctional institutions and establish his salary.

(3) Ombudsman: an ombudsman of correctional institutions is to be appointed by and serve at the pleasure of the Citizens Advisory Board. He is to bring to the attention of the Secretary of Corrections any misfeasance of discrepancy in administration or any unreasonable treatment of inmates which he discovers or which the inmates bring to his attention, and to make periodic reports of his activity to the Citizens Advisory Board.

The Department of Correction maintains several manual files for each inmates. Much of the information in these files is duplicative. One file is retained at the Department offices in Topeka, one file moves with the inmate from location to location, one remains at the institution, and one file is retained at KRDC. The Department is currently in process of developing a computerized inmate file. Every offender may apply to the court five years after his final discharge to have his record expunged.

SECTION THREE

COMPLETENESS AND ACCURACY

Section 524(b) of the Omnibus Crime Control and Safe Street Act requires that CHRI be complete and accurate. This section of the Plan discusses the procedures which will ensure the completeness and accuracy of CHRI in the State of Kansas.

For purpose of this discussion, "complete" is defined to mean that arrest records must contain information on any disposition occurring within the various segments of the criminal justice system. "Accurate" means that the criminal history record information will contain no erroneous information of a material nature.

The federal regulations require the establishment of procedures for the prompt reporting of arrests and dispositions and for processing of queries to ensure that criminal justice agencies use and disseminate the most current data available. The most efficient and effective method of satisfying this requirement is through the use of a central State repository to serve all of the criminal justice agencies in the State. All dispositions are reported to the central repository and the repository is queried prior to disseminating criminal history record information outside the agency. This approach minimizes the need to maintain duplicate records at the local level and eliminates the problems associated with submitting dispositions and inquiries to multiple locations.

It should be noted that the federal regulations do not mandate a central State repository. The State of Kansas could operate without a central repository as long as the federal requirements are satisfied.

Establishment of a Central State Repository

The Kansas Bureau of Investigation will continue to serve as the central State repository. Under KSA 75-711, 75-712, 21-2501, 21-2504, and 21-2505, the KBI is vested with the duty of collecting, storing, and disseminating criminal history record information on a State-wide basis. These statutes also require that criminal justice agencies furnish required information to the KBI. Thus, no additional legislative authority is needed for the purpose of creating a central repository for Kansas.

Reporting of Dispositions

Section 524(b) of the Safe Streets Act requires that dispositions be included with arrests "to the maximum extent feasible". "Disposition" is defined to mean information disclosing that criminal justice proceedings have either been concluded or indefinitely postponed. The term includes - but is not limited to - the following:

- o police dispositions, such as decision not to prefer charges
- o prosecutor dispositions, such as elections not to commence criminal proceedings or to indefinitely postpone them
- o court dispositions, such as convictions, dismissals, acquittals, and sentences

- o corrections dispositions, such as paroles or releases from supervision
- o other dispositions, such as pardons or executive clemency or appellate court decisions reversing or modifying earlier dispositions.

Thus, dispositions must be reported by all segments of the criminal justice community - police, prosecutors, courts and corrections.

The federal regulations also require that dispositions occurring anywhere within the State must be reported to the repository within 90 days after occurrence. This requirement is applicable to all arrests occurring in Kansas after July 1974, which is when Kansas implemented its disposition reporting system.

In accordance with KSA 21-2501, every sheriff or police department in the State of Kansas is required to fingerprint any person arrested for a felony or selected misdemeanors. A copy of the fingerprints is forwarded to the KBI, one copy is sent to the FBI, and the arresting agency may retain a copy for their own use. Final dispositions are reported to the KBI in accordance with KSA 21-2504. Interim transfers are not reported to the KBI as the individual moves through each phase of the criminal justice process.

The phrase "to the maximum extent feasible" has special significance. These words were chosen by Congress to describe the effort that must be made to make CHRI complete and accurate prior to any dissemination. In practical terms, the phrase means that if the disposition can be obtained without excessive effort, it must be included in the CHRI. This standard for completeness applies to all arrests taking place before July 1974. Arrests taking place after July 1974 must always have final dispositions included once the disposition has taken place.

Query of Central Repository Before Dissemination

The federal regulations provide that, in those States that have central State repositories, procedures shall be established for criminal justice agencies to query the central repository prior to dissemination of any criminal history record information to ensure that the most up-to-date disposition data is being used. The regulations exempt from this requirement, those cases where time is of the essence and the repository is technically incapable of responding within the necessary time period.

A detailed discussion of what constitutes dissemination is contained in Section Four of this Plan. For the purpose of this Section, dissemination should be considered as the transmission of criminal history record information to individuals and agencies other than the criminal justice agency which maintains the criminal history record information. Use of the information by an employee or officer of the agency maintaining the records does not constitute dissemination. Further, reporting the occurrence or the circumstances of a criminal justice transaction is not dissemination.

Criminal justice agencies in the State of Kansas which currently maintain criminal history record information often receive requests for information related to specific individuals. If a record exists, the agency typically disseminates the information directly to the requestor, even if the record is old and/or incomplete. Procedures now require that the central repository be queried, and the most accurate record be obtained and used for the dissemination.

The KBI currently conducts a mostly manual search of their files when requested by a criminal justice agency. The agency provides as much search criteria as possible, such as name, KBI number, FBI number, etc. Requests are submitted either in writing or in person at the KBI.

The KBI is in the process of completing an automated system to support their in-house searches. As a long range plan, the KBI hopes to make the automated capability available to remote users through the ASTRA and Highway Patrol networks. This will allow the on-line, near real-time response needed to implement the requirement for query before dissemination.

The KBI automated capability provides a data base consisting of the following data elements:

Name	KBI number
Sex	FBI number
Race	Miscellaneous ident number
Date of Birth	Originating agency
Place of Birth	Date record established
Social security number	Date record last updated
Height	Gallery number
Weight	Scars, marks, tattoos
Hair color	Message key
Eye color	
Skin tone	

Searches are processed against the data base using one or more of the data elements.

The message key contains information pertaining to the type of criminal history the individual has, whether currently wanted, whether the agency will extradite, etc. The KBI logs all responses to support the federal requirements pertaining to audits and correction of errors.

The following policies pertain to the query before dissemination requirement:

A query is not required for:

- 1) Passing a current case from one phase to another within the criminal justice system. i.e. transferring a prisoner to the sheriff's jail for a police department arrest.
- 2) Passing a record to another agency when the record clearly indicates that the subject presents a danger to another person, and the receiving agency is otherwise unaware of the condition.
- 3) Providing access and review of the record to the subject of the record.
- 4) Disclosure of a record when failure to disclose would seriously disrupt the administration of justice and could not be easily rectified. As an example, when required for a court proceeding, and the use of CHRI might significantly alter the judicial process if it could be made available only on a timely basis.

Query prior to dissemination is required in all other cases when CHRI is passed to another agency. Additional exemptions may be justified in the light of then-existing conditions. Should your agency encounter such a requirement, the KBI should be informed in each case so that appropriate revisions can be made to this plan.

If a telecommunications or personal visit query has been made of the KBI, and a complete response has not been received within 24 hours, the agency may disseminate the requested CHRI. The KBI presently responds, with at least a summary, to all such requests within at most 24 hours.

If a mailed query has been made, and no response has been received within one week, the agency may disseminate the CHRI.

The KBI's present summary response, used for the communications networks, does not truly supply a complete record, and cannot be used as the basis for dissemination. However, when the Bureau responds that it does not hold a record, this is conclusive and the requesting agency may immediately release whatever CHRI it has, once it has included all the disposition data it can within the "maximum extent feasible" guideline.

In every case where an agency provides CHRI without completing the query function, special care must be taken to make certain that the receiving agency knows it is receiving a record that may be incomplete. In addition, if the Bureau's response provides significant data that completes the record, as an example, a not-guilty disposition, this additional data should always be forwarded to the receiver.

The query function must always be fully completed before dissemination of CHRI to a non-criminal justice agency or individual takes place. The only allowable exemption to this requirement is for the individual's access and review process.

Other Criminal History Record Systems

The federal regulations suggest the use of a central State repository where criminal history record information is maintained on a state-wide basis. However, the regulations do not prohibit the maintenance of criminal history records at other criminal justice agencies. Any criminal histories which are maintained at other criminal justice agencies are clearly subject to all the requirements of Section 524(b) of the Safe Streets Act. If the information is available for dissemination outside of the agency, then disposition must be included to the maximum extent feasible prior to release. CHRI should always contain all dispositions occurring within the jurisdiction served by the agency maintaining the record.

Other criminal justice agencies in the State of Kansas do maintain criminal history record information. These records are allowed in accordance with KSA 21-2501.

The KBI has already advised most of the criminal justice agencies throughout the State of the existence of the federal regulations. The KBI has developed model procedures that may be adopted by other criminal justice agencies maintaining their own criminal histories. The KBI also provides assistance to local agencies in implementing the procedures. Procedures also require that the KBI central repository be queried in certain instances prior to dissemination.

As noted previously, the federal regulations are applicable to any criminal justice agency utilizing manual or automated methods of collecting, storing, and disseminating criminal history record information where such collection, storage or dissemination has been funded in whole or in part by LEAA since July 1, 1973. If any LEAA funds were utilized, then all criminal

history records maintained by the agency are covered by the federal regulations. The regulations do not merely apply to that specific file or repository of information which was supported by the LEAA funds.

Thus, some of the criminal justice agencies in the State are exempt from the federal regulation, and therefore could continue to maintain their own criminal histories and could freely disseminate the information to any person or agency. Only that specific information which the agency received from a repository which was covered by the federal regulations would be controlled in any way. For example, if the agency received a rap sheet from the KBI on a particular individual, then that specific rap sheet would be subject to the federal limits on dissemination. Any information on the same individual which the agency already had in their local repository would not be subject to any controls.

This situation would not, however, reflect good faith on the part of the State. Hence, the intent of the federal regulations will be achieved through the cooperation of all criminal justice agencies in signing a User Agreement (see Section Four and Appendix B for details). This will be the basis for the establishment of a complete and accurate criminal history record information capability -- a situation which will benefit all criminal justice personnel throughout the State of Kansas. In view of the anticipated availability of complete and accurate criminal history record information from the central repository achieved through cooperation of reporting agencies, each agency should seriously examine the need to retain - and, in particular, to disseminate - their own local criminal history record information.



SECTION FOUR

LIMITS ON DISSEMINATION

This section of the Plan discusses the dissemination of criminal history record information. The requirements imposed by the federal regulations are presented along with a discussion of the degree to which Kansas currently complies with the requirements. Future action required by the State of Kansas is also presented.

The term "dissemination" is not precisely defined in the regulations. However, for the purposes of this Plan, "dissemination" is interpreted to mean the release of criminal history record information to individuals or agencies other than the criminal justice agency which maintains the criminal history record information. Use of the information by an employee or officer of the agency maintaining the record does not constitute dissemination. Reporting the occurrence of a criminal justice transaction is likewise not dissemination. Thus, reporting an arrest to the KBI and the FBI or delivering an arrest report to a prosecutor are not considered to be dissemination. On the other hand, providing CHRJ following a request is dissemination.

The federal regulations make a major distinction regarding the dissemination of "conviction" and "nonconviction" criminal history records. "Conviction" data is defined as information indicating that the individual pleaded guilty or nolo contendere to the criminal charges or the individual was convicted. "Nonconviction" data is defined by the federal regulations to include information disclosing

- o The police have elected not to refer a matter for prosecution
- o A prosecutor has elected not to commence criminal proceedings
- o Proceedings have been indefinitely postponed
- o All dismissals
- o All acquittals
- o An arrest record without a disposition if an interval of one year has elapsed from the date of arrest and no conviction has resulted and no active prosecution of the charge is pending

Categories of Dissemination

The federal regulations place no limits on the dissemination of conviction data. Likewise, no limits are imposed on the release of information concerning cases that are pending in some stage of processing or prosecution. As it is often difficult to determine immediately the current status of a prosecution, there is a presumption that there is an active prosecution for a period of one year, the arrest record may be freely disseminated unless an inquiry reveals that prosecution is no longer pending. All such information may be freely disseminated to both criminal justice and non-criminal justice agencies.

