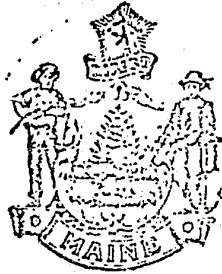


S T A T E O F M A I N E

PRIVACY AND SECURITY PLAN
FOR
CRIMINAL HISTORY RECORD INFORMATION



June 23, 1976

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Submitted By

MAINE CRIMINAL JUSTICE
PLANNING AND ASSISTANCE AGENCY

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ACQUISITIONS

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I
INTRODUCTION

I

INTRODUCTION

The Privacy and Security Plan is intended to be used both for official compliance with Department of Justice regulations and as an instructional document in the State of Maine during the implementation period. For this reason, an effort has been made to include relevant background data and a discussion of the concepts and issues which have influenced the development of the Plan. The Introduction includes these sections:

- Scope of the Plan
 - System Component Interrelationships
 - State Central Repository (SBI)
- Definitions
- Current Status

Each of these areas is examined in reference to the implementation of the provisions of Title 28 of the Department of Justice regulations, May 20, 1975 and March 19, 1976.

SCOPE OF THE PLAN

In the development of the Privacy and Security Plan an effort has also been made to identify the maximum number of criminal justice system requirements and relationships. During the development process it became apparent that this approach will assist in implementation and will serve the best interests of the State.

The intent of the federal regulations has already had an impact on some operational practices. For example, the Maine State Police, State Bureau of Identification [SBI] has sharply curtailed dissemination to non-criminal justice activities. It is expected that the procedures, when implemented, will have an impact on the whole criminal justice system and its interaction with the community.

This approach has resulted in the identification of issues and gaps and has opened up potential considerations for the future. Some of the elements which are addressed include the following:

- The interrelationships among the components of the criminal justice system
- The role of the central state repository [SBI]
- Current issues and future applications

Each of these elements is discussed briefly. Current operational definitions are also included in this section.

System Component Interrelationships

The use of criminal history information occurs in various ways throughout the criminal justice system. While each component of the system uses information for its own purposes, each also contributes to the completeness, accuracy and currency of the total individual criminal history record. Each system component creates information which has unique qualities. When assembled, however, the information from each component creates the complete criminal history record on which all components rely.

The basis for the operational procedures is to insure that the criminal records are complete and accurate so that they are

credible for the purposes for which they are used either as current source documents or as historical reference documents.

The challenge of achieving the objectives of the Privacy and Security Plan runs parallel with the challenges associated with the development of the information system: to meet various needs, time frames, applications, and responses of the components of the criminal justice system which originate, use, and exchange criminal history information.

The principles of privacy and security apply to each of the criminal history record users. The scope of the interactive relationships associated with the in-process flow of information is indicative of the need for a total system approach in the Privacy and Security Plan.

For example, arrest information which is recorded without disposition information in a criminal history at the Bureau of Identification loses a great deal of its value for subsequent prosecution use, and all of its value for non-criminal justice uses.

State Central Repository¹

The State central repository is authorized by statute to maintain comprehensive state-wide criminal history record information files. It has the capacity to provide criminal

¹ The Maine State Police, State Bureau of Identification is the Central Repository in Maine in accordance with Title 25, Part 4, Chapter 193 of the Maine Revised Statutes Annotated [MRSA]. The terms central repository and MSP/SBI are used interchangeably in the Plan.

identification and criminal history record services to criminal justice agencies in the State. The Plan assumes that the complete and accurate record of the individual subject will be maintained at the central repository (MSP/SBI) and that each of the other components of the criminal justice system will contribute to the record through the disposition reporting mechanisms of the State. The problems associated with timely disposition reporting are discussed in the Plan.

The statutory provision for the reporting of dispositions 25 MRSA 1542, 1547 is in accordance with the federal regulations. Disposition reporting practices are the subject of continuing review in the system. A court disposition reporting (CDR) system exists and is being reviewed for improvement with the Court Administrator.

The Plan provides that dissemination to non-criminal justice agencies will be accomplished after the inquiry to the state repository and that this inquiry-dissemination process will be recorded at both the local and State level. There are some restraints in existence at present concerning inquiry and dissemination of information to non-criminal justice agencies. The Plan extends these conditions to the local level. Criminal history information, lacking dispositions, is not furnished by MSP/SBI to non-criminal justice agencies.

The immediate operational information requirements of local law enforcement and prosecution, associated with, for example, detention, diversion, bail bonding will continue to be served by local information and the simultaneous acquisition of wanted/

warrant information. Fingerprint submission to MSP/SBI, and the FBI, following arrests enables the local jurisdiction to acquire a current, complete criminal history record, annotated, if appropriate, by the State repository, to reflect pending dispositions. It is also possible for the local agency to indicate no need for the record.

Current Issues and Future Applications

In developing the plan, current practices were examined in agencies across the criminal justice spectrum. Discussions and on-site reviews took place with agencies of law enforcement, prosecution, defense, courts and corrections. The nature of agencies included state and local representatives, and large and small activities across the State.

The research for the plan, for example, covered the State Bureau of Identification which has received a grant since 1973, of LEAA funds, for the development of a revised record keeping system. In addition there were on-site visits, extensive discussions and system reviews with two large Police departments [Portland, Bangor]: two county sheriffs [Cumberland and Penobscot]: the State Police Headquarters [Augusta] and a detachment [Orono]; an adult correctional institution [South Windham] and a juvenile institution [South Portland]; District Attorney (Prosecutor) Bangor and Clerk of the Court [Bangor]. Maine does not have a Public Defender System but discussions on the defense function were held with defense attorneys. The requirements of the

Privacy and Security Plan were the subject of discussion with the Committee on Privacy and Security.

While current compliance pertains to certain LEAA funded activities the scope of eventual implementation is intended to cover the spectrum of criminal justice agencies in the State. In anticipation of implementation, several data collection forms were developed which will be used as continuing documentation devices. These are included as Figures 1-1 and 1-2.

The proposed Plan includes operational procedures in each of the areas required by Title 28 of the federal regulations. This emphasis on procedures is in accordance with the LEAA guidance provided during the regional meetings and with the LEAA Planning instructions.

An effort has been made to assess the current situation; identify issues and requirements and propose procedures which will meet the needs of the State.

It is clear that the concepts related to Privacy and Security of criminal history information are interrelated to the whole structure of the Criminal Justice Information System.

Further, it is clear that Privacy and Security are "public issues" of intense interest to both members of the criminal justice system and the non-criminal justice community as well.

Final resolution of some of the issues will be difficult in the absence of specific Federal and State legislation. The deregulation of dissemination and security reflect this problem.

FIGURE 1-1

AGENCY ELIGIBILITY PROFILE

Agency/ Department	APPLICABILITY CRITERIA (Yes or No)				APPLICABILITY CODE												
	LEAA Funds CHRI	Collect, Maintain CHRI	Dissem- inate CHRI	Recel/res CHRI	1	2	3	4	5	6	7	8	9	10	11	12	13
ENFORCEMENT AGENCIES																	
STATE LEVEL																	
MAINE STATE POLICE CHIEF 36 HOSPITAL ST AUGUSTA ME 04330																	
ME01000 KENNEBEC COUNTY																	
CAMPUS SECURITY FORCE DIRECTOR UNIV OF MAINE AT BANGOR BANGOR ME 04403																	
ME0100152 PENOBSCOT COUNTY																	
CAMPUS SECURITY FORCE MANAGER UNIV OF MAINE 86 PINE ST FARMINGTON ME 04438																	
ME0040152 FRANKLIN COUNTY																	
MAINE WARDEN SERVICE INLAND FISH GAME CHIEF GAME WARDEN STATE HOUSE AUGUSTA ME 04330																	
ME0060152 KENNEBEC COUNTY																	
CAMPUS POLICE DEPT U OF ME AT ORONO CHIEF OF POLICE PLAUSTAFF ACAD ORONO ME 04473																	
ME0100252 PENOBSCOT COUNTY																	
CAPITOL COMPLEX POLICE ME SECURITY SGT CHIEF OF POLICE AUGUSTA ME																	
ME0060352 KENNEBEC COUNTY																	
MEDICAL EXAMINER 236 STATE ST AUGUSTA ME 04330																	
ME0040152 KENNEBEC COUNTY																	

CHRI = Criminal History Record Information

FIGURE 1-2

AGENCY PROCEDURES PROFILE

Agency/ Department	Applic. Code	OPERATIONAL PROCEDURES STATUS										
		Submit Certif.	Disp. Report.	Query Before Dissem.	Acc. Qual. Cont., Audit	Dissem. Proced. Agree.	Main- tain Dissem. Logs	Tech. Prov. For Access	Ded. Hard- ware	Cmpt. OPS Control	Phys. Sec. Protect.	Indiv. Right Access

► = Required

X = Completed and
Operational

P = Pending

PR = In Preparation

For this reason both an internal training program and a public education program are proposed in the Plan as well as efforts which tie the Privacy and Security Plan with the standards and goals program. There are also links to OBTS/CDS development.

The Plan reflects the results of a preliminary review of the statutes, authorities, policies and procedures within which the system in Maine is operating. Against these there has been a review of proposed resolutions and legislation and a general analysis of the potential impact of the federal regulations on State procedures.

There are a number of procedural changes underway in Maine which have brought the criminal justice system more closely in compliance with the specific requirements of the federal regulations. For example, there has been a historic deficiency in the acquisition and recording of dispositions. Based on MCJPPA grant support the MSP/SBI has improved this area over the last 2 years. A continuing program is underway to reduce the numbers of criminal histories in the central repository which lack dispositions. This is a major concern to the State both in terms of the present system and in the development of the OBTS/CDS program. The Plan takes account of the disposition reporting needs and the current efforts of the MSP/SBI, the Court Administrator, and district attorneys.

Another specific need is for clarification of expungement, purging and sealing practices. This need, for example, has been

expressed by the MSP/SBI, prosecution, corrections and the local law enforcement agencies. Based on the impact of the federal regulations and the expressed need within the State there has been a revision of the Maine law [25 MRSA 600] on expungement.*

To comply with the intent of Title 28, a number of components of the criminal justice system have placed restrictions on the dissemination of criminal history information. Examples of these are Maine State Police, Portland and Bangor Police Departments. There has been some reaction, to these constraints, from non-criminal justice organizations which have become accustomed to receiving criminal history records or name checks. This public response reflects the need for the development of standards for access and dissemination which do not now exist. It also reflects the need for addressing this public issue with an education program. It indicates also the need for establishing a specific organizational responsibility for accomplishing these matters in a consistent manner throughout the State.

The Plan addresses these issues and needs through proposed options which include the:

- establishment of organizational roles and responsibilities
- development of user categories
- definition of conditions of access
- contractual arrangements with users

* Major objections have been raised by law enforcement officials and the press to both the federal regulations and the Maine revised criminal code on expungement.

There is in the new law a categorization of use of information by agencies which are responsible for professional or technical licensing. The clarification of this area includes a continuing review of Title 32 of the Maine Revised Statutes. This will be in accordance with 16 MRSA 603 and 604.

The current procedures which enable an individual to access and review the criminal history information pertaining to him are limited to the first step of record review. There are no formally established standard procedures for correction, administrative appeal and judicial review. The proposed Plan sets forth specific procedures for these actions and provides the forms to initiate the procedures. The form extends the current procedures of the MSP/SBI.

As these examples indicate there are a number of policy considerations, organizational needs and procedural issues which are immediately apparent. These will influence the ultimate character of the State of Maine Plan. Other specific needs which are not completely provided for in the State system and which are suggested in the Plan include:

- the need to establish a state Privacy and Security Appeals Board to resolve both individual and organizational appeals related to criminal history information
- the need for the development of standardized audit procedures which will enable system reviewers to follow both procedures and individual case studies throughout the system from the state to local operating levels and individual recipients of information.
- the need for dissemination logs which accomplish control requirements without intruding on the effectiveness of current operations or the capacities of small staffs.

Definitions

The definitions listed below are cited for the purpose of standardizing the terms used throughout this Plan. The definitions have been derived from the provisions of Title 28, from the SEARCH proposals and from current usage in 16 MRSA 601.

Administration of Criminal Justice

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. (16 MRSA 601(1).)

Executive Order

5. Executive order. "Executive order" means an order of the President of the United States or the Governor of this State which has the force of law and which is published in a manner permitting regular public access thereto.

Person

6. Person. "Person" means a human being or a corporation, partnership or unincorporated association.

Criminal Justice Agency

3. Criminal justice agency. "Criminal justice agency" means those agencies at all levels of Federal or State Government which perform as their principal function, activities relating to crime prevention, including research or the sponsorship of research; the apprehension, prosecution, adjudication, incarceration or rehabilitation of criminal offenders or the collection, storage, dissemination or usage of criminal history record information.

Agencies included are:

Enforcement	-	Department of Public Safety - State Police County Sheriffs Municipal Police Special Police
Courts	-	Supreme Judicial Court Superior Courts District Courts Probate Courts
Prosecution	-	Department of Attorney General District Attorneys
Repository	-	State Bureau of Identification
Corrections	-	Department of Mental Health and Corrections County Jails Municipal Jails
Probation and Parole	-	Department of Mental Health and Corrections - Division of Probation and Parole
SPA	-	Maine Criminal Justice Planning and Assistance Agency

Criminal History Record Information System

A system including the equipment, facilities, procedures, agreements, and organization thereof, for the collection, processing, preservation, maintenance or dissemination or criminal history record information, whether automated or non-automated.

Public Record

Data recorded by public officers in consequence of public duties, at the conclusion of relatively formal and usually public proceedings. For the purposes of this plan, the information, related to a criminal offense, which is reasonably contemporaneous, and does not include a record of criminal history may be considered a public record. Clerk of the Court records and papers filed with the court are public records. [Court Rule 79].

This definition is intended to reaffirm the continued characteristic of public access to public records, such as Clerk of the Court Records, which is provided for in the Maine Revised Statutes and Rules of the Court.

Disposition

Information disclosing the conclusion of each stage of a criminal proceeding from arrest through the judicial process, (including appeal) to release of the individual from the criminal justice system. Information disclosing the termination of proceedings in process and the reasons for termination. Information disclosing postponement and the reasons for such postponement. Primary disposition types for the State of Maine System will be Law Enforcement dispositions; Prosecutor dispositions; Court, and Corrections dispositions.

Criminal Justice System

That part of governmental jurisdiction that encompasses the broad functions of police, prosecution, defense, criminal courts, probation, correctional institutions, and parole.

Criminal Justice Information System

Any system or components thereof, whether automated or manual, including the personnel, equipment, facilities, procedures, agreements and organizations thereof, for the collection, storage, processing, dissemination and release of offender records or information.

At present there is no automated component of criminal histories. Future components and applications will include the Maine system of OBTS, CCH, a Court Disposition Report (CDR) System and the Maine Comprehensive Data System [CDS] which will have automated componentcy.

Criminal History Record Information

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 such as sentencing, correctional supervision, and release; does not include identification information such as fingerprint records or photographs to the extent that such information does not indicate involvement of the individual in the criminal justice system.*

For the purpose of this Plan criminal history record information does not include convictions for violation of fish and game laws or municipal ordinances where the fine does not exceed \$50.

[4 MRSA 564].

Individual Privacy

The legal and common right to be safeguarded against a personal intrusion as a result of having sensitive personal information come into the possession of an unauthorized receiver.

This definition is derived from court decisions which emphasize the right of the individual to be protected from unwarranted intrusion. For example, Maine Statutes prohibit or limit the use of electronic surveillance in 15 MRSA 710 and 712 and in 17-A MRSA 511.

* There are, for example thousands of fingerprint cards in the SBI file which are associated with non-criminal activities including civil defense precautions taken in World War II.

Security

The protection of information in storage or transit from unauthorized access, tampering, or destruction through accidental, negligent, malicious, capricious, or hostile means.

System Security

The ability to restrict the availability of specific information to authorized individuals, and the ability to physically protect all parts of the system, including the data, the system that processes that data, and the facility from any form of hazard that might endanger its integrity or reliability. System security also involves the ability to insure that system personnel are selected with due regard for security requirements.

Dissemination

The transfer of criminal history record information to individuals and agencies other than the criminal justice agency which maintains the criminal history information. Includes confirmation of the existence or non-existence of a criminal history record. Includes interagency transfers in writing, orally, by machine, radio, personal exchange, mail or any other manner. Does not include intra agency transfers of information such as dispositions, charging or processing transfers.

The reporting of a criminal justice transaction to a State, local or federal repository is not a dissemination of information.

Dissemination means use of and access to information and transmission of information, whether orally, in writing or by electronic means. [16 MRSA 601(4)].

Non-Conviction Data

"Non-conviction data" means arrest information without disposition if an interval of one year has elapsed from the data 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. [Section 20.3(b) Title 28]. Non-disclosure provisions are included in 16 MRSA 603 and include pardons.

Statute

An act of Congress or state legislature. Maine statutes are identified as Maine Revised Statutes Annotated [MRSA].

Act

The Omnibus Crime Control and Safe Streets Act, 42 USC 3781, et seq, as amended.

CURRENT STATUS

The current status of privacy and security procedures in Maine is reflected in part in the Certificate of Compliance for the Central Repository, Maine State Police, State Bureau of Identification, which is included as Appendix A.

In addition to specific procedures of the MSP/SBI, there is in all components of the Maine Criminal Justice System which have been reviewed to date:

- A conscious effort to observe principles of privacy based on established Maine concepts of fairness. For example, the Portland Police Department general order on the release and review

of police records has been in existence since May 1974. The purpose is "to implement and protect constitutional guarantees of privacy."

- general agreement on the need for consistent policies and procedures, and preferably State legislation, to reinforce local procedures and general orders.

The privacy and security needs and issues in Maine are generally in areas which involve the interaction of several components of the criminal justice system. For example there are specific needs:

- For more complete reporting and recording of disposition information. This process involves law enforcement, prosecution and the courts.
- For clarification of expungement policies and procedures. This involves the legislature, the attorney general, courts, clerks of courts and law enforcement which may be resolved by PL763.
- For consistency in the policies and procedures for dissemination to non-criminal justice agencies. This process involves the executive, legislature, attorney general, law enforcement, courts, and community. To be developed in accordance with 25 MRSA 603, 604.
- For improved security, among all recipients, of criminal history information. This will involve particularly, agreements and responsibilities between law enforcement agencies and non-criminal justice users.
- For improved physical security and access restraints in a number of records center locations. Improved conditions will involve budget and funding considerations between law enforcement agencies and local governments.

In the succeeding chapters of the Plan procedural areas are discussed in terms of requirements, standards, current status and the identified needs. These will be the subject of planning or implementing actions during the next two years.

II
ORGANIZATIONAL COMMITMENT

II

ORGANIZATIONAL COMMITMENT

This Chapter suggests some of the options and relationships available for the administration of the Privacy and Security Plan. It includes a discussion of associated roles and responsibilities, including:

- The Governor
- The Maine Criminal Justice Planning and Assistance Agency
- The State Bureau of Identification
- Local User Agencies
- Local Agency Personnel
- Relationships

Each of these is discussed below.

THE GOVERNOR

There are a number of provisions in Maine law which pertain directly or indirectly to matters of privacy, confidentiality and the balance of individual rights and the needs of society. Among these are the recently enacted Public Law 763; 5 MRSA C341; 26 MRSA 3; and 17-A MRSA 511. There are also many judicial decisions in Maine which reaffirm individual rights of privacy in various contexts. In the decision of State vs Crider (1975), the court reaffirmed both the concept of the citizens private property and "reasonable expectations of privacy" against official intrusion.

The Governor's commitment includes an interest in the activities and standards which will insure that the policies and procedures of the plan reach fruition. As part of this

objective, roles and responsibilities for the management of privacy and security matters are to be identified.¹

There is a requirement to establish a lead role for several functions which are inherent in the management and implementation of the Privacy and Security Plan. These activities include the following:

- Insure that system audits are conducted
- Establish standards for non-criminal justice agency access to criminal history information in accordance with 16 MRSA 603, 604.
- Refine procedures for Individual Challenge, Correction and Appeal.
- Prepare an annual revision of the Privacy and Security Plan.
- Report annually to the Governor on the status of the privacy and security of criminal history record information and other related criminal justice information system matters.

Each of these elements is discussed below.

Audits

In order to insure system conformance with the operational procedures of the Privacy and Security Plan, arrangements will be made for regular and periodic audits to be conducted by the criminal justice system agencies or by "outside" reviewers. In the event discrepancies are identified a schedule for corrective action will be issued and monitored. [Section 20.21(a)(2); 20.21(e) D.O.J. Reg. Title 28].

¹The prerogatives of the Governor in relation to the administration of the Privacy and Security Plan are noted in Section 20.21 of D.O.J. Title 28 and the associated commentary on Section 20.21.

Access by Non-Criminal Justice Agencies

Arrangements will be made to develop access and dissemination standards to provide consistent guidance for determining the conditions under which non-criminal justice agencies will have access to criminal history record information. The standards and procedures will be developed in accordance with the provisions of 16 MRSA 603, 604, Section 20.21C D.O.J. Title 28 and Court Rule 79 as appropriate.

Refine Procedures for Individual Challenge, Correction and Appeal

Within the procedure described in this Plan for the "Individual Right to Access and Review" is the right to appeal a decision by a criminal justice agency not to make requested changes. Procedures will be established for reviewing unresolved requests in order to effect the provisions of 16 MRSA 606 and comply with the provisions of Section 20.21(g)(3) D.O.J. Title 28.

Annual Plan Revision

An annual revision to the Privacy and Security Plan will be developed and presented to the Governor and LEAA for approval. Modifications will be based on the year's assessment of progress made in meeting the plan's objectives, problems encountered, and new ideas developed. [Section 20.23 D.O.J. Title 28].

Annual Report.

An annual report on the conduct of activities proposed within the Annual Plan will be submitted to the Governor for his review. Included will be an assessment of the degree to which objectives were reached, a listing and discussion of problems that became prominent, incidents worthy of note, new developments that have occurred, statistical and fiscal reporting data concerning implementation and recommended actions. Copies will be made available to the Judiciary and Legislature. [Maine Initiative].

MAINE CRIMINAL JUSTICE PLANNING AND
ASSISTANCE AGENCY

Organization: The Maine Criminal Justice Planning and Assistance Agency was originally established in 1969 as an agency of the Executive Department, under the name of Maine Law Enforcement Planning and Assistance Agency. By law, the agency consists of a Board of Directors of between twelve and thirty members appointed by the Governor, for terms of two years, including, ex officio, The Attorney General, the Chief of the Maine State Police, the Director of the Bureau of Corrections of the Department of Mental Health and Corrections, the State Planning Director, the Chairman of the Joint Legislative Judiciary Committee and the Chief Medical Examiner. The remaining members include representatives of units of local government, sheriffs, representatives of groups dealing with juvenile delinquency and representatives of the community generally. The Directors appoint an Executive Director who is responsible for the procurement of the necessary operating staff to carry out the responsibilities of the agency as mandated by federal LEAA guidelines and policies established by the Board. The MCJPAA is established by 5 MRSA 315. Executive Order EO 5-69 also provides that MCJPAA will "carry out any duties as may be assigned to it by the Governor from time to time." In accordance with 16 MRSA 601 the MCJPAA comes within the definition of a criminal justice agency through its "research and sponsorship of research."

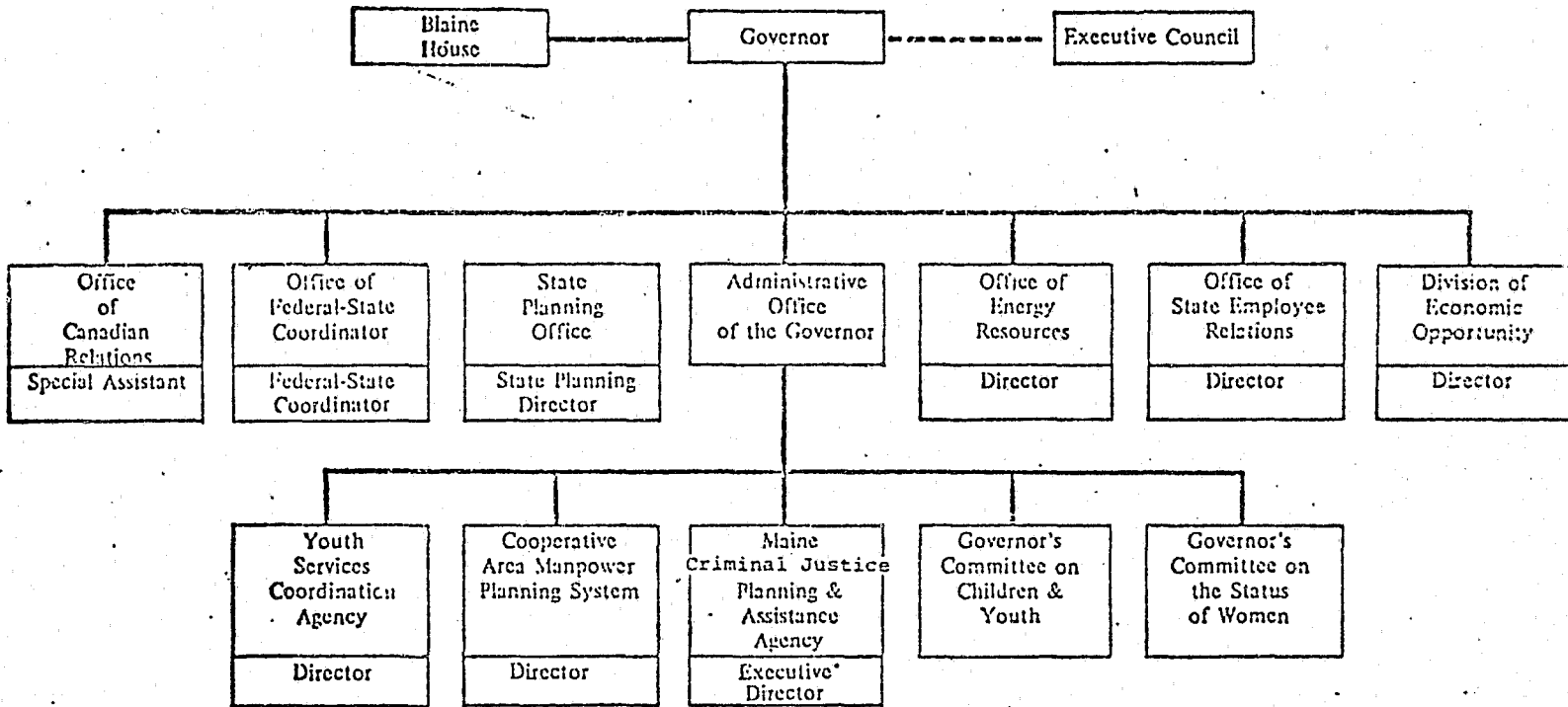
The organizational relationship of the MCJPAA in the Executive Department is illustrated in Figure 2-1.

