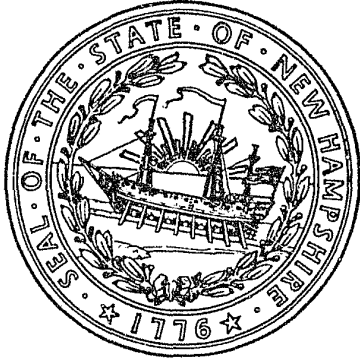


**State of
New Hampshire**



**Security
&
Privacy
Plan**

43693

76-SS-99-6017

**Governor's Commission on
Crime and Delinquency**



STATE OF NEW HAMPSHIRE
CONCORD 03301

NCJRS

NOV 4 1977

MELDRIM THOMSON, JR.
GOVERNOR

ACQUISITIONS

EXECUTIVE ORDER NO. 76-12

AN ORDER RELATIVE TO THE SECURITY AND PRIVACY
OF CRIMINAL HISTORY INFORMATION

WHEREAS, a Security and Privacy Plan designed to protect criminal history records is necessary; and.

WHEREAS, the Governor's Commission on Crime and Delinquency, with the advice and assistance of state, county and local agencies, prepared a Security and Privacy Plan for New Hampshire, which I have approved;

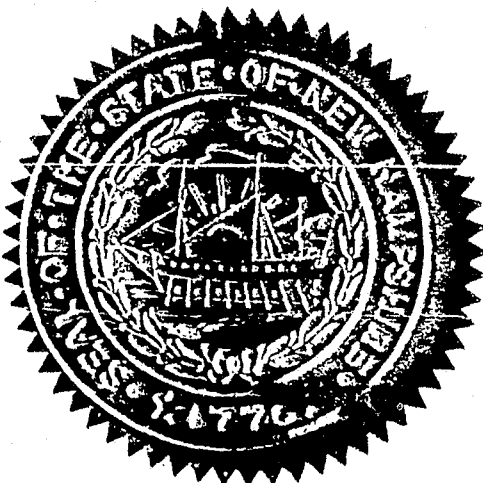
NOW, THEREFORE, I, MELDRIM THOMSON, JR., Governor of the State of New Hampshire, by virtue of the authority vested in me under New Hampshire Constitution, Part 2, Article 41, do hereby order that the attached Security and Privacy Plan is incorporated in and made a part of this Executive Order.

IT IS FURTHER ORDERED that all Criminal Justice Agencies within the State as defined in Part I, Section B, 1 b (Definitions) of said Security and Privacy Plan, shall adhere to and are bound by all of the provisions of the said Security and Privacy Plan.

This order is issued by virtue of the authority invested in me under New Hampshire Constitution, Part 2, Article 41 as the Supreme Executive magistrate of the State.

Given under my hand and seal this 15th day of July in the year of Our Lord one thousand nune hundred and seventy-six, and of the Independence of the United States of America the Two Hundredth.

Meldrim Thomson
Governor of New Hampshire

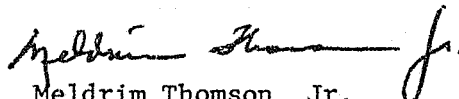


FOREWORD

The right to privacy and security of the people of New Hampshire must always remain one of the highest priorities of all state and local officials as well as every member of our criminal justice agencies. The State of New Hampshire Security and Privacy Plan was developed to ensure that all of our citizens are protected from unlawful and improper use of criminal history record information. The Plan formalizes into a single document and system the methods and procedures by which criminal justice agencies can ensure adequate privacy and security measures are instituted and maintained.

While this Plan has been promulgated by Executive Order, it is only an interim measure pending appropriate legislative action which will allow complete implementation for the future.

I extend my personal thanks for a job well done to the Security and Privacy Planning Group, the Plan Manager and his staff, the Governor's Commission on Crime and Delinquency and the many other persons, both private citizens and members of our criminal justice agencies, who did such an outstanding job in preparing this Plan under the pressures of time and money constraints.


Meldrim Thomson, Jr.
Governor of New Hampshire

LIST OF ACKNOWLEDGEMENTS

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The above alphabetized list comprises the plan manager, and individuals who under the advice of the Security and Privacy Planning Group are responsible for the production and publication of the New Hampshire Security and Privacy Plan.

PREFACE

The State of New Hampshire developed this plan to satisfy a Federal requirement. Prior to the development of this plan the Criminal Justice Agencies in the State were operating well within the guidelines published by the Department of Justice in 1975 and amended in 1976. The Federal regulations urge each state to establish a Central Repository for criminal information. The State Police have operated such a Central Repository in New Hampshire since 1937. In spite of several other instances of duplicative instructions, the development of this plan does allow the State to formalize into a single document and system, the several systems and procedures now in effect throughout the State.