The federal regulations indicate five categories when dissemination of nonconviction data is permitted. These are summarized in the following paragraphs.

- (1) Dissemination is authorized to "criminal justice agencies for purposes of the administration of criminal justice and for criminal justice agency employment".
- (2) Dissemination is allowed to "individuals and agencies for any purpose authorized by statute, ordinance, executive order, or court rule, decision, or order, as construed by appropriate State or local officials or agencies".

This category of dissemination is intended to permit the dissemination of nonconviction data when authorized either explicitly or impliedly by one of the specified legal means. Thus, for example, such data may be distributed pursuant to a licensing statute or ordinance which requires license applicants to be of good moral character, if the statute or ordinance has been construed by the appropriate authority to require or permit a review of nonconviction records in making the determination of good moral character. For the purpose of this provision, an "ordinance" is the enactment of the legislative body of a governmental unit, such as a county, city, or municipality.

10 U.S.C. Section 504 states that, except with special permission, no person who has been convicted of a felony may be enlisted in the armed forces. This statute does not fulfill the requirements of this category of dissemination. Since the statute expressly provides that persons convicted of felonies will be excluded from the armed services, it is not adequate authority for the dissemination of nonconviction data. Thus, military recruiters may have access to conviction records but may not have access to nonconviction data.

- (3) Dissemination is permitted to "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, ensure the security and confidentiality of the data consistent with these regulations, and provide sanctions for violation thereof."

This category of dissemination would permit, for example, private consulting firms to have access to the necessary information when assisting a criminal justice agency in the development and operation of an information system.

- (4) Dissemination would be authorized to "individuals and agencies for the express purpose of research, evaluation 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; ensure 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 the violation thereof".

Under this category of dissemination, any good faith researchers, including private individuals, would be permitted to use criminal history record information for research purposes.

Note: On December 15, 1976, LEAA issued rules and regulations dealing with this area. Contained in Title 28, Chapter 1, Part 22 of the Code of Federal Regulations, these apply to any LEAA supported research project collecting identifiable data about individuals. If you are going to participate in a research project that is related in any way to LEAA funds, be sure to contact the KBI for additional information and assistance in this area.

- (5) The federal regulations specifically authorize the dissemination of criminal history record information for purposes of international travel. This, both conviction and nonconviction data may be disseminated when requested for the purpose of issuing visas and granting of citizenship.

The federal regulations contain references to juvenile CHRI. However Kansas statutes in this area, most notably K.S.A. 38-815a, are significantly more restrictive than the federal regulations, and therefore take precedence in this area.

The Kansas statutes effectively prohibit the maintenance, collection, or dissemination of juvenile information by criminal justice agencies without the knowledge and preferably the approval of a district judge.

Agreements

To ensure that the treatment of CHRI complies with the federal requirements, all use CHRI by criminal justice agencies in Kansas will be governed by a statewide user's agreement (see Appendix B). In summary, each agreement provides that the criminal justice agency will abide by relevant federal and State laws, regulations, policies, procedures, and rules; lists specific dissemination requirements stated in the regulations; including query of the central repository before dissemination; describes the logs required in this Plan; and, subjects each agency to the sanctions contained in the LEAA regulations for violation of the regulations. It has been drafted to accommodate subsequent changes in federal or State laws.

For non-criminal justice agencies and individuals to obtain criminal history information, an access request must be made and a non-disclosure agreement signed (see Appendix B). The request for access specifies the basis for dissemination. The non-disclosure agreement contains the provisions specifically required by Section 20.21b of the LEAA regulations for agencies which are provided access pursuant to contract as well as other provisions required by the regulations. Signed access requests and non-disclosure agreements will be maintained by the disseminating agency.

Validation

Before any dissemination takes place, the disseminating agency must be certain that the potential recipient is an agency permitted to receive information under the regulations. If the requestor is a criminal justice agency within Kansas, the disseminating agency need only verify that the requesting agency has signed a Kansas user agreement. A list of authorized Kansas criminal justice agencies will be provided by KBI before December 31, 1977. This list will also include selected agencies from other states that have a frequent need for CHRI data maintained by Kansas agencies. If a non-Kansas agency appears on this list, it may receive CHRI data the same as any Kansas agency appearing on the list. Out of state agencies that do not appear on the list may receive CHRI data using one of the following two methods:

- (1) The requestor completes an access request and non-disclosure agreement or a standard Kansas CHRI users agreement as shown in Appendix B. If a Kansas CHRI agreement is used, a copy should be sent to the KBI so the requesting agency can be included in the next revision to the validation list.
- (2) The requestor both makes the request and receives the response using the NLETS networks, and adheres to the policies and procedures established for CHRI requests.

If the requestor is not a criminal justice agency, a valid access request and non-disclosure agreement must exist. These may be executed at the time of the request or they may be on file with the disseminating agency. The disseminating agency must verify that the access request and non-disclosure agreement are valid.

Notices

Before dissemination of criminal history record information, the following notice shall be placed on or attached to the information by the providing agency:

THIS INFORMATION IS RESTRICTED AS
TO USE AND DISSEMINATION. CIVIL
AND CRIMINAL PENALTIES EXIST FOR
MISUSE.

(Providing Agency)

(Date)

The notice requirement shall not apply to: (a) any dissemination of record information which contains only conviction data or data relating to an offense for which the individual is currently within the criminal justice process; (b) dissemination based on a chronological inquiry and taken from a chronological file; (c) dissemination based on public court records; and (d) the furnishing of information for the purpose of processing a charge through the criminal justice system if the information furnished relates only to the charge in process. However, it is advisable to include this or a similar notice on any information that leaves your agency.

Although not required, agencies may further limit their responsibilities after disseminating a record by placing a notice similar to this on each record disseminated:

THIS INFORMATION IS COMPLETE AND
ACCURATE TO THE MAXIMUM EXTEND
FEASIBLE AS OF THE DATE OF
DISSEMINATION. IT SHOULD NOT BE
CONSIDERED VALID 90 DAYS AFTER ITS
RELEASE, AND SHOULD BE TOTALLY
DESTROYED

-AGENCY-

An agency using such a notice would not have to notify a receiver if an error was discovered in the record more than 90 days after dissemination. Such a notice would also have some additional value toward protecting an agency which disseminates a record which is then misused after the 90 day period.

Expiration of Availability

The regulations state that criminal history record information concerning the arrest of an individual may not be disseminated to a non-criminal justice agency or individual (except under dissemination categories (2), (3), (4), and (5) described previously) if an interval of one year has elapsed from the date of arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending.

The KBI has developed and implemented procedures to screen the manual searches of the criminal history record information maintained at the central State repository.

All other criminal justice agencies in the State will develop and implement procedures for their local manual or automated repositories of criminal history record information. The procedures will ensure against dissemination of their information to a non-criminal justice agency under the described circumstances. Each agency will be able to demonstrate this capability to the KBI during audit activities.

Form of Dissemination

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

Based on the present level of experience, it would appear that the probability of telephone line interception for the purpose of gaining access to criminal history information is so low as to permit the use of telephone lines for this purpose. However, since identification of the individual is an integral part of his record information, criminal history information should not be disseminated by phone to another agency without reasonable assurance that the identity of the individual whose record is in question has been established.

Information transmitted in digital form, using standard telecommunications methods, would be sufficiently difficult to reconstruct so as to permit such transmission from one station to another. However, digital transmission of criminal history record information in which a hard copy is produced in a mobile unit is inappropriate unless the information to be transmitted is restricted to conviction data and pending charges.

On the other hand, uncoded voice transmission over radio links are likely to be intercepted, and it is unlikely that such transmissions could be protected to the extent required. Therefore, dissemination of criminal history record information containing nonconviction data over voice radio transmission is prohibited except when necessary to protect the safety of a police officer. Although expensive, scramblers are commercially available that can provide an acceptable level of security for voice radio. However, these devices must be installed and used with great care since they can effectively prevent an agency or unit that may need to communicate with another (such as requesting backup units) from doing so.

Verbally coded transmissions should not be used as a means to broadcast non-conviction data. Such codes are easily deciphered in a short time. Agencies may chose to use such codes when describing conviction data or other data relating to officer safety, as a means of improving on the safety provided.

SECTION FIVE

AUDIT AND QUALITY CONTROL

The federal regulations call for two different forms of auditing. The systematic audit is required for all records-keeping agencies as a means of guaranteeing the completeness and accuracy of the records. This audit is actually a quality control mechanism which is part of the systems and procedures used by an agency. The annual audit is an examination, usually by an outside agency, of the extent to which any identified repository or user of such repository is complying with the regulations. These audits are discussed in detail in this section of the Plan.

Systematic Audit

The systematic audit is a combination of systems and procedures employed both to ensure the completeness and to verify the accuracy of the criminal history record information. A systematic audit is an integral part of a manual or automated system and functions continuously to edit and monitor the quality of the data.

The systematic audit includes two essential parts: an audit trail and a dissemination log. An audit trail allows for the tracing of specific data elements back to the source document. The audit trail improves integrity of the repository by ensuring that all input records are verified and edited prior to entry.

The dissemination log supports the audit process on the output side and also serves as a means of correcting erroneous disseminations. The federal regulations require that criminal justice agencies "upon finding inaccurate information of a material nature, shall notify all criminal justice agencies known to have received such information."

The KBI, operating as the central State repository, maintains several manual files and is in the early states of developing an automated system. The automated system will initially permit inquiry from the local KBI terminals. The system will eventually permit on-line inquiry from the remote terminal users. However, data input will be limited to specific KBI terminals.

When arrest fingerprint cards arrive, by mail, at the KBI, they are thoroughly checked for errors and completeness. If any information is missing or incorrect, the card is returned to the contributor along with a checklist from indicating the reason(s) for the return. When dispositions arrive at KBI, they are also thoroughly checked for errors and omissions. They are likewise returned to the contributor with a form indicating the problem with the input. The KBI also notifies the contributor if a problem arises in updating the KBI manual files with either the arrest fingerprint card or the disposition.

The KBI extracts information from the arrest fingerprint card and the disposition for input to their system. The hard copy input is retained. The audit trail requirement of tracing data elements back to the source document is satisfied.

The KBI has included a dissemination log as a part of the design of their automated system. The log identifies the requesting agency, data, and the information that was disseminated. Any record in the log will be maintained for a period of at least two years from the date of dissemination. Capability is provided to search the log on any of the data elements.

The procedures described above for the KBI are currently operational. The KBI is reviewing their administrative orders and expects to issue additional orders which will expand and/or enforce the above procedures as they relate to operations within the KBI.

All criminal justice agencies in the State that collect, store, or disseminate criminal history record information will develop similar procedures regardless of whether or not they are directly subject to the jurisdiction of the federal regulations. These procedures must satisfy the audit trail requirements for retained data and the dissemination log feature for output. The agencies will be able to demonstrate compliance to the KBI during any audit.

Some concern has been voiced about the security of the dissemination log as it relates to the Kansas public records law. K.S.A. 45-201 requires that any record that must be kept by law must be made available to the public, unless specifically closed by additional law.

It is the Bureau's feeling that the disclosure of a dissemination log constitutes CHRI dissemination, since it confirms that a criminal record exists. The log makes no distinction between conviction and non-conviction data, and therefore could effectively disseminate data about a person who has only a non-conviction record. The dissemination of non-conviction data is specifically limited by the regulations. Therefore, the dissemination log may only be disclosed to criminal justice agencies or agencies authorized by specific statute.