The MCJPAA administers the federal Law Enforcement Assistance Administration (LEAA) program for the State of Maine. It is empowered to act as the State's planning agency with regard to the federal Omnibus Crime Control and Safe Streets Act of 1968, the Juvenile Delinquency Prevention and Control Act of 1968 and the Law Enforcement Revenue Sharing Act of 1973, and is authorized to make grants for planning and for improvement of law enforcement consistent with the intent of these Acts to any agency or organization in law enforcement and criminal justice administration activities.

In addition to developing the Comprehensive Criminal Justice Plan, the spectrum of MCJPAA initiatives and funding reflects the involvement of this agency in every relevant area of Maine criminal and juvenile justice. Comprehensive program assistance includes youth services activities; revision of criminal laws,

FIGURE 2-1

MAINE EXECUTIVE DEPARTMENT



evidence rules review; court unification; general court improvements; public defense projects; staffing and education support for Prosecutors; corrections and institutional programs; development of statewide police communication system; CJIS planning and development; development of the Maine Comprehensive Data System; study of law enforcement at the local level.

The MCJPAA is in fact an integral component of the Maine criminal justice system, capable of interacting with the functional components of the system, with state agencies and with local governments in the context of Maine law.

The responsibilities of the MCJPAA, and its operating committees, for privacy and security matters and CJIS matters can be established in this context. For example, it would be possible for the MCJPAA to assume responsibility for the training and public education proposed in the Plan [Chapter VIII] and to develop these programs through an arrangement with the Maine Criminal Justice Academy and the seven Regional Planning Units.

Similarly the MCJPAA could assume certain responsibility for the proposed audit program [Chapter VI] and assist in the development of this program with the State Department of Audit, the Department of Manpower Affairs, the Department of Public Safety [State Bureau of Identification] and the local Criminal Justice agencies.

THE STATE BUREAU OF IDENTIFICATION

The State Central Repository MSP/SBI for the collection, maintenance and dissemination of criminal history information carries major operational responsibility for the actions and procedures described in the Privacy and Security Plan. Specific areas of responsibility are anticipated to include:

- To assure security of the central repository facility.
- To assure adequate identification and verification of need to know and/or right to know of all requests for access to criminal history record information.
- To assure adequate record keeping of all accessed and/or disseminated criminal history record information materials.
- To regularly purge, seal or expunge criminal history materials, as specified by the State regulations or court orders.
- To assure that only accurate and complete record information is disseminated, as appropriate.
- To notify prior recipients of erroneous information as errors become known.

In addition, in the management of criminal history records the focal role of the SBI is established in 16 MRSA 1541(4) which provides that the SBI, with the approval of the Attorney General "shall make...rules, regulations and forms for taking, filing, preserving and distribution of fingerprints and other criminal history record information..."

Each of these responsibilities is detailed within the procedures chapter of this Plan.

ROLE OF LOCAL USER AGENCIES

In accordance with Maine law, many local agencies will receive access to criminal history records. In receiving the authority to access, these agencies agree to accept certain specific responsibilities within this system. These responsibilities are listed below:

- To assure that proper security is provided for criminal history record information.
- To assure proper use, within the procedures outlined in this plan and verified in a User Agreement, of all accessed criminal history record information.
- To assure the proper record keeping of all accessed criminal history record information materials.
- To regularly purge or seal criminal history information as specified in a Users Agreement or by court order.
- To assure proper prohibitions governing access to juvenile records.
- To assure the proper training of all personnel involved with criminal history record information prior to their use of the information.

The specifics pertaining to local agency responsibilities are enumerated within the procedural chapters of this plan.

ROLE OF LOCAL AGENCY PERSONNEL

Within each of these local user agencies, individual personnel handling criminal history record information are accountable for its proper use. Responsibilities include:

- Assuring that accessed criminal history record information is limited to the use for which it was provided.
- Assuring the timely return or destruction of accessed information as soon as the stated need is met.

RELATIONSHIPS

The identification of organizational relationships related to privacy and security is best accomplished in the context of the objectives of the total criminal justice system. For example, the management requirements related to privacy and security are integral information system requirements. Decisions in each component of the criminal justice system are dependent on the availability and sharing of accurate, complete and timely information. Every serious effort to develop a comprehensive criminal justice information system [CJIS] is eventually faced with knotty issues related to authorities, responsibilities and separation of powers as well as economic feasibility. Efforts to resolve these issues in a unilateral manner usually incur turbulence in the implementation process. Efforts to resolve the issues through mutual agreements incur initial problems of organizational structuring. For instance, it is not universally acceptable in Maine to have additional organizational levels imposed on the criminal justice system.

However, a comprehensive system approach generates a need for either an effective coordinating mechanism or a single authority. This is reflected in the introduction to the MCJPAA description of the Comprehensive Data System [CDS]:

"Since the enactment of the Omnibus Crime Control Act and Safe Streets Act of 1968 and the subsequent Omnibus Crime Control Act of 1973, there has been an increasing awareness of the need to create an organized structure for coordinating the development of information systems and utilizing the collected data for management and administration, including planning and fiscal considerations, for the criminal justice system."

When this issue involves the additional element of centralized computer operations, the necessary trade off and compromises become more difficult to achieve. For example, the bill, LD1559, (April 1975), which proposed the establishment of a "Commission on Criminal Data System Policy" provided that:

"It shall be the responsibility of the Commission to recommend and oversee the development and implementation of a criminal data system for the State of Maine."

This legislature was not approved by the Maine Legislature.

Internal Organizational Logic

There are three factors which influence the manner of addressing privacy and security. These are the nature of law making in Maine, the organizational style of the State government and the status of the Maine Criminal Justice Planning and Assistance Agency.

Maine is a legislation oriented state. The Legislature provides the law making function for the state and counties. In addition some state agencies have limited authority to enact regulations and local law making is accomplished by the legislative body of the municipalities.

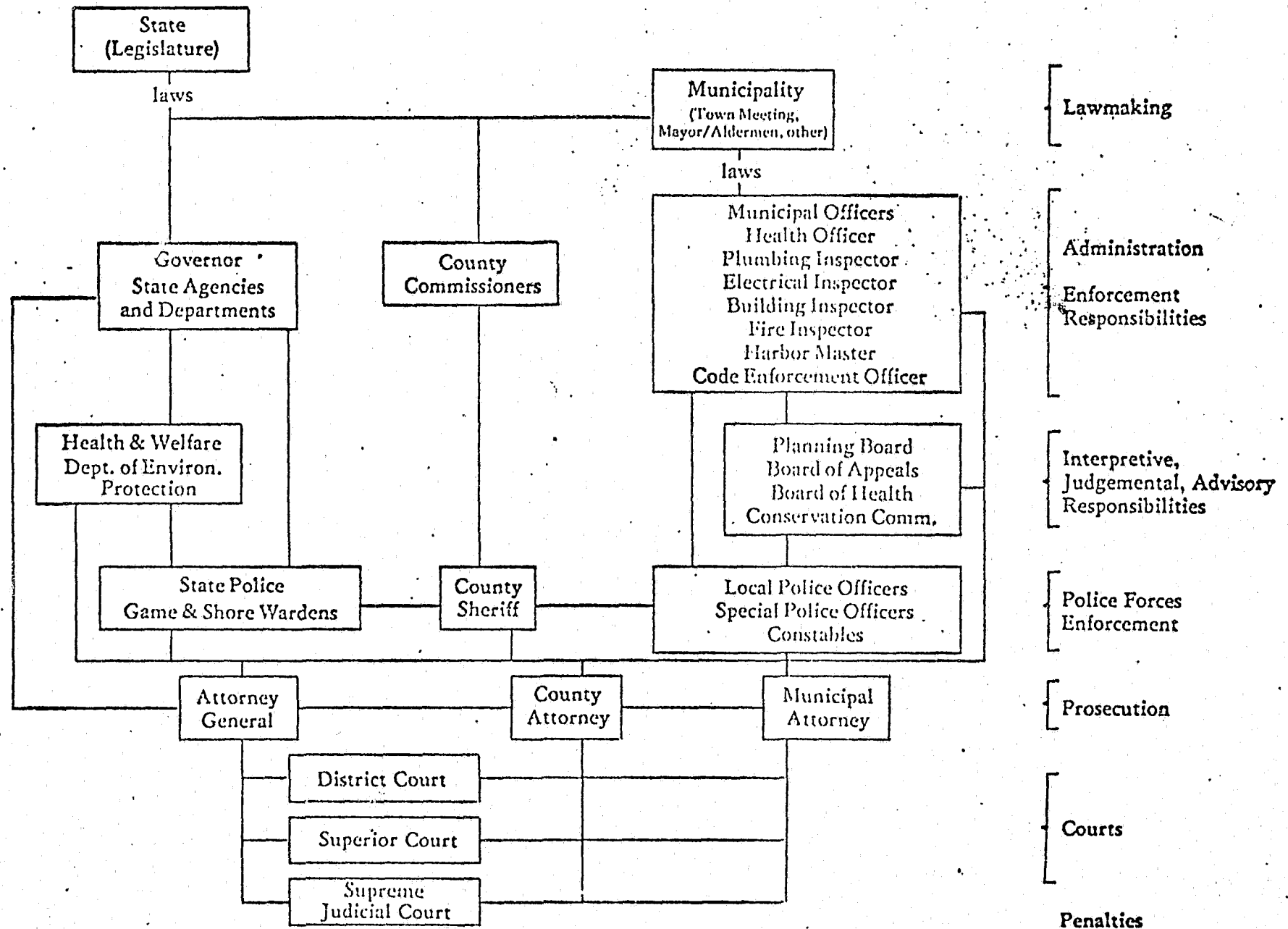
This characteristic results in an interactive enforcement process which can be consistent throughout the state when the statutes are well conceived and widely understood. This characteristic also imposes a quality restraint on any system to insure that programs and program management are consistent with the needs and the existing organizational structure including state/local relationships.

In this structure additional organizational agencies are generally constrained. The interaction process of law making and enforcement is portrayed in Figure 2-2.²

²Local Law Enforcement, a study jointly sponsored by the Southern Maine Regional Planning Commission and the Maine Law Enforcement Planning and Assistance Agency [MCJPAA] 1973.

FIGURE 2-2

CHART OF LAWMAKING AND ENFORCEMENT RESPONSIBILITIES



The organization of the state government is included in Figure 2-3 to portray the relationship of the MCJPAA to the other agencies of state government. As in the legislative and enforcement process the state organization is structured in a manner in which considerable voluntary agency interaction is possible to achieve common objectives.

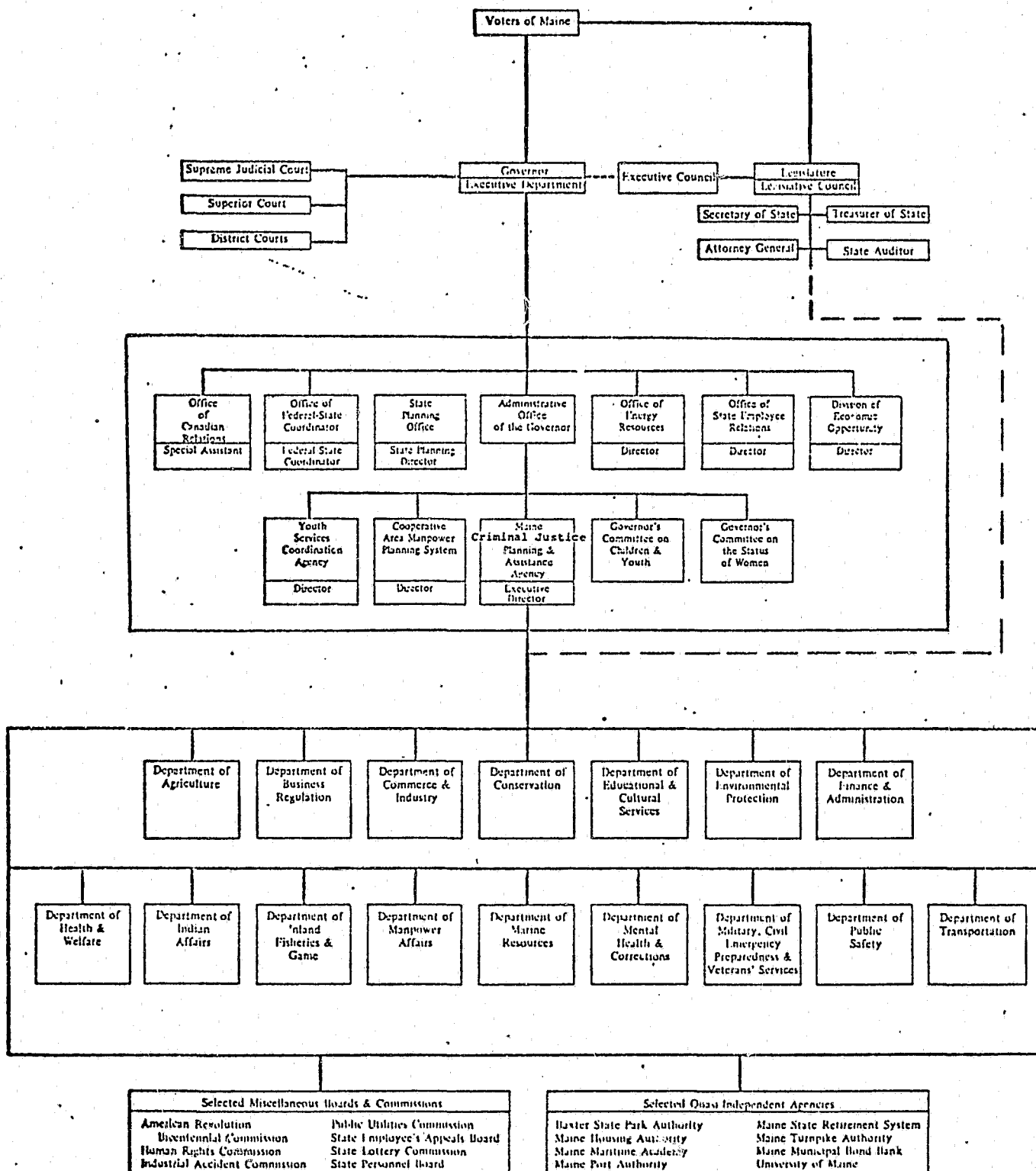
In this legislative-organizational structure the MCJPAA has evolved from a "unique" agency to an integral component of the state/local system. The MCJPAA Boards and Committees have representation from the legislature and judiciary; from relevant state departments such as Public Safety [State Police], Corrections and state planning; from local executives of law enforcement, juvenile programs and elected officials; and from citizen and community groups such as educators, businessmen and MCLU.

A geographic distribution of urban/rural is accomplished through the Regional Planning Units [RPU]. This relationship also increases the spectrum of possible MOPAA - local activities through the provisions of 30 MRS 229 [4501-4503].

The interactive programming of MCJPAA with other state agencies is reflected in such examples as juvenile projects [including youth services Bureaus] with human resources agencies; education projects [such as the criminal justice curriculum project for teachers]; and mutual manpower efforts such as CETA funding for criminal justice personnel.

The evolution of the MCJPAA to its present position in the criminal justice system is indicative that the programs and the methods to achieve the program objectives thus far have been consistent with the internal legislative and organization logic of Maine.

FIGURE 2-3



In planning for CJIS and Privacy and Security of information systems these activities are to be considered in the context of the larger objective of MCJPAA which is to improve the quality of justice in Maine through its concern with the improvement of the total criminal justice system. Information systems development, and privacy and security procedures, are among the major requirements of the system to accomplish the primary objective in the perspective of priorities and resources.

CDS-Privacy/Security Relationships

Maine is developing the procedures and interactions for the shared use of criminal justice information through the coordinating mechanism of the MCJPAA Comprehensive Data System Committee. In the process differing requirements are being examined which range from operational needs [offender tracking, OBTS] to systematic reporting and planning needs [UCR, MAS].

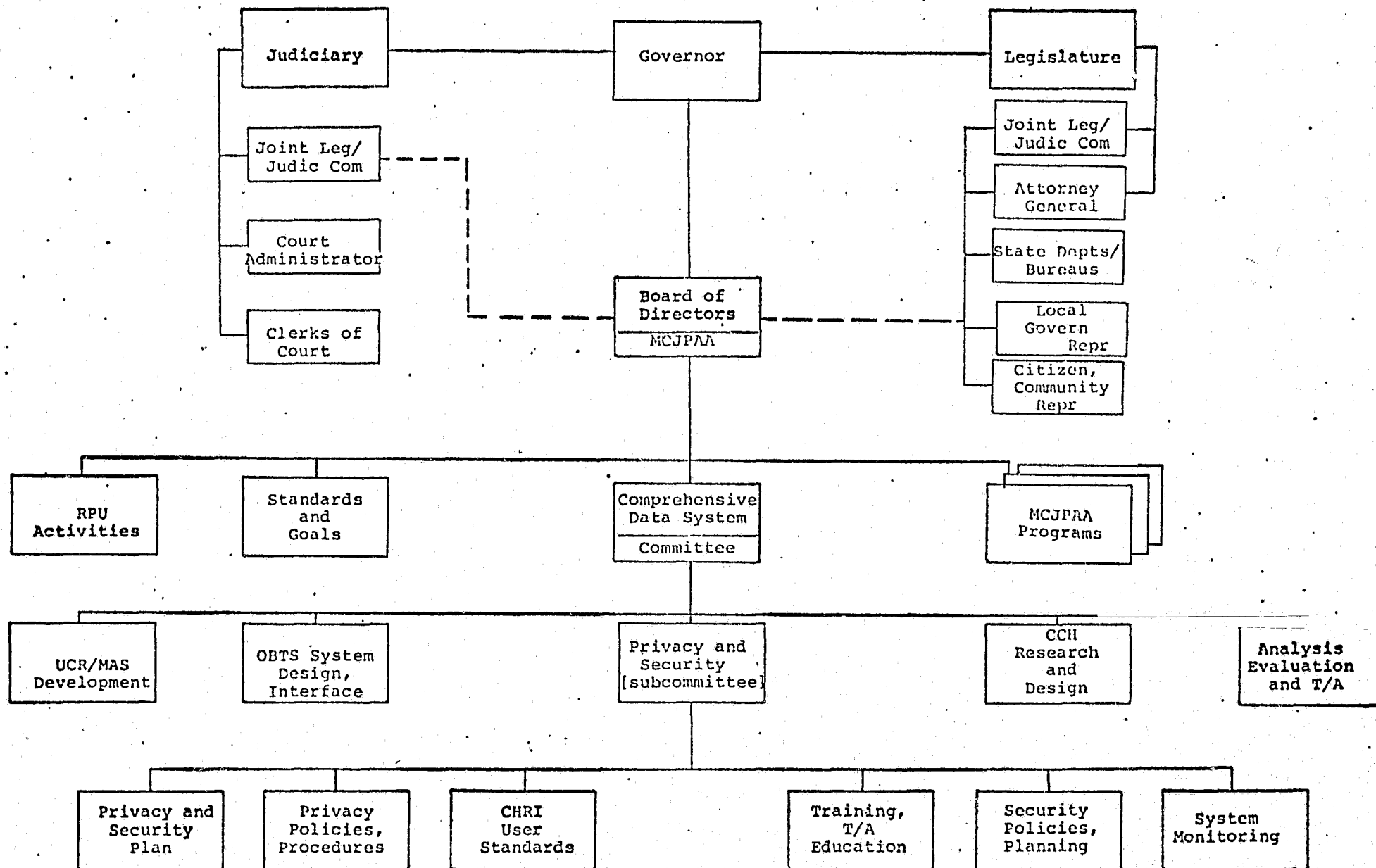
In addition, there is recognition of the variety of practices in the Maine criminal justice system which vary from the large or urban departments to the shirt sleeve practices of smaller rural communities. Future shared information system development is expected to evolve from the basic relationships which have been established.

In this context, there is an internal logic for the organizational placement of privacy and security management in the CDS framework. During the planning period the structure and procedures can be refined to provide a balanced program of implementation of the privacy and security plan. In this way, privacy and security policies and procedures related to access standards, audits, individual appeals and system support, for example, will be in the perspective of Maine law and consistent with other characteristics and functions of the Maine criminal justice system.

These relationships are portrayed in Figure 2-4.

FIGURE 2-4

PRIVACY AND SECURITY AND CDS RELATIONSHIPS



Membership on the Privacy and Security Committee reflects the relevant interests in privacy and security matters including organizational, professional and citizen groups. Membership terms can rotate in a manner similar to the MCJPAA Board of Directors.

III

COMPLETENESS AND
ACCURACY

III

COMPLETENESS AND ACCURACY

Completeness, accuracy, timeliness and control of criminal history record information are the qualitative goals of the Plan. Each procedure is directed in some way toward the achievement of these goals.

REQUIREMENTS

The basic requirement to insure completeness and accuracy of criminal history information is included in the Crime Control Act, PL93-83. Section 524(b) of this Federal Act provides in part, that:

(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;

This provision is developed in section 20.21(a) of the federal regulations and establishes the criteria and guidelines for completeness and accuracy of criminal history record information. These are listed below.

Completeness

The elements of completeness are defined in section 20.21(a) (1) and include provisions that:

- Complete records shall be maintained at a central state repository
- Central repository records must contain all disposition information within 90 days after the disposition has occurred.

In ordinary circumstances only complete records, containing arrests and dispositions, should be disseminated. To insure that this occurs, the regulations require procedures which provide, in ordinary circumstances, for criminal justice agencies to query the central repository prior to dissemination of any criminal history record information. This inquiry condition may be waived if information is required for immediate operational purposes prior to the time when the central repository can respond. This situation could occur, for example, in the cycle of days related to the request for and receipt of complete criminal history transcripts. In these cases, local information which may be technically incomplete could be used to meet immediate criminal justice needs pending receipt of central repository records.

Accuracy

The elements of accuracy are defined in section 20.21(a)(2) and include provisions that:

- Records do not contain erroneous information and that errors be minimized through,
- Procedures to verify or validate data entries and to audit data collection, storage and use.

To insure that the provisions of accuracy serve both the criminal justice system and the individual, the federal regulations require that prior recipients of criminal history information be advised of inaccuracies which are found and subsequent corrections which are made.

CURRENT STATUS

The current status of the completeness and accuracy requirements is reviewed in reference to:

- Central repository information management
- Disposition reporting
- Information verification
- Inquiry before dissemination

Central Repository Information Management

The State Bureau of Identification [SBI] is the central repository in the state for all criminal records. The staff of the SBI receive and classify incoming fingerprint cards, answer criminal record inquiries and maintain the following files:

- Master criminal fingerprint file
- Criminal record folder file
- Criminal mug file
- Court abstract file
- Personal fingerprint files
- Laboratory case file
- Photographic negative file
- Modus Operandi (M.O.) file

The Bureau, created by an act of the Legislature in 1937, is responsible for the maintenance of all criminal records generated within Maine and out-of-state records which concern this State. It handles requests for criminal records information from law enforcement agencies and courts and correctional facilities throughout the country. SBI also maintains photographs and negatives; court abstract cards which provide information on court transactions, and a criminal fingerprint card file.

The fingerprint file, with the associated supplemental record and disposition report, provides the source documentation for criminal records information. The file includes almost 300,000 cards.

The central and focal role of the SBI, as the central repository, has been reinforced by current legislation.

