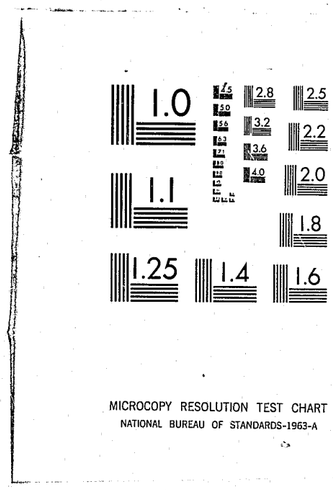

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ADVISORY BULLETIN NO. 6

DISSEMINATION PROVISIONS OF THE LEAA SECURITY AND PRIVACY REGULATIONS

Background and Scope

Report of work performed under Grant Number 78SS-AX-0038, awarded to SEARCH Group, Inc., of Sacramento, California, by the National Criminal Justice Information and Statistics Service, Law Enforcement Assistance Administration, U.S. Department of Justice, under the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

Points of view or opinions stated in this report are those of SEARCH Group, Inc., and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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PREFACE

The following presentation is intended to provide a general familiarity with the background, content and impact of the LEAA regulations on privacy and security of criminal history information (Title 28, Chapter 1, Part 20 of the U.S. Code of Federal Regulations), and a more detailed understanding of the provisions on dissemination of criminal records. It is intended for criminal justice officials as well as persons outside of the criminal justice system.

Much of the material in this report was developed through LEAA Grant # 78TA-AX-0002, Security and Privacy Project, by Paul Woodard, S&P Specialist, under the direction of Gary Cooper, Assistant Director for Policy and Research.

The report is intended to assist the SGI Membership to explain and implement the LEAA Security and Privacy Regulations. Special emphasis is placed on the complex provisions limiting the dissemination of criminal history record information.

I. Background

Establishment of LEAA

LEAA was established by Title I of the 1968 Safe Streets and Crime Control Act to provide financial and technical assistance to states and cities to develop comprehensive improvements in law enforcement and crime control. Since law enforcement officials had long recognized that improvement of their information handling capabilities was a major priority in comprehensive planning to improve the efficiency of the criminal justice system, many states and cities began using substantial amounts of LEAA funds to expand and improve systems for the maintenance and processing of criminal records and other criminal justice information. Much of this effort was directed toward increased automation of information systems, particularly an expanded capability for exchanging criminal records between law enforcement agencies on a statewide and interstate basis. Project SEARCH was created in 1969 to provide coordination and technical direction in this area of LEAA-funded activity. Its first major effort was the design, development and demonstration of a prototype computer-based system for the interstate exchange of criminal history records. The system was successfully demonstrated and has become the model for a nationwide system now under development.

Security and Confidentiality Concerns

In developing the interstate system, the criminal justice officials and technical personnel associated with SEARCH realized that the increased scope and efficiency of the new system would create problems of a security and confidentiality nature or worsen existing problems. By making criminal records more quickly and widely accessible, the potential harm of incomplete or inaccurate data would be greatly magnified. Expanded dissemination would also increase the risk that criminal records would be obtained by unauthorized persons and that the record subject's privacy might be unjustly violated or that decisions affecting his employment or other economic status might be made on the basis of unauthorized, inaccurate or irrelevant data. For these reasons, SEARCH developed and employed in the prototype system technical and

procedural safeguards to minimize security and privacy risks. Project SEARCH, and later SEARCH Group, Inc. (SGI), formulated comprehensive recommendations for security and privacy safeguards in criminal justice information systems and made them available in publications distributed widely throughout the country. These publications include:

Technical Report No. 2, "Security and Privacy Considerations in Criminal History Information Systems"

Technical Report No. 13 (Revised), "Standards for Security and Privacy of Criminal Justice Information - Second Edition"

Technical Memorandum No. 3, "A Model State Act for Criminal Offender Record Information"

Technical Memorandum No. 4, "Model Administrative Regulations for Criminal Offender Record Information"

Technical Memorandum No. 5, "Terminal Users Agreement for CCH and Other Criminal Justice Information"

Technical Memorandum No. 6, "Criminal Justice Computer Hardware and Software Security Considerations"

Technical Memorandum No. 12, "Criminal Justice Information: Perspectives on Liability"

Technical Memorandum No. 14, "Access to Criminal Justice Information - Summary Proceedings of the Forum on Criminal Justice Information Policy and Law"