Secondly, under the regulations, the subject of a record is entitled to review only CHRI, not additional files that may also be maintained. For this reason, the subject may not see the dissemination log.

The requirement for logging does not apply to "no record" responses, according to the LEAA Office of General Counsel. LEAA confirmed that the logging of these responses would place an impossible burden on agencies, and would also have the effect of encouraging the collection of intelligence-type files. Further, the primary function of the log is to allow follow-up for correction purposes, logging "no record" responses will not assist this process in any meaningful way.

Annual Audit

The federal regulations require each State to develop procedures which "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." Since the audit of every criminal justice agency would be prohibitively costly in Kansas, a "representative sample" will be chosen to provide a statistically significant examination of the accuracy and completeness of data maintained in a repository and to ensure that the other provisions of the regulations are being upheld. Areas to be reviewed include, but will not be limited to: record accuracy, record completeness, effectiveness of systematic audit

procedures, examination of the evidence of dissemination limitations, security provisions, and the individual's right of access.

The KBI, with assistance from the GCCA, has designed and will soon implement an annual audit procedure for the State of Kansas. The GCCA will perform the audit of the KBI and the KBI will audit other selected agencies. All criminal justice agencies will agree to be subject to audit procedure. The user agreement each agency signs with the KBI will require that the agency agree to the audit. The annual audit procedures will be implemented by July 1977.

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

(1) Procedural Audit

This audit will examine the extent to which procedures have been implemented to ensure compliance with the regulations. This section of the audit will cover the following:

- o Methods for verifying completeness of records
- o Disposition reporting procedures
- o Methods for verifying accuracy of records
- o Dissemination practices
- o Security
- o Individual's right of inspection

(2) Records Audit

This audit will evaluate the completeness and accuracy of both the KBI and local files as measured against the original entry document. The audit will be conducted by taking a random selection of source documents at the local agency to evaluate:

- o the percentage of entry into the KBI or local files of arrests and dispositions.
- o the accuracy of data entry for critical data fields
- o delays in disposition reporting

(3) Audit of Activity Logs

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

- o review logging procedures
- o interview personnel
- o observe daily operation

For purposes of the annual audit, the criminal justice agencies will be grouped: (1) the KBI; (2) law enforcement agencies; (3) prosecutors and courts; and (4) corrections agencies. The KBI will be audited every other year by the GCCA. Agencies in groups 2, 3, and 4 will be audited by the KBI with the specific agencies selected on a random basis each year. The number of agencies selected for audit each year will be controlled by the size of the agency and the magnitude of the effort required to conduct the audit. The audits will be limited to the KBI resource available to conduct the audits. The available resource will be allocated to a distribution of small, medium, and large agencies each year.



SECTION SIX

SECURITY

The federal regulations specify a number of requirements to ensure the confidentiality and security of criminal history record information. These requirements apply to both manual and computerized record systems. This section of the Plan discusses these requirements and identifies the action to be taken by the State of Kansas in order to comply with the requirements.

Unauthorized Access

The federal regulations require each state to develop and implement policies and procedures to protect against unauthorized access to criminal history record information contained in manual and computerized systems. The policies need to cover access to: (1) the facility where the equipment or data is located, (2) the data files or any portion of the operating environment, and (3) the system documentation. These policies will define the following:

- o agencies and individuals permitted access.
- o type of access authorized in terms of authority to insert, modify, update, purge, destroy, or retrieve the information.
- o accountability for the data.
- o method of controlling access.

The Division of Computer Services (DCS) will review their existing policies regarding access to the information they maintain or process for the criminal justice agencies. These policies will be expanded or modified, as appropriate, and submitted to the KBI for review and approval. The federal regulations require that a criminal justice agency have final authority on all matters pertaining to security. The KBI is designated in this instance since the KBI has been assigned the responsibility to coordinate privacy and security on a state-wide basis. The policies will then be promulgated so that DCS personnel and any other interested individuals are familiar with the policies.

All other agencies throughout the State will review, modify as needed, and promulgate their policies regarding access to the criminal history record information which they collect, store, and disseminate. If the information is stored or processed by a non-criminal justice agency, the appropriate criminal justice agency will review and approve the access policies.

Computerized Systems

The federal regulations require that procedures be developed governing the operation of any computer facility which is used to process criminal history record information. If the facility is under the control of a criminal justice agency, then that agency is responsible for developing and implementing the procedures. If the computer facility is under the control of a non-criminal justice agency, then the procedures must be developed or approved by a criminal justice agency. The criminal justice agency must also audit, monitor, and inspect the computer operation on a continuing basis to ascertain compliance with the procedures and initiate action to change any unsatisfactory operation(s).

The federal regulations permit the utilization of a computer facility in either a dedicated or shared mode and managed by either a criminal justice or non-criminal justice agency. However, in all cases, a criminal justice agency must have the final decision-making power in establishing the operating procedures and must review and change the operation as needed so that an acceptable level of security is achieved.

The federal regulations require that the procedures satisfy the following requirements:

- (1) CHRI must be stored by the computer in such a manner that it cannot be modified, destroyed, accessed, changed, purged, or overlaid in any fashion by a non-criminal justice terminal.
- (2) The combination of hardware and system software features must prohibit inquiry, modification, or deletion of file records from any terminal other than the designated criminal justice terminal. All criminal justice users may not be permitted access to all of the information contained in the data base and this feature restricts access to the authorized criminal justice terminal.
- (3) The deletion or destruction of a record must be limited to designated terminals under the direct control of the criminal justice agency responsible for creating or storing the criminal history record information.
- (4) The combination of hardware and system software features must detect and record all unauthorized attempts to penetrate any CHRI system, program, or file. The recorded information regarding the attempt will be available only to the designated criminal justice agency personnel. It would be desirable that the criminal justice security officer for computer operations be alerted at the time of the attempted penetration so that immediate action may be taken, such as disconnecting or disabling the violating terminal.
- (5) The hardware and system software features specified in items (2) and (4) above shall be known only to limited individuals who are responsible for the system control. If the individual is not an employee of a criminal justice agency, an agreement must be executed so as to provide maximum security. All documentation regarding the hardware and system software features must be kept continuously under maximum security conditions.

The federal regulation requirements stated above apply specifically to computer operations involving terminal interface. However, the same type of requirement applies to computer installations which do not have terminals. The same type of protection must be provided for the computer facility which operates completely in a local batch mode where all processing is initiated at the computer installation.

The required procedures will be developed and implemented for each computer installation in the State of Kansas which is used to store or process criminal history record information. The procedures will be different for each installation because they are dependent upon the various manufacturer's hardware and software capability and the specific configuration which is installed. The procedures will describe the techniques to be used to satisfy the requirements, but will not completely describe the implementation. For example, the procedures may describe that user passwords

will be assigned and will be checked by the computer prior to initiating any action as a result of a user input. However, the procedures will not list the passwords nor completely describe how the internal checking is accomplished.

The procedures governing the operation of the DCS facility will be developed by the DCS and approved by the KBI. The KBI is designated this responsibility because of their state-wide role in privacy and security. The KBI will periodically monitor and inspect the DCS operation and will notify the DCS Director, in writing, when any deficiencies are detected so that corrective action can be taken.

The KBI will develop and implement the procedures pertaining to the system installed at the KBI. Any other criminal justice agency in the State which uses a computer installation - other than the DCS facility - for the collection, storage, and dissemination of criminal history record information will be responsible for the development and implementation of the procedure for that installation. If the computer is under the direct control of a non-criminal justice agency, the criminal justice agency using the computer is responsible for approving and monitoring the procedures.

The procedures will be made available and will be reviewed during the audits described in Section Five of this Plan.

Personnel

The federal regulations define two levels of authority to be assigned to criminal justice agencies relative to personnel assignment. This authority applies to secretaries, guards, maintenance personnel, and all other personnel who work in areas where CHRI is stored as well as the file clerks, computer operators, and other personnel whose duties clearly require access to the information.

The following describes the requirements regarding personnel assignments:

- (1) Criminal justice agency employees.
When CHRI is located at a criminal justice agency facility, all of the personnel are employees of the criminal justice agency. As such, they will have been subject to screening and background investigation prior to employment. They will be granted access to the information based on their individual duties and the need-to-know. The agency will also have the authority to transfer or remove any individual who violates the provisions of the security regulations.
- (2) Non-Criminal justice agency employees.
When CHRI is located at a non-criminal justice agency facility, a criminal justice agency must be designated the final decision as to the acceptability of an individual. The criminal justice agency will not make the personnel selection for the non-criminal justice agency. Instead, the criminal justice agency will review the individuals and will have veto power to reject any individual for good cause. The criminal justice agency will also have the authority to cause the transfer or removal of any individual who violates the security requirements.

All criminal justice agencies in the State will document and implement the procedures pertaining to the selection and removal of employees. For item (1) above, the procedures probably already exist and it is a matter of reviewing, updating, implementing, and enforcing the procedures.

The procedures for item (2) above do not exist and, therefore, need to be established jointly by the two agencies involved. Because of its state-wide role in privacy and security, the KBI is assigned the criminal justice agency responsibility of reviewing and monitoring the personnel assignments of the DCS. The DCS and the KBI will develop and approve the procedures and promulgate them in both organizations.

Inadequate personnel security is a continuing problem and presents the most likely and significant threat to any sensitive operation. For this reason, all agencies involved with CHRI must constantly review their personnel policies and also perform recurring background checks on existing personnel. Personnel procedures will be reviewed during the annual audits of the criminal justice agencies in the State.

Physical Security

The federal regulations require that procedures be instituted to protect CHRI from theft, sabotage, fire, flood, wind, or other natural or man-made disasters. Appropriate steps in this regard include:

- o physical limitations on access via keys, badges, passwords, sign-in logs, etc.
- o storage of information in appropriate cabinets or containers.
- o utilization of detection and warning devices; such as fire, smoke, and burglar alarms.
- o incorporating construction safeguards; such as heavy-duty walls or reinforced glass.

The procedures will differ for each location where criminal history record information is stored. If the information is stored at a non-criminal justice facility, a criminal justice agency must have final authority regarding the procedures. The criminal justice agency must approve the procedures and periodically monitor the operation to make certain they are being complied with.

Physical security efforts at agencies in Kansas will be directly related to their exposure to probable threats. Agencies located in largely rural areas will not have the same potential problems as agencies in populated areas. The guiding concept to security activities is that the agency must always be confident that the information will remain complete and accurate, uncompromised. Obviously, smaller agencies in rural areas can accomplish this level with a minimum of changes. Larger agencies will undoubtedly have to make more significant changes.

The KBI developed procedures for the protection of the information stored at the KBI Headquarters facility. The KBI will be the criminal justice agency having the final decision regarding physical security of the DCS facility. The DCS and the KBI will jointly develop the procedures and the KBI will periodically inspect the facility to ensure that adequate protection is provided.

Procedures dealing with physical security will be made available and reviewed during the annual audit of the agency.

SECTION SEVEN

ACCESS AND REVIEW

This section discusses the requirements and procedures pertaining to an individual's right to access and review the CHRI maintained at any agency for purposes of verifying accuracy and completeness. The section covers verification of identity, method of review, obtaining a copy, challenging, review and appeal, correction process, and what information should be made available.

It has been a long-standing practice of the State of Kansas to accord an individual the right to review criminal history records maintained about him and to challenge the accuracy of such information. Thus, the State is essentially in compliance with the federal regulations except that the practice may not have previously been adequately advertised. The procedures have been promulgated. In addition, the State has now developed standard forms for the access and review process.

Verification of Identity

The federal regulations require fingerprint comparison, voice print comparison, or other satisfactory method of verifying the individual's identity. The method of verification is left up to the State.

In the State of Kansas, the only satisfactory methods of identification for purpose of access for inspection are (1) fingerprint or visual recognition attested to by the criminal justice agency handling the inquiry; or (2) a written statement made on oath before a notary public or other person authorized administer oaths.