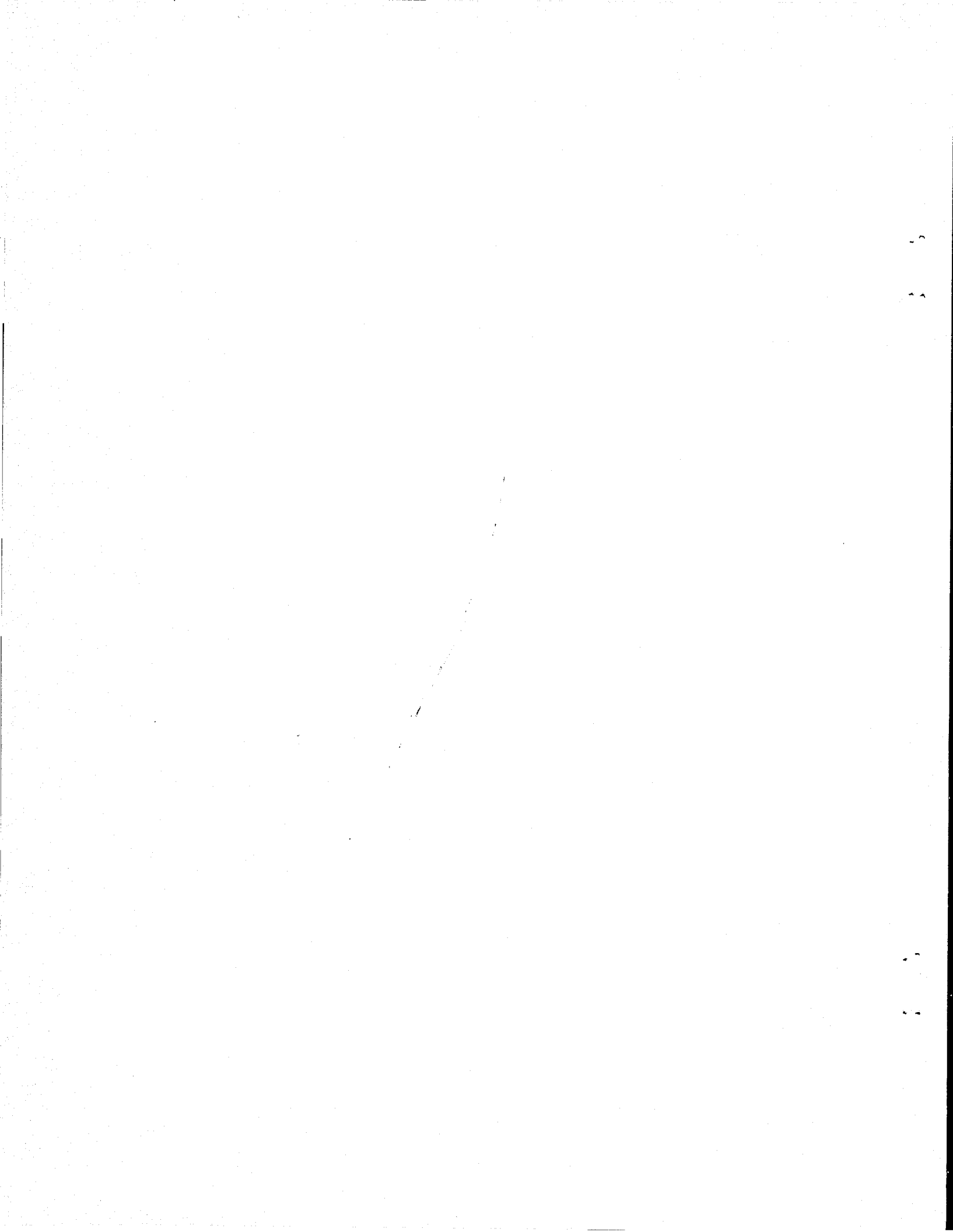


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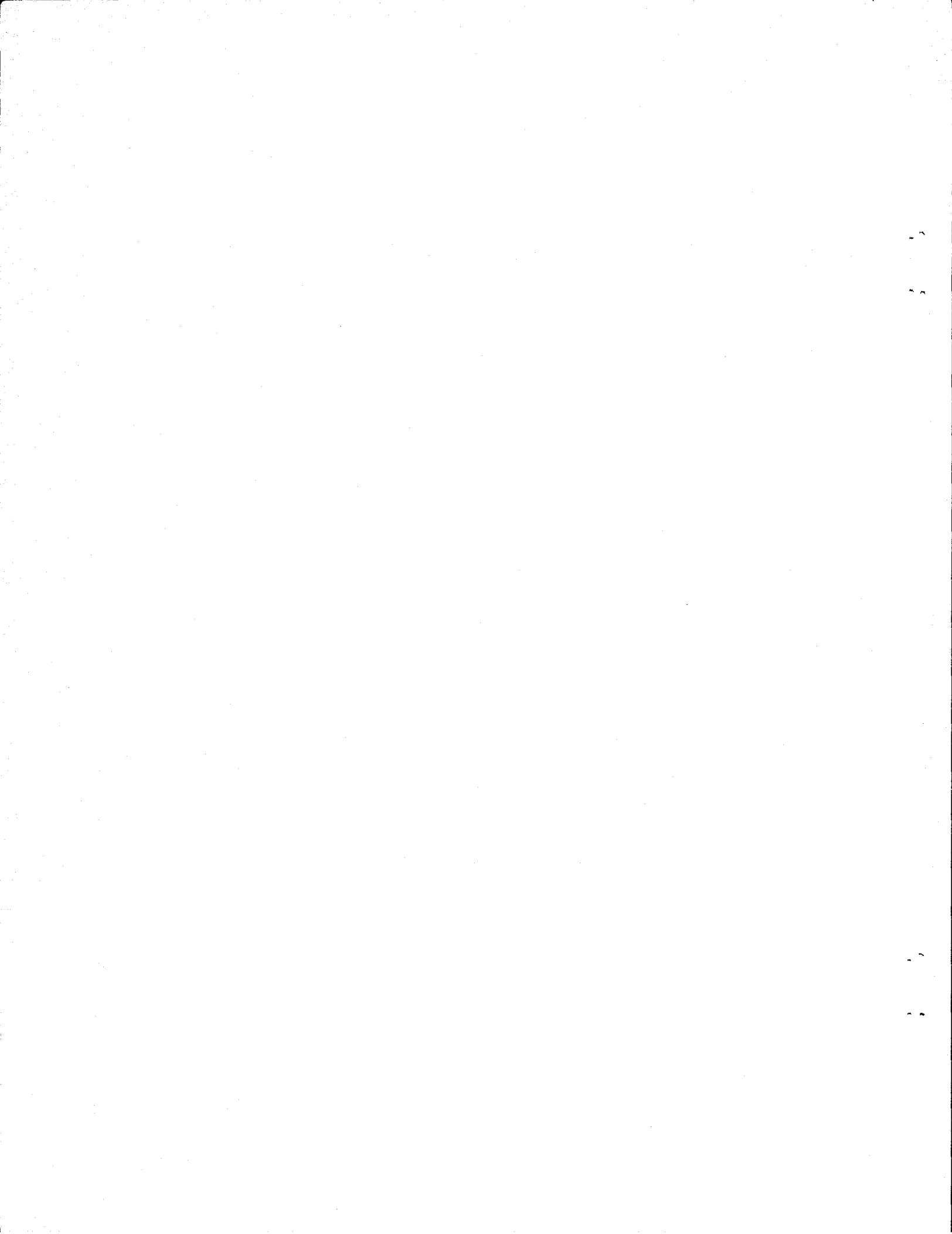
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PART I

A. General Comments:

On June 13, 1975, Mr. Richard W. Velde, Administrator, Law Enforcement Assistance Administration, Washington, D. C., notified Governor Thomson by letter of the federal requirement for each state to develop and submit to LEAA a state security and privacy plan setting forth the procedures which will be followed to meet the requirements of the Public Law 93-83. The original submission date for the plan was December 16, 1975. This date was later modified to March 16, 1976, for a separate supplemental security plan to be submitted, and at a later date to be announced the remainder of the plan, to include dissemination and access. Complete implementation of this plan would be accomplished by December 31, 1977.

Governor Thomson designated the Governor's Commission on Crime and Delinquency (GCCD) as the planning agency responsible for development of a State Security and Privacy Plan. LEAA approved a \$20,000 - discretionary grant to GCCD for the purpose of assisting the State of New Hampshire to develop the security and privacy plan by ensuring that adequate state manpower and time was made available for plan development.

The Governor and Council approved the hiring of key personnel under the discretionary grant on October 2, 1975. Key personnel were hired on October 3, 1975. The Statistical Analysis Center of the GCCD was given the responsibility to monitor the development of the plan.

In September 1975, a letter was sent to appropriate state, county, and local agencies asking for their participation as members of a planning group with the GCCD security and privacy planners. A copy of the members of this group is attached as Appendix 2. The Planning group has been in close and continuing contact with the security and privacy planners during the development of this plan.

On Friday, March 19, 1976, LEAA published amendments to Federal Register Regulations posted on May 20, 1976. These amendments create significant changes to the original regulations and have been incorporated into this plan.

B. Definitions:

1. Criminal Justice Agency: (CJA)

a. Courts

b. A State, County or local 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.

2. Administration of Criminal Justice:

The administration of criminal justice means performance of any of the following activities: detection, apprehension, detention, pre-trial 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.

3. Criminal History Record Information: (CHRI)

"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.

4. Criminal History Record Information System:

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.

5. Disposition:

Disposition means information disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence 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. Disposition 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.

6. Act:

"Act" means the Omnibus Crime Control and Safe Streets Act, 42 USC 3701, et seq., as amended.

7. Nonconviction Data:

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.

8. Direct Access:

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

9. Dissemination:

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

10. Restricted Information:

Information that is not releasable to non-criminal justice agencies or individuals, such as; intelligence or investigative information.

11. Representative Sample:

The number of CHRI files to be selected at random by the audit team at the specific CJA being audited which will provide sufficient information to assure compliance with Security and Privacy regulations.

C. Exclusions to Criminal History Record Information:

1. 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.
2. Statistics derived from offender-based transaction statistics systems which do not reveal the identity of individuals. Criminal records of corporations are not included in the definition of criminal history record information since identifiable individuals are not involved.
3. Criminal justice information systems such as subject-in-process, arrests and other criminal justice system transactions. The regulations apply to these and other such systems containing criminal history record information, subject to six specific exceptions:
 - a. Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons.
 - b. 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. The difficulty of retrieval of arrest information from chronological original records of entry such as the traditional police blotter tends to discourage unwarranted inquiries into a person's past record. For all of the above reasons, the regulations do not apply to such records.
 - c. Court records of public judicial proceedings. This exception covers both manual files and automated files, if such files are solely within the management and control of a court system.
 - d. Published court or administrative opinions or public judicial, administrative or legislative proceedings.

- e. Record 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.
 - f. Announcements of executive clemency.
4. 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 specific date, if the arrest record information or criminal record information disclosed is based on data excluded by paragraph 3 of this section. The regulations do not prohibit the dissemination of criminal history record information for the purposes of international travel, such as issuing visas and granting of citizenship.

STATE OF NEW HAMPSHIRE SECURITY & PRIVACY

PART II

A. Objective of the Plan

1. In New Hampshire all criminal history record information (CHRI), collected, stored, or disseminated under the provisions of this plan 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 State of New Hampshire shall assure that the security and privacy of all such information is adequately provided for and that this information shall only be used for law enforcement and criminal justice and other lawful purposes. In addition, an individual who believes that CHRI concerning him contained in a manual or automated system is inaccurate, incomplete, or maintained in violation of this title, shall, upon satisfactory verification of his identity, without undue burden to either the individual or the criminal justice agency (CJA), be entitled to review such information and to obtain a copy of it for the purpose of challenge or correction.
2. This plan shall provide the basis for future security and privacy legislation for the State of New Hampshire.
3. To ensure that an automated criminal justice information system in the State of New Hampshire will be designed and implemented with appropriate security and privacy consideration.

B. Operational Procedures

At the present time the State of New Hampshire does not have a computerized criminal history record information system in existence; but does anticipate

establishing such a file in the near future.

1. Completeness and Accuracy

Under the provisions of New Hampshire Revised Statutes Annotated 106 - B:14 (See Appendix 3) the State Police, with approval of the Commissioner of Safety, have the authority to perform the functions of a Central Repository for criminal history record information. This plan requires that all criminal justice agencies will ensure that all arrests for felonies and misdemeanors, and dispositions occurring within the state are reported to the Central Repository within ninety (90) days after occurrence for inclusion on the Master Criminal History Record as the case moves through the various segments of the criminal justice system. The above shall apply to all arrests occurring on and after March 16, 1976. The ninety (90) day limit for reporting of disposition data should be considered as the maximum time allowable; however, every effort should be made to report disposition data as promptly as feasible.

All CJA's shall 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 if there is any doubt as to the completeness or accuracy. Inquiries of the Central Repository shall be made prior to any dissemination except in those cases where time is of the essence and the Central Repository is incapable of responding within the necessary time period. To be accurate means that no record containing CHRI shall contain erroneous information. To accomplish this end the Central Repository and all CJA's will establish internal audit procedures which will minimize the possibility of recording and storing inaccurate information while processing CHRI. Information found to be inaccurate as a result of these audit procedures must be corrected and reported to

the Central Repository, as well as, all CJA's known to have received such information as soon as possible. It is recognized that in the manual mode it would be impossible for the Central Repository and CJA's with large criminal history record information files to perform 100% audits. Therefore, the following minimum guidelines should be considered when establishing internal audit procedures:

- a. A CHRI file should be reviewed for completeness and accuracy when:
 - (1) it is processed within the agency.
 - (2) it is received or disseminated by the agency.
 - (3) a disposition entry is received or made.
 - (4) it is challenged by an individual.
 - (5) the files are automated.
- b. Representative sample audit annually.
- c. Annually audited by the Security and Privacy Planning Committee.

2. Limits on Dissemination

Conviction data may be disseminated without limitation.

Criminal history record information relating to the offense for which an individual is currently within the criminal justice system may be disseminated without limitations.

Court records of public judicial proceedings whether accessed on a chronological basis or on an alphabetical basis are not covered by these regulations.

Dissemination of criminal history record information for purposes of international travel (issuance of visas and granting of citizenship) is not prohibited.

a. Non-Criminal Justice Agencies -

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.

