

Alabama

Criminal

Justice

Information

System



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CRIMINAL HISTORY RECORD INFORMATION
PRIVACY AND SECURITY PLAN

43461

STATE OF ALABAMA
CRIMINAL JUSTICE INFORMATION CENTER

RUFFIN W. BLAYLOCK
Director



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

SEP 16 1976

Mr. Ruffin W. Blaylock, Director
Alabama Criminal Justice Information
System
858 South Court Street
Montgomery, Alabama 36130

Dear Mr. Blaylock:

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

Pursuant to the Department of Justice Criminal Justice Information Systems Regulations, (28 CFR Part 20), LEAA has completed its review of your plan.

On the basis of this review, it is concluded that both the Basic and Supplemental plans adequately address all requirements of the Regulations.

Accordingly, LEAA is pleased to inform you that the Alabama Privacy and Security plan is now approved.

Sincerely,

Paul K. Wormeli
Deputy Administrator
for Administration

NCJRS

OCT 11 1977

ACQUISITIONS

RECEIVED

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ACJIS



STATE OF ALABAMA

CRIMINAL HISTORY RECORD INFORMATION

PRIVACY AND SECURITY PLAN

(Initial and Supplemental)

Alabama Criminal Justice Information Center

858 South Court Street

Montgomery, Alabama 36130

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INTRODUCTION TO INITIAL PLAN

(Submitted to LEAA on March 16, 1976)

On May 20, 1975, the U. S. Department of Justice, through the Law Enforcement Assistance Administration, issued regulations implementing Section 524(b) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1973. These regulations, issued as Title 28, Chapter 1, Part 20 of the Code of Federal Regulations, establish requirements for the collection, storage, or dissemination of criminal history record information. The regulations apply to criminal justice information systems (Federal, State, and local) which collect, store, or disseminate criminal history record data and which have received the assistance of LEAA funds for that purpose since July 1, 1973. These systems must be in full compliance with the Regulations by December 31, 1977.

Section 20.21 of the Regulations requires each State to develop a plan for the implementation of the Regulations. On June 16, 1975, Governor George C. Wallace, assigned that responsibility to the Alabama Law Enforcement Planning Agency (ALEPA) which, in turn, delegated the task of plan preparation to the Alabama Criminal Justice Information Center (ACJIC), a project of ALEPA. Subsequently, the Alabama Legislature enacted legislation establishing ACJIC as a separate state agency responsible for developing and operating a comprehensive, statewide criminal justice information system. ACJIC retained the responsibility of developing the Alabama privacy and security plan.

The Alabama Criminal Justice Information Center enabling legislation, Act 872, Regular Session, 1975, (Appendix A), also created a twenty-member Commission composed of State and local criminal justice and government officials and a citizen representative, to oversee the ACJIC's development and operation. The Commission is charged with insuring that the criminal justice information collected, stored, processed, or disseminated by the ACJIC is properly used and protected. To assist the Commission in this responsibility, a permanent Privacy and Security Committee consisting of a chairman and three members, all of whom must be elected public officials, was established by law within the Commission. Those presently serving on the Committee include: a representative of the Alabama Attorney General; President of the Alabama Circuit Judges' Association; President of the Alabama Circuit Clerks' Association; and, President of the Alabama Sheriffs' Association.

The ACJIC Act is the statutory authority for the implementation of this Plan and the regulations adopted by the Commission to insure the security and confidentiality of the data available through the Alabama Criminal Justice Information Center. It is interesting to note that, although drafted and submitted to the Alabama Legislature prior to the promulgation of the Department of Justice Regulations, the ACJIC Act addresses each of the functional areas dealt with in those Regulations: completeness and accuracy; limits on dissemination; audit and quality control; security; and access, review and challenge.

Consistent with the Federal Regulations and the division of responsibility and authority which exists under Alabama law, this Plan addresses primarily the procedures to be adopted by the ACJIC which, upon implementation of its Computerized Criminal History/Offender Based Transaction

Statistics system (CCH/OBTS), will be the central State repository for criminal history record information. Other criminal justice agencies within Alabama which are subject to the Federal Regulations have been advised of their responsibilities in complying with applicable portions of the Regulations. Each agency has been requested to submit the required certification of compliance form (LEAA Form 6600/10) for inclusion in this Plan. ACJIC will continue to provide assistance to these agencies, upon request, in developing and implementing procedures to assure their compliance with the Federal Regulations.

INTRODUCTION TO SUPPLEMENTAL PLAN

(Submitted to LEAA on June 17, 1976)

On March 19, 1976, revised privacy and security regulations (Title 28, Chapter 1, Part 20 of the Code of Federal Regulations) were issued by the U. S. Department of Justice/Law Enforcement Assistance Administration. These regulations incorporate significant changes to Subpart B of the regulations as issued on May 20, 1975, and require the submission of a supplemental plan addressing the requirements of Sections 20.21 (b), (c), (d), and (f).