Paragraph 4 of 25 MRSA 1541 [1976] provides for the SBI to establish the rules and regulations for the management of criminal history information. This section is as follows:

"4. Rules and Regulations. The Commanding Officer (of the State Bureau of Identification) shall make and forward to all persons charged with any duty or responsibility under this section and sections 1542 [recording of fingerprints, photographs, palm prints], 1544 [Uniform Crime Reporting], 1547 [Court abstracts] and 1549 [violations]: rules, regulations and forms for the taking, filing, preserving, and distribution of fingerprints and other criminal history record information as provided in this chapter. Before becoming effective, such rules, regulations and forms are to be approved by the attorney general."

Based on the refinements which have occurred in the SBI since 1974, including the LEAA/MCJPAA funded records management program, the State of Maine is in compliance with federal requirements. Priority actions have been, and continue to be, directed toward improving disposition reporting and data verification. As a result, the credibility and functional value of the SBI transcripts [rap sheet] have improved markedly throughout the system including law enforcement, prosecution¹ and court purposes. An indication of the types and volumes of SBI activity, related to criminal history activity, is included in Figure 3-1. Maine criminal justice system actions are oriented closely to legislation, attorney general opinions and judicial decisions. The current legislation, providing for the interactive development of rules and regulations between the SBI and the attorney general, will continue this current practice and should facilitate the evaluation of consistent procedures through the Maine Criminal Justice System. Some of the current procedures are included in this Chapter.

¹ For example, the special efforts made by the SBI to support the requirements of the prosecutor functions are reflected in the current effectiveness and responsiveness of the SBI to the Penobscot District Attorneys office.

FIGURE 3-1

TYPES AND ANNUAL VOLUME OF SBI CHRI ACTIVITY

<u>Type of Activity</u>	<u>Recorded Number</u>
Fingerprint cards received	11,000
Fingerprint cards classified and searched [no previous record]	7,400
Fingerprint cards matched	3,600
Final disposition sheets received, filed ¹	500
Photographs and negatives received and filed	1,800
Out of State records received and filed	1,000
Additional record sheets received and filed [individual previously on file]	7,200
Court abstract cards received and filed	18,100
Inquiries [record checks] processed	27,000
Expungements processed [6 month] ²	1,800

¹ Prior to full operation of current procedures

² Under provisions of 16 MRSA 600, now repealed.

Disposition Reporting

Disposition is defined in the federal regulations as meaning "information disclosing that criminal proceedings have been concluded..." To be complete, a criminal history record should include all dispositions that have occurred from arrest to final release of the individual from the cognizance of any segment of the criminal justice system. Thus, an effective disposition reporting system should include procedures for reporting dispositions by every component of the criminal justice system. The objective of the system is to insure that the record maintained in the central repository contains "information of any dispositions occurring within the State within 90 days after the disposition has occurred."

While an effective disposition reporting system must be based on a legislative mandate, it also includes a high degree of cooperative effort and administrative discipline. The cooperative actions must exist between state and local agencies and at the local, reporting, level among the various components of the criminal justice system. The system discipline includes timely and thorough reporting of system actions. The operation of the disposition reporting system is facilitated by common forms, consistent procedures and system monitoring.

The Maine disposition reporting system consists of a number of interactive elements which include:

- Local agency disposition reporting forms/procedures
- The criminal fingerprint record [form 13.63R]
- The additional record and final disposition report [form 13.66R]
- The abstract of court record of criminal violation (Court Abstract)[form 13.76]

The complete disposition reporting process includes the name lists of disposition information, furnished regularly to the SBI by correctional agencies, and the SBI transcript [form 14.40] which includes a request that missing disposition data be furnished to the SBI if known by the local agency. Each of these forms and procedures reflects a provision of current Statutes including: 25 MRSA 1541(4); 25 MRSA 1542(3,4); 25 MRSA 1544; 25 MRSA 1547; 34 MRSA 1679.

Local Agency Forms/Procedures

While local agency forms vary in the State all forms now include sections for the recording of initial disposition data. Figure 3-2, is an example of an arrest report which includes a section on "Disposition and Release Data". It is general practice in Maine for the individual officer, or an officer designated as "court officer", to insure that initial disposition information is acquired from within the agency, from the prosecutor or from the courts and recorded. To the extent possible, within the time constraints for the prosecution and court proceedings, final disposition information may be available for submission to the SBI with the first fingerprint card. To insure that dispositions are recorded the Sheriff of Penobscot County maintains a Disposition Control Log in which each offense is monitored on a daily basis. This log is used to monitor delinquent disposition and to report disposition information to the SBI in accordance with 25 MRSA 1542.44.

The success of this stage of the disposition reporting system depends on a close and persistent interaction among law enforcement officers, prosecution and the courts. The focal responsibility for reporting is on the law enforcement agency.

FIGURE 3-2

PORTLAND, MAINE POLICE DEPT. ARREST REPORT												OFFENSE #					
												ARREST #					
ORIGINAL CHARGE						CHARGE CHANGED TO:						CLASS #		ASSIGNMENT #			
ARREST DATE & TIME				LOCATION OF ARREST — ST. NO. & ST. NAME								SHIFT		DIST.		TRAC	
LAST NAME (PERSON ARRESTED)				FIRST NAME		MIDDLE NAME				RES. PHONE				BUSINESS PHONE			
ADDRESS — STREET NO. & STREET NAME						CITY		STATE		OCCUPATION				WHERE EMPLOYED (LAST)			
ALIAS(ES) MAIDEN NAME IF MARRIED										MARITAL STATUS				SOCIAL SECURITY #			
SEX	RACE	AGE	DATE OF BIRTH		PLACE OF BIRTH (CITY & STATE)				BUILD	HEIGHT	WEIGHT	HAIR	EYES	GLAS			
ARTIFICIAL DENTURES: UPPER <input type="checkbox"/> LOWER <input type="checkbox"/> EDUCATION: GRAMMAR <input type="checkbox"/> HIGH SCHOOL <input type="checkbox"/> COLLEGE <input type="checkbox"/>																	
JUVENILE DATA																	
PARENT OR GUARDIAN						ADDRESS						RES. PHONE					
												BUS. PHONE					
SCHOOL ATTENDING						GRADE		OFFICER WHO NOTIFIED PARENTS									
COMPLAINANT FULL NAME						COMPLETE ADDRESS						RES. PHONE					
												BUS. PHONE					
WITNESS FULL NAME						COMPLETE ADDRESS						RES. PHONE					
												BUS. PHONE					
ARRESTING OFFICER(S)						ASSIGNMENT: PATROL DET. TRAF. CP.				NO. ASST. OFF.		WAGON OFFICER					
VEHICLE INVOLVED. COLOR		YEAR	MAKE	BODY		REG. #		VEHICLE IDENTIFICATION NUMBER (VIN)									
SOBRIETY		NARCOTICS OR DRUGS INVOLVED—TYPE				DRUGS FOUND BY: ARRESTING OFFICER <input type="checkbox"/> JAIL OFFICER <input type="checkbox"/> OTHER <input type="checkbox"/>											
READ CAREFULLY & CHECK APPROPRIATE AREAS																	
OFFICER DISPATCHED <input type="checkbox"/>				OFFICER ASSAULTED <input type="checkbox"/>				PRISONER WITHIN VEHICLE <input type="checkbox"/>									
OFFICER SUMMONED HELP <input type="checkbox"/>				PRISONER HAD CONCEALED FIREARM <input type="checkbox"/>				WHEN FIRST APPROACHED <input type="checkbox"/>									
PHYSICAL RESISTANCE <input type="checkbox"/>				PRISONER HAD OTHER WEAPON <input type="checkbox"/>				VEHICLE TOWED <input type="checkbox"/>									
REMARKS:																	
TIME BOOKED		ARRESTING OFFICER — HIS SIGNATURE										JAIL OFFICERS SIGNATURE					
DISPOSITION & RELEASE DATA						GUILTY <input type="checkbox"/> CONTINUED <input type="checkbox"/> BOUND OVER <input type="checkbox"/>		TRIAL DATE & TIME		RIGHT THUMB PRINT							
ARRAIGNED: DATE																	
FINE		SENTENCE		COMMITTED		DISMISSED											
BAIL: FURNISHED <input type="checkbox"/> NOT FURNISHED <input type="checkbox"/>				JUDGE BAIL COMM.													
RECORDS DATA:						INITIALS		DATE & TIME		PPD #							
NAME INDEX CHECKED BY																	
FINGERPRINT CLASSIFICATION								PHOTO OK <input type="checkbox"/> NEEDED <input type="checkbox"/>		SBI #		FBI #					
								PRINTS OK <input type="checkbox"/> NEEDED <input type="checkbox"/>		SEARCH OFFICER		PROPERTY RECEIPT YES <input type="checkbox"/> NO <input type="checkbox"/>					
DATE AND TIME BAILED		AMOUNT OF BAIL		OUR TEST <input type="checkbox"/> TEST REFUSED <input type="checkbox"/>		TRANSFER TO COUNTY JAIL											

PPD 109

The Criminal Fingerprint Record

Maine statutes, 15 MRSA 1542(4) requires that the fingerprint record be forwarded to the SBI within 5 days of the date of arrest. The standard form is SBI 13:63R. This form provides for the reporting of arrest and court disposition data if available within the 5 reporting days and a specific instruction (6) for follow up disposition reporting. Form 13:63R is included as Figure 3-3.

The Additional Record and Final Disposition Report

The form used to record additional information and final disposition information related to an earlier submission is SBI form 13:66R. This form is included as Figure 3-4.

This form provides a multiple basic record, including fingerprints, which permits disposition information about cases in progress to be recorded in a consistent manner through successive stages of the criminal justice process.

The Form 13:66R procedures require reporting of the ultimate disposition by prosecutor or courts [note and instructions 1 and 2]. However, experience to date indicates that the most consistent reporting occurs when the local law enforcement agency interacts closely with the prosecutor and courts in the follow up and recording of disposition actions.

Disposition monitoring and delinquent disposition follow up is facilitated through this reporting process. Cases awaiting court, or other, action can be identified in a pending status. An example of a pending disposition filed with the SBI is included in Figure 3-5.

The Court Abstract

Maine statutes require that the Courts report the final judicial dispositions of motor vehicle and criminal violations. The statute pertaining to criminal history information is 25 MRSA 1547 which provides that:

STATE BUREAU OF IDENTIFICATION, AUGUSTA, MAINE

LEAVE BLANK		TYPE OR PRINT ALL INFORMATION IN BLACK Last Name <u>NAME</u> First Name Middle Name			SBI NUMBER																										
LOCAL CONTRIBUTING AGENCY NO.		Arrest		Continuation ORI		Date of Birth <u>Mo</u> <u>Day</u> <u>Year</u> Place of Birth <u>POB</u>																									
Signature of Person Fingerprinted																															
The data may be computerized in local, state & national files Date Signature of official taking fingerprints				Sex <u> </u> Race <u> </u> Height <u> </u> Weight <u> </u> Eyes <u> </u> Hair <u> </u>																											
Charge:				Nationality:																											
Place of Offense: City/Town County		Naturalized <input type="checkbox"/> Alien <input type="checkbox"/>		LEAVE BLANK																											
		FBI No. <u>FBI</u>		Class																											
		Social Security No. <u>SSN</u>		Ref.																											
Arrest Location: Date:		CAUTION		ACIC CLASS - PPC																											
<table border="1" style="width:100%; height: 150px; border-collapse: collapse;"> <tr> <td style="width: 20%;">1. Right Thumb</td> <td style="width: 20%;">2. Right Index</td> <td style="width: 20%;">3. Right Middle</td> <td style="width: 20%;">4. Right Ring</td> <td style="width: 20%;">5. Right Little</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td>6. Left Thumb</td> <td>7. Left Index</td> <td>8. Left Middle</td> <td>9. Left Ring</td> <td>10. Left Little</td> </tr> <tr> <td colspan="2">Left four fingers taken simultaneously</td> <td>Left Thumb</td> <td>Right Thumb</td> <td>Right four fingers taken simultaneously</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>							1. Right Thumb	2. Right Index	3. Right Middle	4. Right Ring	5. Right Little						6. Left Thumb	7. Left Index	8. Left Middle	9. Left Ring	10. Left Little	Left four fingers taken simultaneously		Left Thumb	Right Thumb	Right four fingers taken simultaneously					
1. Right Thumb	2. Right Index	3. Right Middle	4. Right Ring	5. Right Little																											
6. Left Thumb	7. Left Index	8. Left Middle	9. Left Ring	10. Left Little																											
Left four fingers taken simultaneously		Left Thumb	Right Thumb	Right four fingers taken simultaneously																											

**STATE BUREAU OF IDENTIFICATION
MAINE STATE POLICE, AUGUSTA, MAINE**

Form 13-63R
CRIMINAL

PHOTO AVAILABLE? YES <input type="checkbox"/> NO <input type="checkbox"/>	
ARREST DISPOSITION <u>ADN</u>	
DATE: _____	DISTRICT: <input type="checkbox"/>
COURT: _____	SUPERIOR: <input type="checkbox"/>
EMPLOYER: If U.S. Government, indicate specific agency If Military, list branch of service and serial no.	
EMPLOYER'S ADDRESS	
OCCUPATION	
RESIDENCE OF PERSON FINGERPRINTED	
SCARS, MARKS, TATTOOS, AND AMPUTATIONS <u>2MT</u>	
BASIS FOR CAUTION <u>JCO</u>	
DATE OF OFFENSE <u>000</u>	SKIN TONE <u>SKN</u>
MISC. NO. <u>MNU</u>	
Arresting Officer _____ Title or Department _____	

INSTRUCTIONS

1. Fingerprints are to be submitted directly to SBI. Forward immediately for most effective service.
2. Type or print all information.
3. Make emulations in proper finger blocks.
4. Make certain all impressions are legible, fully rolled and classifiable.
5. All information requested is essential.
6. If final disposition not included, forward on form 13-64R when available.

SEND COPY TO:

REPLY DESIRED?

YES ☐ NO ☐

REMARKS:

<input type="checkbox"/> ADDITIONAL RECORD CHECK ONE: and <input type="checkbox"/> FINAL DISPOSITION REPORT		Leave Blank
<p><small>Note: This vital report must be prepared on each individual whose arrest fingerprints have been forwarded to the SBI Identification Division without final disposition noted thereon. If no final disposition is available to arresting agency, also obtain subject's right four finger impressions on this form, complete left side and forward the form when case referred to prosecutor and/or courts. Agency on notice as to final disposition should complete this form and submit to: Director, State Bureau of Identification, 36 Hospital St., Augusta, Me. 04330.</small></p> <p><small>(See instructions on reverse side)</small></p>		
SBI No. _____		Final Disposition & Date (If convicted or subject pleaded guilty to lesser charge, include this modification with disposition.)
Name on Fingerprint Card Submitted to SBI <div style="display: flex; justify-content: space-between;"> Last First Middle </div>		
If SBI No. Unknown, Furnish: Date of Birth _____ Sex _____ Fingerprint Classification _____		
FBI No. _____ Contributor of Fingerprints _____		
<div style="display: flex;"> <div style="flex: 1;">Arrest No. _____</div> <div style="flex: 1;">Date Arrested or Received _____</div> </div>		This Form Submitted By: (Name, Title, Agency, City & State) <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Signature _____</div> <div style="width: 35%;">Date _____</div> </div> <div style="text-align: center; margin-top: 5px;">Title _____</div>
Offenses Charged at Arrest _____		Check if reply requested: <input type="checkbox"/> Right Four Fingers Taken Simultaneously _____
FORM: 13:66 R		

INSTRUCTIONS

1. The purpose of this report is to record the initial data of an individual's arrest and thereafter secure the final disposition of the arrest at the earliest possible time from either the arresting agency, the prosecutor or the court having jurisdiction. (INTERIM DISPOSITION INFORMATION, e.g., RELEASED ON BOND, SHOULD NOT BE SUBMITTED.) The SUBJECT'S NAME, CONTRIBUTOR AND ARREST NUMBER should be exactly the same as they appear on the fingerprint card IN THE FILES OF THE SBI. The SBI number should be indicated, if known. Agency ultimately making final disposition will complete and mail form to: State Bureau of Identification, 36 Hospital St., Augusta, Me. 04330
2. The arresting agency should fill in all arrest data on left side of form and obtain the finger impressions of the right four fingers simultaneously. This should be done at the same time as the full set of fingerprints are taken on the arrest fingerprint card. If the arrest is disposed of by the arresting agency, as where the arrestee is released without charge, then the arresting agency should fill in this final disposition and mail form to SBI Identification Division. Of course, if final disposition is known when arrest fingerprint card is submitted it should be noted thereon and this form is then unnecessary. In the event the case goes to the prosecutor, this form should be forwarded to the prosecutor with arrestee's case file.
3. When arrested person convicted or enters guilty plea to lesser or different offense than that charged when originally arrested, this information should be clearly indicated.
4. It is vitally important for completion of subject's record in SBI Identification Division files that Final Disposition Report be submitted in every instance where fingerprints previously forwarded without final disposition noted thereon.
5. In cases where an individual is known to have fingerprints already on file within SBI, this form may be used as an "ADDITIONAL RECORD REPORT" in lieu of the arrest fingerprint card form 13:66R. In such instances, interim disposition information as set forth in paragraph (1) SHOULD be submitted when necessary, as it would be were it on the arrest fingerprint card. If such is the case, form 13:66R should also be utilized in reporting final disposition information when it becomes available.
6. In all cases where form 13:66R is submitted, inclusion of the right four fingerprints is of extreme importance.

FIGURE 3-5


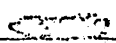
CHECK ONE: ☒ ADDITIONAL RECORD
and
☐ FINAL DISPOSITION REPORT

Leave Blank

Note: This vital report must be prepared on each individual whose arrest fingerprints have been forwarded to the SBI Identification Division without final disposition noted thereon. If no final disposition is available to arresting agency, also obtain subject's right four finger impressions on this form, complete left side and forward the form when case referred to prosecutor and/or courts. Agency on notice as to final disposition should complete this form and submit to: Director, State Bureau of Identification, 36 Hospital St., Augusta, Me. 04330.

(See instructions on reverse side)

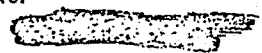
SBI No. 

Name on Fingerprint Card Submitted to SBI
Last First Middle
  

If SBI No. Unknown, Furnish:


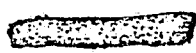
Date of Birth _____ Sex _____

Fingerprint Classification _____

FBI No. 

Contributor of Fingerprints

Kennebec SO ME 0060000

Arrest No.  Date Arrested or Received 

Offenses Charged at Arrest

OUI

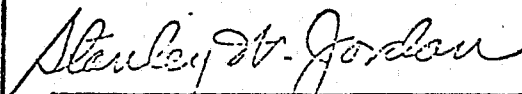
FORM: 13:66 R

Final Disposition & Date
(If convicted or subject pleaded guilty to lesser charge, include this modification with disposition.)

Pending.

So.Kenn.Dist.

This Form Submitted By:
(Name, Title, Agency, City & State)



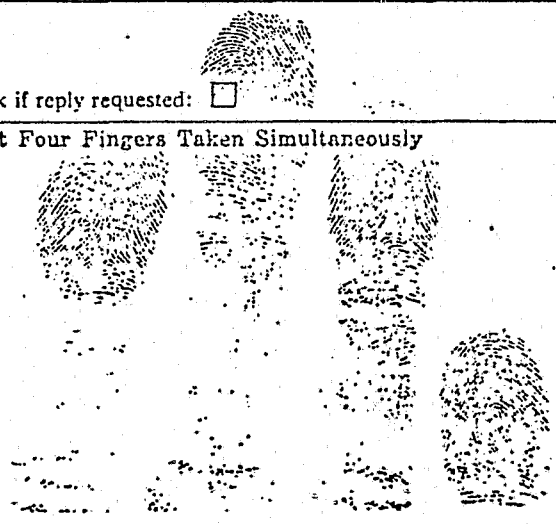
Sheriff Signature

Date

Title

Check if reply requested: ☐

Right Four Fingers Taken Simultaneously



§ 1547. Courts to submit criminal records

Every court in every case wherein a person is convicted of the violation of any criminal statute shall forthwith transmit to the State Bureau of Identification an abstract, duly certified, setting forth therein the names of the parties, the nature of the offense, the date of hearing, the plea, the judgment and the result. For this purpose the State Bureau of Identification shall furnish to said courts proper abstract forms.

The form presently in use for this purpose is form 13:76 which is illustrated below in Figure 3-6.

FIGURE 3-6

STATE OF MAINE ABSTRACT OF COURT RECORD OF CRIMINAL VIOLATION			
DOCKET NO. _____	RESPONDENT _____		
	ADDRESS NO. _____ ST.		
	CITY or TOWN _____		
ARRESTING OFFICER _____	DATE OF BIRTH _____		
	PLACE OF OFFENSE _____		
DEPARTMENT _____	DATE OF OFFENSE _____		
OFFENSE _____			
DATE OF HEARING	PLEA	JUDGEMENT	RESULT
I hereby certify that the foregoing is a true abstract from the records of the Court holden at			
Superior	<input type="checkbox"/>	ATTEST	
Municipal	<input type="checkbox"/>		
Trial Justice	<input type="checkbox"/>		
District Court	<input type="checkbox"/>		

Clerk
Form 13:76
25 MRSA 1547

Corrections Dispositions

The final element in the disposition process relates to Parole transactions. Maine statute 34 MRSA 1679 provides for the reporting of this information to the SBI as follows:

§ 1679. Records forwarded to State Police

When a person who has been convicted under Title 17, sections 1951, 3151, 3152 or 3153 is paroled, the warden or superintendent of the institution shall forward to the State Police a copy of his record and a statement of facts necessary for full comprehension of the case. Whenever any prisoner, who has been convicted of an offense under Title 17, sections 1951, 3151, 3152 or 3153 is discharged in full execution of his sentence, the Warden of the State Prison shall make and forward to the State Police a copy of the prison record of said prisoner together with a statement of any fact or facts which he may deem necessary for a full comprehension of the case.

R.S.1954, c. 149, § 17; 1957, c. 387, §§ 1, 21.

Information Verification

There has been an extensive effort at all levels of the system to improve record keeping practices and procedures including the validating and verification of input data. This effort has been influenced by the standards program, the development of the Maine UCR System, professional qualifications of state and local records managers and records refinement projects. The quality of law enforcement records is reflected in examples such as the Portland PD and Cumberland County Sheriff's office, the Bangor PD and Penobscot County Sheriff's office and the Records Section of the State Bureau of Identification.

The local verification practices include supervisory review of offense reports and source information; records checks and data checks; verification of case file and index information. Local district attorney's encourage accuracy and completeness and the Maine Courts on occasion provide judicial admonition concerning the sufficiency of documents submitted to the court. For example, a superior court recently suggested the following: ²

We are satisfied the search warrant in the instant case was properly issued. A good and sufficient affidavit which was physically attached to the warrant was the affidavit on which the District Court Judge bottomed his conclusion that probable cause existed for the issuance of the warrant.⁵

⁵ While in the future it might be helpful if the warrant described the affidavit in greater detail, i.e., gave the name of the affiant, the date it was executed, and the name of the official before whom the oath was taken, we have no difficulty in the instant case relating the affidavit to the search warrant.

Departments have instituted records purging and records disposition programs to dispose of information and files which do not contribute to system precision or need. The SBI, for example, has a continuing purge program and in the process of file reorganization in the state repository [1974-75] removed more than 300 cases of material no longer considered necessary.

¹ State of Maine vs Alton Bunker a/k/a Samuel A. Bunker, February 13, 1976.

Beginning in February 1975, a standardized verification and quality control program was initiated by the SBI for all fingerprint card, additional record and disposition submissions. The SBI policy provides that:

With the receipt this date (2:26:75) of form SBI: 1-75 the following policy is herewith established within SBI.

Upon receipt of a fingerprint card or final disposition sheet which is deemed unacceptable for any of the reasons enumerated on the form, the item will be returned to the contributor accompanied by the aforementioned form with the deficient area checked.

If the contributor is a member of this department, the return will be made to the Commanding Officer of the involved Troop.

A log will be maintained indicating date, contributing agency, and reason for return in order to identify problem areas so that quality of submissions may be improved.

Standard Form SBI 1-75 [Figure 3-7] is used for deficiency corrections. In addition, technical advice and assistance are provided to the extent possible as requested.

Inquiry Before Dissemination

In the Maine law which provides for "the Control of Access and Disclosure of Criminal History Record Information", dissemination is defined as follows:¹

"Dissemination means use of and access to information and the transmission of information, whether orally, in writing or by electronic means."

Section 602(3) of the same statute requires that disclosed information be complete. A complete criminal history record is one "which indicates the final disposition of the arrest, detention, information indictment or other charging document."

¹ 16 MRSA 601(4) 1976.