After December 31, 1977 most non-criminal justice agencies requiring access would require authorization pursuant to a statute, ordinance, executive order or court rule, decision or order. The regulations do not 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 appropriate State or local officials. The deadline of December 31, 1977, will permit State, county, and local agencies and business to obtain authority, as they believe necessary, to disseminate non-conviction data.

b. Juvenile Records -

Dissemination of juvenile records to non-criminal justice agencies is prohibited except when dissemination takes place pursuant to:

- (1) A statute specifically authorizing juvenile record dissemination.
- (2) A court order to include court orders for:
 - (a) A good faith research agreement
 - (b) A contract to provide criminal justice service to the disseminating agency.
- (3) An individual challenge for correction.

Non-criminal justice agencies desiring access to juvenile CHRI records will be required to execute a contract in writing which will stipulate that the receiving agency or individual has agreed to abide by the regulations and the Act, and that knowing violations

thereof will subject the agency or individual to cancellation of receipt of juvenile records and fines as indicated under the regulations and Act. The regulations and Act presently specify fines not to exceed \$10,000.

3. Notice

Each disseminating agency will give written or stamped notice to the individual or agency receiving CHRI advising of the necessity to protect the information and prevent the information from unauthorized disclosure. The purpose of the notice is to safeguard the privacy of individuals to whom the information relates. A sample notice stamp is shown at Appendix 4 . The notice stamp could be used much more efficiently than a typed or printed notice. The notice should specify restrictions on dissemination and internal agency use.

4. Sanctions

The intent of this plan will be undermined if receiving agencies not subject to the regulations are given criminal history information with no controls. It is the intent of this State to propose appropriate legislation, the violation of which would incur civil or criminal penalties equivalent to or greater than those applicable to federally funded agencies.

In the interim period, prior to legislation being adopted, non-federal funded receiving agencies, or individuals will be required at the time of certification at the Central Repository to execute a contract in writing (example contract shown at Appendix 5) which will stipulate that the receiving agency or individual has agreed to abide by the regulations and the Act, and that knowing violations thereof will subject the agency or individual to cancellation of receipt of CHRI and

finer as indicated under the regulations and Act. The regulations and Act presently specify fines not to exceed \$10,000, and in addition, LEAA may initiate fund cut-off procedures against recipients of LEAA assistance.

Agencies disseminating criminal history record information to non-criminal justice government agencies, private agencies, and researchers would also make contractual arrangements similar to those required for criminal justice agencies. Where possible such agreements would also provide that disseminated information and all copies thereof shall be returned to the disseminating agency once the information is no longer needed for the purposes for which it was disseminate.

5. Validation

Before any dissemination of CHRI takes place, the disseminating agency will be certain that the potential recipient is an agency or individual permitted to receive CHRI under the regulations. If a potential non-criminal justice recipient claims to be authorized to receive CHRI pursuant to a statute, executive order, or court order or rule, the disseminating agency will review the text of such authority prior to dissemination. If the disseminating agency is not certain that the rule, statute, or order is proper authority for dissemination, the disseminating agency will refuse to release the information pending an opinion by the Department of Attorney General, State of New Hampshire.

6. Expiration of Availability

CHRI concerning the arrest of an individual may not be disseminated to a non-criminal justice agency or individual except for the purposes of challenge or correction if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending. Querying the Central

Repository should begin the up-date or purging processes in these cases. All agencies processing, storing or disseminating criminal history record information in an automated computer mode will institute procedures to visually screen the CHRI to determine if restricted data is contained in the record. If restricted information is contained in the record the authorized personnel will promptly tag the record via flags. Once the record has been flagged, the authorized personnel will check with the Central Repository to insure that the most complete data is obtained on that record prior to storing and dissemination.

Specific instructions for the authorized personnel at the Central Repository are attached at Appendix 1.

7. Audits and Quality Control

The regulations call for two different forms of auditing: Systematic and Annual. The Systematic audit is required for a repository as a means of guaranteeing the completeness and accuracy of the records. The Annual audit is an examination, usually by an outside agency, of the extent to which any identified repository or user of such repositories are complying with the regulations. Detailed procedures concerning audit and quality control are contained in the Central Repository Operating Instructions (Appendix 1). The following instructions pertain to other agencies and individuals who store criminal history record information:

a. Systematic Audit

Section 524(a) (See Appendix 7) of the Omnibus Crime Control and Safe Streets Acts provides that "...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 Central Repository will ensure that all CHRI will be complete and accurate. Procedures in dealing with checking on completeness, at the Central Repository, will provide for a means of monitoring the submission of dispositions. Agencies will establish appropriate controls and inspections to insure accuracy when information is input to their files. Random inspections by department heads will be instituted to compare input data to source documents.

b. Audit Trail

The central repository audit trail will allow for tracing of disposition data back to the source document (example: arrest report, court dispositions). This audit trail will encompass all participating agencies in the criminal history records system and additionally will reflect specific individuals who have made entries on source documents or input formats supporting the system.

c. Dissemination Logs

Logging is required for the support of the audit process and also as a means of correcting erroneous dissemination. All agencies are required to develop and maintain a logging system which will ensure all transactions in disseminating data are accounted for. All CJA's and individuals upon finding inaccurate information of a material nature, shall notify all CJA known to have received such information. All agencies shall maintain a log of the agencies and individuals to whom criminal history record information is disseminated. This listing will be preserved for a period of not less than one year from the date of release. Such logs will indicate as a minimum:

- (1) The agency or individual to which information was released.

- (2) The date of the release.
- (3) The individual to whom the information related.
- (4) The items of information released.

Note: It is recommended that agencies consider the use of the Right to Access Forms to meet the required log and listing requirements. Corrections records will be forwarded immediately to all appropriate agencies. In all cases, corrections will be sent to the Central Repository.

d. Annual Audit

A representative sample of State and local criminal justice agencies on a random basis shall be conducted by the Security and Privacy Committee to verify adherence to these regulations and that appropriate records shall be retained to facilitate such audits. The Statistical Analysis Center under the supervision of the Security and Privacy Committee shall provide the annual audits for the representative sample of the remaining CJA's (i.e., Probation, Parole, State Prison, etc.) at State level. Areas to be reviewed during these audits shall include, but not be limited to, record accuracy and completeness, review of the effectiveness of the systematic audit procedures, examination of the evidence of dissemination limitations, security provisions, and the individual's right of access. At a minimum the logs and/or listings referred to above will be required to be on hand for the audits.

8. Security

- a. At the present time, there are no computerized CHRI systems in the State (either State or local). When such systems are developed adequate security will be incorporated into the system to guard

against misuse. (The Central Repository, Centralized Data Processing, and the Statistical Analysis Center will assist in the assurance of security in these systems.)

b. Currently, there are manual criminal history record information systems in the State. The State Police maintains a manual criminal history information system. This system is the Central Repository for all State, county, and local agencies. The State Police will also be the Central Repository for criminal history record information when the system is computerized. There is nothing in this plan that requires the Central Repository to have its own computer hardware.

c. (1) Presently the Centralized Data Processing Department (CDP) is the State agency that has the authority to set and establish policy concerning computer operations.

(2) Federal Exceptions:

(a) The Governor and Council may authorize any department or agency of the State to alter its data processing equipment or its forms, methods or techniques to comply with any such federal rule, regulation, or law if the department or agency of the State is advised by the Federal Government that its data processing equipment or its forms, methods, or techniques in utilizing said equipment does not comply with any federal rule, regulation or law.

(b) Automated data processing facilities and equipment of any department or agency of the State paid for completely by federal funds shall be utilized to the fullest extent permitted by federal rule, regulation, or law for the general benefit of the State. Any dispute arising between any such department or agency and any other state

agency as to the utilization requested by the department of Centralized Data Processing of said facilities, equipment and data shall be resolved by the Governor.

- d. (1) Each criminal justice agency in the State of New Hampshire which stores, collects, or disseminates criminal history record information will maintain its own internal personnel assignment authority for legitimate security purposes.
- (2) The State Police (which is presently the Central Repository operating in a manual mode) has the authority to limit access of such data to authorized personnel, and will continue to do so when a computerized Central Repository is established.

The State Police Personnel Selective Policy is in Appendix 1.

- e. All CJA's in the State of New Hampshire, will limit those persons authorized to have direct access to criminal history record information on a need-to-know basis. Procedures should be established to monitor the access of those other personnel who have access to such files by means of escorts, keys, id cards, etc. (This primarily concerns the larger agencies). Each CJA will institute procedures to insure compliance with internal personnel access to criminal history record information. Adequate notice will be given of the reduction or revocation to all other agencies that previously relied upon such clearances.
- f. All CJA's that collect, store, or disseminate criminal history record information must assure that each individual or agency authorized direct access to such information is administratively held responsible for the physical security for such information under its control or

in its custody and the protection of such information from unauthorized access, disclosure or dissemination by way of agency assurance. These assurances must state that the agency or individual so designated will assure the security and protection of said material or data. The assurances cover all CJA's and the Central Repository, as well as, contracts between non-criminal justice agencies, individuals with CJA's, and the Central Repository for special access. The State Police will perform the function of a Central Repository in all matters concerning certification now in the manual mode and later in the computer mode.

g. Physical Security of Central Repository (See Appendix 1)

Each criminal justice agency must insure that it will, within its capabilities and resources, reasonably protect criminal history record information from unauthorized access, theft, sabotage, fire, flood, wind or other natural or manmade disasters.

Where the physical security of such information is considered inadequate, the shortcomings will be identified and submitted in written form to the Central Repository by CJA's. Where possible, considering monetary constraints, the inadequacies should be corrected by December 31, 1977.

h. Each CJA and their employees working with or having access to CHRI will be made familiar with the substance and intent of these regulations by means of specific training requirements, a training manual, and training sessions. Consideration is being given to the Police Standards and Training Council at the New Hampshire Technical Institute in Concord, New Hampshire and at the Police Training Academy conducting training seminars for CJA's.

i. Manual systems accountability at the Central Repository for record up-date information will be maintained on a manual log or equivalent method of accounting for criminal history record updates. When the system is computerized, the update process will include an automated log system.