Technical Memorandum No. 15, "Security and Privacy Rulemaking: Resources, Terms and References"

Advisory Bulletin No. 3, "Perspectives on the Evolution of Criminal Justice Informational Privacy Issues"

Advisory Bulletin No. 4, "Criminal Justice Informational Privacy: Selected References"

The potential harms and abuses of federally-funded criminal record systems also came to the attention of national individual rights groups, such as the ACLU, and members of Congress and the staffs of Congressional committees. Numerous studies were published in the early 1970's concerning the harmful effect of a criminal record on the subject's employability and the fact that most employers do not distinguish between

persons with conviction records and those with records of arrests without disposition or even with favorable dispositions. Many of these studies were critical of the fact that LEAA had not formulated funding guidelines or mandatory system specifications to require that security and confidentiality safeguards were incorporated into information systems supported by LEAA funding to insure that records were accurate and that access was limited to authorized persons. Numerous sources, including prominent members of Congress, pressured LEAA to issue guidelines or regulations to deal with these matters.

Section 524(b)

Finally, in the 1973 amendments to the LEAA enabling legislation, Congress inserted a provision requiring LEAA to insure that criminal record systems funded by the agency incorporated security and confidentiality safeguards. The provision, section 524(b) of the LEAA Act, was made effective on July 1, 1973, and provided as follows:

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

The legislative history of section 524(b) made it clear that Congress expected LEAA to issue regulations to effectuate the provision and that the regulations would deal with the most serious problems and abuses that had been documented in the various studies and in Congressional hearings. These included unauthorized access, arrest records without dispositions, completeness and accuracy, physical and administrative system security, and the right of the record subject to inspect his record to insure its completeness and accuracy. LEAA did not immediately issue regulations, however,

because it appeared possible that Congress would soon enact comprehensive legislation on criminal record systems and it was desirable to insure that the regulations were consistent with the legislation. By early 1975, it became apparent that Congress would not be able to agree on legislation and renewed pressure was exerted on LEAA to promulgate regulations.

LEAA Regulations

Following extensive study and consultation with criminal justice officials, members of Congress, their staffs and other interested persons, LEAA issued draft regulations on February 14, 1974. After extensive public hearings and considerable revision, the regulations were promulgated in final form on May 20, 1975. They required each state to develop a brief comprehensive plan for the implementation of operational procedures to govern all LEAA-funded information systems in the state. The procedures were required to insure the security, completeness and accuracy of criminal records, limit dissemination of records to legally-authorized users, provide for effective audit procedures and afford record subjects the opportunity to review their records to insure accuracy and completeness. The original regulations required all procedures to be fully implemented by December 31, 1977.

1976 Amendments

As initially issued, the regulations imposed rather strict limits on the dissemination of criminal records, both conviction records and arrest records, to non-criminal justice agencies and individuals, including employers, licensing and credit agencies, and members of the news media. The regulations also provided that computers used to store and process criminal records could not be used to store and process other types of records. This "dedication" provision and the limits on non-criminal justice access were the subjects of much debate during the year following promulgation of the regulations as the states began formulating their plans and the impact of the regulations began to become clear. Many state officials charged that the dissemination limits were in conflict with numerous state constitutional and statutory provisions which made certain criminal records, particularly court records, open to the press and the public. In addition, public and private employers complained that they

would be denied access to conviction records and information about pending prosecutions which were needed for employment, licensing, credit and other related purposes that had in the past been considered lawful or at least permissible under state law or custom. The dedication provision was claimed to be unnecessary to achieve adequate system security and to have the effect of denying the advantages of automation to jurisdictions that could not afford dedicated computers.

As a result of these criticisms, LEAA opened the regulations to consider amendments to the provisions on security and dissemination limits. Following public hearings in cities throughout the country, the regulations were amended on March 19, 1976, thereby eliminating the dedication requirement, exempting court records from the regulations' coverage, deleting the limits on dissemination of conviction records and records of pending cases, and providing that dissemination of non-conviction data should be governed strictly by state laws, including generally-worded open records laws, as interpreted by state officials. These provisions are explained in detail later in this monograph.