MAINE STATE POLICE
STATE BUREAU OF IDENTIFICATION
AUGUSTA, MAINE 04330

Contributor:

Enclosed notification of arrest/fingerprints are being returned to you because of reasons indicated below:

- () Arrest number omitted/not clear/incomplete.
- () Date of arrest not given.
- () Arrest charge not listed.
- () Complete descriptive data omitted.
- () Name and signature differ.
- () Name not shown at top of print—signature illegible.
- () Name of subject missing.
- () Date of birth not given/not clear/incomplete.
- () Finger impressions not on card.
- () Apparently mailed to us by mistake.
- () Enclosed print may have been submitted by your office. Please list contributor and return to SBI. If not submitted by your office please advise.
- () Indicate correct sex of subject.
- () Finger impressions on attached card/s are identical with those on file for subject of attached record; however, the descriptive data on the attached card/s evidently pertain to another individual.
- () Descriptive data on attached fingerprint card/s are similar to that on file for subject of attached record; however, finger impressions are not identical.
- () Finger impressions are identical with those on file for SBI Number _____ however, name and description are similar to information on file for SBI Number _____.
A copy of each record is attached.
- () Your attention is called to the fact that these prints are not classifiable.

After making appropriate changes or additions, please re-submit.

Encl.

Records Section
State Bureau of Identification

The SBI is the only authorized repository of complete information. While local departments do disseminate information locally there is only one complete record. The capability exists in the central repository in Augusta to provide fast turn-around responses to agency inquiries. The major constraint on the universal application of the prior inquiry process is a large volume of activity which could delay routine response times. In extraordinary circumstances, partial information can be provided by the central repository staff by telephone to known and properly identified criminal justice personnel or information could be supplied through an administrative message using the telecommunication system to terminal locations. The extent of the prior inquiry process is reflected in the 30,000 inquiries made in 1975 to the SBI by local agencies.

CONTINUING PROCEDURAL DEVELOPMENT

There will be continuing emphasis on accuracy and completeness. Actions are anticipated which will insure consistent disposition reporting. Based on experience to date it is likely that expanded and refined use will be made of the multiple fingerprint card and disposition record. The use of the court abstract record will be reviewed to determine the most efficient manner of court reporting in the developing OBTS structure.

In the disposition system flow the formal conclusion of each level of proceedings, will be reported as a disposition to the State central repository, for inclusion in the individual criminal history record. Disposition reporting may be indirect in some cases. Prosecution dispositions for example can be effectively reported to law enforcement agencies for forwarding to the central repository. This technique will capitalize on the practices already in existence in which local departments assume the responsibility for acquiring a major amount of the disposition information from the prosecutor and court. The primary objective is to insure that all disposition information is complete and is reported in a timely manner.

The disposition reporting system will be consistent with the proposed standard for accuracy and completeness. This standard (17) states, in part, that:

- Each criminal justice agency should adopt operation procedures reasonably designed to insure that dispositions, and other additional or corrective information pertinent to original arrest records and criminal records, are promptly reported for inclusion on such records.

It is likely that there will be additional use of user agreements and emphasis on local audit of entries for Completeness and Accuracy. Management data is being acquired which can be used to improve accuracy and completeness rates of submission to the central repository. As the regulations and procedures are developed in accordance with current Maine Statutes it will be possible to increase the internal system transfer of effective local practices such as delinquent disposition logs and dissemination logs.

The processes of purging, sealing and expungement are directly related to accuracy and completeness. The purpose is to avoid the intentional, inadvertent or improper disclosure of criminal history record information. The previous provisions of 16 MRSA 600 did result in a variety of inconsistent interpretations and local actions which affected criminal history records. Under this section expungement was interpreted by different agencies to mean obliterate, annotate, seal or purge. Procedures to be developed in accordance with 16 MRSA 600 (1976) will be directed toward assuring a consistent response to court ordered actions to:

- specifically distinguish affected records
- remove records from routine files
- destroy or obliterate records or information

The terms "purge", "seal", and "expunge" will be defined to include appropriate characteristics. Examples of definitions are indicated below:

- Purge

"Purge is an administrative action determined by policy, by relevant legislation, or by Court order, to delete and destroy all criminal justice record information identified by the executory order, pertaining to the arrest and detention of an individual; all other associated dispositions and charges which are not explicitly exempted from purging by other Court Rules (or order), by state or federal legislation, or by other competent authority."

- Seal

"Seal is an administrative action determined by policy, legislation or court order to remove from routine access all criminal history record information pertaining to an individual."

- Expunge

"Expungement is a court ordered process which directs the removal of criminal history record information from the criminal history files. An expungement order can result in the purging or sealing of a record."

The current legislation provides the framework for continuing the development of procedures which are consistent and easy to use by all components of the Maine Criminal Justice System.

IV
LIMITATIONS ON DISSEMINATION

IV

L I M I T A T I O N S O N D I S S E M I N A T I O N

As originally published, the Department of Justice Regulations, May 20, 1975, required specific statutory authority to disseminate criminal history record information for non-criminal justice purposes or to non-criminal justice agencies. There were specific restrictions on access to information by the news media and specific prohibitions on access to criminal history information in court records.

The current federal regulations, March 19, 1976, introduce a distinction between the categories of conviction data and non-conviction data and differing limitations on the dissemination of these categories.

Non-conviction data is defined in section 20.3(k) of Title 28:

(k) "Non-conviction 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.

REQUIREMENTS

The requirement for establishing limitations on dissemination is included in section 20.21(b). These provisions are cited below:

(b) Limitations on dissemination. By December 31, 1977, insure that dissemination of non-conviction 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 that 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.

Conviction data may be disseminated without limitation.

Under these amended regulations, there are no restrictions on the distribution of conviction data, nor on criminal history information contained in court records of public judicial proceedings. Arrest information where prosecution is pending also would be available.

The amended regulations also would no longer require express authority to distribute non-conviction records for non-criminal justice purposes, but would permit such dissemination if it "is pursuant to and can be construed from the general requirement" in the state or local statute or order.

Section 20.20(c) concerning applicability of the procedures includes these provisions:

(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.

The Department of Justice Commentary¹ on these provisions is indicative of the relative flexibility now available to the State in establishing procedures in this area.

"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 non-conviction record information is concerned, 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 non-conviction

¹Department of Justice release, March 16, 1976.

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 federal 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. Therefore, court records of public judicial proceedings whether accessed on a chronological basis or on an alphabetical basis are not covered by the federal regulations.

CONDITIONS OF DISSEMINATION AND USE

The federal regulations enable the State and local governments to determine the policies and procedures needed to manage the use and dissemination of criminal history information.

General

Section 20.21(c)(3) of Title 28 provides that:

(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.

In addition to this provision there are two additional constraints established in Section 20.21(c). These are included as 20.21(c)(1)(2) of Title 28.

(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.

Juvenile Records

The regulations establish a prohibition against the dissemination, to non-criminal justice agencies, of juvenile records except for purposes of authorized research, evaluation, or statistical analysis or in those instances in which there is an established agreement with a criminal justice agency to provide services to the criminal justice system.

The constraints on the dissemination of Juvenile records are included in Section 20.21(d) which provides that the State Plan will:

"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) (research or agreement).

CURRENT STATUS

Generally, the practices and procedures of dissemination have grown up as part of the criminal justice service function but without clear definition or statutory constraint on need to know or right to know conditions. Dissemination of information has also been proliferating over the years. The demand by non-criminal justice agencies for information has probably increased, particularly as selective employment practices increase. The impact of this is most significant on local departments. The use of criminal history information by criminal justice agencies has increased as the accessibility of information has increased through central record improvements.

The restraints imposed on the dissemination of information have been generated, in large part, by the increased recognition of the need to balance the practices of dissemination with concern for the protection of individuals through some practical and acceptable methods of information classification and control.

There has been considerable activity in Maine directed toward the control of dissemination of criminal history information. This effort has been intensified in the last two years in the context of privacy and security considerations, the general attitude in Maine toward confidentiality and privacy and the concepts of the original federal regulations. Both the SBI and local departments for example have imposed constraints on dissemination to non-criminal justice agencies. Figure 4-1 is an example of an SBI policy which restricts dissemination and Figure 4-2 is an example of local departmental procedure. Both of these actions were taken before the current Maine legislation become effective in 1976.

Existing Policies and Procedures

The concern in Maine with confidentiality and fairness has been a characteristic of a variety of laws, policies and regulations. For example, Chapter 197 of the Maine statutes provides for the confidentiality of certain records of the State Bureau of Identification. The pertinent parts of this statute are included as Figure 4-3. The exceptions relating to court information and current [pending] case information are consistent with the new provisions of 16 MRSA 600. The Records statute also includes, in paragraph 16, the enabling provision for an annual audit of SBI records.



MAINE STATE POLICE
38 HOSPITAL STREET
AUGUSTA, MAINE 04330

STATE BUREAU OF IDENTIFICATION

Dear Sir:

Thank you for your recent letter requesting criminal records information pertaining to the above captioned individual (s).

Please be advised that due to security and privacy considerations concerning those whose names might appear within our files, we are not permitted to disclose criminal records information except to the subject of the record or to authorized agencies.

Should a person be desirous of obtaining his own record he may do so by personally requesting same at this Bureau or by submitting his request by mail, including his signature in full, date of birth, and right thumb print.

If I may be of further assistance, please do not hesitate to contact me.

Sincerely:

Lieut. Edward P. Wilson
Commanding Officer
State Bureau of Identification
Maine State Police

FIGURE 4-2

PORTLAND POLICE DEPARTMENT

GENERAL ORDER 74-7

MAY 29, 1974

RELEASE AND REVIEW OF POLICE RECORDS

I. PURPOSE

To establish policy and procedure with respect to the release or review of records.

II. PROCEDURE

In order that the department fulfills its responsibilities with respect to the collection, preservation and release or review of records, and so as to implement and protect constitutional guarantees of privacy, the following policy is adopted.

1. Adults

A. Unless provided for in this order, NO departmental records of fingerprints, photographs, or previous criminal or traffic activity are to be released or reviewed by ANYONE other than sworn members of THIS department.

B. Release or review of records can only be accomplished as authorized below:

- (1) AN INDIVIDUAL, WHO PERSONALLY APPEARS at the Information/Records Counter, properly identifies himself, may REVIEW his own personal record.
- (2) PERSONS WHO SUBMIT WRITTEN REQUESTS OR WAIVERS by mail, seeking release of their records are to be advised that such requests or waivers cannot be honored, unless such waiver is notarized.
- (3) PURSUANT TO A REQUEST FROM A PUBLIC LAW ENFORCEMENT AGENCY, (eg. Police Departments, Maine Police, FBI Agency or Court agencies) for purposes of prosecution, investigating a criminal case leading to a prosecution, or conducting an investigation for probation consideration.
- (4) Governmental and law enforcement agencies seeking records checks of persons they are considering for employment, when accompanied by A NOTARIZED WAIVER FROM THE PERSON BEING INVESTIGATED are to receive only records of CONVICTIONS and NOT records of arrests where NO CONVICTION was obtained. For purposes of this policy, bail forfeitures are to be considered as convictions. Records of arrests which have no disposition are to be released ONLY to public agencies such as listed in Paragraph B-(3) above, and THEN ONLY for those reasons listed in B-(3).
- (5) EXCEPTIONS TO PARAGRAPHS B-(1), (2), (3) and (4) are where the release of records is required by LAW (eg. Visa, Passports, Immigration, Prison Visits). In these cases the Release WAIVER OR REQUEST must be NOTARIZED. If Records Section personnel receive a request that appears to fall within this exception clause, but not specifically mentioned herein, they are to obtain clearance from the Supervisor of the Records Section prior to honoring the request.

C. Members of THIS department, as well as members of ANY law enforcement agency, as described in paragraph B-(3), who receive departmental records as described in this order, ARE NOT TO PASS them on to persons NOT AUTHORIZED to receive them under the provisions of this order.

CHAPTER 197

RECORDS

Soc.

1631. Records confidential.

§ 1631. Records confidential

All criminal and administrative records of the State Police and the Bureau of Identification are declared to be confidential, except:

1. Operational reports. Operational reports by the bureau;

• • • •

13. Open court information. Information made available in open court;

14. Pending case information. Information on pending cases which would not jeopardize the investigation or prosecution;

15. Further statistical reports. Statistical reports by Division of Special Services on truck weights, public utility enforcement and beano;

16. Audits. Annual audits.

Such records other than the exceptions listed may be subpoenaed by a court of record.

1959, c. 223, § 1. 1971, c. 592, § 37.

Historical Note

Derivation: R.S.1954, c. 15, § 5-A,
as enacted by 1959, c. 223, § 1.

Library References

Records 14.

C.J.S. Records § 35 et seq.

The provisions of 5 MRSA 341 (Figure 4-4] establish limitations for the purposes of licensing on the dissemination of certain criminal history records [Section 5301]; establish a time limit of 3 years on the use and effect of certain information [Section 5303]; and establish an appeal process for an aggrieved individual. Each of these provisions has applicability in the management of criminal history record information.

Both the SBI and local departments have established dissemination policy and procedural guidelines which are consistent with this Maine legislative environment. For example the SBI issued a series of policy guides in 1975 related to limitations on dissemination. Some of these are included in Figure 4-5.

Restrictions on the dissemination of juvenile information exist throughout the Maine criminal justice system. Two policy examples of law enforcement agencies are included below.

- The June 4, 1976 General Order 74.7 of the Portland P.D. provides for limited dissemination of juvenile police records:

PORTLAND POLICE DEPARTMENT

General Order 74-7 May 29, 1974

2. Juvenile Police Records

- A. Juvenile police records are NOT for public use and are to be released only to Police, Courts, and Correction agencies as defined in Section 1, paragraph B-(3) of this order.

- The policy of the SBI is as follows:
DATE: May 13, 1975 SUBJECT: Juvenile Records
Effective immediately, juvenile records information will be furnished only to enforcement, correctional, or welfare agencies as set forth in 15 MRSA 2609.

CHAPTER 341

OCCUPATIONAL LICENSE DISQUALIFICATION ON BASIS
OF CRIMINAL RECORD

§ 5301. Eligibility for occupational license or permit

1. Effect of prior criminal convictions. Subject to subsection 2 and sections 5302 and 5303, in determining eligibility for the granting of any occupational license or permit issued by the State, the appropriate licensing agency may take into consideration conviction of certain crimes which have not been set aside, pardoned or expunged, but such convictions shall not operate as an automatic bar to being licensed or permitted to practice any trade or occupation.

2. Certain criminal records not to be considered. The following criminal records shall not be used, distributed or disseminated in connection with an application for a license or permit:

- A. Records of arrest not followed by a valid conviction;
- B. Convictions which have been set aside, pardoned or expunged;
- C. Misdemeanor convictions not involving moral turpitude, unless such convictions directly relate to the trade or occupation for which the license or permit is sought; and
- D. Misdemeanor convictions for which no jail sentence can be imposed, unless such convictions directly relate to the trade or occupation for which the license or permit is sought.

§ 5302. Denial or revocation of licenses because of criminal record

1. Reasons for denial, revocation or suspension. Licensing agencies may refuse to grant or renew, or may suspend or revoke any occupational license or permit for any one or combination of the following causes:

- A. When the applicant has been convicted of a felony, or a misdemeanor involving moral turpitude or for which a jail sentence may be imposed, and such criminal conviction directly relates to the trade or occupation for which the license or permit is sought; but only
- B. If the licensing agency determines, after complete investigation, that the applicant so convicted has not been sufficiently rehabilitated to warrant the public trust.

2. Reasons to be stated in writing. The licensing agency shall explicitly state in writing the reasons for a decision which prohibits the applicant from practicing the trade or occupation if such decision is based in whole or in part on conviction of any crime described in subsection 1, paragraph A. For purposes of subsection 1, paragraph B, successful completion of probation or parole supervision, or final discharge from any term of imprisonment without any subsequent conviction, shall constitute a rebuttable presumption of sufficient rehabilitation.

§ 5303. Time limit on consideration of prior criminal conviction

The procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed trade or occupation shall apply within 3 years of the applicant's final discharge, if any, from the correctional system. Beyond the 3-year period, ex-offender applicants with no additional convictions are to be considered in the same manner as applicants possessing no prior criminal record for the purposes of licensing decisions.

§ 5304. Appeals

Any person who is aggrieved by the decision of any licensing agency in possible violation of this chapter may file a statement of complaint with the Administrative Court Judge designated in chapters 301 to 307.

FIGURE 4-5

DATE: March 31, 1975

SUBJECT: Criminal Records

Records information disseminated by this Bureau is to be restricted exclusively to criminal charges. Any non-criminal notations such as "lodger", "safekeeping", etc. shall be removed from the record prior to its leaving the Bureau.

DATE: Sept. 8, 1975

SUBJECT: Non Criminal Justice Agency
Criminal Records Dissemination

Effective immediately, criminal records information for which no final disposition has been received within one year from date of arrest, will not be released for any purpose OTHER THAN CRIMINAL JUSTICE RELATED ACTIVITIES.

Records sent to other than Criminal Justice Agencies will be stamped " This information does not include any alleged offenses for which no final disposition has been received by this Bureau within one year of date of arrest."

DATE: Sept. 22, 1975

SUBJECT: Dissemination - Non Criminal
Justice related Agencies

In complying with records requests from Authorized NON CRIMINAL JUSTICE agencies, information disseminated by this Bureau will be limited to charges reflecting convictions, cases filed, and cases without final disposition where LESS than one year has elapsed from date of arrest.

Charges reflecting other than the above, such as NOT GUILTY, DISMISSED, or charges over one year old without disposition or any indication that they are still active will NOT be disseminated for NON criminal justice purposes.

Dissemination for CRIMINAL JUSTICE related purposes will continue to be governed by current guidelines.

Current Legislation

The official and public interest in privacy and security has been translated into legislation passed by the one hundred and seventh Legislature. This legislation which provides for "the control or access to and disclosure of criminal history record information" contains specific limitations on dissemination which are similar to those conceived in the federal regulations, Title 28 of May 20, 1975. The current legislation and the procedures cited put Maine in specific compliance with all the conditions of dissemination and other requirements in sections 20.21(a)(b)(c)(d)(e) and 20.22(a)(b)(1),(2),(5) of Title 28, March 19, 1976.

The specific provisions of 16 MRSA 602, 603, 604, 605 and 606 (4), relating to the limitations and conditions of dissemination, are compared to the requirements of Title 28 in Figure 4-6 and three sections are discussed below.

Permissible Disclosure

The provisions of the Maine law which enables agencies to disclose information related to the offense for which the individual is "currently within the criminal justice system" [20.20c] is included in 16 MRSA 602(3). This provides:

'3. Permissible disclosure. Nothing in this subchapter shall be construed to prevent a criminal justice agency from disclosing to the public factual information concerning the state of an investigation, the apprehension, arrest, release or prosecution of an individual, the adjudication of charges or the correctional status of an individual, which is reasonably contemporaneous with the event to which the information relates; nor is a criminal justice agency prohibited from confirming prior criminal history record information to members of the news media or any other person, when in response to a specific inquiry as to whether on a specified date a named person was arrested or had a complaint information or indictment returned against him or had disposition

FIGURE 4-6

**DISSEMINATION LIMITATIONS AND CONDITIONS
FEDERAL REGULATIONS AND MAINE STATUTES**

DOJ Title 28 March 19, 1976		Maine Statutes/Plan		SBI Policy
Section	Subject	Citation Reference	Subject	
20.3(k)	Definition, Non-Conviction Data	P/S Plan, Page 1 16 MRSA 603(1,2,3)	Definitions, Non-Conviction Non-Disclosure of certain Records	X
20.20(a)	Agency and Individual Category Applicability	16 MRSA 602(1)	Applicability	X
20.20(b)	Information Category Applicability	16 MRSA 602(2)	Applicability, Exceptions	NA
20.20(c)	Disclosure of Current Status	16 MRSA 602(3)	Permissible Disclosure	X
20.20(c)	Disclosure of Specific Criminal History Information	16 MRSA 602(3)	Permissible Disclosure	NA
20.21(b)	Limits on Dissemination of Non-Conviction Data	16 MRSA 603	Non-Disclosure of certain Records	X
20.21(b) (1)	Criminal Justice Agencies Admin., Employment	16 MRSA 603(3,A)	Criminal Justice Agencies, Admin. of Justice	X
20.21(b) (2)	Ind., Agencies Auth. Statute, Crd., E.O. CR, CO.	16 MRSA 603(3,D,E)	Authorized by CO., CR., State Agencies by Statute E.O	Part
20.21(b) (3)	Specified Agreement for Services	16 MRSA 603(3B)	Specified Agreement for Services	
20.21(b) (4)	Research, Evaluation, Statistical Purposes	16 MRSA 603(3C)	Research, Evaluation, Statistical Purposes	
20.21(c) (1)	Use by Non C.J. Agencies Limited	16 MRSA 604(2)	Use by Non C.J. Agencies Limited	X
20.21(c) (2)	No Dissemination or Sec. Dissemination to Non-Eligibles	16 MRSA 604(1) 16 MRSA 606(4)	Limits Dissemination to Eligible Individual Right of Release	X
20.21(c) (3)	State/Local Governments Determine Dissemination Eligibility	16 MRSA 604(1A,G)	Establishes Categories of Eligibles to Receive CHRI	Part
20.21(d)	Juvenile Dissemination Limited	15 MRSA 2606, 2609, 2666	Separate and Confidential Juvenile Records	X
20.22(b) (5)	Listing of Categories of Non-Criminal Justice Dissemination	16 MRSA 603(3) 16 MRSA 604(1C,G)	Categories of Non-Criminal Justice Eligibles	Part

on a charging document, provided that the information disclosed is based on data excluded by subsection 2, and further provided that such disclosing criminal justice agency shall disclose therewith any and all criminal history record information in its custody or control which indicates the final disposition of the arrest, detention, information, indictment or other charging document.'

Limitations on Non-Conviction Data

Section 20.21(b) requires that by December 31, 1977, dissemination of non-conviction data be limited to four specific categories of recipients. This condition is now in effect in Maine in accordance with the mandate of 16 MRSA 603 which provides that:

§ 603. Nondisclosure of certain records

Except as provided in section 602, subsections 2 and 3, dissemination of criminal history record information, whether directly or through any intermediary, which relates directly to information respecting:

1. Acquittal. A crime for which a person has been acquitted in any court, but excluding acquittals by reason of mental disease or defect;

2. Pardon. A crime for which a person has been convicted in any court but for which a full and free pardon has been granted; and

3. Dismissal of complaint, indictment or information. A crime for which a person has been charged by complaint, indictment or information which subsequently has been dismissed in any court and which has not been reinitiated by a new or replacement complaint, indictment or information and the dismissal took place under circumstances precluding the State from reinitiating such criminal charge; shall be limited to:

A. Criminal justice agencies, for purposes of the administration of criminal justice, except that such dissemination is not authorized for both subsection 1 and subsection 2, where the Governor when granting a full and free pardon expressly provides that the criminal history record information relating to a crime for which that pardon has been granted shall not be made available to criminal justice agencies for purposes of administration of criminal justice;

B. Persons 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 security and confidentiality of the data and provide sanctions for violations thereof;

C. Persons 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, evaluation or statistical purposes, insure the security and confidentiality of the data and provide sanctions for violations thereof;

D. Persons and agencies where authorized by court order or court rule; and

E. Such other state agencies which are by statute or executive order expressly allowed access to such criminal history record information in order to carry out their lawful duties.

In this provision the Maine law is somewhat more restrictive than the federal regulations. Section 3A further restricts the dissemination of information concerning individuals who have been pardoned.

- The provisions of Sections 3D and 3E provide for a more restrictive dissemination than the conditions imposed in Section 20.21(b)(2) of Title 28.

Both of these conditions are consistent with other Maine statutes and the prerogative of the State cited in 20.21(c)(3).

Limitations on Dissemination

The purposes for which the dissemination of criminal history record information is authorized are defined in 16 MRSA 604 which provides:

§ 604. Limitations on dissemination

1. Dissemination to agencies. Except as provided in section 602, subsections 2 and 3, and in section 603, dissemination of criminal history record information, whether directly or through any intermediary, shall be limited to:

- A. Criminal justice agencies, for purposes of the administration of criminal justice;
- B. Criminal justice agencies, for purposes of criminal justice agency employment;
- C. Such other state agencies which require criminal history record information to implement a statute or executive order that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct; provided, that only information relating to the expressly referred to criminal conduct may be disseminated;

D. Persons 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 security and confidentiality of the data and provide sanctions for violations thereof;

E. Persons 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 security and confidentiality of the data and provide sanctions for violations thereof;

F. Agencies of State and Federal Government which are authorized by statute or executive order to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information. Criminal justice agencies shall by rules or regulations approved by the Attorney General prescribe such reasonable procedures as are necessary to confirm the existence of such agency's statutory or executive order authorization and the identity and authority of the person requesting any criminal history record information in order to insure the security and confidentiality of such information; and

G. Persons and agencies when authorized by court order or court rule.

a. Dissemination to noncriminal justice agencies. Use of criminal history record information disseminated to noncriminal justice agencies as authorized by this section shall be limited to the purposes for which it was given and shall not be disseminated further.

In Maine there has been a history of making an individual's record available to the individual concerned. This open record provision is recorded in 16 MRSA 606(4) which provides for the individual right of release of information about himself. This section says:

4. Right of release. The provisions of this subchapter shall in no way be construed to limit the right of a person to disseminate, to any person or agency, criminal history record information pertaining to himself.

Juvenile Records

There are numerous legislative, procedural and regulatory restrictions on juvenile records which insure that Maine is in compliance with section 20.21(d) of the Title 28. Several law enforcement departments procedures were previously cited (page IV-10]. Specific statutory restraints concerning juvenile information and records, which are in 15 MRSA Part 5 Juvenile Offenders, are included in Figure 4-7. These citations are 15 MRSA 2606, 15 MRSA 2609 and 15 MRSA 2666.