9. Individual Right of Access and Review

Beginning on the date this plan is approved by the Governor the following individual rights of access and review procedures will be complied with by all New Hampshire criminal justice agencies:

a. Individual

Any individual shall upon satisfactory verification of his identity, be entitled to review, without undue burden to either the CJA or the individual, any CHRI maintained about the individual and obtain a copy thereof when necessary for the purpose of challenge or correction.

b. Verification Methods

Each CJA will utilize its own methods of identification of individuals. As a matter of record, New Hampshire CJA's have been making verification of identifications quite successfully for years, therefore, this plan will not specify a specific method.

c. Rules for Access

Individuals desiring access to their CHRI for the purpose of challenge or correction will apply in person, or through an attorney to the Central Repository, Division of State Police, Department of Safety, John O. Morton Building, 85 Loudon Road, Concord, New Hampshire. The Central Repository maintains normal business hours Monday through Friday. Individuals applying under these rules must be able to meet verification of identification requirements. The individual must

execute or have executed for him a Right to Access Form (Appendix 6) which will be available at the Central Repository and at most of the CJA's throughout the State.

Telephonic requests for CHRI by individuals cannot be honored since verification of identity cannot be assured.

Individual CJA's may retain the right to provide individual access to CHRI provided the Right to Access Form is used and that all other security and privacy requirements are met (as described in the Rules For Access section of this plan) and the CJA concerned verifies the completeness and accuracy of the information with the Central Repository prior to dissemination of the information.

d. Use of Right to Access Form

The Right to Access Form (Appendix 6) is a three-part, NCR paper form printed in three colors, WHITE, YELLOW, and PINK.

- (1) The white sheet is marked "ORIGINAL" and when completed should be forwarded to the Central Repository to be maintained in a permanent file.
- (2) The yellow sheet marked "INDIVIDUAL" when completed should be given to the individual requesting access.
- (3) The pink copy marked "FILE COPY" will be retained by the agency where the individual requested access. This will normally be at the Central Repository.

If the individual requests access at the Central Repository and the information is peculiar to a specific criminal justice agency, i.e., Probation, the pink copy will be forwarded to that CJA for their files, in this example the pink sheet would be sent to Probation. Initial issues of Right to Access Forms have been distributed to the Central Repository and other appropriate criminal justice agencies. Agencies operating

under the directions of this plan are referred to Part II Section 9 - d, for suggested uses of agency copies of Right to Access Forms.

e. Obtaining a Copy

Once an individual has properly requested access to a portion of his/her CHRI and the releasing agency has determined a valid challenge exist, a copy of that portion of the CHRI challenged will be provided to the individual if requested. This copy must be prominently marked or stamped to indicate that the copy is "for review and challenge only and that any other use thereof would be a violation of 42 USC, page 3771".

A copy will be given to an individual if after review he actually initiates a challenge and indicates that he needs the copy to pursue the challenge.

A fee may be charged for making the copy, providing the fee charged does not exceed actual costs of making the copy (including labor and material costs). Typical fees now being charged throughout the United States for the service are in the \$5.00 to \$10.00 range.

f. Content of Challenge

The individual making the challenge will use the Right to Access Form on which to record his challenge. In this challenge he must identify that portion of his CHRI which he believes to be inaccurate or incorrect, and must also give a correct version of his record and explain why he believes his version to be correct.

g. Administrative Review

The Central Repository or other CJA which receives an individual challenge must take the following actions within 30 days of receipt of the challenge:

- (1) Review the records to determine whether the challenge is valid.
- (2) If the challenge is valid, correct the record, notify the individual and appropriate criminal justice agencies (note: this action should be accomplished as soon as possible.)
- (3) If the challenge appears to be invalid, inform the individual and advise him/her of the right to appeal.

h. Administrative Appeal

If a CJA refuses to correct challenged information to the satisfaction of the individual to whom the information relates, the original copy of the Right to Access Form will be marked "appealed" and forwarded to the Central Repository where any and all appeals of this nature will be reviewed by an impartial Appeal Body outside of the agency that made the determination not to correct the record to the individual's satisfaction.

i. Designation of Appeal Body

The Security and Privacy Committee will designate five of its members on a rotating basis as the Appeal Body. This Body will handle appeals sent to the Central Repository or entered at the Central Repository on an as needed basis. The Department of the Attorney General will provide advisory assistance to the Appeal Body.

j. Procedure for Appeal

When an individual has grounds for an appeal concerning a decision from the challenge that he has asked to be corrected or changed, to his satisfaction, the original copy of the Right to Access Form will be submitted to the Central Repository for review by the Appeal Body. The Appeal Body will meet as needed but at least once a month if appeals are pending for the purpose of reviewing challenges. The Appeal Body findings will be governed by majority rule. The decision

can be one of three rulings:

- (1) Approved - where the correction of the record will be made.
- (2) Denied - where the challenge of the correction will not be allowed.
- (3) Tabled - where if further investigation is needed. No appeal will be tabled more than one time.

Sufficient notification (2 weeks at a minimum) will be given so as to allow the individual and/or his attorney to be present at the appeal hearing. (Attorney at individual's expense.)

Judicial review will be taken on all decisions of the Appeal Body.

k. Correction Procedures

Upon request, an individual whose record has been corrected will be given the name of all non-criminal justice agencies to whom the data has been given. (This enables the individual to take steps to correct erroneous information that may have been given to non-criminal agencies.)

This is related to the requirement that records be kept of the names of all individuals or agencies to whom criminal history record information is disseminated.

l. Information Subject to Review

An individual's right to review extends only to CHRI concerning him. The individual is entitled to review information that records essentially the facts, date and results of each formal stage of the criminal justice process through which he passes, to ensure that all such steps are completely and accurately recorded. However, the individual is not entitled to review intelligence and investigative information compiled about him by CJA's, (as distinguished from a record of his movement through the agency.) Thus, he would

be entitled to review the recordation of his admission to bail, but not the bail report; the recordation of his sentencing, but not the presentence report; and the recordation of his admission to correctional institutions, but not medical records and other records of treatment.

If any of these reports are subject to dissemination such as bail, probation, and parole reports, and any correction is made in the individual's criminal history record as a result of a successful challenge, the appropriate corrections will be made in any of these reports that contain erroneous information.

C. Certification Statements

A State of New Hampshire Security and Privacy Certification executed by the Director, Governor's Commission on Crime and Delinquency is attached at Part V of the Plan. This State Certification is based on the State, county, and local criminal justice agencies assurances, at Part V - B, is the Central Repository Certification on LEAA Form 6600/9 (9-75).

1. Actions Taken and Description of System Capability

- a. The procedures for access and challenge by individual record subjects developed pursuant to Section 20.21(g) of the regulations are completely operational.
- b. The present criminal justice information system in New Hampshire is in the manual mode. As the system is brought into the automated mode, all necessary Security and Privacy procedures, (software and hardware) will be developed and implemented so as to meet the Federal and State requirements for security and privacy. The present system is capable of assuring individual access, security of records and disposition reporting within 90 days. The system capability is shown on the State Certification.

2. Authorizing Orders and Legislation

- a. This plan as indicated in the Governor's cover letter carries the authority of an Executive Order.
- b. As stated in Part II, Objectives of the Plan, 2, "this plan shall provide the basis for future security and privacy legislation for the State of New Hampshire". The State Legislature is not scheduled to meet until 1977. The Governor's Commission on Crime and Delinquency will continue to work with the members of the Security and Privacy Planning Group to develop and draft legislation needed to make this plan a State statutory requirement. It is planned to introduce appropriate legislation in the 1977 Legislative Session.

3. Problem Resolution

- a. Presently the Central Repository does not have sufficient staff to operate at the anticipated response level. Therefore, for the present the Central Repository is operating at the required response level with personnel borrowed from other activities within the State Police. A budget request will have to be processed and accepted by the legislature authorizing an increase in personnel. The New Hampshire State Legislature will meet again in 1977. Therefore, the estimated date for complete implementation of the Central Repository staff will be December 1977.
- b. Employee training programs for the entire Security and Privacy Plan implementation will not be completed until June 1977. The basic orientation for individual access and security was completed at the time of the promulgation of the plan.
- c. A longer range consideration of individual access to only that portion of the individual's CHRI challenged leads the New Hampshire CJA's to believe that eventually all of an individual's file must be released

unless specifically denied by statute.

- d. The State of New Hampshire does not feel it is necessary to require CJA's except for the Central Repository to execute certifications to show compliance with Security and Privacy requirements in as much as, all CJA's are already held responsible to comply with the Federal and State laws as well as this plan. There are no requirements in either the Federal Law or regulations concerning CJA's other than the Central Repository executing certifications. The original Security and Privacy planning instructions required all CJA's to execute certifications.
- e. Most of the smaller CJA's (primarily small police departments) do not have their CHRI secured from fire, sabotage, or flood, however, these records are locked and unauthorized access to them is denied. It is not feasible to require that CJA's in small towns keep their CHRI in a more secure manner than other equally sensitive town records are kept. Cost alone precludes any major up-grading of physical security. The State will continue to assist CJA's in every way possible, but the only long-range answer is Federal monetary assistance.