Extension of Implementation Deadlines

By late 1977, it became apparent to LEAA that full compliance with the regulations by the original December 31, 1977, deadline would be beyond the capability of most states. This was true because of budgetary limitations, lack of statewide coordination and cooperation, and the difficulty of obtaining state legislative action, particularly in states where the legislature meets every other year and was not in session during 1977. For this reason, the deadline was suspended and the states were asked to submit requests and justifications for revised schedules of implementation. Extensions were to be tailored to the circumstances of individual states, within outside limits keyed to the state's legislative schedule. The revised timetable was as follows:

- July 31, 1978: Full compliance with the provisions of the regulations on individual access for challenge and on administrative system security.
- Thirty days after the end of the state's next legislative session convening after December 31, 1977: Submission to LEAA of the state's proposed policy on dissemination.

- Six months after the end of that legislative session: Full implementation of standards and operational procedures to effectuate the policy on dissemination.
- Eighteen months after the end of the legislative session: Completion of a statewide audit to assess the extent of compliance with the regulations and operational procedures.

No deadline is imposed by the amended regulations on compliance with the requirements on completeness and accuracy and physical (hardware) security. The states are expected to exert their best efforts in these areas.

II. Coverage of the Regulations

Agencies Covered

The regulations are applicable to all criminal justice agencies that have utilized LEAA funds since July 1, 1973, the effective date of section 524(b), for the collection, storage or dissemination of criminal history record information. The term "criminal justice agency" includes courts and other public agencies which by statutory or executive authority are primarily engaged in any of the traditional activities of the administration of criminal justice, including the detection, apprehension, prosecution or correctional supervision of criminal offenders and the collection and processing of criminal records and criminal identification information. Although the regulations do not apply to non-criminal justice agencies, such agencies may be affected by state policies (such as limits on dissemination of criminal records) adopted pursuant to the regulations.

Information Covered

The regulations apply to "criminal history record information," which is defined to include any collection or assemblage of records from which it is possible to identify individuals and to ascertain that they have been involved in some formal criminal justice transaction. This includes primarily the traditional "rap sheet" record systems which are organized and accessible on a name search basis and contain listings of all actions taken by criminal justice agencies concerning the named individuals. But the regulations apply to any records or files, whether complete or not and whether or not they are physically connected or separated, if it is possible to identify individuals and associate with them notations of arrest, detention, indictment, information or other formal criminal charges and any dispositions resulting from such charges, including acquittals, dismissals, decisions not to prosecute, guilty pleas or convictions, sentencing, correctional supervision and final release. Coverage may include police files of arrests and prosecutor files of adjudications.

The regulations do not apply to criminal intelligence or investigative information, such as suspected criminal activity, associates, hangouts, financial information or ownership

of property or vehicles. They also do not apply to identification records, such as fingerprint or photograph files, that do not contain any reference to criminal activity or involvement, nor to statistical or research information which does not reveal the identity of individuals.

Excluded Information

The regulations specifically exclude certain types of information that would otherwise be included within the definition of criminal history information. These exclusions are:

(1) Posters, announcements or lists for identifying or apprehending fugitives or wanted persons.

(2) Original records of entry, such as police blotters, compiled and accessible only on a chronological basis, and required by law or long-standing custom to be made public.

(3) Court records of public judicial proceedings.

(4) Published court or administrative opinions.

(5) Public judicial, administrative or legislative proceedings.

(6) Records of traffic offenses maintained by State departments of motor vehicles for licensing purposes.

(7) Announcements of executive clemency.

The regulations do not impose any limits on dissemination of information contained in any of these exempted documents. The regulations also permit criminal justice agencies to reply to specific inquiries about individuals if the information supplied is obtained from these exempted sources.

It should be stressed that the exemption for original entry records is restricted to files organized and accessible solely on a chronological basis. This exception is intended to accommodate the widespread custom of making police blotters and arrest books open to the public so as to protect against secret arrests and inform the public about current police activity. In addition, the fact that such records are maintained and searchable only on a chronological basis decreases the danger of their use as potential

sources of cumulative criminal histories. If those original entry documents are maintained on an alphabetical basis or searchable by separate alphabetical name indexes, such as is the case with computerized booking systems, the exemption would not apply.

The exemption for court records applies to any records or files maintained by judicial agencies for recording the results of public court proceedings, whether such records are automated or manual and whether they are accessible on a chronological or alphabetical basis. This includes court registers, case files, docket listings and court calendars.

III. Dissemination Provisions

Dissemination to Criminal Justice Agencies

The regulations do not restrict dissemination of criminal records from one criminal justice agency to another for criminal justice purposes or employment of criminal justice personnel. In certain cases there are requirements for pre-release inquiries which insure that the released information is current, but there is no restriction on existing practices of inter-agency dissemination of any types of criminal records.