Method of Review

The federal regulations require that the criminal record history information be available for individual review without undue burden on the criminal justice agency or the individual.

The KBI is the central State repository and, as such, maintains a complete criminal history record. Other criminal justice agencies throughout the State may only have a part of the total criminal history. Therefore, it is advisable for the individual to review his or her record maintained by the KBI.

An individual should contact KBI Headquarters or one of its regional offices to request access. However, if he or she cannot appear at one of these locations because of physical handicap, remoteness of his or her residence, or incarceration; he or she should contact the closest sheriff's office or correctional officer for assistance. Records may be reviewed at the appropriate locations between the hours of 9 AM to Noon and 1 PM to 4PM, Monday through Friday.

Obtaining a Copy

The federal regulations state that "a copy of the record should ordinarily only be given when it is clearly established that it is necessary for the purpose of challenge". The fee charged for making the copy should not exceed actual costs for making the copy (including labor and material cost).

The KBI does not have the statutory authority necessary to charge a fee for the providing of challenge-related copies. However, experience to date has shown that the administrative overhead involved in collecting these fees would be excessive and would also have to be included in the fee structure, raising it to an untenable level. For these reasons, and due to the extremely small number of challenge requests received, it is the KBI's decision not to seek authority to charge for challenge copies.

Other criminal justice agencies, operating in different circumstances, may decide that charging a fee for challenge copies is appropriate. If this decision is made, the fee schedule must be part of the written standard procedure that the agency uses when honoring access, review, or challenge requests. It is highly unlikely that any agency in the State can justify a fee larger than \$10.00, therefore, charges below this amount will generally be assumed as valid during an audit. Charges in excess of \$10.00 will be closely audited and must be obviously and strongly justified.

Any subject requesting a CHRI copy for challenge purposes should be required to make the request in writing. The form used for this purpose should also specify that the request is not being made for any other purpose, such as employment.

When making or preparing challenge-related copies for individuals, the standardized dissemination notice described in Section Four must be used on all copies. In addition, an additional notice should be applied further restricting the use of the challenge copies. The following is suggested:

THIS COPY HAS BEEN PROVIDED TO THE
WITHIN-NAMED INDIVIDUAL FOR THE
PURPOSE OF CHALLENGING THE DATA
SHOWN THEREON. ITS USE FOR ANY
OTHER PURPOSE IS PROHIBITED AND WILL
BE PROSECUTED TO THE FULLEST EXTENT
OF THE LAW.

(Providing Agency)
(Date)

Challenging

The federal regulations state that a challenge is "an oral or written contention by an individual that his record is inaccurate or incomplete." The individual would be required "to give a correct version of his record and explain why he believes his version to be correct." Individuals should be encouraged to make challenges in writing, if at all possible.

Administrative Review

The federal regulations require that the State provide for "administrative review and necessary correction of any claim by the individual to whom the information relates that the information is inaccurate or incomplete."

In Kansas, the individual submits his challenge to the head of the agency who has custody of the information in dispute. The individual is notified, within thirty (30) days of the date of his challenge, of the results of his challenge. If the challenge is denied, the individual is entitled to appeal the decision.

Administrative Appeal

The federal regulation provides that "the State shall establish and implement procedures for administrative appeal where a criminal justice agency refuses to correct challenged information to the satisfaction of the individual to whom the information relates."

Appeals in the State of Kansas must be submitted in writing and set forth the information contained in his or her initial challenge plus any additional facts that he or she is able to develop in support of his or her case since his or her initial challenge.

The appeal is submitted to the KBI, which shall notify the individual of the ruling on the appeal within thirty (30) days of the receipt of the appeal.

Such appeals will only be received or accepted when made in writing. Such communication must fully describe the document that the individual has exhausted all the available remedies provided by the local agency. Further, the subject must clearly describe that portion of the CHRI believed to be in error and those facts which substantiate such a contention.

Immediately upon receipt, the KBI will advise the other criminal justice agency involved that the Bureau has received the appeal. Further, the other agency will be asked to confirm that the subject has exhausted all avenues of challenge and appeal within that agency, and if this is the case, also ask the agency to provide all available information concerning the subject's CHRI and the preceding review and challenge procedure.

If the other criminal justice agency advises that the subject has not exhausted all the available avenues of challenge and appeal, the KBI will notify the individual that it cannot accept the appeal until all such avenues have been exhausted. A copy of this response will be sent to the other agency.

If the other criminal justice agency advises that the subject has exhausted all their remedies, and provides all appropriate information, the KBI will notify the subject and the agency that the Bureau will receive the appeal and provide a written response within thirty (30) days.

Handling of such an appeal will follow the same processes as are used for challenges and appeals arising from reviews provided by the Bureau directly. The only alteration to the procedure will be that in any resulting actions of significance, both the individual and the other agency involved will be notified.

Correction Process

The federal regulations require that "the correcting agency shall notify all criminal justice recipients of corrected information". The regulations also provide that "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."

Both of these requirements are complied with in Kansas. If the individual's challenge appeal is sustained at any point in the review and appeal process, the agency making the requested corrections to the records informs all other criminal justice agencies to whom the disputed records were given. In addition, the individual is given, if requested, a list of all of the non-criminal justice agencies known to have received the incorrect information. This enables the individual to take steps to correct the erroneous information given to non-criminal justice agencies.

Although not required, agencies may further limit their responsibilities after disseminating a record by placing a notice similar to this on each record disseminated:

THIS INFORMATION IS COMPLETE AND ACCURATE TO THE MAXIMUM EXTENT FEASIBLE AS OF THE DATE OF DISSEMINATION. IT SHOULD NOT BE CONSIDERED VALID 90 DAYS AFTER ITS RELEASE, AND SHOULD BE TOTALLY DESTROYED.

- AGENCY -

An agency using such a notice would not have to notify a receiver if an error was discovered in the record more than 90 days after dissemination. Such a notice would also have some additional value toward protecting an agency which disseminates a record which is then misused after the 90-day period.

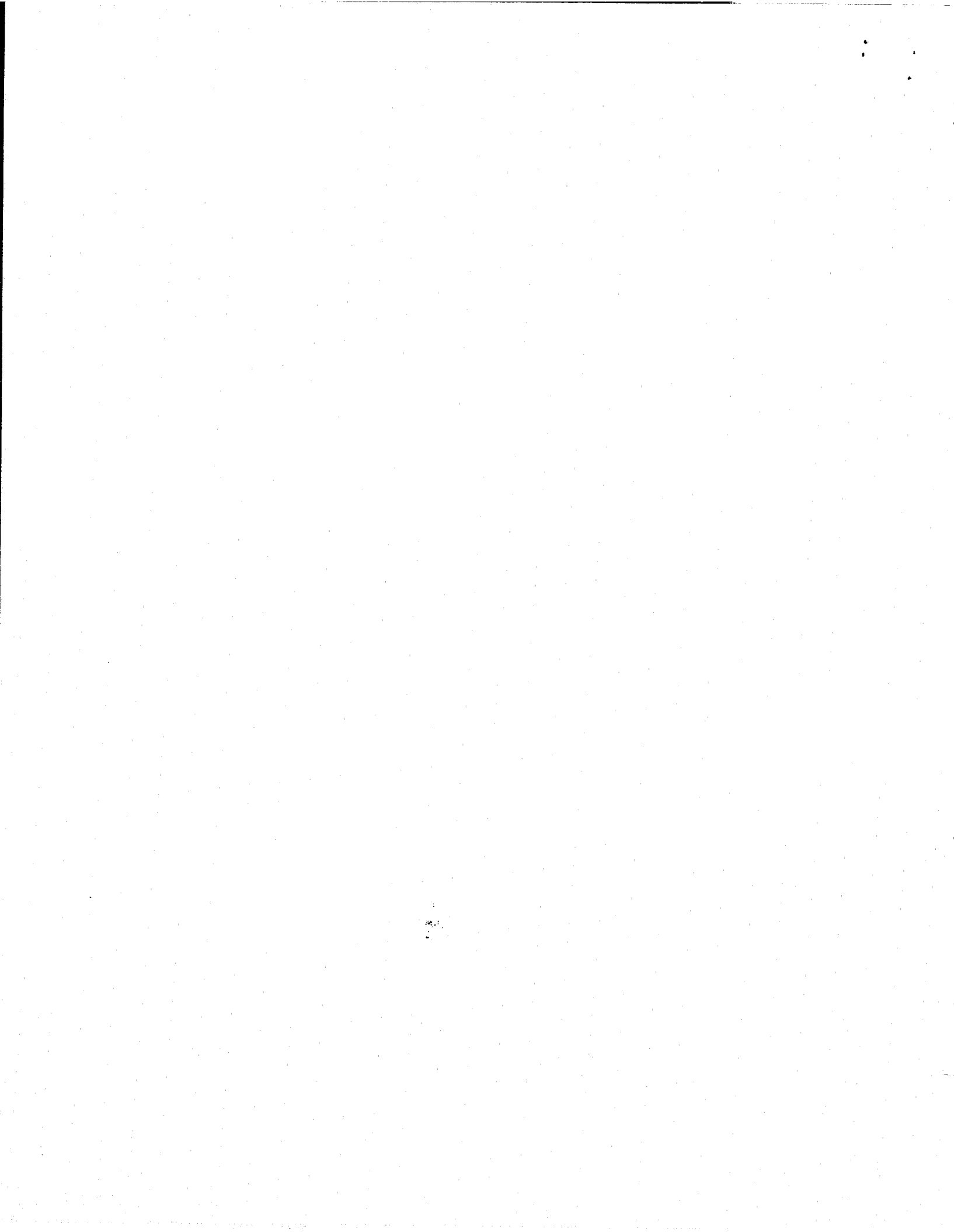
Information Subject to Review

The federal regulations indicate that the individual's right to review extends only to CHRI concerning him. The following is a summary of the review information.

- o The individual is entitled to review information that records essentially the fact, date, and results of each formal stage of the criminal justice process which occurred to ensure that all such steps are completely and accurately recorded.
- o The individual is not entitled to review intelligence and investigative information.
- o The individual is not entitled to review substantive information compiled about him by criminal justice agencies, as distinguished from a record of his movements through the agency.
- o The individual is entitled to review the recordation of his admission to bail -- but, is not entitled to the bail report.
- o The individual is entitled to review the recordation of his sentencing -- but, is not entitled to the pre-sentence report.
- o The individual is entitled to review the recordation of his admission to correctional institutions -- but, is not entitled to medical records and other records of treatment.

Public Notice

The KBI has given public notice of the procedures for inspection of and challenge to criminal history records by press release distributed to the public news media. In addition, the KBI did send notices to the Secretary of Corrections for posting on bulletin boards. The public notification was completed prior to March 16, 1976.



SECTION EIGHT

CERTIFICATION STATEMENT

This section of the plan describes the actions taken and progress toward compliance with the federal regulations. The section also contains a list of all pending relevant Kansas legislation and orders.

Certification Process

There are approximately 2000 criminal justice agencies in the State of Kansas representing the law enforcement, prosecution, court, and correction process. It is a certainty that each of these agencies maintains some type of criminal record. Most of the records are maintained manually; however, a number of the agencies do utilize computerized systems in support of their operation.

The majority of these agencies are not directly covered by the federal regulations even though they may collect, store, and disseminate criminal history record information as defined in the federal regulations. Most of the agencies are excluded from coverage because they have not received an LEAA grant in support of their information collection, storage, or dissemination process. Many of the agencies have received LEAA funds for other purposes but that does not make the federal regulations applicable to them.

It is the intent of the State of Kansas to impose the federal regulations on all criminal justice agencies throughout the State in order to avoid subverting the intent of the regulations. The regulations could be easily circumvented if the requirements did not apply to all agencies. Kansas will utilize a combination of legislation, executive orders, administrative regulations or procedures, and user agreements to impose the requirements of the regulations.