4. Statutory Authority for Non-Criminal Justice Uses

The following is a list of non-criminal justice agencies that were receiving criminal history record information from the Central Repository prior to the implementation of this plan pursuant to the Revised Statutes Annotated 106: B-14, which gives the Director of the State Police, with the concurrence of the Commissioner of Safety, the authority to disseminate criminal history record information to whom he deems is necessary to have such information;

- a. Real Estate Board
- b. Greyhound Racing Commission
- c. Secretary of State
- d. Department of Welfare
- e. Laconia State School
- f. Department of Employment Security
- g. New Hampshire Hospital
- h. Department of Education (School Bus Drivers)

The agencies authorized to receive criminal history record information pursuant to a statute are:

- a. Real Estate Board - RSA - A:4 - b, 331 - A:6 - b,
331 - A:7
- b. Greyhound Racing Commission - RSA 284: 15-B (III) 284: 19-a

Note: The amendments to the regulations will clearly allow a much wider span of non-criminal justice agencies to have access to convictions and judicial proceedings information. It is recommended that the proposed Security and Privacy Legislation and Ordinances consolidate access authority into one statute that will encompass the several state, county, and local non-criminal justice agencies, businesses and private sector representatives requirements. These requirements

primarily will pertain to hiring or job assignment to sensitive positions involving:

- (a) Working in or near private dwellings without immediate supervisions.
- (b) Custody or control over or access to cash or valuable items.
- (c) Knowledge of or access to secret processes, trade secrets or other confidential business information.
- (d) Insuring the security or safety of other employees, customers or property of the employer.

D. Penalties for Non-Compliance

All state, county and local criminal justice agencies under the terms of the plan who knowingly violate the provisions of this plan, shall be subject to a fine not to exceed \$10,000, and in addition, are subject to LEAA funds being cut off.

All non-criminal justice agencies and individuals who become certified to receive criminal history record information will be required to execute a contract (example shown at Appendix 5) which will carry the same penalties for violation as those in effect for criminal justice agencies.

PART III

Schedule of Major Milestones

<u>Event</u>	<u>Implementation Date</u>
1. Plan Submission	April 16, 1976
2. Completeness & Accuracy	April 16, 1976
a. Central Repository	April 16, 1976
b. All Criminal Justice Agencies	April 16, 1976
c. All Non-Criminal Justice Agencies	April 16, 1976 or as Access is Requested
3. Limits on Dissemination	
a. For Criminal Justice Purposes	April 16, 1976
b. For Non-Criminal Justice Purposes	April 16, 1976 or as requested
c. Court Order	As Requested
d. Juvenile	April 16, 1976
4. Audits and Quality Control	
a. Delinquent Dispositions to Central Repository	July 16, 1976
b. Criminal Justice Agencies Internal Audit - Random Inspections	Periodically
c. Annual Audit by State Security and Privacy Board	March - June 1977
d. Annual Audit by Central Repository of State and local samples	March - June 1977
5. Security	
a. Manual System	April 16, 1976

- | | |
|---|--|
| b. Physical Security | Beginning April 16, 1976 until completed |
| c. Automated System | As Implemented |
| d. Training | Beginning April 16, 1976 |
| 6. Individual Right of
Access and Review | April 16, 1976 |
| 7. Legislation | During 1977 Legislative Session |
| 8. Problem Resolution | Beginning April 16, 1976 |

PART IV

Responsibilities of Involved Agencies

1. The Governor's Commission on Crime and Delinquency
 - a. Draft Security and Privacy Legislation
 - b. Oversee State Security and Privacy Plan
 - c. Provide Technical Assistance to State, County, and Local Criminal Justice Agencies
 - d. Advise the Governor and Council on Plan Implementation
 - e. Assist in Resolving Problem Access
2. Central Repository

See Appendix 1, Central Repository Operating Procedures

 - a. Conduct Representative Sample Audits
 - b. Certify all Agencies Requesting CHRI
 - c. Advise GCCD on violations of the Plan
3. The Security and Privacy Committee (Formerly the Security and Privacy Planning Group)
 - a. Advise and Assist GCCD and Central Repository in Matters Concerning Implementation, Certification, Contracts, and Audits
 - b. Designate 5 Man Appeal Body from its Members
4. Statistical Analysis Center
 - a. Monitor the Operation of the Security and Privacy Committee for the GCCD
 - b. Provide Technical Assistance to Ensure All Automated Criminal Justice Information Systems meet Security and Privacy Criteria in Collection, Storage, Use and Dissemination of Criminal History Record Information

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

CERTIFICATION FOR
THE STATE OF NEW HAMPSHIRE

NAME/ADDRESS OF SUBMITTING AGENCY Governor's Commission on Crime And Delinquency 169 Manchester Street Concord, New Hampshire 03301	APPLICABLE STATE New Hampshire	DATE PREPARED April 15, 1976
	CONTACT NAME R. J. Crowley, Jr.	TELEPHONE NO. (Give area code) 603-271-3601

INSTRUCTIONS: Complete the following as appropriate.

OPERATIONAL PROCEDURES

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

NOW IMPLEMENTED	CHECK MARKS			DATES
	REASONS FOR NON-IMPLEMENTATION			
	COST	TECHNICAL	LACK OF AUTHORITY	
X				
	X			Dec. 31, 1977
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				June 1, 1977
		X		Apr. 16, 1976

OPERATIONAL PROCEDURES

*** Security**

Executive/Statutory Designation of Responsible Criminal Justice Agency

Prevention of Unauthorized Access:

Hardware Design

Software Design

Dedicated Hardware:

Terminals

Communications Control

Processor

Storage Devices

Criminal Justice Agency Authority:

Computer Operations Policy

Access to Work Areas

Selection and Supervision of Personnel

Assignment of Administrative Responsibility:

Physical Security

Unauthorized Access

Physical Protection Against:

Access to Equipment

Theft, Sabotage

Fire, Flood, Other Natural Disaster

Employee Training Program

Individual Right of Access

Rules for Access

Point of Review and Mechanism

Challenge by Individual

Administrative Review

Administrative Appeal

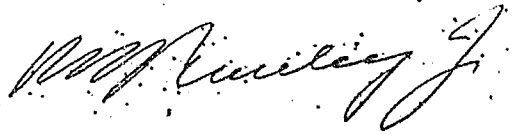
Correction/Notification of Error

NOW IMPLEMENTED	CHECK MARKS			DATES
	REASONS FOR NON-IMPLEMENTATION			ESTIMATED IMPLEMENTATION DATE
	COST	TECHNICAL	LACK OF AUTHORITY	
X				
N/A				
N/A				
N/A				
N/A				
N/A				
N/A				
N/A				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				
		X		Dec. 31, 1977
X				
X				
X				
X				
X				
X				
X				

CERTIFICATION

I certify that to the maximum extent feasible, action has been taken to comply with the procedures set forth in the Privacy and Security Plan of the State.

SIGNATURE *(Head of State Agency designated to be responsible for these regulations)*



REMARKS

***NOTE: Section on "Security" not required to be completed.**

- 1. There is no computerized CHRI System in New Hampshire
- 2. Training of all personnel in the Central Repository has been complete. Training of all other CJA personnel began on April 16, 1976 and will continue through December 31, 1977. Training will be incorporated after that date into the CJA's own training programs. Cost for initial training must be supported without federal or state budgeted monies.
- 3. Only the Central Repository meets all security criteria. All other agencies will secure the CHRI to the best of their ability within their present funding ceilings. There are no federal or state funds to support the security portion of this plan.

UNITED STATES DEPARTMENT OF JUSTICE Law Enforcement Assistance Administration National Criminal Justice Information and Statistics Service Washington, D.C. 20531	CERTIFICATION FOR A CENTRAL STATE REPOSITORY	
NAME/ADDRESS OF SUBMITTING AGENCY New Hampshire State Police 85 Loudon Road Concord, NH 03301	APPLICABLE STATE New Hampshire	DATE PREPARED 4-12-76
	CONTACT NAME MAJ H. W. Bean, Jr.	TELEPHONE NO. (Give area code) 603-271-2269

INSTRUCTIONS: Complete the following as appropriate.

	CHECK MARKS			DATES
	NOW IMPLEMENTED	REASONS FOR NON-IMPLEMENTATION		ESTIMATED IMPLEMENTATION DATE
	COST	TECHNICAL	LACK OF AUTHORITY	
OPERATIONAL PROCEDURES				
Completeness and Accuracy				
Central State Repository:				
Statutory/Executive Authority	x			
Facilities and Staff		x		7-1-77
Complete Disposition Reporting in 90 days from:				
Police		x		1-1-77
Prosecutor		x		7-1-77
Trial Courts	x			
Appellate Courts	x			
Probation		x		1-1-77
Correctional Institutions	x			
Parole	x			
Query Before Dissemination:				
Notices/Agreements-Criminal Justice		x		7-1-76
Systematic Audit:				
Delinquent Disposition Monitoring	x			
Accuracy Verification	x			
Notice of Errors	x			
Limits on Dissemination				
Contractual Agreements/Notices and Sanctions in Effect for:				
Criminal Justice Agencies	x			
Non-Criminal Justice Agencies Granted Access by Law or Executive Order	x			
Service Agencies Under Contract	x			
Research Organizations	x			
Validating Agency Right of Access Restrictions On Juvenile Record Dissemination	x			
Continuation of Record Existence	x			
Secondary Dissemination by Non-Criminal Justice Agencies	x			
Dissemination Without Disposition	x			
Audits and Quality Control				
Audit Trail:				
Recreating Data Entry	x			
Primary Dissemination Logs	x			
Secondary Dissemination Logs	x			
Annual Audit		x		1-1-77

OPERATIONAL PROCEDURES

*** Security**

- Executive/Statutory Designation of Responsible Criminal Justice Agency
- Prevention of Unauthorized Access:
 - Hardware Design
 - Software Design
- Dedicated Hardware:
 - Terminals
 - Communications Control Processor
 - Storage Devices
- Criminal Justice Agency Authority:
 - Computer Operations Policy
 - Access to Work Areas
 - Selection and Supervision of Personnel
- Assignment of Administrative Responsibility:
 - Physical Security
 - Unauthorized Access
- Physical Protection Against:
 - Access to Equipment
 - Theft, Sabotage
 - Fire, Flood, Other Natural Disaster
- Employee Training Program
- Individual Right of Access
 - Rules for Access
 - Point of Review and Mechanism
 - Challenge by Individual
 - Administrative Review
 - Administrative Appeal
 - Correction/Notification of Error

NOW IMPLEMENTED	CHECK MARKS			ESTIMATED IMPLEMENTATION DATE
	REASONS FOR NON-IMPLEMENTATION			
	COST	TECHNICAL	LACK OF PRIORITY	
X				
<i>manual system</i>				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				
X				

CERTIFICATION

I certify that to the maximum extent feasible, action has been taken to comply with the procedures set forth in the Privacy and Security Plan of the State.