§ 2606. Record

Each juvenile court shall keep a record of proceedings to be known as the "juvenile court record." It shall be separate from any District Court records and it shall contain a brief outline and description of juvenile court proceedings, including the disposition of each case. The juvenile court record may be maintained in any place, provided that it shall not be open to the inspection of the general public. With the consent of the juvenile court, the juvenile court record may be examined by a parent, guardian or other person whom the juvenile court might deem to be directly interested. The juvenile court record may be used by the state probation-parole officers, the Cumberland County Juvenile Probation Department, or other correctional, enforcement or welfare authorities as a matter of course. No record of, and no testimony concerning, any proceeding under chapters 401 to 409 shall be competent evidence in any proceeding other than proceedings under chapters 401 to 409, except that juvenile court records pertaining to motor vehicle violations by juveniles shall be transmitted by juvenile courts, together with a summary of the pertinent facts of the motor vehicle violation, to the Secretary of State, and shall be admissible in evidence in hearings conducted by the Secretary of State regarding motor vehicle violations or motor vehicle licenses and registrations.

§ 2609. Hearings in juvenile courts

There shall be no terms of the juvenile court, but the court may assign matters for hearing at its discretion. Juvenile court hearings shall not be criminal in nature and shall be conducted separately from any criminal proceeding. The hearings shall be held in a room other than the district courtroom wherever feasible and shall be private, except that juvenile court hearings regarding motor vehicle violations by juveniles shall be public and may be heard in the district courtroom. The judge may administer all oaths required by law. The juvenile may be represented by any person who is interested or by counsel.

Any person, other than an enforcement, correctional or welfare official furnishing information in the discharge of his official functions to any other enforcement, correctional or welfare official, who divulges or publishes, without the consent of the juvenile court, the name of any juvenile brought or to be brought before a juvenile court, or who, being present at any juvenile court hearing which is private, divulges or publishes, without the consent of the juvenile court, any of the matters which occurred at said hearing may be found guilty by the juvenile court of criminal contempt and may be punished by the juvenile court accordingly.

§ 2606. Superior Court appeal record

The record in the Superior Court of all matters transpiring in the Superior Court in cases before the Superior Court upon an appeal from the judgment of a juvenile court shall be kept separate from the other records of the Superior Court. Said record in juvenile appeal cases shall not be open to the inspection of the general public. With the consent of the Superior Court, such record may be examined by a parent, guardian or other interested party. It may be used by the state probation-parole officers, the Cumberland County Juvenile Probation Department or other correctional, enforcement or welfare authorities as a matter of course. No such record of the Superior Court concerning juvenile appeal cases may be admissible as evidence in any proceeding, other than proceedings under chapters 401 to 409, except that the Superior Court juvenile appeal records pertaining to motor vehicle violations by juveniles shall be transmitted by the Superior Court, together with a summary of the pertinent facts of the violation, to the Secretary of State, and shall be admissible in evidence in hearings conducted by the Secretary of State regarding motor vehicle violations or motor vehicle licenses and registrations.

CONTINUING PROCEDURAL DEVELOPMENT

Within the context of the current legislation additional procedures and regulations will be developed to accomplish the legislative intent. Particular emphasis will be on:

- Standards for access to information
- User agreements
- Dissemination Records [logs]
- Notification procedures

Standards for Access to Information

One of the outcomes of privacy and security procedural development will be the establishment of standards for access to criminal history information, particularly non-conviction data. It is expected that standards will evolve from the evaluation of the provisions of Department of Justice Title 28 and Maine PL763, the SEARCH model proposals, the interaction of the records disclosure concepts and the varied common practices in the entire state.

Information will be compiled on non-criminal justice users which are authorized to have access to criminal history information. The information will include the authorization, the stated requirements, the usual source of the information and the current method of obtaining criminal history information. At present, the range of methods for requesting information extends from jury lists, to letters, to telephone calls.

The general form for the collection of source information on these activities is shown in Figure 4-8. Most of the professional and occupational licensing requirements are included in Titles 4, 5, 8 and 32 of the Maine Revised Statutes.

FIGURE 4-8

NON-CRIMINAL JUSTICE AGENCY
DISCLOSURE ELIGIBILITY

STATE OF MAINE

NON-CRIMINAL JUSTICE AGENCY PROFILE									
Type of Occupation License etc.	Agency Responsible For Certifying or Approving	Executive Order or Statute Number- Section	Information Required by Statute	Normal Source of Information	Current Method of Requesting Information	Current Method of Receiving Information	Class Category	Eligible I.A.W. <u>PL763</u> Y N	

Arrangements will be made for a coordinated effort with affected state departments and the Attorney General to insure compliance with 16 MRSA 603(3E) and 16 MRSA 604(1F).

Use of Standards

The following actions will be considered in the authorization of non-criminal justice agency recipients:

- Standards developed with the Attorney General will be used to determine the eligibility of agencies or individuals to acquire criminal history information.
- In cases which involve legal interpretation, the advice of the State Attorney General be sought specifically. Appeals will be considered.
- User Agreements will be required as appropriate in accordance with 16 MRSA 603 (3B, C, E) and 16 MRSA 604 (1C, D, E, F).
- The issuance of a user agreement form will serve to initiate the process through which an agency is certified as an authorized user to request criminal history information.
- Authority to access criminal history information may include conditions in which the agency agrees to:
 - An on-site review of the agency's procedures to insure security and confidentiality.
 - Refrain from secondary dissemination of information.
 - Accept a follow-on audit of information use and control practices.

User Agreements

Recipients of criminal history information will acquire status, as users, before receiving criminal history information. In this approach there should be no recipients of criminal history information which are not covered by state law and an

agreement if appropriate. The approach to be taken in the agreements is to approximate a contractual arrangement in which the sanctions and penalties imposed by 16 MRSA 605 for breach of conditions apply. Through the use of the agreement, the certification process, and the conditions of dissemination control, users can be subject to audit of procedures and security. In this way both the integrity of the information can be maintained and the criminal history information source agency can be afforded protection against improper use of information.

Provisions

It is anticipated that the User's Agreement will include the following provisions:

- Executive or statutory designation of the agency (contractor) responsible for authorizing access to criminal justice and/or criminal history information and data.
- Statement of responsibilities and obligations of the central repository.
- Statement of responsibilities and obligations of the User.
- Provisions for initial, periodic and regular audits and inspections
- Detailed statement establishing rights and conditions of cancellation of the agreement.
- Provisions for indemnification of Contractor (central repository) and User (verified by Attorney General).
- Effective dates of authorization, of the Agreement, and dates of expiration.
- Clear and complete statement regarding degree of authorization for access to criminal justice and criminal history information provided by Agreement and description of associated rights and prohibitions.

- User's acknowledgement of provisions of Privacy and Security Plan, associated documents, and Maine PL763 (1976).
- Clear and complete statement of rights to and limitations on, dissemination and maintenance of criminal justice and criminal history information following authorization to access.
- Statement of sanctions, penalties, and administrative measures incurred upon violation of the Agreement, to include procedures to remedy deficiencies.
- Provisions and details of security requirements to be observed by User.
- Requirements and standards for User facility, operations, and personnel.
- Requirements and standards for logs and records of transactions to be maintained by User.

Dissemination Records

In order to insure that the dissemination of criminal history information is conducted in a manner which will provide a basis for management actions; subsequent corrections and system audits, a dissemination log mechanism will be developed for use throughout the criminal justice system.

Dissemination logs are required by 16 MRSA 606(3) to insure that corrected information is communicated to all prior recipients. The dissemination record is also required to facilitate the system audits required by Section 20.21(a) and 20.21(e) of Title 28.

Because of the nature of the Maine system it is likely that a simple dissemination log, coupled with the extensive personal knowledge of records personnel at all levels of the system, will serve the immediate purposes of dissemination recording. The SBI dissemination log, for example, is a model which includes most pertinent dissemination data.

NAME:

SBI#

RECORD DISSEMINATION LOG

DATE	NO. COPY	RECEIVING AGENCY	PURPOSE	LAST ENTRY

For planning purposes, however, a more detailed mechanism will be reviewed for possible future application to meet intensified traffic or additional audit requirements. This detailed procedure is included in Appendix B. Dissemination logs will be adapted to local needs and practices consistent with meeting the requirements of the system.

Notification Procedures

It is planned that agencies which have access to criminal history information be made aware of the provisions and constraints of Maine PL763 and the regulations. The Plan will provide for the orientation of users and specific written notice and agreements concerning access, internal use, security and destruction of criminal history record information.

The notification process may include a letter to all agencies to which user agreements apply, advising them of the regulations and the provisions of the Privacy and Security Plan. This letter will outline the Privacy and Security orientation program leading to certification as a user.

The Privacy and Security Plan has applicability in some degree to all components of the State criminal justice system including agencies not directly subject to the federal regulations. An objective of the notice procedure is to insure that agencies are aware of the Plan and PL763 as it pertains to their activities. The notice procedures may include:

CONTINUED

1 OF 3

- A series of orientation sessions, using the capabilities of the Regional planning units
- Review of current licensing agencies eligibility status
- Assessment of current dissemination patterns and forecast needs of potential users

The outcomes of the notice procedures can be:

- Completion of User Agreements
- Procedural information guides for continuing observance of the provisions of the Privacy and Security Plan and PL763.
- A catalogue of systems and users subject to the Privacy and Security Plan.
- A notice of sanctions related to violation of procedures

It is expected that implementation of the Plan can occur, in many cases, within the context of existing administrative procedures. Maximum use will be made of the existing procedures currently used for example, by the court administrator [letters, court rules]; by the Attorney general [opinions, memos] and by the Clerks of Court [memos].

V

INDIVIDUAL ACCESS AND REVIEW

V

INDIVIDUAL ACCESS AND REVIEW

The subject of a criminal record may be in the best position to offer assistance in identifying and correcting mistakes or significant omissions.

Insuring the right of the individual to review his criminal history record can be a significant factor in establishing the credibility and accuracy of the information in his file. The right of review can provide an additional measure of protection from potential or actual harm or injury, caused by the use of inaccurate criminal history information. "Harm" to the individual could involve his reputation in which event an action for defamation could occur. Personal injury could also mean deprivation of employment, for example, which could be construed as a due process violation. The principle of individual access and review is complemented by the requirement that inaccurate or incomplete records be corrected. Both of these principles are now included in Maine Law, 16 MRSA VII.

REQUIREMENTS

The principle of individual access and review has been recognized and incorporated in federal law and the Department of Justice regulations. For example, Section 524(b) of the Crime Control Act (P.L. 93-83) provides in part that:

... an individual who believes that criminal history information concerning him contained in an automated system is inaccurate, incomplete or maintained in violation of the title, shall upon satisfactory verification of his identity, be entitled to review such information and to obtain a copy of it for purpose of challenge or correction.

Department of Justice Regulations

Section 20.21(g) of the federal regulations requires that Maine establish operational procedures to insure the right of individuals to review criminal history records concerning them (excluding all intelligence and investigative files) for the purposes of challenging their accuracy and completeness. These operational procedures must include provisions for:

- verification of individual identity [20.21(g)(1)]
- reviewing any criminal record information, maintained about the individual, without undue burden to the individual or the criminal justice agency [20.21(g)(1)]
- obtaining a copy of subject record for purposes of challenge and correction [20.21(g)(1)]
- an administrative review and necessary correction of any claim by the individual that the information is inaccurate or incomplete [20.21(g)(2)]
- an administrative appeal in those cases which cannot be resolved between the individual and the criminal justice agency which is maintaining the information [20.21(g)(3)]
- providing the individual, upon request, with the names of non-criminal justice agencies to which subject information has been disseminated prior to correction [20.21(g)(4)]
- notification of corrections by the correcting agency to all criminal justice agencies to which the information has been disseminated prior to correction [20.21(g)(5)]

The extent of the procedures related to individual access and review are new. However, the concept of individual access and review for purposes of appeal does already exist as part of administrative due process. Commentary on these procedures includes the following, which are to be made part of the planned procedures:

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. Verification of identity can be established by the State of Maine [The plan proposes the use of fingerprints [all or some] for positive identification when accessing state repository records.]

20.21(g)(5) requires that the correcting agency notify prior recipients of corrected information. Not every agency will have done this in the past, but hence-forth adequate records including those required under 20.21(e) must be kept so that notification can be made.

20.21(g)(6) 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.

The National Advisory Commission Standard on the Right to Review suggests that:

Except for intelligence files, every person should have the right to review criminal justice information relating to him. Each criminal justice agency with custody or control of criminal justice information shall make available convenient facilities and personnel necessary to permit such reviews.

The National Advisory Commission standard is amplified in the Standards for Security and Privacy of Criminal Justice Information developed by the SEARCH group.¹ Standard 14, Access by Individuals for Purposes of Challenge, includes provisions for:

- individual review of criminal history record information concerning him anywhere in the State in which he applies in person or through counsel (14.1 a)
- an appeal hearing with or without counsel
- a judicial review procedure, if appropriate, after an administrative appeal hearing

CURRENT STATUS

Legislation changes approved in the current session include provisions which will insure statewide compliance with Title 28. The provisions of 16 MRSA 606 are included in Figure 5-1.

Not only is it possible for an individual in Maine to review his records but, at the State Bureau of Identification, there is a positive attitude of assistance. In this respect, the individuals criminal history is an "open record" to the individual.

Although individual procedures vary among criminal justice agencies, this open approach is typical in the State.

Central Repository Procedures

The Maine State Police have a written operating procedure for individual record access and review at the State Bureau of Identification which enables an individual to review his record.²

¹ SEARCH Technical Report, No. 13, October, 1975

² MSP/SBI Inter-departmental Memorandum, September 3, 1975: REQUEST FOR OWN RECORD. 16 MRSA 606(4) affirms the right of an individual to disseminate, without limits, information about himself.

§ 606. Right to access and review

1. Inspection. Any person or his attorney shall have the right to inspect the criminal history record information concerning him maintained by a criminal justice agency, provided that a person's right to inspect or review criminal history record information pertaining to himself shall not extend to data contained in intelligence, investigatory or other information than that included within the definition of "criminal history record information." Criminal justice agencies may prescribe reasonable hours during which such right may be exercised, the location at which such right may be exercised and such additional restrictions, including satisfactory verification of identity by fingerprint comparison, as are reasonably necessary, both to insure the security and confidentiality of the criminal history record information and to verify the identity of the person seeking to inspect such information. Such agencies shall supply to the person or his attorney a copy of the criminal history record information pertaining to him upon request and payment of a reasonable fee.

2. Review. A person or his attorney may request amendment or correction of criminal justice record information concerning him by addressing, either in person or by mail, his request to the criminal justice agency in which the information is maintained. The request must indicate the particular record involved, the nature of the correction sought and the justification for the amendment or correction.

Upon receipt of such request, the criminal justice agency shall take necessary steps to determine whether the questioned information is accurate and complete. If such investigation reveals that the questioned information is inaccurate or incomplete, the agency shall forthwith correct the error or deficiency and advise the requesting person that such correction or amendment has been made.

If the agency refuses to make the requested amendment or correction, it shall advise the requesting person of the refusal and the reasons therefor. If an agency refuses to make a requested amendment or correction, or if the requesting person believes the agency's decision to be otherwise unsatisfactory, the person may seek relief in the Superior Court.

3. Notification. When a criminal justice agency has amended or corrected a person's criminal history record information in response to written request as provided in subsection 2 or a court order, the agency shall within 30 days thereof advise all prior recipients of such information of the amendment or correction and shall notify the person of compliance with that requirement and the prior recipients notified.'

4. Right of release. The provisions of this subchapter shall be in no way construed to limit the right of a person to disseminate, to any person or agency, criminal history record information pertaining to himself.

The individual may have access for purposes of review, correction or appeal of his record on file with the State Bureau of Identification. Upon completion of a simple application card [SBI 3-75], and verification of identity through thumbprint and personal data, the record is made available for review, to the individual, in the Records/ID office of the Bureau. Figure 5-2 portrays the Maine SBI form.

Information which is ascertained to be inaccurate, invalid or incorrect is corrected by the SBI staff. An effort is made to advise all criminal justice agencies, which have received the basic record, of the corrections. This notification action is based on the dissemination record which is maintained on the SBI record dissemination log. This log is illustrated below:

NAME:		SBI#		
RECORD DISSEMINATION LOG				
DATE	NO. COPY	RECEIVING AGENCY	PURPOSE	LAST ENTRY

If the information in the record is challenged as inappropriate, subject to expungement or otherwise subject to a judicial action over which the SBI has no control the individual is advised of the process through which corrective action should be taken, or documents acquired, through legal or court action.

At present the individual is furnished a copy of his record, if he/she requests one, at no cost to the individual.

MAINE STATE POLICE - STATE BUREAU OF IDENTIFICATION	
I hereby request to be shown my criminal record, if any on file within the State Bureau of Identification.	
NAME: _____	DOB: _____
ADDRESS: _____	
SIGNATURE: _____	
DATE: _____	_____
SBI 3-75 (Over)	Rt. Thumb Print
<div style="margin-bottom: 10px;"> <u>TYPE OF CONTACT</u> IN PERSON _____ MAIL _____ (Check One) </div> <div style="margin-bottom: 10px;"> <u>DOCUMENT CONTROL</u> Technicians Initials _____ </div> <div> COPY ISSUED YES _____ NO _____ (Check One) </div>	

S.B.I. USE ONLY

Form SBI 3-75 shall be utilized whenever an individual requests to be shown his own record.

Should the request be received by mail, the form will be mailed to the requesting party to be filled out and returned to the Bureau prior to any such request being honored.

Form SBI 3-75 will be filed in the individuals folder. Forms for which there are no folders will be filed alphabetically. Statistics will be maintained in order to allow the Bureau to determine the number of such requests processed.

MAINE STATE POLICE

Local Agency's Procedures

Local police departments have had only minimal requests for records review. However, an increasing number of inquiries have been received in the last year. There are no known instances of an individual being denied a review, but local departments have expressed the need for more explicit procedures and forms. Police departments currently direct individuals to the courts for corrective action which cannot be mutually resolved.

Local police departments generally provide an individual with records containing criminal history record information in the files maintained in their local jurisdiction. If the desired individual record information pertains to other jurisdictions, either in-state or out-of-state, the individual is usually advised of the method to obtain it. Records or logs are not generally kept by local police departments pertaining to individual review.

A representative procedure, which has been in existence, is that of the Portland Police Department. General Order 74-7, May 29, 1974 provides for individual review in the following manner:

" B. Release or review of records can only be accomplished as authorized below:

- (1) AN INDIVIDUAL, WHO PERSONALLY APPEARS at the Information/Records Counter, properly identifies himself, may REVIEW his own personal record. He may take notes of its contents, but may NOT remove the record from the Information/Records Counter or purchase copies of it. The record is to remain in the custody of the Department of Police.
- (2) PERSONS WHO SUBMIT WRITTEN REQUESTS OR WAIVERS by mail, seeking release of their records are to be advised that such requests or waivers cannot be honored, unless such waiver is notarized. "

PROCEDURES

The process of access to and review of individual records may require subsequent actions of notifications, record correction, or judicial review. To meet these requirements a relatively structured format will be evolved consistent with the Maine law, the nature of state and local agency administrative practices and the procedures which are already in existence.

Any individual who satisfactorily verifies his identity and complies with the rules and procedures established for individual access and review in Maine, will be permitted to review and obtain a copy of, arrest record information or criminal history record information concerning him. He may exercise this right anywhere in the state for the purpose of challenging the accuracy or completeness of his record or the legality of its existence. However, the complete and current criminal history is the record maintained by the Maine State Police and individuals will be encouraged to review the central repository record.

A record of individual review actions will be maintained as well as records [logs] of dissemination actions.

Review, Challenge and Appeal Forms

The initiation, processing and disposition of each individual review will be recorded on forms developed for these specific purposes. Some examples of relevant forms and their purposes are as follows:

<u>Description</u>	<u>Form Number</u>
<u>Figure 5-3</u>	<u>IR-1</u>
Individual Request for Record Review	Part I
Delayed Review	Part II
Completion of Initial Review, and/or Initiate a Challenge	Part III
Challenge Approved by Record Custodian	Part IVA
Challenge Denied by Record Custodian	Part IVB

Figure 5-4,5-5
Appeal of Challenge Denial
Approval of Appeal
Denial of Appeal

IR-2
Part I
Part IIA
Part IIB

Figure 5-6
Request for Out-of-State Record Check

IR-3

Verification of Identity

The individual record review process is initiated by the individual (or his attorney if authorized) through the completion and presentation of a Request for Record Review. Using the example forms, this would be Part I, of Form IR-1. [Figure 5-3]. The individual will be positively identified, by the agency to initiate the review. Identification will generally be by fingerprint. The agency official will record the fact of verification.

Obtaining a Copy

The reviewing individual may make a written summary or notes of the information reviewed or a copy of an individual's criminal history record may be furnished to the individual by the law enforcement agency in which the review occurs. A reasonable fee may be charged for providing copies of the record.

When the requestor has completed his review he will sign in the appropriate space provided on Part III of Form IR-1. [Page 2, Figure 5-3]. The agency official should also sign Part III of Form IR-1 to witness the individual's signature. At this point, if there is no challenge the original of Form IR-1 will be filed in the individual's case record at the record repository and the individual may be furnished a copy of the form IR-1, III.

STATE OF MAINE
INDIVIDUAL REQUEST FOR CRIMINAL HISTORY RECORD REVIEW

PART I

I hereby request to review my criminal history record, if any, on file in the State of _____ for the purpose of determining whether it is accurate and complete. [16 M.R.S.A. 606].

DOB _____ Printed Full Name _____
 SSN _____
 SEX _____ RACE _____ AKA _____
 MVO Lic. _____ (No.) _____ (State) _____
 Current Address _____

I understand that I will be able to review my criminal history record in the office of a state or local Police Department during normal weekday working hours or other announced hours. I understand, and am prepared to pay, a reasonable fee for costs incurred in obtaining a copy of my record.

I am prepared to be fingerprinted by the criminal justice agency from whom I am requesting the record check to verify that I am the individual whose record is being requested. Further, if I subsequently request a record check from the FBI or any other state, I authorize this agency to forward my fingerprints to the appropriate out-of-state Police Department for this purpose as required by the state.

_____ Date _____ Signature _____

R. Thumb				
L. Thumb				

Technician Initials _____ Sequence No. _____

PART II

[For Delayed Review] Sequence No. _____

I hereby state that I am the individual whose criminal record I am requesting for review, and further that I am the same individual who appeared at this office on _____.

_____ Signature _____
 Technician Initials _____ (DOB) _____

PART III

Sequence No. _____

- A. I have completed the review of my record, as requested by me.
I (do) (do not) desire a copy of my record.

Signature _____ (Date) _____

A copy (was) (was not) provided to individual.

Witness _____

Signature of Agency Official (Date) _____

- B. I have reviewed my record, as requested by me, and believe the following specific information to be incomplete or inaccurate to the best of my knowledge:
- _____
- _____

I hereby request the aforementioned items to be corrected.
I (do) (do not) desire a copy of any record.

Signature _____ (Date) _____

A copy (was) (was not) provided to individual.

Request Acknowledged:

Signature, Agency Official (Date) _____

Form IR-1 (III)
Copy to Individual
Original Retained by SBI

PART IVA

Sequence No. _____

I have thoroughly searched all cited items in Part IIIB and reviewed the requests for changes in the criminal record of _____ and find them all to be of merit. I will make such changes in the record within five working days and notify all criminal justice agencies which have previously been furnished this record and instruct them to make necessary changes within 30 days. Further, I have provided the individual with a complete list of all non-criminal justice agencies to which his record was disseminated in order that he/she may notify them of the need to correct their records accordingly.

CJ Agency Official (Date) _____

Form IR-1 (IVA)
Copy to Individual
Copy to all relevant criminal justice agencies
Original retained

PART IVB

Sequence No. _____

I have thoroughly researched all the cited criminal history entries and reviewed the request for changes listed in Part IIIB in the record of _____ and find (some - all) of the request not to be valid. Specifically, the following items (from the list cited in Part IIIB of Form IR-1) do not appear to warrant changes to the individual's criminal record.

I have so notified the individual of my decision and advised him/her of his/her right to appeal and the procedures to follow.

CJ Agency Official (Date) _____

Form IR-1 (IVB)
Copy to Individual
Original Retained
Copy to

FORM IR-1

(Page 2 of 2)

Initial Challenge

If the individual believes the record is incomplete or inaccurate, the contested items should be entered in the space provided in Section B, Part III of Form IR-1. This section of the form will be signed and witnessed to acknowledge receipt. A copy of the form will be provided to the individual.

The individual request for correction, and supporting evidence and documentation will be reviewed by the record repository by search, verification and matching of all pertinent records. The results of the search will lead to either approval of the request or disapproval of the request and notification to individual of appeal procedures.

If a criminal history record, maintained by the MSP/SBI or a local law enforcement agency is successfully challenged and the record deficiency is the result of a law enforcement error the correction will be made by the MSP/SBI or the local agency.