Subsequent to the publication of the federal regulations on Criminal Justice Information Systems and the designation of the KBI by the Governor as the agency responsible for submitting the Criminal History Record Information Plan, several steps have been taken to achieve compliance with the regulations.

The KBI continues to hold a series of seminars throughout the State to explain the ramifications of the regulations to the personnel in the various agencies. Other action consisted of sending each criminal justice agency a Certification Form and an Information Statement along with instructions for both forms. The Certification Forms which were received were forwarded to LEAA. The Information Statements were also submitted.

Major Milestones and Responsibilities

The approach which the State is using to accomplish the requirements of the federal regulations have been presented in Sections Three through Seven. The following pages provide a tabulation of the specific action items which must yet be accomplished, the proposed date by which they will be accomplished, and the designated agency responsible for each. Abbreviations used are:

- KBI - Kansas Bureau of Investigation
- AG - Attorney General of Kansas
- Leg - Kansas Legislature
- All - All repositories of criminal history record information (includes KBI)
- GCCA - Governor's Committee on Criminal Administration
- POR - Points of review for individual review of record (includes KBI)
- CJAs - All criminal justice agencies in the State of Kansas (includes KBI)



Completeness and Accuracy

MILESTONE	RESPONSIBILITY	DATE
Develop uniform disposition reporting forms and procedures for statewide use by police, prosecutors, trial courts, appellate courts, probation, correctional institutions, and parole.	KBI	Done
Train additional staff to improve disposition reporting and follow-up of delinquent dispositions.	KBI	Done
Initiate statewide disposition reporting.	KBI	Done
Develop automated system implementation plan. (CDS, CJIS)	KBI, GCCA	Done
Evaluate effectiveness of reporting in achieving complete and accurate records.	KBI	Done

Limits on Dissemination

MILESTONE	RESPONSIBILITY	DATE
Institute user agreements with all State criminal justice agencies	KBI	Dec. 77
Implement procedures to validate requests for record information access.	All	Nov. 77
Institute non-disclosure agreements with authorized non-criminal justice agencies.	All	Dec. 77
Implement system of notices on copies of record information.	All	Dec. 77
Revise central repository policies and procedures to limit dissemination of incomplete records to non-criminal justice agencies.	KBI	Done
Implement procedures at all repositories to control dissemination of incomplete records.	All	Dec. 77

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Audit and Quality Control

MILESTONE	RESPONSIBILITY	DATE
Implement procedures to provide systematic audit of data being input to central repository.	KBI	Jan. 77
Implement procedures to provide systematic audit of local repository data.	All	Jan. 77
Implement dissemination logging procedures statewide.	All	Jan. 77
Develop and implement procedures for periodic audit of central repository.	GCCA	July 77
Implement procedures for periodic audit of local repositories.	KBI	July 77

Individual Access and Review

MILESTONE	RESPONSIBILITY	DATE
Designate Points of Review (POR) and publish information related to individual's right to review.	KBI	Done
Implement procedures for requesting individual review of record.	POR	Done
Implement procedures for individual review and challenge of record	POR	Done
Implement procedures for administrative review of challenge.	CJAs	Done
Implement record correction procedures.	CJAs	Done
Implement appeal procedures.	KBI	Done

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Authorizing Orders and Legislation

The following is a list of the relevant issued legislation. Pending are described in Appendix A. Existing statutes are reproduced in the Kansas Criminal Records Manual.

Summary of Existing Kansas Statutes Affecting Record KeepingStatute

12-4515	Certain corrections treated as not existing.
19-1904	Calendar of prisoners committed to the county jail.
19-1905	Copies of calendar provided to judges.
21-2501	Officers to take fingerprints of suspected law violators; identification data to national bureau of investigation.
21-2501-a	Maintenance of records of felony offenses and certain misdemeanors by law enforcement agencies; reports to bureau of investigation form.
21-2504	Attorney General may call upon designated officers for information; forms.
21-2505	Penalties for non-performance of KSA 21-2504 requirements.
21-3827	Unlawful disclosure of a warrant.
21-4604	Presentence investigation and report.
21-4605	Availability of report to defendant and others.
21-4616	Annulment of certain convictions; effect.
21-4617	Expungement of record; offender over twenty-one; effect.
38-805	Records kept by juvenile court; privileged information.
38-815a	Restrictions on fingerprints, photographs and records of child, expungement.
45-201	Official public records open to inspection; exceptions.
45-202	Control over photographic records.
45-203	Penalties for violating 45-202.
50-712	Public records information for employment purposes.
75-712	Same; powers and duties; reports of investigations.
75-5218	Sentenced to custody of secretary of corrections notice to secretary; copy of record; female offenders.
75-5221	Record of inmates.
75-5266	Psychiatric evaluation reports privileged.

APPENDIX A

Proposed Kansas Legislation



The following bills are now pending in the current legislative session. Only basic information is included here, full copies of any bill described may be obtained through any Legislator or the KBI.

SENATE BILL NO. 85

An Act relating to the juvenile code; concerning actions against certain traffic offenders; amending K.S.A. 1976 Supp. 38-802 and 38-815, and repealing the existing sections.

In general, SB 85 would remove 14 through 16-year-olds who commit traffic-related offenses from the Juvenile Code; thus, these offenders would be amenable to prosecution under the regular traffic laws of the state. Presently, youths in that age group who commit the offenses of vehicular homicide and driving while intoxicated are excluded from the Juvenile Code; under Committee amendment, youths under the age of 14 who commit these offenses would continue to be excluded from the Juvenile Code. Further Committee amendment would prohibit youths charged under the bill from being incarcerated subsequent to conviction, although such youths could be fined as provided by law. Another Committee amendment would require the Division of Motor Vehicles to be notified of any drivers' license which was suspended under this bill.

SENATE BILL NO. 406

An Act relating to crimes; concerning the collection, storage, and dissemination of certain criminal justice system information; establishing a privacy and security advisory board; establishing a criminal justice system information central repository; authorizing the promulgation of rules and regulations; declaring certain acts to be a crime.

SENATE BILL NO. 436

An Act concerning charges by state agencies for copies of public documents; providing for the disposition of moneys collected therefor; prescribing powers and duties of the director of accounts and reports.

SB 436, as introduced, authorizes all state agencies to charge and collect fees for copies made of public documents. The Director of Accounts and Reports shall fix the fees to be charged for copies, in an effort to recover costs incurred. State agencies shall deposit fees collected, not less than monthly, with the State Treasurer. These deposits will be credited to the state general fund.

HOUSE BILL NO. 2411

An Act relating to certain arrest and conviction records; providing for access thereto by law enforcement agencies under certain circumstance; amending K.S.A. 1976 Supp. 12-4515, 21-4616 and 21-4617 and repealing the existing sections.

HB 2411 would amend K.S.A. 1976 Supp. 12-4515, to allow law enforcement agencies to have access to expunged conviction records of persons applying for employment with such agencies.

HOUSE BILL NO. 2460

An Act establishing a model juvenile code; providing for a procedure for the adjudication and disposition of juveniles in need of care and juveniles alleged to have committed crimes or ordinance violations.

HOUSE BILL NO. 2467

An Act relating to crimes; concerning the annulment and expungement of certain convictions; amending K.S.A. 1976 Supp. 21-4616 and 21-4617 and repealing the existing sections.

HOUSE BILL NO. 2517

An Act requiring that certain public records be open to inspection; providing certain exceptions; prescribing penalties for violation; repealing K.S.A. 45-202 and 45-203 and K.S.A. 1976 Supp. 45-201.

APPENDIX B

CRIMINAL HISTORY RECORD INFORMATION

SAMPLE AGREEMENTS

1. USER AGREEMENT - to be signed by all criminal justice agencies wishing to exchange criminal history record information.
2. ACCESS REQUEST AND NON-DISCLOSURE AGREEMENT - to be initiated by all non-criminal history record information.



This agreement is for Criminal Justice Agencies

STATE OF KANSAS

CRIMINAL HISTORY RECORD INFORMATION

USERS AGREEMENT

This agency, having the authority to enter into this contractual agreement, does understand and agree to the controls on criminal history information dissemination and the conditions on its use as described below, and in the code of Federal Regulations -- Title 28, Chapter 1, Part 20-CRIMINAL JUSTICE INFORMATION, the Kansas Criminal History Record Information (CHRI), related Kansas statutes listed in that Plan, and the NLETS and NCIC existing and future policies for the inter-state exchange of CHRI.

This agency agrees that:

1. It will query the central repository (KBI) before disseminating criminal history information.
2. Its access to criminal history information will be for criminal justice purposes only and no redissemination of the information will be made unless the secondary agency that is to receive this information is: also bound by a users agreement, has completed an access and non-disclosure document, using the NLETS network for making the request, providing a court order, using the information for VISA or citizenship purposes.
3. Any questions as to the authority for redissemination of criminal history information to another agency will be referred to the KBI.
4. Copies of criminal history information will be marked as specified in the CHRI Plan, stored using appropriate security measures, and destroyed when they no longer serve the purpose for which they were obtained.
5. This agreement and this agency's access to criminal history record information may be cancelled if this agency knowingly violates any of the requirements for control or use of this information.

- Misuse of criminal history record information can result in civil penalties for actual damages, criminal penalties, a fine of not more than \$10,000, or by imprisonment.

Date

Authorized Signature

Title

Agency

Date

Authorized Signature

Title

Agency

If the KBI is not one of the parties to this agreement, a copy should be sent to:

I/IS Section
Kansas Bureau of Investigation
3420 Van Buren
Topeka, Kansas, 66611

This Agreement is for non-criminal justice agencies and individuals

STATE OF KANSAS

ACCESS REQUEST AND NON-DISCLOSURE AGREEMENT

FOR CRIMINAL HISTORY RECORD INFORMATION

This request and agreement for access to criminal history record information is made by _____,
an authorized criminal justice agency in the State of Kansas, hereinafter
called Agency, and _____,
hereinafter called Requestor.

1. Information requested: (Description of criminal history record information requested)

2. Requestor requests this information () on a continuing basis
() on a one-time basis

3. The purpose for which information requested is (check one):
 - () To implement a statute or executive order that expressly refers to criminal conduct and contains requirements and/or exclusions expressly based upon such conduct. Give citation:
 - () To carry out a contract or agreement to provide services required for the administration of justice. (attach agreement)
 - () Research, evaluative, or statistical activities pursuant to an agreement with Agency (attach agreement).
 - () To implement a state or federal statute or executive order to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information pursuant to a state or federal statute or executive order. Give citation:
 - () Such purposes as authorized by court order or rule (attach order or rule).
 - () Other purpose. Explain.

4. Requestor agrees to limit the use of any received information to the purposes for which it was provided and to destroy the information when it is no longer needed for the purposes for which it was provided.

5. Requestor agrees that the only persons allowed access to any received information are:

and not to disseminate the information to any other agency or person.

6. Requester agrees to implement reasonable procedures to insure the confidentiality and security of any received information.
7. Requestor agrees to abide by the laws or regulations of this state and the federal government, any present or future rules, policies, or procedures adopted by the Agency. Procedures approved and adopted by NCIC or NLETS to the extent that they are applicable to information provided under this agreement.
8. If this agreement is to provide criminal history record information on a continuing basis, Agency reserves the right to immediately suspend furnishing information under this agreement and to demand return of information already furnished under this agreement when any rule, policy, procedure, regulation, or law described in Section 7 is violated or appears to be violated.
9. Requestor agrees to indemnify and save harmless Agency, other signatory agencies at Non-Disclosure Agreements or user agreements, and their employees from and against any and all causes of actions, demands, suits, and other proceedings of whatsoever nature, against all liability to others, including any liabilities or damages by reason of or arising out of any files, arrest, or imprisonment or any cause of action whatsoever, and against any loss, cost, expense, and damage resulting therefrom, arising out of or involving any negligence on the part of the agency receiving information in the exercise or enjoyment of this agreement.
10. In addition to any civil or criminal penalties applicable to the use of this information under Kansas or federal law, Recipient agrees to be subject to fines as provided in The Code of Federal Regulations Title 28, Chapter 1, Part 20, or the Omnibus Crime Control and Safe Streets Act for knowing violation of The Code of Federal Regulations Title 28, Chapter 1, Part 20. It is understood that fines under Title 28, may not exceed \$10,000.
11. If this agreement is to provide criminal history record information on a continuing basis, then either Agency or Recipient may, upon 30 days notice in writing, terminate this agreement.