SIGNATURE (Head of State Agency designated to be responsible for these regulations)

Col. Paul A. Doyon

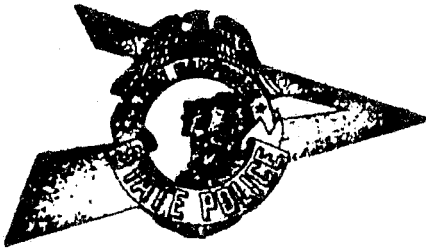
Colonel Paul A. Doyon
Director

REMARKS

*NOTE: Section on "Security" not required to be completed.

APPENDIX 1

CENTRAL REPOSITORY OPERATING PROCEDURES



COLONEL PAUL A. DOYON
DIRECTOR

State of New Hampshire

DEPARTMENT OF SAFETY
DIVISION OF STATE POLICE
HEADQUARTERS CONCORD, N.H. 03301

EFFECTIVE DATE	NUMBER
SUBJECT	
NEW HAMPSHIRE STATE POLICE BUREAU OF CRIMINAL INVESTIGATION	

S O P

SOP State Police, Bureau of Criminal Identification

I. PURPOSE: The purpose of this SOP is to establish operating instructions for the Department of Safety, Division of State Police, State Bureau of Criminal Identification (hereinafter referred to as the BCI), which operates under the supervision of the Supervisor, Records and Reports Unit.

II. SCOPE: This SOP establishes the administrative and unique central repository requirements of the BCI.

1. Physical Security

A. The criminal history record information manual files are housed in the Bureau of Criminal Identification at the Department of Safety, Division of State Police. As such, they are under constant police supervision and control 24 hours a day. The records section is staffed during the day by the personnel actually working on the records. At night, at other times when the bureau is not staffed, the coded records, in locked filing cabinets, are monitored by Communications personnel in the next room.

B. The physically secure building housing the Department of Safety and the Department of Public Works and Highways is surrounded by perimeter lighting at night and manned at all times by a uniformed officer, utilizing television cameras and identification logs. The building itself is constructed with protective, non-combustible material, and is in compliance with both the Life Safety Code and the National Building Code. The actual location in the interior of the building precludes damage from acts of nature. A new office building being constructed for the Department

of Safety with occupancy scheduled for January 1977, will provide security in excess of that enumerated above.

C. Access to our manual files are limited to personnel of the records section.

D. There are no back-up files.

2. Personnel Selection

A. The BCI is staffed by both uniformed and civilian members of the State Police. The over all responsibility for the administration of this operation falls to the Supervisor of the Records and Reports Unit - a uniformed officer. He is, in turn, responsible to the Commander of the Detective Bureau.

B. Civilian personnel who work with criminal records are employees of the State Police. These classified employees are hired by the Division after passing entrance examinations conducted by the Department of Personnel and after successful completion of an extensive background check designed to assess prior work habits, honesty, and suitability for this sensitive position. In actual practice, most employees in this section are prior employees of the Department of Safety who have transferred to the Division of State Police.

C. After hiring, personnel are further cautioned as to the critical nature of their functions and as to the sanctions applied for malfeasance, in addition to procedures for dismissal promulgated by the Department of Personnel. During the initial days of their employment, probationary clerks are closely monitored by the uniformed supervisor and a senior clerk. Throughout the remainder of their probation period (6 months), they are closely checked by the senior clerk.

D. All employees are required to sign a memorandum from the Director concerning the security and privacy of criminal history record information. This memorandum advises them of their responsibilities and requires compliance of the regulations designed to prevent intentional violations of this data. A copy of this memorandum is attached.

3. Limits on Dissemination

A. The BCI recognizes three classes of criminal history record information;

1. All data available at the Central repository including, but not limited to, raw arrest data, data containing not guilty and not proessed findings, incomplete data, data regarding dispositions (supported or unsupported by arrest date), data regarding juvenile arrests and/or dispositions, and acknowledgement that a criminal record does not exist.

2. All of #1 above with the exception of juvenile data.

3. Data containing documented arrests with guilty dispositions, and data containing guilty dispositions only, as well as the acknowledgement that a record does not exist.

B. Dissemination of the above classes of data are limited to the following:

1. Police departments - class 2

2. Other criminal justice agencies - class 3

3. Non-criminal justice agencies with statutory requirements or an executive order allowing access - class 3.

4. Agencies approved by the Director, Division of State Police, under his statutory authority - class 3.

5. Individuals and agencies pursuant of a specific agreement with the State Police to provide services required for the administration of criminal justice pursuant to that agreement. The agreement specifically authorizes access to data, limits the use of data to purposes for which given, insures the security and confidentiality of the data consistent with these regulations and provides sanctions for violation thereof - class 1.

6. Individuals and agencies whether authorized by court order or court rule - class 1.

7. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with the SAC, said agreement simi-

lar to agreement under B5 above and conforming to section 524(a) of the act - class 1.

8. Any person, agency, or institution approved for dissemination by the Director under his statutory authority who has written authorization from the person whose record they are interested in obtaining - class 2.

9. Any individual may obtain his own record upon satisfactory identification - class 1.

C. Dissemination

1. Dissemination of criminal history record information to criminal justice agencies will require that the agencies have a certification form of file at the BCI. This certificate form will have to be on file before information can be given out. Once a form is on file, no further certification form will be required for these criminal justice agencies.

2. Non-criminal justice agencies approved for dissemination by the Director under his statutory authority, or those authorized by statute, will be required to complete a certification on a yearly basis.

3. Individuals, after executing a Right to Access form, will be allowed to view their record and receive a copy of that portion they desire to challenge. Completed access forms will be kept on file at the BCI.

a. When a copy is given to an individual, it will include the notation, "For review and challenge only and any other use thereof will be in violation of 42 USC, page 3771," or a similar warning.

4. Dissemination logs will be maintained on all copies of records given to qualified recipients. These logs will be kept in the individual jacket along with the individual master rap sheet.

5. All copies of records given out above, will include the notation to the effect that the information is given for a specified use only and that sanctions will be applied for misuse.

D. In order to insure that under no conditions will an annulled or expunged

record be disseminated, all such information will be destroyed by the Supervisor of the records and upon receipt of a court order to do same. In addition, all court orders for sealed records will be carried out by the Supervisor.

4. Audit and Quality Control

A. In order to insure the accuracy of the criminal history record information at the BCI, the following source documents will be the only ones utilized as a vehicle to post information to an individual's rap sheet. (Specific clerical instructions will be promulgated by the Supervisor)

1. All notations of an arrest must be documented by a fingerprint card submitted by the arresting agency. These fingerprint cards must be classified or verified before entering the data onto the record. Fingerprint cards to support every arrest after the effective date of this SOP will be kept on file at the BCI. Only arrest records of misdemeanors and felonies of a criminal nature will be posted to an individual's criminal record.

2. All notations as to the disposition of an arrest must be supported by a court abstract. These abstracts will be cross matched, to the maximum extent feasible, to a corresponding arrest. All dispositions (guilty, not guilty, nol prossed, continued for sentence) will be entered. The Supervisor of the Records and Reports Unit will maintain an active list of those offenses not allowed on a rap sheet (e.g. intoxication, vagrancy, motor vehicle violations, Fish & Game violations, etc). All abstracts entered on a rap sheet will be maintained in the individual's jacket.

3. Strict adherence to the above requirements for posting and filing will insure the reliability of the audit trail.

B. The completeness of the criminal history record information will be insured by limiting the dissemination of arrests for which there is no disposition (class 1 and 2) to police agencies only. Arrests which show no disposition after 90 days will require a query to the police department or the corresponding court, if

it appears that a disposition will be forthcoming, prior to the dissemination of this information.

5. Annual Audits

A. The BCI will undergo a yearly audit by the Security and Privacy Committee in order to insure compliance with this SOP and the New Hampshire State Security and Privacy Plan. All resources and files of the BCI will be open to the Security and Privacy Committee at this time.

B. The Supervisor of the Records and Reports Unit or his designated representative will conduct annual audits of a representative sample of local and county law enforcement agencies. Departments to be reviewed will be selected by the Security and Privacy Staff of the SAC. Areas of consideration for this annual audit will be those suggested by the S and P staff.

6. Certification with the BCI

A. Every agency or individual who maintains or receives criminal history record information will certify with the BCI that the information is secure and dissemination is limited to a need to know basis.

B. These certifications will be kept on permanent file at the BCI. If another CJA is in doubt as to the certification of an agency or individual, they may query the BCI for certification status.

C. Violations of security and privacy of criminal history record information will result in immediate removal from the certification list of agencies or individuals pending review of the Director.

7. Individual Review and Appeal

A. Upon the receipt of a Right to Access form, the Supervisor will verify the identity of the requester and allow him to view the rap sheet. A copy of challenged entries will be provided with the proper notations.

B. When the individual challenges an entry, the determination of whether

or not to change the entry will be made by the Supervisor with the advice and consent of the Director.

C. Appeals from the BCI decision will be directed to the Security and Privacy Appeal Body.

D. Appeals from the decision of other criminal justice agencies will be given to the BCI who will investigate the complaint and forward a report to the Appeal Body.