As in the plan addressing the May 20, 1975, version of the Federal regulations, the supplemental plan deals primarily with the procedures to be adopted by the Alabama Criminal Justice Information Center (ACJIC) which is currently developing a computerized criminal history system for the State of Alabama. ACJIC's enabling legislation (Act No. 872, Regular Session 1975) provides sufficient authority to the ACJIC to implement the requirements of the Federal privacy and security regulations in the statewide criminal justice information system. Other criminal justice agencies within Alabama which are subject to the Federal regulations have been advised of their responsibilities in complying with applicable portions of the regulations. The ACJIC will continue to provide assistance to these agencies, upon request, in developing and implementing procedures to assure their compliance with the Federal regulations.

Chapter Three of the Alabama Criminal History Record Information Privacy and Security Plan, Limitations on Dissemination of Criminal History Record Information (March 16, 1976), is replaced by Chapter Three of this supplemental plan. Chapter Five, Security, which was omitted in the March, 16, 1976 plan is included herein.

CHAPTER 1

RESPONSIBILITIES AND AUTHORITY

OF THE

ALABAMA CRIMINAL JUSTICE INFORMATION CENTER

The Alabama Criminal Justice Information Center and Commission were formally established on October 7, 1975, when Governor George C. Wallace signed the enabling legislation into law. (See Appendix A). Section 2 of the ACJIC Act defines its statutory responsibility:

"There is hereby created and established an Alabama Criminal Justice Information Center Commission, hereinafter referred to as Commission, which Commission shall establish, develop, and continue to operate a center and system for the inter and intra state accumulation, storage, retrieval, analysis and dissemination of vital information relating to certain crimes, criminals and criminal activity to be known as the Alabama Criminal Justice Information Center. Central responsibility for the development, maintenance, operation and administration of the Alabama Criminal Justice Information Center shall be vested with the Director of the ACJIC under the supervision of the Alabama Criminal Justice Information Center Commission."

In addition to developing and operating a statewide criminal justice information system, the Commission is charged with insuring the security and confidentiality of the information made available through the system. With this responsibility comes the authority

to issue rules and regulations (Section 5) and to establish administrative sanctions (Section 18) for violation of those regulations. (A process for appealing rules or regulations issued by the Commission is provided for in Section 42.) In addition to administrative sanctions, Sections 35 and 36 of the Act delineate severe penalties for the misuse or abuse of criminal history record information. However, the scope of the Act limits the authority of the Commission and the penalties provided for violations of the Act to areas germane to the implementation of the Act, i.e., regulations and sanctions developed to provide for the security and integrity of criminal history information apply only to that data that has been collected, stored, processed, or disseminated by the Alabama Criminal Justice Information Center.

Computer resources, including the communications control system, technical and programming services supporting the ACJIC are provided by the Data Systems Management Division (DSMD) of the Alabama Department of Finance. Based upon the recommendation of the Governor's Cost Control Survey, DSMD was created in 1973 to control, coordinate, and consolidate electronic data processing services within State government. (See Appendix B). The Survey, prepared in 1972, stated, "The data processing activities of the State are characterized by overlapping personnel assignments, duplication of services, low utilization of equipment, and rising costs."

So that ACJIC remains in a position to insure the privacy and security of criminal history record information, a formal agreement will be executed with DSMD giving authority to the ACJIC Director in the following areas:

- (1) To set and enforce policies concerning computer operations involved in the collection, storage, processing or dissemination of criminal history record information.
- (2) To select and/or approve all DSMD personnel assigned to duties involving the collection, storage, processing or dissemination of criminal history record information.
- (3) To protect any repository of criminal history record information from unauthorized access, theft, sabotage, natural or manmade disasters.
- (4) To require DSMD personnel who have access to criminal history record information or to areas where such information is stored, to adhere to all physical and personnel security procedures developed by ACJIC.

Sufficient authority is vested in the ACJIC Commission by Alabama law to enable it to perform those functions required by the Federal Regulations of a central state repository.* As noted in the Introduction, there is much similarity between the requirements of the ACJIC Act and the Federal Regulations. The specific requirements of Alabama law that will facilitate the implementation of the Regulations are discussed in the appropriate Chapters of the Plan.

* This does not include the dedicated hardware requirement of Section 20.21(f) of the Regulations as issued on May 20, 1975. That Section is being revised and, therefore, not addressed in this Plan.

CHAPTER 2

COMPLETENESS AND ACCURACY

OF

CRIMINAL HISTORY RECORD INFORMATION

Section 524(b) of the Crime Control Act of 1973 requires that criminal history record information be kept current and that disposition data be included with arrest data "to the maximum extent feasible." To implement the requirements for completeness and accuracy of information, Section 20.21(a) of the Federal Regulations specifies the following:

- (1) Complete records should be maintained at a central State repository (CSR).
- (2) Arrest records available for dissemination must contain dispositions within 90 days of occurrence.
- (3) Procedures shall be established for criminal justice agencies to query the CSR prior to further dissemination to assure current disposition data is being used.
- (4) Procedures shall be established to minimize the recording and storing of inaccurate information.