It is important to note that the regulations do not include crime prevention activities or criminal defense functions within the scope of criminal justice activities. Defense attorneys are therefore not eligible to receive records as criminal justice agencies, nor are organizations that operate drug addiction treatment programs or similar community programs as a method of crime prevention. These organizations must have separate authority to receive certain types of criminal records that are restricted from non-criminal justice users.

The regulations also permit the dissemination of all types of criminal records to individuals and agencies which provide criminal justice services under contract with criminal justice agencies or which perform research, evaluative or statistical activities under agreement with a criminal justice agency. Organizations such as bail agencies that perform pre-release functions under contract with judicial agencies would be covered under this authority. Drug addiction programs, such as those mentioned above, may be granted access by an agreement under this provision.

Conviction Records

The regulations impose no limits on the dissemination of conviction records for criminal justice or non-criminal justice purposes. Conviction records include records indicating that the individual has pleaded guilty or nolo contendere (or the equivalent) or has been adjudicated guilty. Such records may be restricted under state law, but the regulations do not affect them in any way. Thus, once an individual has been

convicted, any information about the charges on which he was convicted may freely be disseminated, including information about prior stages of the proceedings and information relating to incarceration and release.

Pending Cases

The regulations provide that no restriction is imposed on the release to the public of information relating to "the offense for which an individual is currently within the criminal justice system." This means that information relating to actively pending cases can be freely released to any agency or individual, including employers and the news media. Two points should be understood concerning this provision: First, the released information must relate to the offense for which the individual is currently detained or under prosecution. Information concerning prior offenses is not covered by this exclusion and may be restricted if it is classified as non-conviction data. Second, there is a presumption that a case is actively pending for up to a year after the date of arrest, even if the record does not show a disposition or indicate the current status of the prosecution. After the one-year period, however, the presumption shifts and the information must be treated as non-conviction data unless there is evidence indicating that prosecution is still actively pending or the individual is a fugitive.

Access by Record Subjects

The regulations provide that individuals must have the right to review all criminal history record information about themselves and to institute procedures to validate or correct any information that they claim to be inaccurate or incomplete. Procedures to provide such review and correction must be implemented by July 31, 1978. The procedures must provide for audits to resolve challenges and for correction of information found to be inaccurate.

This right of access is for the subject individual, or his designee, and is intended solely to promote accuracy and completeness. It may not be utilized by third persons, such as employers, as a means of acquiring through the record subject copies of records to which they would not be legally entitled.

The right of access and review applies only to criminal history record information. It does not apply to intelligence or investigative information nor to medical records, psychiatric records, social histories or other types of evaluative or treatment information.

Nonconviction Records

In the hearings that preceded the 1976 amendments to the regulations, many witnesses testified persuasively that conviction records and records of pending prosecutions should be open to the public. It was pointed out that such records are relevant to employment decisions and in many cases are indispensable. In addition, it was argued that persons who commit criminal acts must expect the natural consequences of those acts, including public knowledge and possible censure or reduced opportunities. Because of the weight of this testimony, the regulations were amended to make these types of records freely available.

These arguments do not apply, however, where the individual is ultimately found innocent of the charges against him. In such cases, the individual's privacy and confidentiality interests are compelling. Since he has not been found guilty of any wrongdoing--and may even have been adjudicated innocent--there are persuasive arguments that he should not be subjected to embarrassment or deprivation because of the proceedings against him. These arguments are buttressed by the contention that information about proceedings that terminate in favor of the individual has no legal weight and no relevance in employment or other decisions, since it does not shed any light on the individual's character. For these reasons, most of the witnesses who testified during the LEAA hearings conceded that information of this kind was not useful and should not be available for non-criminal justice purposes.

Other witnesses, notably representatives of the news media, argued that such information should be available. They maintained that the public has a legitimate interest in who is being acquitted in the courts and what charges are being dropped and that information about these matters is often necessary to investigative reporters seeking to protect the public's interest by maintaining close scrutiny of prosecution

practices.* Some state officials also argued that their open records laws required all criminal records, including records of acquittals and dismissals, to be open to the public.

The regulations do not resolve this conflict. Rather they leave it up to state laws to determine the extent of non-criminal justice dissemination of non-conviction data. Thus, each state may set its own policy so long as the policy is reflected in legal authority.