From: COL Paul A. Doyon

Subj: Criminal History Record Information

To: All BCI Employees

As employees of the BCI, you are entrusted with very critical and highly sensitive information concerning individuals in our society. Because of the confidential nature of this material, you are cautioned against intentional violations of this integrity.

Therefore, you are requested to :

1. Release data only to authorized agencies or individuals.
2. Do everything in your ability to insure these records are physically secure and not subject to destruction.
3. Immediately notify your Supervisor of any attempts to illegally obtain these records.
4. Be as accurate as possible in transcribing information from source documents to the files.
5. Pose any questions regarding authority or substance to the Supervisor for his decision or referral.

You are requested to sign this form to show your understanding of these requests and acknowledge their importance. Intentional violations of our procedures or policies can result in dismissal or criminal sanctions (RSA651:5(v)).



COLONEL PAUL A. DOYON
DIRECTOR

State of New Hampshire

DEPARTMENT OF SAFETY
DIVISION OF STATE POLICE
HEADQUARTERS CONCORD, N.H. 03301

EFFECTIVE DATE	NUMBER
SUBJECT SPECIFIC CLERICAL INSTRUCTIONS	

S O P

SOP: CLERICAL INSTRUCTIONS FOR BCI OPERATIONS

I. PURPOSE: The purpose of this SOP is to establish standard operating procedures for the clerical staff of the Bureau of Criminal Identification.

II. SCOPE: The scope of these procedures is to provide specific instructions in the following areas:

1. Fingerprint Cards
2. Court Abstracts
3. Inquiry and Response

FINGERPRINTS

1. The beginning of a criminal history on an individual is the fingerprint card. It is imperative that all fingerprint cards be processed as soon as possible after being received at the BCI.

2. Upon arrival at the BCI, the fingerprint cards will be sorted out into criminal and non-criminal offenses. The criminal cards will be handled first and the non-criminal cards on a time available basis.

3. Criminal Fingerprint Cards

A. Fingerprint cards that do not contain enough of the critical information will be completed by a telephone call to the contributing person/agency.

B. All criminal fingerprint cards will be searched through the master Soundex index.

(1.) Match with Soundex

a. If the name/dob search matches with the soundex card with a fingerprint classification, the index card will be pulled, attached to the fingerprint card, and submitted to the technician for verification before entering the data on the rap sheet and placing the card in the jacket.

b. If the name/dob search matches a soundex card without a classification, the soundex card and the print card will be submitted to the technician for classification prior to transcribing the data to the index card or the rap sheet. The print card then becomes the master fingerprint card.

c. A check of pending court abstracts will be made before typing the data on the master in order to insure the matching of a print with a received abstract.

C. FBI cards: The duplicate FBI card for felonies will be forwarded to Washington, and the final disposition sheet retained here pending the disposition. FBI cards for misdemeanors will be kept in the jacket awaiting final disposition.

4. Non-Criminal Fingerprint Cards

A. If these fingerprint cards do not contain enough information, they will be returned to the contributor.

B. All fingerprint cards submitted for a violation arrest or a motor vehicle violation will be searched through the Soundex to ascertain if prints are on file for this particular individual. If prints are on file, the fingerprint card will be destroyed. If no prints are on file, and a BCI card exists, the fingerprint card will be classified and the classification entered on the BCI card with the notation "Fingerprints received for a non-criminal arrest." Classifications placed on a rap sheet will carry the same notation in the disposition column as well as the name of the department and the date. These fingerprint cards then become the master.

C. Where no BCI card exists, a yellow, non-criminal card will be made, the fingerprint card classified and both filed in their respective master index.

D. Licensing, employment, application, and other personal cards will be classi-

fied, the information extracted for the blue personal index card, and both filed in the personal files.

5. If any fingerprint card is removed from the BCI files by other than clerical personnel of the BCI, the person who takes same (i.e. Detective, Laboratory personnel, etc.) will sign for same in the log book.

COURT RETURNS

1. All abstracts of a criminal nature received will be searched through the master criminal index. Criminal nature means those offenses found in the criminal code RSA625-651, and 318-B. Abstracts of a non-criminal nature will be destroyed.

Attached you will find a current list of those offenses which will not be entered.

This list will be updated as unique abstracts are encountered. If an offense does not fall into the above enumerated criminal category and is not on the exclusion list, consult with the Supervisor before posting.

2. Abstracts must contain at a minimum name, address, date of birth (or an indication that we're unable to obtain one), date of violation, violation, RSA#, plea, finding, and disposition. Abstracts with incomplete or illegible information (including those with blank DOB's) will be returned to the court by the Supervisor.

3. Abstracts will be cross matched to the maximum extent feasible, with the master name index. If an existing card is found, the name and dob must match.

4. Match with Index and a jacket is indicated

A. Information will be posted to the rap sheet if one exists or if one must be made. If at all possible, the abstract will be matched to a corresponding arrest, and the new entry will show court, date, docket number, violation, RSA #, plea, finding, and disposition.

B. If the abstract cannot be matched with an arrest, all the items mentioned above will be entered in the disposition column, as well as the date of violation (so noted) in the Arrest Date column.

5. Match with Arrest on Rap Sheet

A. All abstracts that are matched with an arrest that contain any finding (guilty,

not guilty, nol prossed, dismissed, defaulted, continued for sentence) will be posted.

6. No Match with Arrest on Rap Sheet

A. All abstracts that cannot be matched with an arrest will be posted to the rap sheet only if the finding is guilty or continued for sentence.

B. Abstracts that contain not guilty, nol prossed, or dismissed findings will not be posted to the rap sheet, but will be stapled to the back side of the rap sheet pending the arrival of a fingerprint card.

7. Match with Index and no jacket

A. All abstracts regardless of finding will be typed on the index card with the information as indicated in 4B above.

8. No Match with Index

A. All abstracts will be typed regardless of the finding with information as required in 4B above.

INQUIRY AND RESPONSE PROCEDURES

1. INQUIRY: Inquiry from any agency/individual will require a certification on file at the BCI.

A. Telephonic, teletype, or other data transmission type inquiry will be honored from known members of the criminal justice system only.

B. Non-criminal justice members must request in writing or in person.

2. RESPONSE

A. Telephonic, teletype, and in person requests will be honored first.

Written requests from criminal justice agencies next, and written requests from non-criminal justice agencies last.

B. If a record is found and a copy given, a written notation on the dissemination log will be made. If no record exists, the response will be "no record by name check."

C. If a juvenile record only exists or if the only indication of a record is an abstract with a not guilty or not proved finding, the response will be "no record by name check," for all agencies except police departments.

(1) Police departments will be told if a juvenile record exists, but will not be given the data except by permission of the Supervisor.

(2) Police departments will be told if fingerprints are on file that are supported by a non-criminal arrest.

D. Individuals who desire to look at their record will be allowed, after verification, to view the master record, and receive a copy, at no charge, of that portion of the record that they challenge as indicated on the right to access form.

APPENDIX 2

PLANNING GROUP

SECURITY AND PRIVACY
G.A.A. Plaza, Building #3
169 Manchester Street
Concord, New Hampshire 03301

PLANNING GROUP

A. Roland Roberge
Federal Funds
State House - Room 114
Concord, New Hampshire 03301
Tel. 271-3783
OFFICE OF THE GOVERNOR &
OFFICE OF COMPREHENSIVE PLANNING

Edward N. Damon, Esquire
DEPARTMENT OF ATTORNEY GENERAL
State House Annex - Room 208
Concord, New Hampshire 03301
Tel. 271-3671

The Honorable Edward J. McDermott
Chairman
ADMINISTRATIVE COMMITTEE OF DISTRICT
AND MUNICIPAL COURTS
408 Lafayette Road
Hampton, New Hampshire 03842
Tel. 926-8926

George S. Pappagianis
Clerk of Court
SUPREME COURT OF NEW HAMPSHIRE
Supreme Court Building
Concord, New Hampshire 03301
Tel. 271-2647

The Honorable Maurice P. Bois
SUPERIOR COURT OF NEW HAMPSHIRE
51 High Street
Manchester, New Hampshire 03101
Tel. 668-3220 or 623-2446

John A. King, Director
PROBATION DEPARTMENT
11 Depot Street
Concord, New Hampshire 03301
Tel. 271-2317

Major Herbert W. Bean, Jr.
DIVISION OF STATE POLICE
(DEPARTMENT OF SAFETY)
John O. Morton Building
85 Loudon Road
Concord, New Hampshire 03301
Tel. 271-2113

Ronald Adams, Deputy Superintendent
N. H. YOUTH DEVELOPMENT CENTER
P. O. Box 303
Manchester, New Hampshire 03105
Tel. 625-5471

Jane Worsowicz, Staff Assistant
N. H. MUNICIPAL ASSOCIATION
11 Depot Street
Concord, New Hampshire 03301
Tel. 224-7447

Paul C. Semple, Esquire
N. H. BAR ASSOCIATION
Stewart Nelson Plaza
Concord, New Hampshire 03301
Tel. 224-1989

Roderick O'Connor
Correctional Coordinator
MERRIMACK COUNTY HOUSE OF CORRECTION
(N. H. ASSOCIATION OF COUNTIES)
Box 9
Penacook, New Hampshire 03301
Tel. 796-2324

Chief Kent Williams, President
N. H. ASSOCIATION CHIEFS OF POLICE, INC.
Milford Police Department
Milford, New Hampshire 03055
Tel. 673-1414

Warden Raymond A. Helgemoe
N. H. STATE PRISON
281 North State Street
Concord, New Hampshire 03301
Tel. 224-6554

Robert A. Johnson
Parole Officer
STATE BOARD OF PAROLE
Box 15
Concord, New Hampshire 03301
Tel. 224-6557

Michael Nichols, Supervisor
VOCATIONAL REHABILITATION
c/o N. H. State Prison
Concord, New Hampshire 03301
Tel. 224-6550