Date

Signature of Recipient Representative

Date

Signature of Agency Representative

APPENDIX C

SAMPLE FORMS FOR INDIVIDUAL REVIEW
AND CHALLENGE OF CRIMINAL HISTORY RECORD
INFORMATION

1. Request for Review - to be initiated by individual wishing to review his own criminal history and information.
2. Challenge - to be sent by individual to agency initiating challenged portion of record information.

REQUEST FOR REVIEW

OF

CRIMINAL HISTORY RECORD INFORMATION

I hereby request _____ to provide for my review of any criminal history record information which is attributed to me. I hereby provide identification elements as required to enable the agency to check their files conclusively for possible data relating to me. I am providing fingerprint impressions as required to effect a complete identification. I further affirm that this request is for my personal review, and is not being made in order to provide the received information to any prospective employer or licensing authority.

MY FULL LEGAL NAME _____ DOB _____

SEX _____ RACE _____ HEIGHT _____ WEIGHT _____

EYE COLOR _____ HAIR COLOR _____

1. RIGHT THUMB
4. LEFT THUMB

Signature of Individual

Address

City and State

Zip

() - -

Phone Number

REQUEST RECEIVED BY: _____ DATE: _____

My signature here acknowledges that I have viewed the records provided, that I do not find an error, and do not wish to exercise my right to challenge the record at this time:

Signature of Individual

Date

CHALLENGE
OF INDIVIDUAL'S CRIMINAL HISTORY RECORD;
REQUEST FOR ERROR CORRECTION

NAME _____

KBI# _____ FBI# _____

Indicate what is believed to be inaccurate or incomplete and describe what is believed to be the correct information, providing as much factual data as is available.

I, the undersigned, hereby certify that the statements made on this form are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I also agree that any criminal history record information given to me is to be used for challenge purposes only.

Signature of Individual

Date

Signature of Employee Acknowledge Receipt

The agency will respond in writing to the above request. The response will be sent to the address shown on the previously completed "Request for Review".

APPENDIX D

Federal Regulations

Register Federal

FRIDAY, MARCH 19, 1976



PART III:

DEPARTMENT OF JUSTICE

Law Enforcement Assistance
Administration



CRIMINAL HISTORY RECORDS

Collection, Storage, and Dissemination
of Information

Title 28—Judicial Administration
CHAPTER I—DEPARTMENT OF JUSTICE
PART 20—CRIMINAL JUSTICE
INFORMATION SYSTEMS

On May 20, 1975, regulations were published in the FEDERAL REGISTER (40 FR 22114) relating to the collection, storage, and dissemination of criminal history record information. Amendments to these regulations were proposed October 24, 1975 (40 FR 49789) based upon a re-evaluation of the dedication requirement contained in § 20.21(f). Hearings on the proposed changes were held November 17, 18, 21 and December 4, 1975. In addition, hearings were held to consider changes to the dissemination provisions of the regulations (40 FR 52846). These hearings were held December 11, 12 and 15, 1975, to consider comments from interested parties on the limitations placed on dissemination of criminal history record information to non-criminal justice agencies. The purpose of the hearings was to determine whether the regulations, as they were drafted, appropriately made the balance between the public's right to know such information with the individual's right of privacy.

As a result of these hearings modifications to the regulations have now been made to better draw this balance. The regulations are based upon section 524 (b) of the Crime Control Act of 1973 which provides in relevant part:

"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."

The regulations, as now amended, provide that conviction data may be disseminated without limitation; that criminal history record information relating to the offense for which an individual is currently within the criminal justice system may be disseminated without limitations. Insofar as nonconviction record information is concerned (nonconviction data is defined in § 20.20(k)), the regulations require that after December 31, 1977, most non-criminal justice access would require authorization pursuant to a statute, ordinance, executive order or court rule, decision or order. The regulations no longer require express authority, that is specific language in the authorizing statute or order requiring access to

such information, but only that such dissemination is pursuant to and can be construed from the general requirement in the statute or order. Such statutes include State public record laws which have been interpreted by a State to require that criminal history record information, including nonconviction information, be made available to the public. Determinations as to the purposes for which dissemination of criminal history record information is authorized by State law, executive order, local ordinance, court rule, decision or order will be made by the appropriate State or local officials. The deadline of December 31, 1977, will permit States to obtain the authority, as they believe necessary, to disseminate nonconviction data.

The regulations, as now amended, remove the prohibition that criminal history record information in court records of public judicial proceedings can only be accessed on a chronological basis. § 20.20(b)(3) deletes the words "compiled chronologically". Therefore, court records of public judicial proceedings whether accessed on a chronological basis or on an alphabetical basis are not covered by the regulations.

In addition, the regulations would not prohibit the dissemination of criminal history record information for purposes of international travel (issuance of visas and granting of citizenship). The commentary on selected portions of the regulations have been amended to conform to the changes.

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 1973, Pub. L. 93-83, 87 Stat. 197 (42 U.S.C. 3701 *et seq.*) (Aug. 6, 1973), these amendments to Chapter I of Title 28 of the Code of Federal Regulations are hereby adopted to become final on April 19, 1976. These amendments only amend subparts A and B. Subpart C remains the same.

Subpart A—General Provisions

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- 20.30 Applicability.
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 20.37 Responsibility for accuracy, completeness, currency.
 20.38 Sanction for noncompliance.

AUTHORITY: Pub. L. 93-83, 87 Stat. 197 (42 USC 3701, *et seq.*; 28 USC 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 insure 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 USC 3701, *et seq.* (Act), 28 USC 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 com-

mence 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 insanity, charge still pending due to mental incompetence, guilty plea, nolle prosequi, no paper, nolo contendere plea, convicted, youthful offender determination, deceased, deferred disposition, dismissed—civil action, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial—defendant discharged, executive clemency, placed on probation, paroled, or released from correctional supervision.

(f) "Statute" means an Act of Congress or State legislature or 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 USC 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.

(k) "Nonconviction data" means arrest information without disposition if an interval of one year has elapsed from the date of arrest and no active prosecution of the charge is pending; or 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, or that proceedings have been indefinitely postponed, as well as all acquittals and all dismissals.

(l) "Direct access" means having the authority to access the criminal history record data base, whether by manual or automated methods.

Subpart B—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. Use of information obtained from the FBI Identification Division or the FBI/NCIC system shall also be subject to limitations contained in Subpart C.

(b) The regulations in this subpart 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 such as police blotters maintained by criminal justice agencies, compiled chronologically and required by law or long standing custom to be made public, if such records are organized on a chronological basis; (3) court records of public judicial proceedings; (4) published court or administrative opinions or public judicial, administrative or legislative proceedings; (5) records of traffic offenses maintained by State departments of transportation, motor vehicles or the equivalent thereof for the purpose of regulating the issuance, suspension, revocation, or renewal of driver's, pilot's or other operators' licenses; (6) announcements of executive clemency.

(c) Nothing in these regulations prevents a criminal justice agency from disclosing to the public criminal history record information related to the offense for which an individual is currently within the criminal justice system. 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 information or other formal charge was filed, on a specified date, if the arrest record information or criminal record information disclosed is based on data excluded by paragraph (b) of this section. The regulations do not prohibit the dissemination of criminal history record information for purposes of international travel, such as issuing visas and granting of citizenship.

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

A plan shall be submitted to LEAA by each State on March 16, 1976, to set forth all operational procedures, except those portions relating to dissemination and security. A supplemental plan covering these portions shall be submitted no later than 90 days after promulgation of these amended regulations. The plan shall set forth operational procedures to—

(a) *Completeness and accuracy.* Insure that criminal history record information is complete and accurate.

(1) Complete records should be maintained at a central State repository. To be complete, a record maintained at a central State repository which contains information that an individual has been arrested, and which is available for dissemination, must contain information of any dispositions occurring within the State within 90 days after the disposi-

tion has occurred. The above shall apply to all arrests occurring subsequent to the effective date of these regulations. Procedures shall be established for criminal justice agencies to query the central repository prior to dissemination of any criminal history record information to assure that the most up-to-date disposition data is being used. Inquiries of a central State repository shall be made prior to any dissemination except in those cases where time is of the essence and the repository is technically incapable of responding within the necessary time period.

(2) To be accurate means that no record containing criminal history record information shall contain erroneous information. To accomplish this end, criminal justice agencies shall institute a process of data collection, entry, storage, and systematic audit that will minimize the possibility of recording and storing inaccurate information and upon finding inaccurate information of a material nature, shall notify all criminal justice agencies known to have received such information.

(b) *Limitations on dissemination.* By December 31, 1977, insure that dissemination of nonconviction data has been limited, whether directly or through any intermediary only to:

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

(2) Individuals and agencies for any purpose authorized by statute, ordinance, executive order, or court rule, decision, or order, as construed by appropriate State or local officials or agencies;

(3) 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 violation thereof;

(4) Individuals and agencies for the express purpose of research, 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 the violation thereof.

These dissemination limitations do not apply to conviction data.

(c) *General policies on use and dissemination.* (1) Use of criminal history record information disseminated to non-criminal justice agencies shall be limited to the purpose for which it was given.

(2) No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself.

(3) Subsection (b) does not mandate dissemination of criminal history record information to any agency or individual. States and local governments will determine the purposes for which dissemination of criminal history record information is authorized by State law, executive order, local ordinance, court rule, decision or order.

(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 a statute, court order, rule or court decision specifically authorizes dissemination of juvenile records, except to the same extent as criminal history records may be disseminated as provided in § 20.21(b) (3) and (4).

(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 all persons or agencies to whom information is disseminated and the date upon which such information is disseminated. The reporting of a criminal justice transaction to a State, local or Federal repository is not a dissemination of information.

(f) *Security.* Wherever criminal history record information is collected, stored, or disseminated, each State shall insure that the following requirements are satisfied by security standards established by State legislation, or in the absence of such legislation, by regulations approved or issued by the Governor of the State.

(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 is restricted to authorized organizations and personnel.

(3) (A) Computer operations, whether dedicated or shared, which support criminal justice information systems, operate in accordance with procedures developed or approved by the participating criminal justice agencies that assure that:

(i) Criminal history record information is 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) Operation programs are used 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 designated terminals under the direct control of the criminal justice agency responsible for creating or stor-

ing the criminal history record information.

(iv) Operational programs are used to detect and store for the output of designated criminal justice agency employees all unauthorized attempts to penetrate any criminal history record information system, program or file.

(v) The programs specified in (ii) and (iv) of this subsection are known only to criminal justice agency employees responsible for criminal history record information system control or individuals and agencies pursuant to a specific agreement with the criminal justice agency to provide such programs and the program(s) are kept continuously under maximum security conditions.

(vi) Procedures are instituted to 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.

(vii) Procedures are instituted to protect any central repository of criminal history record information from unauthorized access, theft, sabotage, fire, flood, wind, or other natural or manmade disasters.

(B) A criminal justice agency shall have the right to audit, monitor and inspect procedures established above.

(4) The criminal justice agency will:

(A) Screen and have the right to reject for employment, based on good cause, all personnel to be authorized to have direct access to criminal history record information.

(B) Have the right to initiate or cause to be initiated administrative action leading to the transfer or removal of personnel authorized to have direct access to such information where such personnel violate the provisions of these regulations or other security requirements established for the collection, storage, or dissemination of criminal history record information.