If, however, it appears that the record deficiency is based on court information the challenge will be referred to the office of Court Administrator for review and action in accordance with established court procedures.

If the request for correction is approved the following actions are taken:

- appropriate changes are made in the individual's criminal history record
- the individual is advised
- all criminal justice agencies to which the information has been previously disseminated are notified of the changes in the record
- the individual is provided with a list of any non-criminal justice agencies to which dissemination has been made
- the local criminal justice agency will destroy the uncorrected version of the record.

The decision of approval can be made on Part IVA of the Form IR-1. [Page 2, Figure 5-3]. The Form IR-1 is signed by an agency official, the original is logged and filed and a copy of the Form is provided to the individual.

If the request is not approved the actions are:

- the individual is notified of the decision
- the individual is notified of his right to appeal

The disapproval decision can be recorded on Part IV of Form IR-1. [Page 2, Figure 5-3].

Appeal of Disputed Decisions

In accordance with the provisions of 16 MSRA 606 an individual may seek relief of a disputed corrective action through the superior court. Figure 5-4 is an example of the format which could be used to enter an appeal to the court and to record the decision and initiate the actions directed by the court. Procedures and formats will be developed with the office of the Court Administrator:

In the appeal sequence, the action is initiated by the individual using Part I of Form IR-2 [Page 1, Figure 5-4]. At the completion of court appeal hearing, Part II of Form IR-2 [Figure 5-4] is completed by the Clerk of the Court stating the decision of the court. A copy of Form IR-2 is provided to the individual, a copy is retained by the Clerk of the Court and the original is forwarded to the record repository for retention in the individual's record.

If the appeal is granted the contested record, or portions of the record, will be amended or deleted in accordance with the directions provided.

STATE OF MAINE
INDIVIDUAL APPEAL OF DECISION

PART I

TO: Superior Court, State of Maine

DATE:

FROM:

SEQUENCE:

I _____ desire to appeal the action of the _____
(Agency)
_____, which decided not to change, amend,
or delete certain specifically identified information in my criminal
history record, as requested by me on _____. In denying
(Date)
my request, the agency provided me with guidance on the appeal procedure
and a copy of their decision (attached Form IR-1 IV-B). I have reviewed
the appeals procedure and am prepared to attend and participate in a court
hearing on the issues still in contention.

I hereby affirm that I am the individual whose record I am requesting
to be amended or altered and further, that I am the same individual who
processed the Form IR-1 with my name and signature appearing on it,
dated _____.

ATTACH:

COPY FORM IR-1 (IVB)

Signature (date)

STATE OF MAINE
ACTION OF SUPERIOR COURT

PART IIA

TO: MAINE STATE POLICE
STATE BUREAU OF IDENTIFICATION
FROM:

Date: _____
Sequence No. _____

The State of Maine Superior Court has heard the appeal application of _____, dated _____, pertaining to changes in subject's individual criminal history records and finds that these records should be changed as described below:

Corrections to the criminal history records of this subject maintained in your Agency must be made within 30 days and all prior criminal justice agency recipients of the record must be advised to take similar action within 30 days. The individual has been furnished a list of prior non-criminal justice agency recipients of the record so as to allow these changes to be made in those records, as well.

Form IR-2 (IIA)
Copy to Individual
Copy retained by Superior Court
Original to
Encl. IR-2(I)

Signature _____ (Date) _____
Clerk of the Court

Signature _____ (Date) _____
Individual

PART IIB

TO: MAINE STATE POLICE
STATE BUREAU OF IDENTIFICATION
FROM:

Date: _____
Sequence No. _____

The State of Maine Superior Court has heard the appeal application of _____, dated _____, pertaining to changes in the subject's individual criminal history record and based on the information presented to this court, finds that there is not sufficient cause to change, modify or delete the contested data which now appears in the record.

The subject has been informed of this decision.

Form IR-2 (IIB)
Copy to Individual
Copy retained by Superior Court
Original to
Encl. IR-2(I)

Signature _____ (Date) _____
Clerk of the Court

Signature _____ (Date) _____
Individual

If an appeal is denied by the superior court the individual will be advised of this action. If an appeal is denied by an Administrative Appeals Board, the individual will be advised of the action and the procedure for obtaining relief through the superior court..

If it is determined that an intermediary administrative appeal mechanism is needed in the state, this procedure can include application to a State Board of Appeals. Figure 5-5 portrays an example of appeal procedure formats modified for this purpose..

Out-of-State Inquiries

The federal regulations do not currently include guidance on inter-state procedures for individual access and review. However, in instances in which an individual makes a request to review records of an out-of-state agency, the review process can be initiated by the individual filing a request for Criminal History Record Review, using Form IR-1.

Following this filing and positive identification, a records request could be forwarded to the out-of-state agency using Form IR-3. Request for Out-of-State Record Check. [Figure 5-6]. Enclosures to the addressee could include fingerprints and Form IR-1, Part I. Upon receipt of the requested information, assistance could be provided to the individual involved to the extent possible.

Challenges to information provided by out-of-state agencies would be addressed by the individual to the appropriate authorities in the state holding the records.

STATE OF MAINE
INDIVIDUAL APPEAL OF DECISION

PART I

TO:

DATE:

FROM:

SEQUENCE:

I hereby exercise my right to appeal the action of the _____
(Agency)
_____, which decided not to change, amend,
or delete certain specifically identified information in my criminal
history record, as requested by me on _____. In denying
(Date)
my request, the agency provided me with guidance on the appeal procedure
and a copy of their decision (attached Form IR-1 IV-B). I have reviewed
the appeals procedure and am prepared to attend and participate in a
hearing on the issues still in contention and I understand that my only
appeal of the results of this hearing, if unfavorable to me, is through
formal judicial action through the Superior Court.

I hereby affirm that I am the individual whose record I am requesting
to be amended or altered and further, that I am the same individual who
processed the Form IR-1 with my name and signature appearing on it,
dated _____.

ATTACH:

Signature

(date)

COPY FORM IR-1 (IVB)

STATE OF MAINE
ACTION OF STATE BOARD OF APPEALS

PART IIA

TO: MAINE STATE POLICE
STATE BUREAU OF IDENTIFICATION
FROM:

Date: _____
Sequence No. _____

The Privacy and Security Board of Appeals has reviewed the appeal application of _____, dated _____, pertaining to changes in subject's individual criminal history records and finds that these records should be changed as described below:

Corrections to the criminal history records of this subject maintained in your Agency must be made within 30 days and all prior criminal justice agency recipients of the record must be advised to take similar action within 30 days. The individual has been furnished a list of prior non-criminal justice agency recipients of the record so as to allow these changes to be made in those records, as well.

Form IR-2 (IIA)
Copy to Individual
Copy retained by Board of Appeals
Original to
Encl. IR-2(I)

Signature _____ (Date) _____
Chairman, P&S Board of Appeals

Signature _____ (Date) _____
Individual

PART IIB

TO: MAINE STATE POLICE
STATE BUREAU OF IDENTIFICATION
FROM:

Date: _____
Sequence No. _____

The Privacy and Security Board of Appeals has reviewed the appeal application of _____, dated _____, pertaining to changes in the subject's individual criminal history record and based on the information presented to this board, finds that there is not sufficient cause to change, modify or delete the contested data which now appears in the record.

The subject has been informed of this decision and the right and procedure to appeal this decision through the Superior Court.

Form IR-2 (IIB)
Copy to Individual
Copy retained by Board of Appeals
Original to
Encl. IR-2(I)

Signature _____ (Date) _____
Chairman, P&S Board of Appeals

Signature _____ (Date) _____
Individual

MAINE STATE POLICE

STATE BUREAU OF IDENTIFICATION
OF THE STATE OF _____

RE: _____
DPOB: _____
SSAN: _____
FBI NO: _____

Dear _____ :

The above referenced individual has made a request, in accordance with the provisions of Section 20.21(g) of the Department of Justice Regulations, Title 28, to review his/her criminal history record for the purpose of challenge or correction. He has requested the assistance of this agency in acquiring a copy of his/her criminal history record as it pertains to events occurring within your jurisdiction. In accordance with current procedures an initial determination of the individual's identity has been made, a full set of fingerprints is enclosed for your purposes.

If you would provide this department with a copy of the relevant criminal history record information and the costs incurred for search and reproduction, we will assure proper review by the individual.

In the event that the subject determines that a challenge is desired by him/her it would be helpful for the individual to be aware of the appropriate procedures [in accordance with Section 20.21(g) of Title 28] by which he can exercise this right within your state. If you would include a copy of these procedures, they will be provided to the requesting individual along with the forwarded criminal history information.

Your assistance in this matter is appreciated.

Sincerely,

MSP/SBI Representative

Enclosures:
Fingerprint Card
Form IR-1 (Part I)

Form IR-3

Public Reporting of Procedures

Upon implementation of the Privacy and Security Plan, a public education program can be initiated for the purpose of informing Maine citizens of the right to review and challenge criminal history data pertaining to them. The program could include procedures describing how and where individual reviews can be made, the costs involved, and any other information necessary to allow access without undue burden to criminal justice agencies or individuals.

VI

AUDIT AND PENALTIES

VI

AUDIT AND PENALTIES

REQUIREMENTS

The federal regulations require two kinds of audits, a systematic audit and an annual audit. The systematic internal audit is required by Section 20.21(a). This audit is intended to insure that criminal history records are complete, accurate, and current.

The annual audit is required by section 20.21(e) of Title 28. This audit is intended to insure that there is adherence, by the participating agencies, to the regulations and operating procedures.

In support of the audit activity, the federal regulations require that records be maintained which will facilitate the accomplishment of audits. Dissemination logs, discussed in Chapter IV, are part of this requirement.

Systematic Internal Audits

Systematic internal audits are to be independently conducted by agencies which maintain criminal history information. The systematic audit is a regular on-going quality control procedure.

The systematic internal audit program may include the following system qualitative goals:

- Accuracy of vital and initial entry data, of disposition entry, and of all data modifications and deletions.
- Completeness of vital and initial entry data, or disposition entry, and of all data modifications and deletions.
- Timeliness of data submission, disposition entry, notifications of incomplete or erroneous data, and of authorized modifications and deletions. This includes corrective action with regard to delinquent dispositions.
- Control of criminal justice and criminal history record information and monitoring of the criminal justice information system.

Annual Audit

The purpose of the annual audit is in effect, to determine whether the system is working the way it is supposed to. Section 20.21(e) requires the following:

(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 data 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.

A program of annual auditing to include a representative random sample of the State criminal justice user agencies is to be developed to evaluate the accuracy and completeness of the data being maintained and the extent of adherence to the plan and legislative requirements.

CURRENT STATUS

Although there is not a formally designated audit program in the Maine system, there are procedural activities in the State Bureau of Identification and the local departments which can be characterized as a systematic audit.

Daily verification, validation and accuracy checks are applied to information in the SBI and other large records activities. In addition, the SBI, through the use of the Form SBI:1-75, performs a major continuing audit of information entering the central repository. Delinquent disposition auditing occurs each time a new entry is submitted on an existing case and additional delinquent procedures are being developed.

A similar process of continuing verification in the larger departments includes validation of cross referenced information in case files and indices.

In order to comply with the quality control factors necessitated by the collection, maintenance, and processing of criminal justice and criminal history record information, individual agencies have in effect implemented systematic internal audit procedures using the qualitative goals described above as the procedural guide. The procedures for achieving these qualitative controls may also include the following activities:

- Daily monitoring of criminal justice and criminal history data collected, processed, and transmitted.
- Periodic or daily review of data transactions, source documents and information submitted to prosecutors and courts. Monitoring may be periodically followed up by specific internal audits of these actions and documents.
- General care in the destruction and disposition of documents which are outdated or no longer of value.
- Frequent quality sampling of system operations, source documents and products. Close supervision of tasks being performed by system personnel and reports submitted by officers.
- Vigilance with regard to, and inspection of, compliance with system and facility security regulations and records management procedures.
- Dissemination logs are maintained in the SBI and are being developed for other activities.

Although the current legislation [Maine PL763] does not address the audit function, audit may be implied in the provisions which define responsibilities. In addition 25 MRSA 1631 (16) does cite audits (annual audits) as a condition of the records management of the SBI.

Together these elements provide the basis for accomplishing the systematic and annual audits of the Maine System. However, the actual accomplishment of the audits required by the federal regulations will require additional manpower and funding resources.

Proposed Procedures

A representative random sample of the State criminal justice agencies will be conducted to evaluate the accuracy and completeness of the data being maintained and the extent of adherence to the plan and legislative requirements.

Ratios for selection of audited agencies will be used and will consider the representation of various component type agencies in the criminal justice system (police, courts, etc.) the volume of criminal history use, geographic distribution and size of department. It is expected that non-criminal justice agencies will be audited as appropriate. Volume of use of criminal history information will be the major basis for stratification of the annual sample. The State Bureau of Identification and LEAA funded agencies will be audited every year. In addition, ad hoc audits of problem agencies will be conducted, as needed.

The annual audit can be used to evaluate the effectiveness of the entire range of operational procedures described in the Privacy and Security Plan.

In this way the audit can be conducted on several levels. For some agencies the audit can include an examination of compliance with all procedures. On another level, specific procedures, such as the maintenance of dissemination logs, can be examined.

Annual Audit

The annual audit will be an examination of the extent to which the system, and participating agencies, are operating in compliance with Maine PL763, the federal regulations and the procedures set forth in the Privacy and Security Plan.

When the Annual Audit Program is completely formulated and operational it is planned to include the following elements:

- Designation of Responsibilities including Quality Control Officers
- Announcement procedures
- Agency sampling techniques
- Records sampling procedures
- On site visit procedures
 - observations
 - check lists
 - audit lists of sampled records
- Site manager critique
- Follow-up procedures
- Training and technical assistance capabilities and scheduling
- Management information control system

The audit program should include the capability to perform system audits of:

- Procedures
- Records
- Dissemination Controls
- Security

There will be occasions when deficiencies are of sufficient seriousness or gravity that a special audit is needed. This non-routine [or ad hoc] audit may be conducted by the SBI audit team on an intensive basis to identify and correct the specific causes of loss of quality control. If there is a serious problem which seems to indicate a major system deficiency, this may be cause for scheduling a complete annual audit at this time.

Audit Standards

Standards for audits of the criminal justice system will be developed in coordination with the State of Maine Department of Audit and the Attorney General. Standards for audit can be adapted from the Standards for Audit of Governmental Organizations, Programs, Activities and Functions (1974), developed by the U.S. Comptroller General. Examples of these standards modified for criminal justice audits are included in Figure 6-1.

General Procedures

The audit program is to be described to individual agencies in regular intra system communication media, during training sessions and in other communications. Individual agencies to be audited, are to be advised prior to site visits.

The auditor is to be furnished with documentation and information concerning the individual agency. In addition, he will have available detailed copies of the criminal history information furnished by the SBI to the agency and with checklists which are subsequently correlated to a AGENCY AUDIT REPORT. Auditors will use a check list of DOJ regulations and PL763 to examine compliance with relevant provisions, including record accuracy and completeness; disposition reporting; systematic audit procedures; dissemination records; security provisions and the individual right of access. Source documents, records and logs will be physically examined. Records will be reconstructed from the source document to current disposition. Tracking of documents through the system will be conducted.

FIGURE 6-1

AUDIT STANDARDS

GENERAL STANDARDS

1. The full scope of an audit of a criminal justice program, function, activity, or organization should encompass the following in the context of the Maine Privacy and Security Plan:
 - a. An examination of criminal history transactions, records and reports, including an evaluation of compliance with applicable laws and regulations.
 - b. A review of confidentiality and security in the use of criminal history records.
 - c. A review to determine whether desired results are effectively achieved.

In determining the scope for a particular audit, responsible officials should give consideration to the needs of the potential users of the results of that audit.

2. The auditors assigned to perform the audit must collectively possess adequate professional proficiency for the tasks required.
3. In all matters relating to the audit work, the audit organization and the individual auditors shall maintain an independent attitude.
4. Due professional care is to be used in conducting the audit and in preparing related reports.

EXAMINATION AND EVALUATION STANDARDS

1. Work is to be adequately planned.
2. Assistants are to be properly supervised.
3. A review is to be made of compliance with legal and regulatory requirements.
4. An evaluation is to be made of the system of internal control to assess the extent it can be relied upon to ensure accurate information, to ensure compliance with laws and regulations, and to provide for efficient and effective operations.
5. Sufficient, competent, and relevant evidence is to be obtained to afford a reasonable basis for the auditor's opinions, judgements, conclusions, and recommendations.

Adapted from Standards for Audit of Governmental Organizations, Programs, Activities and Functions, comptroller General of the United States, January 15, 1974.

FIGURE 6-1

REPORTING STANDARDS

1. Written audit reports are to be submitted to the appropriate officials of the organizations requiring or arranging for the audits. Copies of the reports should be sent to other officials who may be responsible for taking action on audit findings and recommendations and to others responsible or authorized to receive such reports. Unless restricted by law or regulations, copies may also be made available for public inspection.
2. Reports are to be issued on or before the dates specified by law, regulation, or other arrangement and, in any event, as promptly as possible so as to make the information available for timely use by management and by legislative officials if appropriate.
3. Each report shall:
 - a. Be as concise as possible but, at the same time, clear and complete enough to be understood by the users.
 - b. Present factual matter accurately, completely, and fairly.
 - c. Present findings and conclusions objectively and in language as clear and simple as the subject matter permits.
 - d. Include only factual information, findings, and conclusions that are adequately supported by enough evidence in the auditor's working papers to demonstrate or prove, when called upon, the bases for the matters reported and their correctness and reasonableness. Detailed supporting information should be included in the report to the extent necessary to make a convincing presentation.
 - e. Include, when possible, the auditor's recommendations for actions to effect improvements in problem areas noted in his audit and to otherwise make improvements in operations. Information on underlying causes of problems reported should be included to assist in implementing or devising corrective actions.
 - f. Place primary emphasis on improvement rather than on criticism of the past; critical comments should be presented in balanced perspective, recognizing any unusual difficulties or circumstances faced by the operating officials concerned.

FIGURE 6-1

- g. Identify and explain issues and questions needing further study and consideration by the auditor or others.
 - h. Include recognition of noteworthy accomplishments, particularly when management improvements in one program or activity may be applicable elsewhere.
 - i. Include recognition of the views of responsible officials of the organization, program, function, or activity audited on the auditor's findings, conclusions, and recommendations. Except where the possibility of crime or other compelling reason may require different treatment, the auditor's tentative findings and conclusions should be reviewed with such officials. When possible, without undue delay, their views should be obtained in writing and objectively considered and presented in preparing the final report.
 - j. Clearly explain the scope and objectives of the audit.
 - k. State whether any significant pertinent information has been omitted because it is deemed privileged or confidential. The nature of such information should be described, and the law or other basis under which it is withheld should be stated.
4. Each audit report containing financial reports shall:
- a. Contain an expression of the auditor's opinion as to whether the information in the financial reports is presented fairly in accordance with generally accepted accounting principles (or with other specified accounting principles applicable to the organization, program, function, or activity audited), applied on a basis consistent with that of the preceding reporting period. If the auditor cannot express an opinion, the reasons therefor should be stated in the audit report.
 - b. Contain appropriate supplementary explanatory information about the contents of the financial reports as may be necessary for full and informative disclosure about the financial operations of the organization, program, function, or activity audited. Violations of legal or other regulatory requirements, including instances of non-compliance, and material changes in accounting policies and procedures, along with their effect on the financial reports, shall be explained in the audit report.

Upon the completion of the audit, a written list of necessary corrections to achieve compliance will be given to the agency head. The agency head will review the discrepancies list with the auditors and annotate his receipt of the list to certify that corrections can be made, as noted.

The program is designed to be a constructive audit in which the agency can indicate problems and needs as well as requests for assistance. The auditor documents compliance and needs as well as discrepancies. In addition to providing a record of the agency's status the audit is instructive and could lead to subsequent training, technical assistance and corrective action. The results of the audit can be recorded on an Agency Audit Report which is included as Figure 6-2.

Follow Up Actions

The credibility of the audit program is established both through the expertness of the audit process and by the thoroughness of follow up actions. The audit program should include both immediate follow up, such as on site assistance, and a written follow up describing deficiencies or discrepancies which require corrective action by the responsible individual.

Management Information

The histories of agency audits are recorded in an Agency Audit Record (Figure 6-3). This record is designed to accumulate status information, corrective actions and follow up transactions. The record can be used for subsequent actions or as a suspense system to insure that audit actions are completed.

Audit Trail

An audit of the total system, from the federal legislation to an offense or incident report at the smallest police department, can be made by examining the following categories of reference information:

FIGURE 6-2

AGENCY AUDIT REPORT			DATE
AGENCY		PHONE NUMBER	
ORI NUMBER		FULL TIME SWORN PERSONNEL	CIVILIAN PERSONNEL
PERSONS INTERVIEWED	Agency Head	Title	
	Name	Title	
	Name	Title	
<input type="checkbox"/> MAIL PROBLEMS: (Describe)		CONDITION OF REGULATIONS AND PROCEDURES: SBI NCIC:	
CURRENT CORRECT ADDRESS IS:			
DOES THIS AGENCY HAVE ANY PROBLEMS OR COMMENTS REGARDING: SBI			
NCIC:			
Other Comments:			
CORRECTIVE ACTION REQUESTED			
1.			
2.			
3.			
4.			
Action Taken:			

FIGURE 6-2

CHRI AUDIT: Are the logging requirements being followed: ☐ Yes ☐ No (Describe)

Action you took:

DISCUSS DISSEMINATION LIMITATIONS WITH RESPONSIBLE SUPERVISOR: Who did you talk with:

Any problems:

GENERAL COMMENTS:

COMMENTS ON SECURITY OF RECORDS FACILITY AND PROCEDURES

VISIT AND REPORT BY:

FIGURE 6-3

AGENCY AUDIT RECORD			
Agency		ORI	Juris
Date of Audit	Comments	Follow Up Action	

- Operating and Dissemination Record Documents
- Files and Records
- Data Elements
- Data Source Documents

Figure 6-4 portrays the elements which could be examined at each agency in an evaluation of system consistency and compliance.

Specific Procedural Audit

The procedural audits will be primarily directed toward the specific examination of the way information is managed to insure accuracy, completeness, timeliness and control. This trail will generally examine file types, individual records, data elements and sources. For example, the information in an individual subject file in the state central repository can be examined in terms of origin, validity, completeness, uses and status. This trail will lead from the SBI to the originator, to the criminal justice agencies with which the subject has been involved and to agencies which have acquired information about the individual.

The basic information route is through the SBI disposition procedure. The second route is through the dissemination log procedure. In each case the focus is on the individual record and the links are through State identification numbers and sequence numbers which are recorded at each level of activity. This type of audit trail is portrayed in Figures 6-5 and 6-6, which briefly portray what the auditor can look for at the State Bureau of Identification and operating agency levels.

Security audits will follow a similar and related pattern. It is possible to follow a controlled document, such as a transcript [rap sheet], from the state central repository through to the final user and to determine the date and nature of destruction of the record.