Definition

"Non-conviction data" includes any information disclosing that an arrested individual has been released without being charged, that the prosecutor has elected not to prosecute, that charges have been dismissed or indefinitely postponed, or that the individual has been acquitted on any grounds, including insanity, incompetence or lack of sufficient admissible evidence. In addition, information concerning year-old arrests that are not shown to be still actively under prosecution are classified as non-conviction data.

Approach

The regulations do not directly prohibit dissemination of non-conviction records to non-criminal justice users. They do provide, however, that all such disseminations must be based on legal authority in order to comport with the requirement in section 524(b) that criminal records shall be used only for criminal justice purposes "and other lawful purposes." The legislative history of the provision made it clear that Congress was particularly concerned about indiscriminate dissemination of raw arrest records and records of arrest that terminated in favor of the accused person. These are by far the most sensitive records and the most potentially damaging to privacy rights. It seems a reasonable requirement, then, that such records be disseminated only to persons and agencies who are authorized to receive them by some official act or pronouncement having the force of law.

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* For more information about this position, see "News Media Access to Criminal Justice Information, A Workshop Review", SEARCH Group, Inc., March 1978.

Under the regulations, such legal authority may be based upon any "statute, ordinance, executive order, or court rule, decision or order, as construed by appropriate state or local officials or agencies." There is no requirement that the statute or executive order or court rule, or whatever, explicitly mention criminal records or contain any particular words or references. All that is necessary is that it be interpreted by some official with authority to construe it as granting access to non-conviction records. This means that a generally-worded state open records law (sometimes called "sunshine laws") may be the basis for unrestricted dissemination of non-conviction records to the news media or to employment agencies or the general public if so interpreted by the state attorney general or by a court with authority to construe the law. Similarly, a court may interpret a state statute providing for the appointment of public defenders to represent indigent defendants as necessarily implying the authority of appointed defenders to have access to all criminal records concerning their clients, including prior non-conviction records. Or, in the absence of such a statute, a court could adopt a rule or issue an order granting such access in particular cases or in all cases. The court could do the same for state civil service commissions or private employers or for credit agencies. Or the governor could authorize such access by executive order and, of course, the state legislature could authorize access by statute. In all such cases, the right of access would be sufficient under the regulations.

Although the regulations do not specifically include executive agency regulations as adequate authority for access to non-conviction records, such regulations may be sufficient if they are authorized by statute or other specifically mentioned authority. For example, if a state records bureau or security and privacy council is authorized by statute or executive order to rule on matters having to do with access to criminal records, then decisions or regulations issued by the agency would have the necessary force of law to satisfy the regulations.

Two additional points concern non-conviction records. First, no particular legal authority is necessary for access to such data on a current basis. The regulations provide that information about charges or proceedings against an individual can be released while he is currently within the criminal justice system. An individual is considered to be within the system from the date of arrest to the date of final resolution of the matter, whether through release from confinement after conviction

or through the dropping of charges or dismissal or acquittal. Criminal justice agencies may, therefore, continue to make announcements or news releases concerning dismissals and acquittals as they occur and may continue to respond to questions from the press or public about such dispositions on a current basis. Thus, the regulations do not affect in any way the freedom of the news media or the public to monitor and report on current criminal justice activities.

Second, even non-current non-conviction data may be freely obtained from court records or other sources excluded by the regulations, such as chronological records maintained by any criminal justice agency. And, of course, criminal justice agencies can continue to respond to specific inquiries about past non-conviction transactions if the data on which the response is based is obtained from excluded sources. Thus, a reporter or private employer may ask a police agency whether a particular individual was acquitted or released without being charged on a particular date, and the police agency may consult its chronological records and respond to the question.

In summary, the regulations leave it up to each state to determine what its policy on dissemination of non-conviction records will be. But such policy must be based on some legal authority. Such authority can be as direct and general as an all-encompassing open records law or it can be a complex set of rules granting access to certain types of records to certain agencies and individuals for certain purposes. Either approach or any position between these extremes will satisfy the regulations so long as it is based upon a competent construction of a statute, executive order or ordinance or upon court action.