(C) Institute procedures, where computer processing is not utilized, to assure that an individual or agency authorized direct access is responsible for (i) the physical security of criminal history record information under its control or in its custody and (ii) the protection of such information from unauthorized access, disclosure, or dissemination.

(D) Institute procedures, where computer processing is not utilized, to protect any central repository of criminal history record information from unauthorized access, theft, sabotage, fire, flood, wind, or other natural or manmade disasters.

(E) Provide that direct access to criminal history record 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.

(5) Each employee working with or having access to criminal history record

information shall be made familiar with the substance and intent of these regulations.

(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) 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;

(2) 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;

(3) The State shall establish and implement procedures for administrative appeal where a criminal justice agency refuses to correct challenged information to the satisfaction of the individual to whom the information relates;

(4) 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;

(5) The correcting agency shall notify all criminal justice recipients of corrected information; and

(6) 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).

§ 20.22 Certification of Compliance.

(a) Each State to which these regulations are applicable shall with the submission of its 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;

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

(3) A description of the steps taken to overcome any fiscal, technical, and administrative barriers to the development of complete and accurate criminal history record information;

(4) A description of existing system capability and steps being taken to upgrade such capability to meet the requirements of these regulations; and

(5) A listing setting forth categories of non-criminal justice dissemination. See § 20.21(b).

§ 20.23 Documentation: Approval by LEAA.

Within 90 days of the 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. A final certification shall be submitted in December 1977.

§ 20.24 State laws on privacy and security.

Where a State originating criminal history record information provides for sealing or purging thereof, nothing in these regulations shall be construed to prevent any other State receiving such information, upon notification, from complying with the originating State's sealing or purging requirements.

§ 20.25 Penalties.

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

RICHARD W. VELDE,
Administrator.

APPENDIX—COMMENTARY ON SELECTED SECTIONS OF THE REGULATIONS ON CRIMINAL HISTORY RECORD INFORMATION SYSTEMS

Subpart A—§ 20.3(b). The definition of criminal history record information is intended to include the basic offender-based transaction statistics/computerized criminal history (OBTs/CCH) data elements. If notations of an arrest, disposition, or other formal criminal justice transactions occur in records other than the traditional "rap sheet" such as arrest reports, any criminal history record information contained in such reports comes under the definition of this subsection.

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

§ 20.3(c). The definitions of criminal justice agency and administration of criminal justice of 20.3(c) must be considered together. Included as criminal justice agencies would be traditional police, courts, and corrections agencies as well as subunits of non-criminal justice agencies performing a function of the administration of criminal justice pursuant to Federal or State statute or

executive order. The above subunits of non-criminal justice agencies would include for example, the Office of Investigation of the U.S. Department of Agriculture which has as its principal function the collection of evidence for criminal prosecutions of fraud. Also included under the definition of criminal justice agency are umbrella-type administrative agencies supplying criminal history information services such as New York's Division of Criminal Justice Services.

§ 20.3(c). Disposition is a key concept in section 524(b) of the Act and in 20.21(a) (1) and 20.21(b). It, therefore, is defined in some detail. The specific dispositions listed in this subsection are examples only and are not to be construed as excluding other unspecified transactions concluding criminal proceedings within a particular agency.

§ 20.3(k). The different kinds of acquittals and dismissals as delineated in 20.3(e) are all considered examples of nonconviction data.

Subpart B—§ 20.20(a). These regulations apply to criminal justice agencies receiving funds under the Omnibus Crime Control and Safe Streets Act for manual or automated systems subsequent to July 1, 1973. In the hearings on the regulations, a number of those testifying challenged LEAA's authority to promulgate regulations for manual systems by contending that section 524(b) of the Act governs criminal history information contained in automated systems.

The intent of section 524(b), however, would be subverted by only regulating automated systems. Any agency that wished to circumvent the regulations would be able to create duplicate manual files for purposes contrary to the letter and spirit of the regulations.

Regulation of manual systems, therefore, is authorized by section 524(b) when coupled with section 501 of the Act which authorizes the Administration to establish rules and regulations "necessary to the exercise of its functions * * *."

The Act clearly applies to all criminal history record information collected, stored, or disseminated with LEAA support subsequent to July 1, 1973.

Limitations as contained in Subpart C also apply to information obtained from the FBI Identification Division or the FBI/NCIC System.

§ 20.20 (b) and (c). Section 20.20 (b) and (c) exempts from regulations certain types of records vital to the apprehension of fugitives, freedom of the press, and the public's right to know. Court records of public judicial proceedings are also exempt from the provisions of the regulations.

Section 20.20(b) (2) attempts to deal with the problem of computerized police blotters. In some local jurisdictions, it is apparently possible for private individuals and/or newsmen upon submission of a specific name to obtain through a computer search of the blotter a history of a person's arrests. Such files create a partial criminal history data bank

potentially damaging to individual privacy, especially since they do not contain final dispositions. By requiring that such records be accessed solely on a chronological basis, the regulations limit inquiries to specific time periods and discourage general fishing expeditions into a person's private life.

Subsection 20.20(c) recognizes that announcements of ongoing developments in the criminal justice process should not be precluded from public disclosure. Thus, announcements of arrest, convictions, new developments in the course of an investigation may be made. It is also permissible for a criminal justice agency to confirm certain matters of public record information upon specific inquiry. Thus, if a question is raised: "Was X arrested by your agency on January 3, 1975" and this can be confirmed or denied by looking at one of the records enumerated in subsection (b) above, then the criminal justice agency may respond to the inquiry. Conviction data as stated in 20.21(b) may be disseminated without limitation.

§ 20.21. The regulations deliberately refrain from specifying who within a State should be responsible for preparing the plan. This specific determination should be made by the Governor. The State has 90 days from the publication of these revised regulations to submit the portion of the plan covering 20.21(b) and 20.21(f).

§ 20.21(a) (1). Section 524(b) of the Act requires that LEAA insure criminal history information be current and that, to the maximum extent feasible, it contain disposition as well as current data.

It is, however, economically and administratively impractical to maintain complete criminal histories at the local level. Arrangements for local police departments to keep track of dispositions by agencies outside of the local jurisdictions generally do not exist. It would, moreover, be bad public policy to encourage such arrangements since it would result in an expensive duplication of files.

The alternatives to locally kept criminal histories are records maintained by a central State repository. A central State repository is a State agency having the function pursuant to a statute or executive order of maintaining comprehensive statewide criminal history record information files. Ultimately, through automatic data processing the State level will have the capability to handle all requests for in-State criminal history information.

Section 20.20(a) (1) is written with a centralized State criminal history repository in mind. The first sentence of the subsection states that complete records should be retained at a central State repository. The word "should" is permissive; it suggests but does not mandate a central State repository.

The regulations do require that States establish procedures for State and local criminal justice agencies to query central State repositories wherever they exist. Such procedures are intended to insure that the most current criminal justice information is used.

As a minimum, criminal justice agencies subject to these regulations must make inquiries of central State repositories whenever the repository is capable of meeting the user's request within a reasonable time. Presently, comprehensive records of an individual's transactions within a State are maintained in manual files at the State level, if at all. It is probably unrealistic to expect manual systems to be able immediately to meet many rapid-access needs of police and prosecutors. On the other hand, queries of the State central repository for most non-criminal justice purposes probably can and should be made prior to dissemination of criminal history record information.

§ 20.21(b). The limitations on dissemination in this subsection are essential to fulfill the mandate of section 524(b) of the Act which requires the Administration to assure that the "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." The categories for dissemination established in this section reflect suggestions by hearing witnesses and respondents submitting written commentary.

The regulations distinguish between conviction and nonconviction information insofar as dissemination is concerned. Conviction information is currently made available without limitation in many jurisdictions. Under these regulations, conviction data and pending charges could continue to be disseminated routinely. No statute, ordinance, executive order, or court rule is necessary in order to authorize dissemination of conviction data. However, nothing in the regulations shall be construed to negate a State law limiting such dissemination.

After December 31, 1977, dissemination of nonconviction data would be allowed, if authorized by a statute, ordinance, executive order, or court rule, decision, or order. The December 31, 1977, deadline allows the States time to review and determine the kinds of dissemination for non-criminal justice purposes to be authorized. When a State enacts comprehensive legislation in this area, such legislation will govern dissemination by local jurisdictions within the State. It is possible for a public record law which has been construed by the State to authorize access to the public of all State records, including criminal history record information, to be considered as statutory authority under this subsection. Federal legislation and executive orders can also authorize dissemination and would be relevant authority.

For example, Civil Service suitability investigations are conducted under Executive Order 10450. This is the authority for most investigations conducted by the Commission. Section 3(a) of 10450 prescribes the minimum scope of investigation and requires a check of FBI fingerprint files and written inquiries to appropriate law enforcement agencies.

§ 20.21(b)(3). This subsection would permit private agencies such as the Vera Institute to receive criminal histories

where they perform a necessary administration of justice function such as pre-trial release. Private consulting firms which commonly assist criminal justice agencies in information systems development would also be included here.

§ 20.21(b)(4). Under this subsection, any good faith researchers including private individuals would be permitted to use criminal history record information for research purposes. As with the agencies designated in § 20.21(b)(3) researchers would be bound by an agreement with the disseminating criminal justice agency and would, of course, be subject to the sanctions of the Act.

The drafters of the regulations expressly rejected a suggestion which would have limited access for research purposes to certified research organizations. Specifically "certification" criteria would have been extremely difficult to draft and would have inevitably led to unnecessary restrictions on legitimate research.

Section 524(a) of the Act which forms part of the requirements of this section states:

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

LEAA anticipates issuing regulations pursuant to Section 524(a) as soon as possible.

§ 20.21(c)(2). Presently some employers are circumventing State and local dissemination restrictions by requesting applicants to obtain an official certification of no criminal record. An employer's request under the above circumstances gives the applicant the unenviable choice of invasion of his privacy or loss of possible job opportunities. Under this subsection routine certifications of no record would no longer be permitted. In extraordinary circumstances, however, an individual could obtain a court order permitting such a certification.

§ 20.21(c)(3). The language of this subsection leaves to the States the question of who among the agencies and individuals listed in § 20.21(b) shall actually receive criminal records. Under these regulations a State could place a total ban on dissemination if it so wished. The State could, on the other hand, enact laws authorizing any member of the private sector to have access to non-conviction data.

§ 20.21(d). Non-criminal justice agencies will not be able to receive records of juveniles unless the language of a statute or court order, rule, or court decision specifies that juvenile records shall be available for dissemination. Perhaps the most controversial part of this subsection is that it denies access to records of

juveniles by Federal agencies conducting background investigations for eligibility to classified information under existing legal authority.

§ 20.21(e). Since it would be too costly to audit each criminal justice agency in most States (Wisconsin, for example, has 1075 criminal justice agencies) random audits of a "representative sample" of agencies are the next best alternative. The term "representative sample" is used to insure that audits do not simply focus on certain types of agencies. Although this subsection requires that there be records kept with the names of all persons or agencies to whom information is disseminated, criminal justice agencies are not required to maintain dissemination logs for "no record" responses.

§ 20.21(f). Requirements are set forth which the States must meet in order to assure that criminal history record information is adequately protected. Automated systems may operate in shared environments and the regulations require certain minimum assurances.

§ 20.21(g)(1). A "challenge" under this section is an oral or written contention by an individual that his record is inaccurate or incomplete; it would require him to give a correct version of his record and explain why he believes his version to be correct. While an individual should have access to his record for review, a copy of the record should ordinarily only be given when it is clearly established that it is necessary for the purpose of challenge.

The drafters of the subsection expressly rejected a suggestion that would have called for a satisfactory verification of identity by fingerprint comparison. It was felt that States ought to be free to determine other means of identity verification.