FIGURE 6-4
PRIVACY AND SECURITY AUDIT ELEMENTS

State of Maine	AUDIT TRAIL - AGENCY SEQUENCE												
	State Level												Non-Criminal Justice
	Operating - Criminal Justice	Local Criminal Justice	Operating - Criminal Justice	Local Criminal Justice	Operating - Criminal Justice	Local Criminal Justice	Operating - Criminal Justice	Local Criminal Justice	Operating - Criminal Justice	Local Criminal Justice	Operating - Criminal Justice	Local Criminal Justice	Non-Criminal Justice
AUDIT TRAIL, INFORMATION AND DOCUMENTATION	MCJPA	PSS Com - Atty Gen	SDH	Court Administrator	Corrections	Law Enforcement	Prosecution	Defense Attorneys	Clerk	Probation	Corrections	Parole	Juvenile
<u>Operating Documents</u>													
Federal-State Legislation/Statutes	X	X	X	X	O							O	
Federal-State Regulations	X	X	X	O	O							O	
State Comprehensive C. J. Plans	X												
Privacy and Security Plan	X	O	O	O	O								
Privacy and Security Manual	X	O	O	O	O	O	O	O	O	O	O		
Security Plan			X		X	X	X	X	X	X	X	X	X
Training Documents	X	O											
Management Implementation Plan	X												
Standards for Access	O	X	X									O	
Annual Privacy & Security Report	X												
Written Policies, Procedures			X										
Internal Audit Procedures			X		X					X		X	
Operating Policies			X		X					X		X	
<u>Files and Records</u>													
Listing of State C. J. Agencies	X	O	X										
Catalogue of Non-C. J. Agencies	X	O	X										
Audit Sample File	X		X										
Audit Reports	X		X										
Corrective Action Records	X		O										
Deficiency Suspense File	X		O										
Record of T/A	X		O										
Minutes of P/S Com.	X	X											
Minutes of Training Conference	X												
User Agreements	O	O	X	O	O	O	O	O	O	O	O	O	O
Letters of Access File	O	X	O		O		O				O		O
Certificates of Compliance	X												
Terminal Logs			X		X					X			
Criminal History Indices			X		X	X				X			
Criminal History Subject Files			X		X	X	X		X	X	X	O	
Juvenile Indices			X		O	X		X		X		X	
Juvenile Files			X		O	X		X		X		X	
Scaled Records Index			X		O	X		X		X		X	
Scaled Records File			X		O	X		X		X		X	

LEGEND
X=Primary Source
O=Secondary Source

FIGURE 6-4
PRIVACY AND SECURITY AUDIT ELEMENTS

State of Maine	AUDIT TRAIL - AGENCY SEQUENCE													
	State Level													Non-Criminal Justice
	MCJPA	DCS Com - Atty Gen	Court Administrator	Corrections	Law Enforcement	Prosecutor	Defense Attorneys	Court	Probation	Corrections	Parole	Juvenile	User	User - Occasional Individual
AUDIT TRAIL INFORMATION AND DOCUMENTATION														
<u>Data Elements</u>														
Subject Name	X	X	X	X	X	X	X	X	X	X	X	X	X	X
State ID (SBI#)	X	O	O	O	O	O	O	O	O	O	O	O		
FBI ID	X	O	O	O	O	O	O	O	O	O	O			
Print Class	X	O	X						X		O			
Sequence Number	X	O	O	O	O	O	O	O	O	O	O	O	O	O
Local Subject Number	O		X	O	O	O	O	O	O	O	O	O		
Docket Number	O		X	O	O	O	O	O	O	O	O			
Corrections ID	O	X				O	O	X	O	O				
ORI	O	X	X	X		X		X		X				
Event Incident Dates	O		X	O	O	O				O				
Administrative Action Dates	X		O							O				
Seal/Purge Coding	X	X	X			X		X		X				
CHRI Destruction Date	X	O	O	O	O	O	O	O	O	O	O	O		
<u>Data Source Documents</u>														
Fingerprint Cards	X		X						X	X				
Photographs	X		X						X	X				
Offense Report			X							X				
Arrest Report			X							X				
Complaint			X	O						X				
Initial Disposition Report	X		X	X		O				X				
Additional Disposition Reports	X		O	X						X				
Court Disposition Report	O		O	O		X				X				
Dissemination Log. Ind. Record	X		X							X				
Corrections Disposition Reports	O								X	O	X			

Page 2 of 2

LEGEND

X=Primary Source
O=Secondary Source

FIGURE 6-5

AUDIT TRAIL - CENTRAL REPOSITORY (SBI)

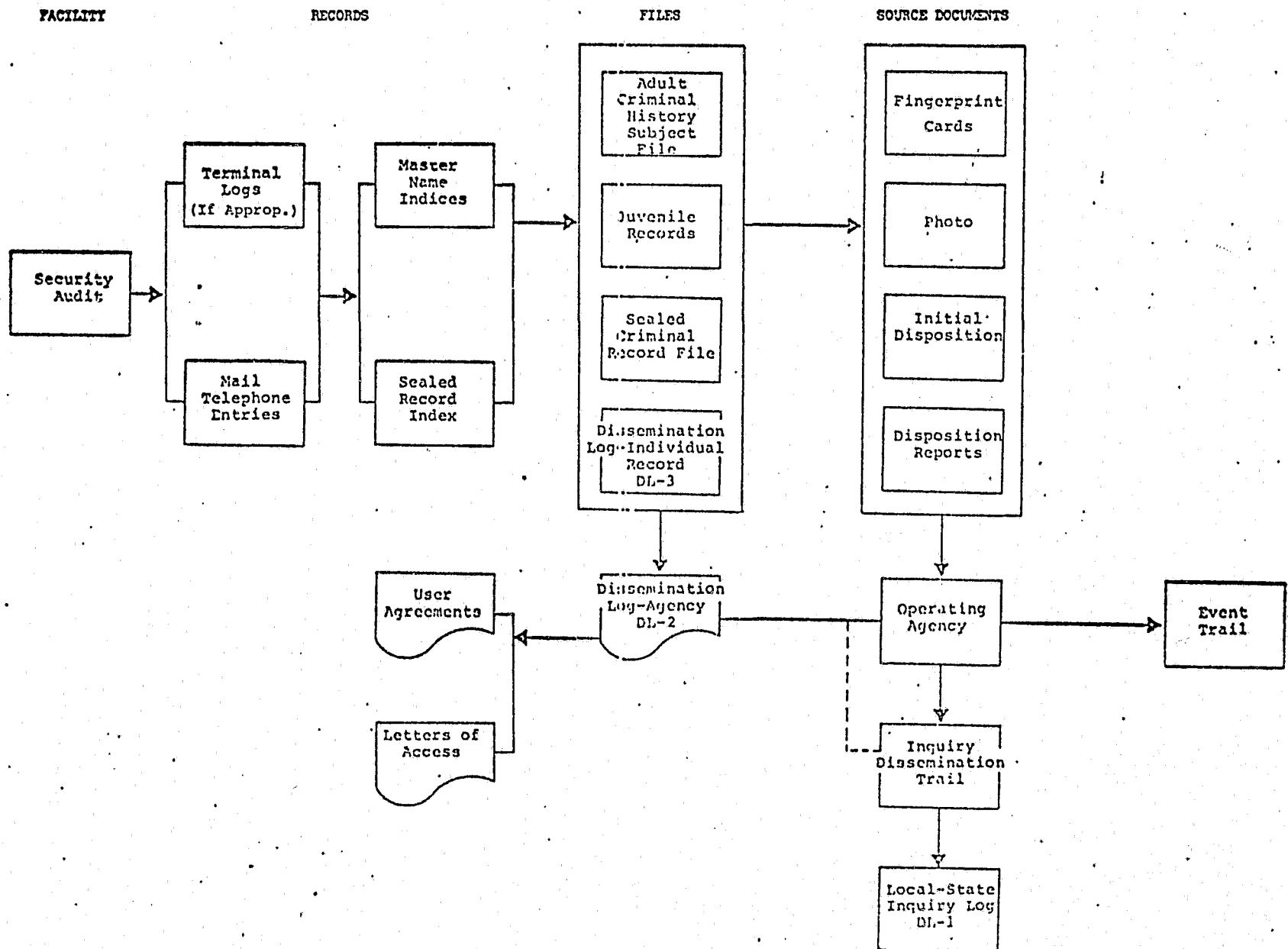
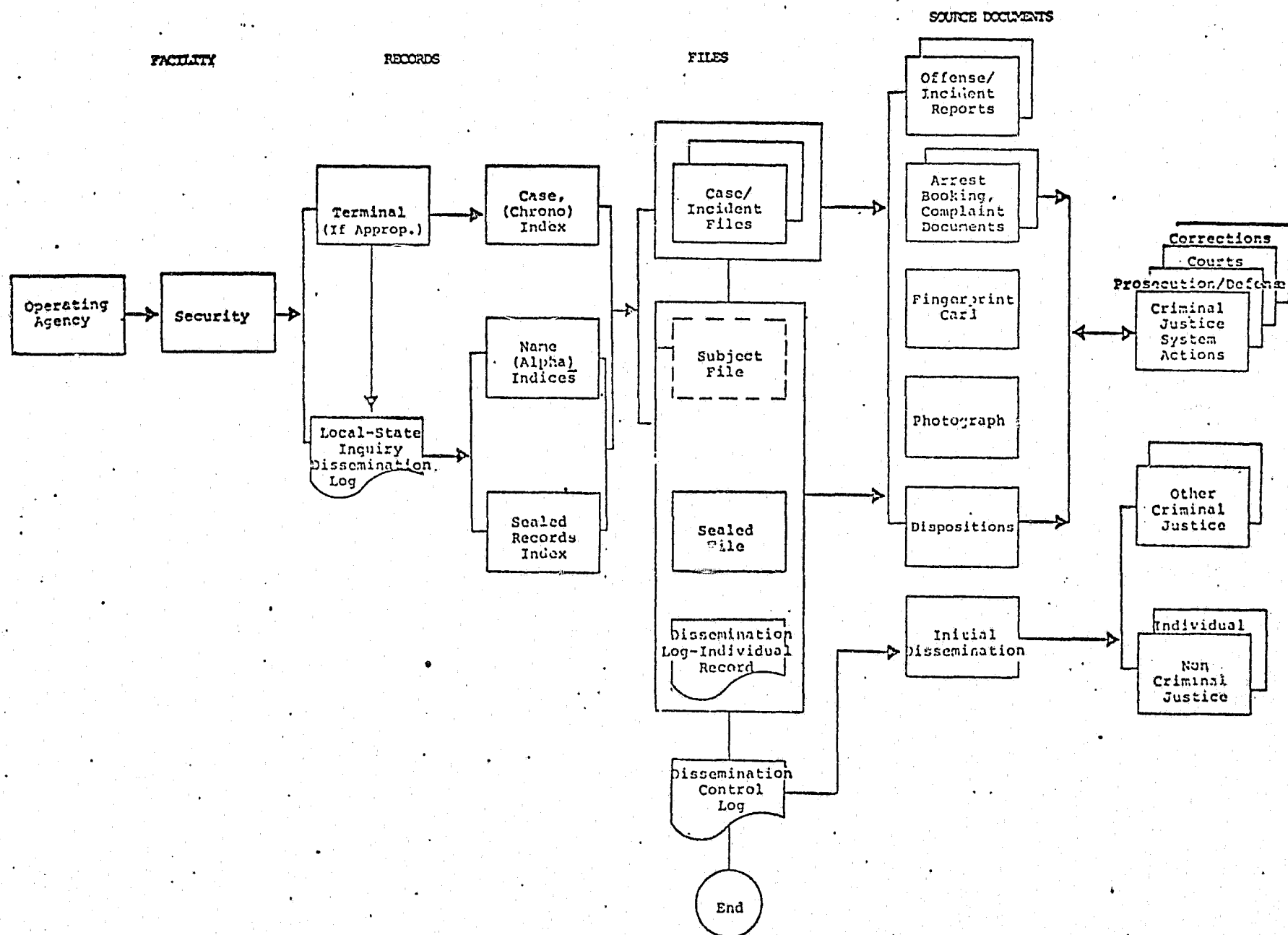


FIGURE 6-6

AUDIT TRAIL - OPERATING AGENCY



Penalties and Sanctions

Penalties are specified in section 20.25 of Title 28

"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.

In Maine Public Law 763 there are two penalties specified to criminal history record information.

In 16 MRSA 605 there is a provision related to dissemination as follows:

25. Unlawful dissemination

Offense. A person is guilty of unlawful dissemination if he intentional- or knowingly disseminates criminal history record information in violation of the provisions of this subchapter.

Classification. Unlawful dissemination is a Class E crime.

In 25 MRSA 1550 there is a penalty imposed for failure to comply with reporting procedures as follows:

550. Violations

Any person who fails to comply with the provisions of section 1543, subsections 1 or 3, or with the provisions of section 1542, subsection 4, imposing a penalty to transmit criminal fingerprint records to the State Bureau of Identification, or with the provisions of sections 1544, 1547 or 1549 commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

It is anticipated that these penalties, and other sanctions appropriate, will be included in the agreements developed for authorized users of criminal history information.

VII
SECURITY

VII

SECURITY

Although there have been very few known incidents in the State involving the loss or destruction of criminal justice records, other than as a result of accident, the potential for such occurrences continues to exist, and could increase in the future.¹ To insure that the subject remains a matter of continuing attention, additional security actions are underway or will be planned in criminal justice records facilities, the State Bureau of Identification, and other areas in which criminal history records are maintained or processed.

This chapter includes a discussion of the following elements of security:

- Requirements of Title 28
- Current Status
- Security Program Guide
- Schedule of Implementation

The concern in this chapter is with the general concepts of developing and maintaining a security program as a substitute for the separate fragments which provide the current guidance in this area. The implementing methods, costs, additional research and analysis, and detailed regulations will be developed by December, 1977. There is a typical schedule in the chapter which can be used as a model for actual or selective implementation.

REQUIREMENTS

The security requirements for both automated and non-automated system operations are defined in Section 20.21(f) of Title 28, March 19, 1976.

¹For example see latest (Feb., 1976) FBI data on bombings of criminal justice facilities; current Congressional hearings; and GAO Report [May 1976] on security vulnerability of computers in the Federal Government.

A listing of these requirements, portrayed against a current status summary in Maine, is included in Figure 7-1 with source references. This illustration also includes references to Chapters in the Plan in which the requirements are addressed. Although the requirements related to computer operations do not pertain in Maine at this time, they are included as guidance for the ongoing development of the OBTS effort and related components of any computerized criminal history (CCH) elements, or system, which evolves.

As indicated in Figure 7-1, Maine systems are generally in compliance with federal regulations. The areas which require additional actions are identified. The central repository [SBI] meets current requirements and additional security measures are planned.

CURRENT STATUS

Maine criminal justice agencies, like other public activities in Maine, have not generally been subject to the hostile environment which characterizes the relationships of many urban communities. As compared to the "fortress" approach local law enforcement departments are inclined to be accessible integral parts of the community. The Portland Police Department building, for example, is a model of open, modern, community oriented architecture. As another example, the ancient Penobscot county jail is being remodeled [with the assistance of LEAA-MCJPAA funding] as a people-oriented county detention center.

This characteristic of openness and the dedication, of the criminal justice system, to the principle of "fairness" are significant elements of system "security".

The catalogue of agency physical security features throughout the state range from excellent to barely adequate. Security at records center of the SBI, for example, includes a visitor log, identification badges and escort in a building which has personnel on duty during 24 hours. Files are locked in off duty hours and records are destroyed by shredding.

REQUIREMENT Sec. 20.21(f) Title 28		PLAN
GENERAL	CURRENT STATUS SUMMARY	Chapter
<p>(f) <i>Security.</i> 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.</p> <p>(1) Where computerized data processing is employed, effective and technologically advanced software and hardware designs are instituted to prevent unauthorized access to such information.</p> <p>(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.</p>	<p>Regulations, Legislation, Security program to be developed consistent with State and local needs and resources</p> <p>Planning factor</p> <p>Maine in compliance with respect to non-automated operations</p>	<p>VII</p>
COMPUTER OPERATIONS		
<p>(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:</p> <p>(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.</p> <p>(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.</p> <p>(iii) The destruction of records is limited to designated terminals under the direct control of the criminal justice agency responsible for creating or storing the criminal history record information.</p> <p>(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.</p> <p>(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 programs are kept continuously under maximum security conditions.</p> <p>(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.</p> <p>(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.</p>	<p>These elements are planning factors for Maine at this time</p>	<p>NA</p>
SYSTEMATIC AUDIT		
<p>(B) A criminal justice agency shall have the right to audit, monitor and inspect procedures established above.</p>	<p>Planning factor for automated operations</p> <p>Systematic audits for non-automated in compliance</p>	<p>VI</p>

STATUS OF SECURITY PROVISIONS

REQUIREMENT	CURRENT STATUS	PLAN
PERSONNEL		Chapter
<p>(4) The criminal justice agency will:</p> <p>(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.</p> <p>(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.</p>	Maine in Compliance- 25 MRSA 1501, 1541	I
NON-AUTOMATED		
<p>(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.</p> <p>(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 man-made disasters.</p> <p>(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.</p>	<p>Maine in Compliance Provisions Include:</p> <ul style="list-style-type: none"> • Title 25 MRSA • PL763 April 1976 • SBI Operating Regulations • Local Department Regulations • Access and Dissemination provisions of Maine Privacy and Security Plan • Security Program 	<p>II</p> <p>III</p> <p>IV</p> <p>VII</p>
TRAINING		
<p>(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.</p>	Internal review by agency staffs Formal Training Program planned	VIII
AUDITS - ANNUAL 20.21 (e)	Audit Program planned	VI

In the corrections facilities records are isolated and accessible only to staff personnel. General security is good in Clerks offices particularly in respect to the isolation and control of sealed records and juvenile files. A number of departments are increasing internal controls on record access to insure the integrity of the record system. On the other hand, there are some activities in which files are in unlocked cabinets in buildings in which public traffic is unrestricted.

In addition to the inconsistent pattern of security practices, several examples are indicative of the need for a more formalized system wide security program.

- During the time this Plan was being developed, and just prior to an on-site visit, a law enforcement record section was nearly destroyed by a fire and the resulting smoke and water. Records personnel were evacuated.
- Prior to adopting shredders for destruction of confidential material, a number of classified documents of a law enforcement agency were blown off a refuse truck and retrieved by a local citizen who returned them to the department. [The problem of disposing of records is common, and shredders are not inexpensive].
- Because DOD recruiters are large users of criminal histories this activity was examined in the plan preparations. During the course of tracking criminal history records, properly disseminated, to a DOD Recruiting office it was determined that criminal histories [transcripts] are kept in a completely insecure environment by the Recruiters.

The examples cited reflect the desirability of a plan which includes considerations of:

- Security events and natural hazards
- Complete record security from initiation to final destruction
- Commitment of criminal history record users to establish security standards and practices.

SECURITY PLANNING CONSIDERATIONS

For the purposes of a workable organization of security safeguards, the security plan should include the following categories of countermeasures:

- Physical security countermeasures
- Personnel security countermeasures
- System security countermeasures
- Facility standard operating procedures
- Security management

In an effective program safeguards, or countermeasures, should be compatible with security events. An event and countermeasure matrix is presented in Figure 7-2. The Computer Security Guidelines for Implementing the Privacy Act of 1974 (FIPS PUB 41, dated May 30, 1975) proposes a parallel relationship. Figure 7-3 depicts the relationship between countermeasures (safeguards) and security program objectives. The underlying concern is to balance action with purpose.

This approach lends itself to a structure in which almost all countermeasures can be accommodated. The final security plan can include a description of each countermeasure.

Security Master Plan

It will be desirable to have state legislation which establishes the authority and the legislative guidance for the security program.

FIGURE 7-2

SECURITY EVENTS AND COUNTERMEASURES

SECURITY EVENTS	SECURITY COUNTERMEASURES				
	Physical	Personnel	Procedural	Systems	Management
Accidental		X	X	X	X
Spontaneous	X			X	X
Negligence		X			X
Malicious	X			X	
Capricious		X	X	X	X
Hostile Penetration	X			X	
Natural Disaster	X				
Personnel Abuses		X	X	X	X

FIGURE 7-3
COUNTER MEASURES AND OBJECTIVES

SAFEGUARDS	SECTION OF GUIDELINES	REQUIREMENTS	Control of Disclosures	Accounting of Disclosures	Provide Access to Records	Inclusion of Disputed Information	Use Relevant Data Only for Authorized Purposes	Maintain Accurate, Complete Records	Insure Integrity, Security and Confidentiality of Records	Retention of Records; Archival Storage
Physical Security	3.0									
Entry Controls	3.1		X						X	
Storage Protection	3.2		X					X	X	X
Information Management Practices	4.0									
Handling of Data	4.1		X		X				X	X
Maintenance of Records	4.2		X	X					X	
Data Processing Practices	4.3		X	X		X	X	X	X	
Programming Practices	4.4		X	X		X	X	X	X	
Assignment of Responsibilities	4.5		X						X	X
Procedural Auditing	4.6		X	X		X		X	X	X
Systems Security	5.0									
Identification	5.1		X		X		X		X	
Access Controls	5.2		X		X		X	X	X	
Access Auditing	5.3		X	X	X		X		X	X
Data Encryption	5.5.2		X				X	X	X	X

FIGURE 1. Technical safeguards applied to requirements of the Privacy Act of 1974.

The legislation or an Executive Order could provide general guidance on authorities, the establishment of operating policies, the development of standards and specific provisions for the development of a system security program. In the consolidation of operating guidelines, policies and procedures into a composite Security Master Plan, the Plan could include components on:

- Authorities
- Roles and Responsibilities
- Computer Operations (future)
- Non-automated Operations (current)
- Personnel
- Training
- Audits

This master plan can serve as the guide for the development of individual agency security plans. All plans can serve as operational training tools. A system-wide communication medium can be used to convey ideas policies, regulations, procedures and changes to criminal justice system participants. This device could be designed as an official privacy and security publication to provide information, in loose leaf form, to system participants and could be used to keep Privacy and Security Plans and regulations updated.

Security Program Guide

Because of the variety of local conditions in Maine, the plan can provide model guidance and a variety of elements for differing conditions of location, need and resource constraints. The security procedures can provide that local agencies accomplish a security assessment of facilities and practices to identify needs, objectives and priorities over the next 2 year period.

Existing rules, regulations, policies and procedures could be assembled in the Security Master Plan along with specific individual plans and priorities for each participating agency. The scope and extent of each individual plan can depend on the individual agency's size and requirements. Accompanying the

plan could be a training schedule and a multi-year action budget to include correction, remedial or maintenance items necessary to insure compliance with established security standards.

The general guide for the security program includes the following steps:

- Establish a security program
 - Resolve that a program is needed; determine how much security is adequate
 - Appoint permanent security officer(s)
 - Develop an interim security plan (passive and/or active) and security regulations
 - Implement interim security plan and regulations
- Conduct a short-term risk analysis
 - Estimate probabilities of security breaches and natural hazards
 - Identify "weak links" in security chain
 - Estimate potential losses
 - Predict consequences of losses and determine acceptable level of security risks
 - Project annual loss expectancy and security breaches
 - Implement "stop gap" security measures
 - Devise Short-term remedial measures
 - Revise Security Plan and regulations
- Implement security plan and regulations
- Phase in short-term remedial security measures
- Designate specific and detailed security responsibilities for facility personnel

- Initiate on-going security training program
 - Awareness
 - Procedures
 - Responsibilities
- Conduct long-range risk analysis
 - Follow steps in short-term risk analysis, as appropriate
 - Consider relocation of activities, if necessary
 - Implement costly remedial security measures as budget allows, in balance with evaluation of acceptable levels of security risk
- Phase in long-range remedial security measures
- Plan for contingencies
- Conduct periodic security audits and inspections
 - Audit and inspect
 - Simulate security breaches and penetration
 - Report on status of security

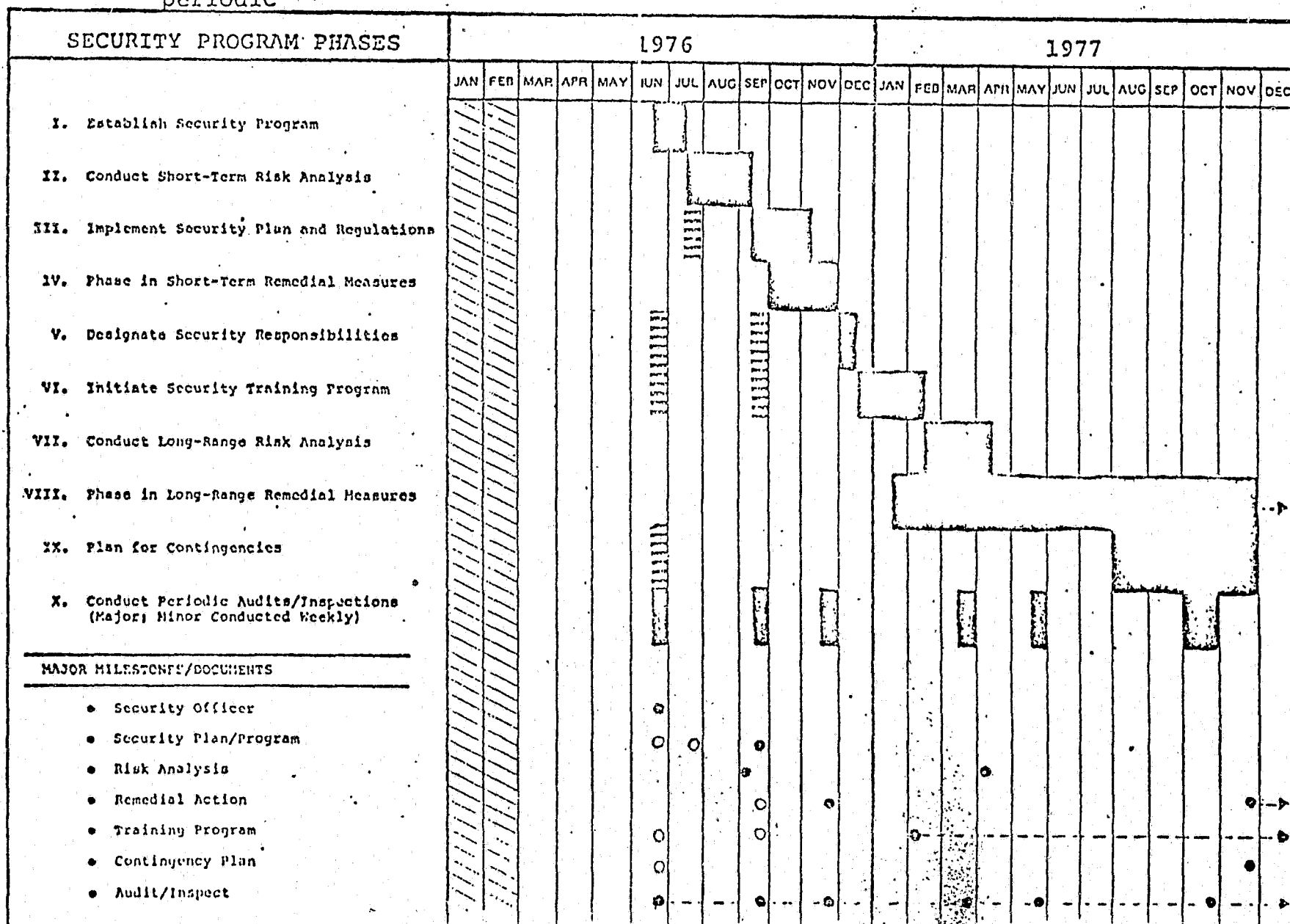
The total program can be made applicable to either automated [future] or non-automated [current] activities by observing the applicable component requirements of the federal regulations.