Finally, the regulations do not require any immediate change or termination of existing practices concerning dissemination of non-conviction records, whether such practices are based on legal authority or not. As noted earlier, the original fixed deadline for compliance with the dissemination provisions has been postponed in favor of an approach that gives each state time to seek legislation. Thus, the effective dates for policy development and implementation in a particular state will not occur until after the completion of the state's next legislative session convening after December 31, 1977. This means the 1978 session in states that have annual legislative sessions and the 1979 session in states where the legislature does not meet in 1978.

Thirty days after the end of that legislative session the state must have determined and formulated its dissemination policy. Thus, the state must have completed necessary legislative or executive action by that date. A description of the policy must be submitted to LEAA.

Six months after the end of the session, the state must submit to LEAA a description of operating procedures in effect to implement the dissemination policy throughout the state.

IV. Summary

A. The regulations affect only "criminal history record information", which consists of (1) identified individuals, and (2) criminal justice transactions concerning them.

B. The following types of records are excluded:

-- Wanted posters
-- Original records of entry (police blotters) if accessible chronologically
-- All court records
-- Published court opinions, legislative and administrative proceedings
-- Traffic records for licensing purposes
-- Intelligence and investigative records
-- Medical, psychiatric and similar reports
-- Statistical and research data
-- Identification data (with no criminal references)

C. No limits are imposed on criminal justice agency access and use of any types of records.

D. No limits are imposed on dissemination of conviction records to any person.

E. No limits are imposed on dissemination of information about pending cases (persons anywhere in the criminal justice system).

F. Dissemination limits apply only to non-criminal justice dissemination of non-conviction records (dismissals, acquittals, releases without charges). But:

-- Dissemination of these records is permissible if based on statute, executive order, ordinance or court action;
-- Statutes, etc., do not have to be specifically worded; state officials' interpretations will be accepted;
-- Open records or sunshine laws are sufficient authority;
-- Even in the absence of legal authority:

- current reporting is permissible
- responses to specific inquiries are permissible if derived from excluded files.

G. Non-conviction record limits are not effective immediately:

-- Deadline keyed to end of state's next legislative session after 1977;
-- Policy description due 30 days after session's end;
-- Operational procedures in effect 6 months after session's end.

H. A state's policy can be more restrictive than the regulations require.

I. A state or local government may at any time change its policy by further legislation, executive order, ordinance or court action.

An outline of this report, for planned presentation, is presented in Appendix A. Included is a chart which graphically and summarily identifies the types of criminal justice records covered or not covered by the regulations.

Appendix A

BACKGROUND AND SCOPE OF THE LEAA SECURITY AND PRIVACY REGULATIONS

- OUTLINE FOR PRESENTATION -

BACKGROUND

- 1968 Safe Streets Act established LEAA
- LEAA funds used to expand and automate information systems
- Expanded systems created security and confidentiality problems
- SEARCH activity developed system safeguards
- Early 1970's--studies and hearings on abuses
- Pressure on LEAA to issue regulations or system specifications
- 1973 LEAA amendments: Section 524b
- 1973-1975: Congressional work on proposed security and privacy legislation
- February 14, 1974: draft LEAA regulations issued
- May 20, 1975: final regulations promulgated
- Criticism from states about computer dedication and dissemination limits
- 1976 amendments to regulations
  - deleted dedication provision
  - lessened dissemination limits
- December 1977: compliance deadline extended
  - deadlines now based on state schedule and capability

REVISED DEADLINES

- EACH STATE SETS OWN SCHEDULE KEYED TO LEGISLATIVE SESSION
- OUTSIDE LIMITS:
  - JULY 31, 1978: FULL COMPLIANCE WITH REVIEW AND CHALLENGE AND ADMINISTRATIVE SYSTEM SECURITY
  - THIRTY DAYS AFTER END OF NEXT LEGISLATIVE SESSION: SUBMISSION TO LEAA OF DISSEMINATION POLICY
  - SIX MONTHS AFTER SESSION'S END: SUBMISSION TO LEAA OF OPERATIONAL PROCEDURES ON DISSEMINATION LIMITS
  - EIGHTEEN MONTHS AFTER SESSION'S END: SUBMISSION TO LEAA OF STATEWIDE AUDIT RESULTS SHOWING LEVEL OF COMPLIANCE
- NO OUTSIDE LIMITS ON:
  - COMPLETENESS AND ACCURACY
  - PHYSICAL (HARDWARE) SYSTEM SECURITY