§ 20.21(g)(5). Not every agency will have done this in the past, but henceforth adequate records including those required under 20.21(e) must be kept so that notification can be made.

§ 20.21(g)(6). This section emphasizes that the right to access and review extends only to criminal history record information and does not include other information such as intelligence or treatment data.

§ 20.22(a). The purpose for the certification requirement is to indicate the extent of compliance with these regulations. The term "maximum extent feasible" acknowledges that there are some areas such as the completeness requirement which create complex legislative and financial problems.

NOTE: In preparing the plans required by these regulations, States should look for guidance to the following documents: National Advisory Commission on Criminal Justice Standards and Goals, Report on the Criminal Justice System; Project SEARCH: Security and Privacy Considerations in Criminal History Information Systems, Technical Reports No. 2 and No. 13; Project SEARCH: A Model State Act for Criminal Offender Record Information, Technical Memorandum No. 3; and Project SEARCH: Model Administrative Regulations for Criminal Offender Record Information, Technical Memorandum No. 4.

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APPENDIX E

NLETS CHRI POLICIES



NATIONAL LAW ENFORCEMENT
TELECOMMUNICATIONS SYSTEMS, INC.

POLICIES
FOR
THE INTERSTATE EXCHANGE
OF
CRIMINAL HISTORY RECORD INFORMATION

APRIL 29, 1977

The policies contained herein are a result of the NLETS Privacy and Security Committee, the Operational Procedures Committee, and the Board of Directors efforts in this area. Although initiated in early 1976, both the complexity and potential impact of the various subsidiary issues have required extensive research and dialogue.

During the NLETS Annual Conference held in Jackson Hole, Wyoming, June 29 - July 1, 1976, concern in a few specific areas resulted in a reexamination of the policies.

At this point, the Board of Directors have approved the revised policies included herein. They necessarily place demands on each state NLETS representative; however, they were judged to be the most reasonable and practical approach to fulfill our users requirements.

The following is an outline of this document:

PART I PURPOSE AND SCOPE

- A. RECOGNITION
- B. PURPOSE
- C. DEFINITIONS

PART II INTERSTATE EXCHANGE OF CRIMINAL HISTORY RECORD INFORMATION

- A. NLETS CONTROL TERMINAL AGENCY AND USER RESPONSIBILITIES
- B. NLETS CONTROL CENTER RESPONSIBILITIES

PART III ADMINISTRATIVE PROCEDURES

- A. BOARD OF DIRECTORS
- B. ADMINISTRATIVE PENALTIES
- C. PRECEDENCE OF STATE LAWS
- D. EFFECTIVE DATE

PART I

PURPOSE AND SCOPE

A. RECOGNITION

The National Law Enforcement Telecommunications Systems, Inc. (NLETS) recognizes that:

- (1) the responsible interstate exchange of complete and accurate criminal history record information (CHRI) among state-authorized criminal justice agencies is necessary and indispensable to effective law enforcement and criminal justice.
- (2) inadequate control of the interstate exchange of CHRI may infringe on an individuals' rights.
- (3) the Department of Justice (DOJ) Rules and Regulations on Criminal Justice Information Systems (40 Fed Reg 22114, May 20, 1975 and 41 Fed Reg 11714, March 19, 1976) place restrictions on the accuracy, completeness, and dissemination of CHRI.
- (4) while both the control of the interstate exchange of CHRI and the compliance to the DOJ Rules and Regulations are primarily the responsibility of state and local government, NLETS has an inter-connected role.

B. PURPOSE

It is the purpose of these policies to:

- (1) assure NLETS criminal justice agencies that the interstate exchange of CHRI will be conducted in a controlled criminal justice environment.
- (2) protect the privacy of individuals to whom such CHRI relates.
- (3) assist the NLETS criminal justice agencies in complying with the DOJ Rules and Regulations on Criminal Justice Information.

C. DEFINITIONS

- (1) "NLETS" means the National Law Enforcement Telecommunications Systems, Inc. and includes the lines, equipment, facilities, staff, and management of this corporation or provided by this corporation through an agreement.
- (2) "NLETS network" means the NLETS Phoenix, Arizona, facilities including all associated telecommunications equipment and the NLETS computer switchers which provide for the reception and transmission of NLETS messages.

- (3) "NLETS Control Center" means the NLETS computer switcher site and includes all equipment and the staff responsible for the operation and administration of the NLETS network services.
- (4) "NLETS user" means an agency using the NLETS network for the interstate transmission or reception of criminal justice or criminal justice related information.
- (5) "Control terminal agency" means the specific criminal justice agency that is responsible for the intrastate compliance of all NLETS rules, policies, and procedures.
- (6) "Criminal history record information" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, 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.¹
- (7) "Criminal justice agency" means: (a) courts; (b) 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.¹
- (8) 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.¹
- (9) "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 who is an active member of NLETS.
- (10) "Requesting state" means a state who requests CHRI from another state by sending a message on the NLETS network.
- (11) "Responding state" means a state who receives a CHRI request and responds with either CHRI or a "no record" message over the NLETS network.

¹Department of Justice Rules and Regulations on Criminal Justice Information Systems (41 Fed Reg 11714, March 19, 1976)

PART III
INTERSTATE EXCHANGE
OF
CRIMINAL HISTORY RECORD INFORMATION

A. NLETS CONTROL TERMINAL AGENCY AND USER RESPONSIBILITY

- (1) *A state requesting CHRI shall insure that proper controls are established such that only state authorized criminal justice agencies can access CHRI.*
 - (a) Each state must identify those intrastate criminal justice users who are authorized to directly access CHRI through the NLETS network. All NLETS users not authorized by their state to request CHRI through the NLETS network must be restricted from doing so by their state. A list of those state-authorized criminal justice agencies must be made available upon request by the NLETS Board of Directors, the NLETS Privacy and Security Committee, or an NLETS member representing his state.
 - (b) States receiving correctly formatted CHRI requests will be assured that the agency requesting this information is a criminal justice agency with an NCIC accredited ORI and is authorized by the requesting state to receive CHRI.
 - (c) This policy does not dictate the criteria for state selection of authorized agencies; however, outer limits are set by requiring that participants be criminal justice agencies.
- (2) *A state shall insure that all state authorized criminal justice agencies having access to the NLETS network shall utilize specific message keys for CHRI requests.*
 - (a) NLETS recognizes that CHRI requests may be directed to two generically grouped agencies, State Identification Bureaus (SIB) and local law enforcement or criminal justice agencies. Procedures for submitting requests to these types of agencies will be developed.
 - (b) Each state authorized criminal justice agency on the NLETS network will have the capability to request, in his CHRI inquiry, either a summary response or a full record response.
 - (c) Nothing in these policies prohibits the use of an administrative free text request to an SIB or a local agency. However, the free text request shall not be used as a substitute for the

formatted CHRI request. Rather, it should be used as a supplement to a CHRI request or as a request for information which is not defined as CHRI.

- (3) *A state shall insure that all NLETS users on their intrastate network adhere to the NLETS approved operational procedures required for responding to CHRI requests.*
 - (a) Each state must insure that intrastate criminal justice agencies will only respond to CHRI requests with the correct message key and purpose code. The requesting state guarantees that a CHRI request with the correct message key was initiated at an authorized criminal justice agency within its state. Conversely, an agency responding to a CHRI request with the incorrect message key has no assurance that his response is being disseminated to an authorized criminal justice agency.
 - (b) Through adherence to the operational procedures for servicing CHRI requests, a state should have the capability to more accurately maintain a log on the dissemination of CHRI.
- (4) *A state shall insure that requests for CHRI, and responses to requests for CHRI, by state-authorized criminal justice agencies are for legitimate purposes.*
 - (a) Requesting states and NLETS shall provide assurance that requests for CHRI indicate the purpose for which the request has been made. The NLETS computer switcher will reject CHRI requests which do not meet with the NLETS approved purposes.
 - (b) Responding states shall be able to more adequately control the dissemination of CHRI by knowing the purpose for which the information was requested.
- (5) *All states requesting CHRI or responding to requests for CHRI shall comply with the U. S. Department of Justice Rules and Regulations as they relate to completeness, accuracy, and the dissemination of CHRI.*
 - (a) Although NLETS does not have a responsibility to enforce the DOJ Rules and Regulations, it recognizes that a state in violation of the rules and regulations as they pertain to completeness, accuracy, and the exchange of CHRI threatens the integrity of NLETS. Therefore, intentional or flagrant violations of these rules and regulations by a state in the interstate exchange of CHRI may be cause for their removal from the NLETS network.
- (6) *All states shall comply with the NLETS policies and procedures for the interstate exchange of CHRI.*

- (a) Each state must provide assurance that they are in compliance with the NLETS policies and procedures for the interstate exchange of CHRI.
- (b) The NLETS representative will be responsible for insuring that the NLETS policies and procedures for the interstate exchange of CHRI are adhered to within his own state.
- (c) As related to these policies and procedures, all Associate and International Members will be treated as Active Members.
- (d) Nothing in these policies requires that a state either initiate CHRI requests or respond to CHRI requests.

B. NLETS CONTROL CENTER RESPONSIBILITIES

- (1) *The NLETS computer switcher shall support message keys necessary to assist the states in complying with the NLETS policies and procedures for the interstate exchange of CHRI.*
 - (a) Through technical and operational enhancements, the NLETS computer switcher will be modified to insure that requests for CHRI include all required information.
- (2) *The NLETS computer switcher shall transmit CHRI requests to, and CHRI responses from, only those states who provide assurance that they will comply with the NLETS policies and procedures for the interstate exchange of CHRI on the NLETS network.*
 - (a) Each state that chooses to exchange CHRI over the NLETS network must provide assurance that all NLETS policies and procedures, developed for this purpose, are followed. The NLETS computer switcher will be capable of rejecting correctly keyed CHRI requests and/or responses from those states who do not provide this assurance.
 - (b) NLETS computer switcher control of the interstate exchange of CHRI is limited to software and/or hardware enhancements. Nothing in these policies allows the routine examination or monitoring of CHRI requests or CHRI responses by NLETS network operational or administrative personnel.
 - (c) NLETS recognizes that, even with the implementation of the technical safeguards, it will not be able to adequately control the exchange of CHRI without state compliance to all policies and procedures in this regard.
- (3) *NLETS shall assure that the message switching software and hardware at the NLETS Control Center will prevent unauthorized modification.*

- (a) NLETS recognizes that the integrity of the computer switcher equipment is of the utmost importance. Procedures will be developed to insure that unauthorized modification, through either incoming messages or unauthorized switcher access, is prevented.
- (4) *NLETS shall assure that the NLETS computer switcher is housed in a secure location. Moreover, NLETS shall also assure that only authorized personnel shall have physical access to the NLETS computer switcher facility.*
- (a) Through limited access to the computer switcher and rigid employment criteria for those who may have access to the computer switcher, the potential for data abuse will be kept to a minimum.

PART III

ADMINISTRATIVE PROVISIONS

A. BOARD OF DIRECTORS

The NLETS Board of Directors as the governing body of NLETS, are responsible for insuring that all state control terminal agencies and the NLETS Control Center are in compliance with the policies and attending procedures developed to control the interstate exchange of CHRI. They may delegate related subtasks to the NLETS Privacy and Security Committee, the NLETS Operational Procedures Committee, or other entities within NLETS as they deem appropriate.

B. SANCTIONS FOR NON-COMPLIANCE

The services of NLETS are subject to cancellation in regard to any control terminal agency which fails to comply with the policies of Part II, A (1, 2, 3, 4, 5, 6).

C. PRECEDENCE OF STATE LAW

Any state law or regulation which places greater restrictions upon the interstate exchange of CHRI or which affords to any individual rights of privacy or protections greater than those set forth in these policies shall take precedence over these policies.

D. EFFECTIVE DATE

These policies shall take effect on December 31, 1977.



END