SCHEDULE OF SECURITY PROGRAM IMPLEMENTATION

Figure 7-4 details a typical schedule of implementation of the security program considered in this chapter. The schedule includes ten major steps toward a complete security program to be completed in a two year period. Major milestones and associated documents are identified. The schedule can be adapted to the individual needs of specific agencies. For example, the SBI. already has in existence:

- = Major
 ○ = Interim
 ----- = on-going/
 periodic

FIGURE 7-4
SECURITY PROGRAM
TIME-PHASED SCHEDULE



- Personnel clearance procedures
- Internal access controls
- System security devices

This agency may have additional needs for intrusion detection. A security system for the SBI would emphasize the assembly of a written plan, the periodic instruction of personnel, a continuing security program and audits.

The security program for the Records and Identification section of the Cumberland County Sheriff could place a priority on establishing controlled access in a new operating records center location and the designation of responsibilities for a continuing program. A requirement could be for as simple a thing as a set of file cabinets with hasps and locks [Penobscot D.A.] or there may be multiple requirements for shredders which could be assembled in a cost saving combined purchase through LEAA-MCJPAA funding.

It is anticipated that the Maine security program will emphasize contingency planning and will be practical and economical. The need for additional LEAA funding, related to the security requirements of Title 28, can be anticipated primarily for hardware such as shredders.

VIII
IMPLEMENTATION PLAN

VIII

IMPLEMENTATION PLAN

This chapter includes summary schedules which portray the Privacy and Security Plan implementation events, objectives and milestones. The utilization of these schedules can assist in the management of the Plan and provide an evaluation mechanism to measure implementation progress. From these schedules, detailed working plans can be developed for each of the agencies and officials involved. Included are the following:

- System Support Considerations
- Management Implementation Schedule
- Estimated Potential Implementation Costs
- Management Work Plan

SYSTEM SUPPORT CONSIDERATIONS

Several system support activities which will be considered as part of the implementation of the Privacy and Security Plan include:

- Training
- Public Education
- Annual Report and Recommended Actions

There are a number of written procedures in the system and there are operating manuals for the communication network. There is also some orientation concerning privacy and security procedures and procedural matters for both experienced and new employees.

However, there is at present no formal training at either the state or local levels related to the total process of privacy and security of criminal history information and the interrelationships with the criminal justice information system. In responding

to the need, at all levels, for training in privacy and security matters an additional benefit can be achieved. Individual members of criminal justice systems can acquire an orientation in the relationships and information flows in the entire system. This could be a particularly appropriate and timely way in which to gain common recognition of the new Maine Public Law 763, April 1976.

Maine has had successful experiences with public participation in the standards and goals programs, but there has been no occasion for the participation of the public in the criminal justice system information procedures. It is anticipated that there will be an increased interest in matters of privacy and security and the response to this interest could be a public education program of some economical dimension.

Training

A 2 year training program will be considered in which criminal justice system staff members will receive relevant training to implement the provisions of this Plan. Training will be designed to provide for both attitudinal emphasis on the concepts provided in the Plan, as well as content oriented instruction necessary for implementing the procedures, processes, working relationships, forms and guidelines. Participants would include staff of relevant state and local agencies and departments, including law enforcement, prosecutors, clerks of the court, and parole and probation officers. [DOJ: 20.20(f)(5)].

Location

Training sessions could be held in a variety of settings, under the sponsorship of the Maine Criminal Justice Planning and Assistance Agency, which best accomodate the local situation. Maximum use would be made of the capabilities of the regional planning units to assist in planning, scheduling, administering the training and distributing training materials.

Content

The content of the sessions could focus on the two general areas which are included in the Privacy and Security Plan, PL763 and associated regulations. These two major areas are conceptual and procedural.

The conceptual areas will include:

- The statutory and regulatory framework of the Privacy and Security Plan
- Operating definitions of major elements
- The information inter-relationships of the various components of the criminal justice system
- Operating concepts of privacy, security and public interest

The procedural areas could include:

- Applicability of the plan and regulations
- Agency responsibilities
- Procedures related to accuracy and completeness of criminal history record information
- Procedures for disposition reporting
- Procedures for access to criminal history record information
- Dissemination procedures and limitations
- Operational responsibilities regarding information relationships with non-criminal justice agencies
- Procedures related to juvenile records and relationships with juvenile justice system agencies
- Procedures for individual right to review
- Procedures for individual right to appeal
- Procedures for physical and system security

- Conditions for purging and sealing
- User Agreements and Letters of Access
- Conditions for access to sealed records
- Audit procedures

Participant Groupings

Attendance will be determined by the content of the session. Concern will be given to developing an understanding of the merits of effective working relationships among component agencies in the criminal justice system. Geographic groupings will be designed to contribute to this effort, as will state agency sessions. An appreciation of citizen concerns will be brought to bear through the invitation of the press, defense attorneys or defender agencies, and community group representatives at selected sessions.

Public Education

Privacy and security procedures are public matters which go beyond the concerns of individuals who come into contact with the criminal justice system to the public in general. There is a clear need for public understanding of the issues involved in the collection, maintenance and dissemination of criminal history information. There is a need to understand the authorities and responsibilities of records custodians; the uses to which information can and cannot be made; the manner of individual access and review, and the costs of records systems.

At present, individual local criminal justice agency members are providing advice, guidance, and public information concerning criminal histories. The plan envisions public education activities similar to those engendered by the Fair Credit Reporting Act to insure that the maximum number of individuals are aware of the significance of criminal history record information.

The program would have the following objectives:

- To provide public information concerning criminal history record information. This will include information on why it is maintained and the existing policies through which the information is kept secure and dissemination is limited.
- To inform citizens of their rights to review and appeal for the purpose of correcting records and the procedures for doing this.
- To develop procedures for assisting vulnerable groups.
- To provide information concerning the processes of purging and sealing of records.

The overall objective of the program would be to improve the operational effectiveness of the criminal justice information system through the process of informing the public of the equity and security of the system, and the provisions of Maine law.

Annual Report

An annual report will be prepared for the Governor and subsequent distribution to the Legislature and Judicial Branch, which will describe activities associated with achievement of the program objectives. The report will identify accomplishments and major areas of public concern or controversy related to the issues of individual privacy and the public interest. The report will be action oriented, directed toward gaining support for the implementation of activities which have been identified as system priorities.

MANAGEMENT IMPLEMENTATION SCHEDULE

This is an overview management-level implementation schedule that highlights major events and milestones. It is organized into key functional categories. The major phases include State-level Program Initiation; Initiation of Plan Procedures; and Annual Plan Review and Modification. The order of implementation can begin with the State Bureau of Identification followed by LEAA funded agencies and offices, and ultimate phasing in of other affected user agencies and system components.

The Management Implementation Schedule is portrayed in Figure 8-1. The activities reflected in the schedules and Work Plan are indicative of the actions planned, or proposed, to achieve the level of compliance suggested by Section 20.22 of Title 28.

Provisions for modification of the Plan are structured into the schedule of events. Affected officials and agencies are expected to be closely involved throughout the process to insure that significant perspectives are made available for revision and modification of the Plan. Specific opportunities for modification are built into the Management Implementation Schedule. These include policy modifications, operational modifications, modifications resulting from conferences with local agency directors, and annual revisions of the Plan following annual audits.

ESTIMATED POTENTIAL IMPLEMENTATION COSTS

Figure 8-2 includes general estimates, apparent at this time, for implementing the Privacy and Security Plan. The costs include staff expenses, support costs and CJIS/Privacy and Security procedures costs. These estimates are necessarily limited by lack of complete experience in all aspects of implementation. However, the staff costs are based on trial experiences with auditing and experience with training.

STATE OF MAINE

FIGURE 8-1

MANAGEMENT IMPLEMENTATION SCHEDULE*

MILESTONES	1976												1977											
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
I. Privacy and Security Program Initiation																								
A. Privacy and Security Plan Reviewed																								
1. Review by Governor																								
2. Affected Agency Heads																								
B. Right to Review Announced - Interim Procedure																								
C. Modifications Completed																								
1. Policy Modifications																								
2. Review by Operational Staff																								
3. Operational Modifications																								
D. Plan Initiated																								
E. Legislation Proposed																								
F. Press Announcement																								
G. Responsible Agencies assume responsibility																								
H. Systems Component Duties																								
I. Regulations/Standards Developed (Draft)																								
J. Consultations with CJA's Held																								
1. Regional Conferences Held																								
2. Plan Modified																								
K. Regulations Compiled into Working P&S Plan																								
L. Plan Revised - Final																								
M. Interim Individual Access and Review Implemented																								
1. Interim Procedures Implemented																								
2. Standards and Regulations Developed																								
N. State-Wide Notification of Pertinent P&S Procedures and Standards																								
O. User's Agreement Incorporated																								
1. User's Agreement Reviewed																								

STATE OF MAINE

FIGURE 8-1

MANAGEMENT IMPLEMENTATION SCHEDULE*

MILESTONES	1976												1977												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
I. - (Continued)																									
2. Manual/Regulations/Forms Developed												●													
3. All Potential Users Notified																	●								
4. Revised User's Agreement Implemented																	●								
a. Users Oriented																									
b. Provisional Approvals Granted to Qualified Users																									
c. On-Site Inspections Conducted																									
d. Provisional Approvals Granted to other Users																									
e. Training Provided																									
f. Technical Assistance Provided																									
g. Permanent Agreements Granted																									
II. Procedural Milestones																									
A. State-Wide Promulgation to CJA's of Final P&S Plan Completed																	●								
B. Accuracy, Completeness, Timeliness and Control Procedures Initiated																									
1. Validation and Inquiry																									
2. Disposition Reporting																									
C. Procedures on Dissemination Limitation Initiated																									
D. Individual Access and Review																									
1. Permanent Procedures Implemented																									
2. Public Notified																									
E. Security Program																									
1. Interim Security Program Initiated						●																			
2. Short-Term Remedial Program Begun									●																
3. On-Going Security Program																									
4. Long-Range Planning and Remedial Action Conducted																									

Department of Justice Regulation Title 28
[20.22(b)(1)]

*Department of Justice Regulation Title 28
[20.22(b)(1)]

STATE OF MAINE

FIGURE 8-1

MANAGEMENT IMPLEMENTATION SCHEDULE*

MILESTONES	1976												1977											
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
III. <u>Program Review and Modification</u>																								
A. Annual Audit Conducted																								
1. Annual Audits Scheduled																								
2. Agencies Notified																								
3. Audit Conducted																								
a. Remedial Action Initiated																								
b. Remedial Action Monitored																								
B. Annual Report Submitted																								
1. Orientation Meeting Conducted																								
2. Data Collected																								
3. Annual Report Prepared																								
4. Governors Review																								
5. Judiciary and Legislature Receive Copies																								
C. Annual Plan Revised																								
1. Orientation Meeting Conducted																								
2. Regional Public Hearings Held																								
3. Plan Revised and Submitted																								
D. LEAA Certification (Annual)																								

FIGURE 8-2
STATE OF MAINE
ESTIMATED POTENTIAL IMPLEMENTATION COSTS

Personnel

3 Auditors	\$45,000.00
1 Training Specialist*	12,000.00
1 Research Assistant**	9,000.00
1 Clerk Typist**	9,000.00

TOTAL

\$75,000.00

Operating Expenses

Forms and Pamphlets	\$ 5,000.00
Travel and Per Diem	15,000.00
Postage	3,000.00
Telephone	1,500.00

TOTAL

\$24,500.00

ANNUAL BUDGET ESTIMATE, STAFF

\$99,500.00

Implementation Support Costs

Development of Education and T/A Materials	\$15,000.00
Regional Education/ Training Programs	10,000.00
Printing	5,000.00
Revise User's Agreement	2,500.00
Develop Security Handbook	10,000.00
Security Improvements (Short Range)	30,000.00

TOTAL ESTIMATE, SUPPORT [2 Years]

\$72,500.00

* Possible CETA Assisted

** Possible CETA Funded

The staff costs are placed in the context of the criminal justice system. However, the actual location of staff personnel could be within operating agencies, such as the Department of Audit. These assignments can be examined in the implementation period.

It is clear that additional LEAA funding will be required to fully implement the requirements of Title 28.

MANAGEMENT WORK PLAN

This work plan (Figure 8-3) is designed to provide the Plan Project Manager with an evaluative mechanism for monitoring the achievement of the specific objectives of the Plan. The work Plan lists task objectives in an approximate chronological sequence in which they can be accomplished. Each of these objectives is measurable in terms of its completion by scheduled target date. This work plan can be a "task objective completed" checklist. As cost estimates become known, they may be entered in the work plan, and continually revised as implementation proceeds.

FIGURE 8-5
MANAGEMENT WORK PLAN

STATE OF MAINE PRIVACY AND SECURITY OBJECTIVES	COMPLETED		AGENCY RESPONSIBLE	COSTS estimated
	YES	NO (estimated date)		
1. Review of Privacy and Security Plan by Governor and P/S Committee				
2. Right to Review interim procedure announced				
3. Individual Right to review Interim procedures implemented by SBI				
4. Responsibilities Designated				
5. Orientation of Responsible Personnel				
6. Privacy and Security Plan reviewed by MSP/SBI and other affected agency heads				
7. Final standards and regulations for individual access and review developed				
8. Policy modifications of P&S Plan conducted				
9. Operation modifications of P&S Plan made				
10. Systems component assignments.				
11. Draft P&S standards and regulations developed				

MANAGEMENT WORK PLAN

STATE OF MAINE PRIVACY AND SECURITY OBJECTIVES	COMPLETED		AGENCY RESPONSIBLE	COSTS estimated
	YES	NO (estimated date)		
12. Final P&S Plan modifications completed				
13. User's Agreement designed				
14. P&S Plan announced to press				
15. P&S Plan initiated				
16. Development of E.O. or additional legislation if needed				
17. Interim security program initiated				
18. User's Agreement manual, regulations, and forms developed				
19. State-wide notification of pertinent P&S procedures and standards conducted				
20. Consultation with criminal justice agencies held				
21. P&S Plan modified				
22. Short-term remedial security program begun				
23. Regulations compiled into working P&S Plan				
24. On-going security program initiated				

MANAGEMENT WORK PLAN

STATE OF MAINE PRIVACY AND SECURITY OBJECTIVES	COMPLETED		AGENCY RESPONSIBLE	COSTS estimated
	YES	NO (estimated date)		
25. Long-range planning and remedial action for security program conducted				
26. User's Agreement modified				
27. All potential Users notified				
28. P&S Plan finalized				
29. State-wide promulgation to all criminal justice agencies of final P&S Plan completed				
30. Revised User's Agreement implementation initiated				
31. Validation procedures initiated a. Accuracy of data elements b. Inquiry before dissemination				
32. Procedures on dissemination limitation initiated				
33. Limitations on juvenile record dissemination				
34. Juvenile records compliance				
35. Systematic Audits in effect				

STATE OF MAINE PRIVACY AND SECURITY OBJECTIVES	COMPLETED		AGENCY RESPONSIBLE	COSTS estimated
	YES	NO (estimated date)		
36. Secondary dissemination procedure initiated				
37. Dissemination without disposition procedure initiated				
38. Permanent individual access and review procedures implemented:				
a. Rules for access developed				
b. Point of review and mechanism developed				
c. Challenge by individual procedure developed				
d. Administrative review procedure developed				
e. Administrative appeal procedure developed				
f. Correction and notification of error procedure developed				
39. Annual audit scheduled				
40. Agencies to be audited notified				
41. Annual audits initiated				
42. Audit remedial action initiated				
43. Audit remedial action monitored				

MANAGEMENT WORK PLAN

STATE OF MAINE PRIVACY AND SECURITY		COMPLETED		AGENCY RESPONSIBLE	COSTS estimated
OBJECTIVES		YES	NO (estimated date)		
44.	Orientation meetings for annual report conducted				
45.	Orientation meetings for annual plan revision conducted				
46.	Data collected for annual report				
47.	Annual Report prepared				
48.	Annual Plan revised and submitted to Governor				
49.	Annual Plan and Annual Report review by Governor				
50.	Copies of Annual Report submitted to judiciary and legislature				
51.	Annual certification to LEAA completed and submitted				

APPENDIXES

APPENDIX A

CERTIFICATION OF STATE BUREAU OF IDENTIFICATION

The Maine State Police, State Bureau of Identification is the only authorized repository of complete criminal history record information. Local police departments disseminate local arrest information in accordance with local general orders but the only complete transcript is Maine State Police form number 14:40 authorized by 25 MRSA 1631.

There is an on-going program to insure complete disposition information. Disposition information review for existing records occurs at the time new arrest entries are received. New events are monitored to insure that final disposition report [form 13:66R] follows the initial submission of an SBI fingerprint card [form 13:63R] or an Additional Record Report [13:66R].

Dissemination from the SBI to authorized non-criminal justice agencies is limited to charges reflecting convictions; cases filed; or cases without dispositions in which less than one year has elapsed since date of arrest. Charges other than these [such as not guilty or dismissed] or charges more than one year old without disposition information are not disseminated to non-criminal justice agencies.

Juvenile record information is not disseminated to non-criminal justice agencies. Information is made available only to law enforcement, corrections and youth welfare agencies as authorized by 15 MRSA 2609.

Records information disseminated by the SBI is limited to criminal charges. Non-criminal information is scrubbed from the transcript prior to dissemination.

There is a short list of non-criminal justice agencies [such as defense contractors] which have been approved, by coordinated action of the Maine State Police and the Attorney General, to receive selected criminal history information from the SBI on a need to know basis. The Maine statutes [32 MRSA] which provide for criminal records review for professions and occupations are under review. [16 MRSA 603, 604].

The operating policy of the central repository (MSP/SBI) has been to sharply curtail dissemination to non-criminal justice agencies until clarifying legislation is developed. A standard letter advises unauthorized non-criminal justice agencies that disclosure is limited to subject individuals and to authorized agencies.

One of the primary needs of the Maine system is a formal user agreement which will establish guidelines for access by research activities; categorizing authorized recipients of information; establishing control of secondary dissemination; and providing specific conditions and sanctions related to the access and use of criminal information maintained by SBI.

The certificate of compliance indicates forecast dates for the implementation of legislation and user agreements.

SECURITY

The security program of the central repository includes personnel screening, numerous building access limitation controls, records access controls and twenty-four hour presence of uniformed officers. All discarded material is now shredded prior to disposal.

There have been no incidents of violent acts or intrusions. However, there is contingency planning in the MSP/SBI for these events. A modest investment in intrusion detection devices or closed circuit TV monitoring for the records center should be considered in 1976-1977 budgeting.

Computer hardware and software security provisions will be made integral conditions of the OBTS/CCH Implementation Plan.

CERTIFICATION FOR A
CENTRAL STATE REPOSITORY

NAME/ADDRESS OF SUBMITTING AGENCY
Department of Public Safety
Maine State Police
State Bureau of Identification
36 Hospital Street
Augusta, Maine 04330

APPLICABLE STATE

Maine

DATE PREPARED

March 10, 1976

CONTACT NAME

Lt. Ed Wilson
Records Section/SBT

TELEPHONE NO. (Give Area Code)

207-289-2155

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
Continuation of Record Existence
Secondary Dissemination by Non-Criminal
Justice Agencies
Dissemination Without Disposition

Audits and Quality Control

Audit Trail:
Recreating Data Entry
Primary Dissemination Logs
Secondary Dissemination Logs
Annual Audit

NOW IMPLEMENTED	CHECK MARKS			ESTIMATED IMPLEMENTATION DATE
	COST	TECHNICAL	LACK OF AUTHORITY	
X				
X				
Partial				Dec., 1977
Partial				Dec., 1977
X				
X				
		X		Dec., 1977
X				
X				
Partial				June, 1977
Partial		X		June, 1977
X				
X				
Partial				Dec., 1976
X				
X				
X				
X				
			X	Dec., 1976
X				
X				
Partial			X	Dec., 1977
			X	Dec., 1977

APPENDIX B

DISSEMINATION LOGS

Dissemination control will be accomplished through an interlocking set of dissemination logs. The purpose is to provide a history of the dissemination action from the time it is initiated (source document) through the time when the criminal history record is destroyed. The dissemination logs and the associated form numbers are as follows:

<u>Form</u>	<u>No.</u>
Local - State Inquiry Log	DL-1
Dissemination Log - Disseminating Agency	DL-2
Dissemination Log - Individual Record	DL-3

This series of logs, each maintained at a different point in the process, is designed to maintain listings of agencies and individuals who request and receive criminal history record information and to:

- Identify recipients of specific information
- Control the period of retention and use of dissemination information
- Provide a specific dissemination trail in order that prior recipients may be notified of corrections and provided notice of changes resulting from individual challenges, court expungements, or audits.
- To control access to non-criminal justice agencies

In addition, the forms have specific management information and audit purposes. Information will be summarized to indicate types and locations of inquiries and modes of inquiries and responses. For the systematic audit process the sequence number of the logs will provide an immediate indicator of dissemination traffic for use in a sample or complete audit. For the annual audit, the forms will provide a detailed portrayal of adherence to the dissemination procedures. Each of the formats is described briefly below.

Local - State Inquiry Log - DI-1, Figure B-1

This log will be maintained by all user agencies. The control section (inquiry to central repository) will be completed for all requests for access to criminal history record information. This section provides for the complete identification of the user and indicates the method used to make the inquiry. The second section (receipt from central state repository) will be completed for each item, upon receipt of information from the central repository. This section will provide for the identification of the actual recipient. It also provides for the logging of terminal message data for the purposes of cross audit with terminal operation logs. The controlling number throughout the process will be a sequence number supplied on the record by the central state repository. This sequence number will appear on all logs. A "P" or "S" will be added as a suffix for purged and sealed records. "SJ" will be added for juvenile records. If a state ID number has not been previously available, it will be recorded at time of receipt from the central repository. All records will contain an expiration date after which the criminal history record will be regarded as non-current. This date will be applied by stamp at the central repository. The final column is a destruction date to be entered at time of destruction to indicate that the record was destroyed. Non-criminal justice agencies will return disseminated information or destroy all copies when the information is no longer needed for the purpose for which it was disseminated.

The information in this form is correlated with the next two logs in several respects. This correlation will serve the audit process.

IL-1

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Dissemination Log - Disseminating Agency - DL-2

This log (Figure B-2) is maintained by the central state repository or (as appropriate) by a satellite repository or switching agency, to record all requests by users for criminal history record information. It is characterized by the entry of a control number (sequence number) which is assigned to each specific document disseminated. Data about the requesting agency is recorded, including the authority by which dissemination is permitted (non-dispositional data, for example, is allowed to be disseminated only to criminal justice users). The date of transmission is also recorded along with the State ID number. In the event there is no previous criminal history record this fact will be indicated. There will be an entry for every action on this information control log. The requesting agency information will be recorded at a central location in the repository at the time of receipt from the requestor. The last two columns will be entered at the time of transmission. The log will serve as an internal control of activities as well as a source of management summary information concerning dissemination traffic. For example, the log will provide a quick reference to major users of any unusual traffic.

Dissemination Log - Individual Record - DL-3

This form (Figure B-3) is used as the complete dissemination history of an individual criminal history record and will be kept in the individual's record. It is intended to be used by the disseminating agency to record the nature of the inquiry, including criminal justice and non-criminal justice agencies, and the nature of the dissemination including the method and the type. The log will provide an immediate reference to the traffic related to an individual record. For purposes of correction of the record, it will provide the information concerning all agencies which have been prior recipients.

FIGURE B-2
DISSEMINATION LOG - DISSEMINATING AGENCY
DL - 2

Sequence Number			Requesting Agency			Subject Info.	Transmit	
Year	Day	Suffix	Criminal Justice	ORI	Non-Criminal Justice	Authority (Statute or Class)	State ID Number or No Record	Julian Date

CONTINUED

2 OF 3

FIGURE B-3
DISSEMINATION LOG - INDIVIDUAL RECORD
DI - 3

NATURE OF INQUIRY								NATURE OF DISSEMINATION							
Requesting Agency and Requestor			Method of Inquiry					Transmit	Type (✓)		Message				
Criminal Justice CPI - CCA	Non-Criminal Justice	Individual Officer/Official [Local Level]	Routine (✓)				Terminal Message Number	Date	Transcript		Mail	Tel.	Terminal	Other	No Recor Provided
			f/p	Mail	Tel.	Other			Compl	Sum	✓	✓	Message Number	✓	✓

AUDIT AND CORRECTIONS

When information in a criminal record is subject to correction as a result of an audit, the correction will be made by the central repository and the corrected information will be forwarded by the repository to all agencies which have been recipients of the subject information. This forwarding of information will be recorded on the dissemination logs and will be identified as an audit correction. A sequence number will be assigned to the correction event. The incorrect document will be identified to prior recipients by its sequence number and will be destroyed upon receipt of the corrected version.

END