COVERAGE OF REGULATIONS

- COVERS ALL CRIMINAL JUSTICE AGENCIES THAT HAVE USED LEAA FUNDS FOR INFORMATION SYSTEMS SINCE JULY 31, 1973
- "CRIMINAL JUSTICE AGENCY" INCLUDES:
  - COURTS
  - OTHER PUBLIC AGENCIES PRIMARILY ENGAGED IN:
    - . CRIME DETECTION (BUT NOT PREVENTION)
    - . APPREHENSION OF SUSPECTS
    - . PROSECUTION (BUT NOT DEFENSE)
    - . ADJUDICATION
    - . CORRECTIONAL SUPERVISION
- COVERS "CRIMINAL HISTORY RECORD INFORMATION":
  - RAP SHEET FILES PRIMARILY
  - ANY FILES THAT CONTAIN ID INFORMATION AND CRIMINAL TRANSACTIONS
  - DOES NOT INCLUDE:
    - . INTELLIGENCE AND INVESTIGATIVE FILES
    - . IDENTIFICATION FILES WITH NO CRIMINAL REFERENCES
    - . STATISTICAL OR RESEARCH DATA WITHOUT IDENTIFICATIONS
    - . TREATMENT, MEDICAL OR EVALUATIVE DATA

EXCLUDED RECORDS

- WANTED POSTERS
- ORIGINAL ENTRY RECORDS (POLICE BLOTTERS) IF SOLELY CHRONOLOGICALLY COMPILED
- COURT RECORDS OF ALL TYPES
- COURT OPINIONS
- PUBLIC COURT, LEGISLATIVE OR ADMINISTRATIVE PROCEEDINGS
- TRAFFIC RECORDS FOR LICENSING PURPOSES
- PARDONS AND EXECUTIVE CLEMENCY

NOTE: PERMISSIBLE FOR AGENCIES TO RESPOND TO SPECIFIC INQUIRIES ("WAS X ACQUITTED JANUARY 22, 1977?" OR "WAS X CONVICTED JANUARY 22, 1977?") IF THE RESPONSE IS BASED ON INFORMATION OBTAINED FROM ANY OF THE ABOVE EXCLUDED TYPES OF FILES.

DISSEMINATION PROVISIONS

- No limits on criminal justice use and dissemination
- No limits on release to anyone of conviction records
- No limits on current data (while subject is within the criminal justice system) e.g., pending cases
- Permissible to release arrests without dispositions for up to one year after arrest
- Limits apply only to nonconviction records:
  - Acquittals (all types)
  - Dismissals
  - Indefinite postponements
  - Prosecution declined
  - Release without charges
  - Arrests over a year old if not actively prosecuted
- Dissemination of nonconviction records must be for "lawful purpose":
  - Based on:
    - Statute
    - Executive order
    - Local ordinance
    - Court rule, order or decision
  - As construed by appropriate state officials

LEAA REGULATIONS ON CRIMINAL RECORDS
- Dissemination Limitations -

4. Traffic Records:
   All offenses that are
   for licensing purposes

TYPES OF RECORDS
NOT COVERED
BY REGULATIONS

3. Judicial Records:
   - Docket books
   - Case files
   - Transcripts
   - Opinions

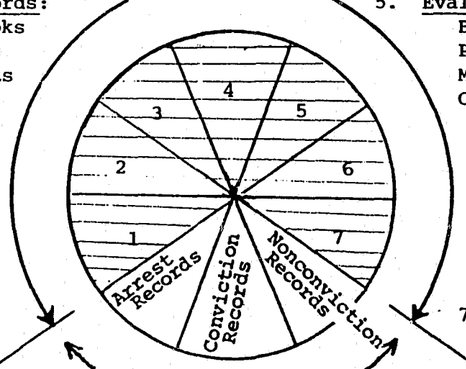
5. Evaluative Information:
   - Bail reports
   - Pre-sentence reports
   - Medical reports
   - Correctional treatment reports

2. Chronologically-Accessed
   Original Entry Records:
   - Police blotters
   - Arrest books
   - Offense reports
   - Incident reports

6. Investigative & Intelligence Data:
   - Suspected criminal activity
   - Associates
   - Hangouts
   - Financial information
   - Ownership of property

1. Wanted Persons:
   - Posters
   - Lists
   - Bulletins

7. Executive Clemency:
   - Pardons



"Rap sheet" type records are covered by the Regulations if name-indexed. They are subject to provisions on accuracy and completeness, security, audit and quality control, review and challenge, and dissemination limits.

END