Paul R. Fillion, Chief
Division of Administration
EDUCATION DEPARTMENT
State House Annex - Room 410
Concord, New Hampshire 03301
Tel. 271-3453

Samuel L. Hays, Esquire
Secretary
JUDICIAL COUNCIL
State House - Room 6
Concord, New Hampshire 03301
Tel. 271-3592

Arthur Kehas, Director
N. H. POLICE STANDARDS & TRAINING COUNCIL
N. H. Technical Institute
Fan Road
Concord, New Hampshire 03301
Tel. 271-3493

The Honorable Nicholas Pantelas
N. H. DISTRICT COURT JUDGE'S ASSOCIATION
Nashua District Court
Nashua, New Hampshire 03060
Tel. 883-3871

C. Victor Gouger
CENTRALIZED DATA PROCESSING
1 Pillsbury Street
Concord, New Hampshire 03301
Tel. 271-3763

Michael LaFontaine
Assistant Speaker
HOUSE OF REPRESENTATIVES
State House - Room 310
Concord, New Hampshire 03301
Tel. 271-3661

Peter Cotch
Administrative Assistant
PRESIDENT OF THE SENATE
State House - Room 301
Concord, New Hampshire 03301
Tel. 271-2676

Chief Herbert R. Horne, Chairman
N. H. POLICE STANDARDS AND TRAINING
COUNCIL
Meredith, New Hampshire 03253
Tel. 279-4530

Robert A. Lauze
DIVISION OF RECORDS-MANAGEMENT
AND ARCHIVES
71 South Fruit Street
Concord, New Hampshire 03301

APPENDIX 3

PERTINENT LEGISLATION

PERTINENT LEGISLATION

STATE POLICE - R.S.A. 106-B:14

106-B:14 Criminal Records, Reports. With the approval of the commissioner of safety, the director shall make such rules and regulations as may be necessary to secure records and other information, relative to persons who have been convicted of a felony or an attempt to commit a felony, within the state, or who are known to be habitual criminals, or who have been placed under arrest in criminal proceedings. Such records and information shall not be open to the inspection of any person except those who may be authorized to inspect the same by the director. The clerks of the superior and municipal courts, or if there is no clerk the justice thereof, sheriffs, deputy sheriffs, police officers, jailers, and superintendents of houses of correction shall secure and forward to the director all such information as he may direct relative to persons brought before said courts or arrested or in the custody of such officers. Any person violating the provisions of this section or any rule or regulation made hereunder shall be guilty of a violation for each offense.

APPENDIX 4

SAMPLE NOTICE STAMP

NOTICE
For Internal Use Only
Unauthorized Dissemination
Prohibited

Violators may be fined
up to \$10,000

APPENDIX 5

SAMPLE CONTRACT FOR
NON-CRIMINAL JUSTICE AGENCIES

AGREEMENT

This Agreement is made and entered into by and between the Division of State Police, Department of Safety of the State of New Hampshire, Concord, New Hampshire (hereinafter State Police), and the _____, (Name of Local Agency) _____, hereinafter _____ (User Agency) (Address) this _____ day of _____, 1976.

WITNESSETH

WHEREAS, the State Police maintain criminal history record information records

WHEREAS, _____, User Agency, desires to obtain criminal history record information for criminal justice purposes;

NOW, THEREFORE, in consideration of the obligations hereinafter set forth, the parties hereto mutually consent and agree as follows:

1. This agreement shall commence on the date set forth above and shall continue until terminated as set forth in Paragraph 9, infra.
2. State Police agrees to furnish criminal history record information to User Agency for criminal justice purposes.
3. User Agency agrees to limit access to information furnished by State Police to its own employees and other criminal justice/law enforcement agencies who have entered into agreements comparable to this one with State Police to protect the security and privacy of this information. User Agency will not provide information to non-criminal justice agencies, but will refer such agencies to State Police.

4. User Agency further agrees to comply with federal and state law, rules, procedures and policies formally adopted by State Police and in regard to criminal history information.

5. State Police agrees that no changes will be made in the rules, procedures and policies adopted by it and incorporated in this agreement without notice to User Agency and provision of a 30-day period in which User Agency can submit written comment to State Police.

6. State Police reserves the right to immediately suspend furnishing any information provided for in this agreement to User Agency when any rule, policy or procedure adopted by State Police or any law of this state or of the federal government applicable to the security and privacy of information is violated or appears to be violated. State Police may reinstate the furnishing of such information upon receipt of satisfactory assurances that such violation did not occur or was corrected.

7. User Agency agrees to indemnify and save harmless State Police and its officials and employees from and against any and all claims, demands, actions, suits and proceedings by others, against all liability to others, including but not limited to any liability for damages by reasons of or arising out of any false arrest or imprisonment, or any course of action whatsoever, or against any loss, cost, expense, and damage, resulting therefrom, arising out of or involving any negligence on the part of User Agency in the exercise or enjoyment of this agreement.

8. This agreement may be terminated by either party at any time, with or without cause, by notice in writing to the other party, specifying the effective

date of the termination, which notice shall be delivered in hand or placed in the U. S. Mail, properly addressed, at least thirty (30) days before the effective date of such termination.

IN WITNESS WHEREOF, the Division of State Police, Department of Safety of the State of New Hampshire by its duly authorized agent, and _____, (User Agency) by its duly authorized agent have executed this agreement on the date first set out above.

Division of State Police, Department of Safety

BY _____

TITLE _____

User Agency

BY _____

TITLE _____

WITNESS

WITNESS

APPENDIX 6

RIGHT TO ACCESS

CRIMINAL RECORDS HISTORY INFORMATION

RIGHT TO ACCESS

CRIMINAL RECORDS HISTORY INFORMATION

DATE

NAME OF REQUESTOR		DATE OF BIRTH Mo/Day/Year	SOCIAL SECURITY NUMBER		
STREET	CITY/TOWN	COUNTY	STATE	ZIP CODE	

TEL. NUMBER GIVE REASONS BELOW FOR REQUESTING ACCESS TO FILE

SIGNATURE

DO NOT WRITE BELOW THIS LINE - FOR AGENCY USE ONLY

AGENCY	ADDRESS		ZIP CODE
--------	---------	--	----------

IDENTIFICATION VERIFIED	YES	NO	BY: SIGNATURE AND TITLE
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REQUEST FOR ACCESS	GRANTED	DENIED	BY
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REASONS FOR DENIAL:

ACTION TAKEN:

APPENDIX 7

PUBLIC LAW 93-83

PUBLIC LAW 93-83

SECTION 501 - The Administration is authorized, after appropriate consultation with representatives of States and units of general local government, to establish such rules, regulations, and procedures as are necessary to the exercise of its functions, and are consistent with the stated purpose of this title.

PUBLIC LAW 93-83

SECTION 524(B) - ALL CRIMINAL HISTORY INFORMATION COLLECTED, STORED, OR DISSEMINATED THROUGH SUPPORT UNDER THIS TITLE SHALL CONTAIN, TO THE MAXIMUM EXTENT FEASIBLE, DISPOSITION AS WELL AS ARREST DATA WHERE ARREST DATA IS INCLUDED THEREIN. THE COLLECTION, STORAGE AND DISSEMINATION OF SUCH INFORMATION SHALL TAKE PLACE UNDER PROCEDURES REASONABLY DESIGNED TO INSURE THAT ALL SUCH INFORMATION IS KEPT CURRENT THEREIN; THE ADMINISTRATION SHALL ASSURE THAT THE SECURITY AND PRIVACY OF ALL INFORMATION IS ADEQUATELY PROVIDED FOR AND THAT INFORMATION SHALL ONLY BE USED FOR LAW ENFORCEMENT AND CRIMINAL JUSTICE AND OTHER LAWFUL PURPOSES, IN ADDITION, AN INDIVIDUAL WHO BELIEVES THAT CRIMINAL HISTORY INFORMATION CONCERNING HIM CONTAINED IN AN AUTOMATED SYSTEM IS INACCURATE, INCOMPLETE, OR MAINTAINED IN VIOLATION OF THIS TITLE, SHALL, UPON SATISFACTORY VERIFICATION OF HIS IDENTITY, BE ENTITLED TO REVIEW SUCH INFORMATION AND TO OBTAIN A COPY OF IT FOR THE PURPOSE OF CHALLENGE OR CORRECTION.

References:

1. Section 501 and 524 (b) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1973.
(Appendices 8 and 9)
2. Federal Register, Part IV, 5/20/75 Department of Justice - Criminal Justice Information System.
3. Federal Register, Part III, 3/19/75 Department of Justice, Criminal History Records.
4. Mr. Velde correspondence 6/13/75 to Governor Thomson.
5. Letter from Governor Thomson 7/14/75 to Governor's Commission On Crime and Delinquency.
6. Privacy and Security Planning Instructions - LEAA Department of Justice.
 - a. Supplement #1
 - b. Supplement #2
7. Letter from LEAA - Boston - 10/22/75
RE: Privacy & Security Section 20.21 (f)
Signed by A. G. Zappala
8. New Hampshire Revised Statutes Annotated.
 - a. 106 - B:13 State Police
 - b. 106 - B:14 State Police
 - c. 106 - B:15 State Police
 - d. 284:15 - b (III) Greyhound Racing Commission
 - e. 284:19 - a Greyhound Racing Commission
 - f. 331 - A:4 - b Real Estate Commission
 - g. 331 - A:6 - b Real Estate Commission
 - h. 331 - A:7 Real Estate Commission

- i. 648.8 Attorney General & State Police
- j. 651:5 Courts
- k. 8 - C:4 Centralized Data Processing
- l. 8 - C:7 Centralized Data Processing
- m. 8 - C:10 Centralized Data Processing



END