Each of these requirements will be met through the CCH/OBTS system developed and operated by the Alabama Criminal Justice Information Center. The Alabama law creating the ACJIC as the central State repository of criminal history record information also provides for mandatory reporting of arrests and dispositions to the ACJIC (Appendix A).

Although an Act of the Alabama Legislature in 1943 designated the Department of Public Safety as the central assembling agency for arrest fingerprint cards and required the sheriff of each county to submit fingerprint cards to the DPS¹, until the ACJIC Act was signed into law on October 7, 1975, there was no requirement for all criminal justice agencies in the State to report arrests and dispositions to a central location.

The ACJIC Act requires mandatory reporting at each stage of the criminal justice process: police, prosecutor, courts, correction, and pardon and parole.² Although the CCH/OBTS system is in the design stage, the Department of Public Safety is designated by State law as the State-level collection point for arrest fingerprint cards and shall continue to provide identification services and be the repository for arrest fingerprint cards for State and local law enforcement agencies.³

Time limitations on disposition reporting are prescribed by the ACJIC Act for certain types of dispositions.⁴ For other dispositions, the ACJIC Commission is authorized to establish the time and manner in which dispositions must be reported.⁵ In every case, dispositions

¹ Alabama Code, Title 54, Sections 38 and 39.

² Alabama Act 872, Regular Session, 1975, Sections 11, 12, 19, 20, 22, 23, 24, 28, and 29 address reporting requirements.

³ Alabama Act 872, Regular Session, 1975, Section 12.

⁴ Alabama Act 872, Regular Session, 1975, Sections 19, 20, 22, and 23.

⁵ Alabama Act 872, Regular Session, 1975, Sections 28 and 29.

will be reported to the ACJIC within ninety days after occurrence for inclusion in arrest records available for dissemination through the ACJIC CCH/OBTS system.

As previously stated, the ACJIC CCH/OBTS system is in the design stage and expected to be available to system users by September 30, 1977. Consequently, exact disposition reporting procedures, responsibilities and formats cannot be described at this time. The development of a unique individual identifier (OBTS number), and procedures for monitoring delinquent dispositions are functions inherent in system design. A discussion of the development of these procedures would be premature at this time and serve no useful purpose. However, all existing State and Federal requirements to insure the completeness and accuracy of criminal history record information will be incorporated into the ACJIC CCH/OBTS system.

The requirement for query of the central State repository prior to further dissemination of criminal history record information to assure that the most up-to-date disposition data is being used will be established by ACJIC system regulation. All system users are required to execute a privacy and security agreement with ACJIC in which the user agency agrees, in part, to abide by ACJIC system regulations. Violations of system regulations subject the violator to penalties prescribed by State law and administrative sanctions issued by the ACJIC Commission.

The following schedule illustrates the milestones for the development and implementation of the ACJIC CCH/OBTS system:

CCH/OBTS TIMETABLE

<u>Milestones</u>	<u>Dates</u>
Implementation of CCH Data Entry System	04/01/76
Implementation of CCH Data Base Updating Procedure	07/01/76
Implementation of Pardon & Parole Reporting Procedure	09/01/76
Implementation of Corrections Reporting Procedure	10/01/76
Development of ACJIC/CCH Rap Sheet	10/01/76
Development of NCIC/CCH Rap Sheet	10/01/76
Development of OBTS Data Elements and Entry Procedure	10/01/76
OBTS System Design	10/76 - 12/76
Data Base Management Design	10/76 - 12/76
NCIC/CCH Load Design	10/76 - 12/76
Court Criminal Disposition Reporting Procedure	01/01/77
Data Base Management Development	01/77 - 05/77
NCIC Load Programming	01/77 - 05/77
OBTS Testing and Implementation	05/77 - 09/77
NCIC/CCH Loading and Implementation	05/77 - 09/77

The ACJIC Legal, Privacy and Security Section will be responsible for insuring all State and Federal privacy and security requirements are adhered to by the Center as well as all system users. Legal, Privacy and Security staff will work with CCH/OBTS system designers to insure that sufficient audit trails are incorporated in the system design to allow the tracing of specific data elements from the automated system to the source document. The requirement for systematic audits is discussed further in Chapter 4, Audit and Quality Control.

The ACJIC, through its Legal, Privacy and Security and Technical Assistance staffs, has notified all agencies subject to the regulations of the requirement that criminal histories available for dissemination must contain, to the maximum extent feasible, current disposition information. It is extremely difficult for law enforcement agencies in most jurisdictions in Alabama to obtain complete disposition reporting at this time. Local criminal justice agencies are not designed or intended to maintain complete criminal history records. For them to do so would be an unnecessary and costly duplication of effort not in line with their primary functions. The maintenance of complete criminal histories will be a function of the ACJIC. Complete dispositions on criminal histories will be available to State and local agencies on or before the required implementation date of this portion of the Regulations, December 31, 1977. When ACJIC CCH/OBTS is operational, it should not be necessary for local agencies to disseminate partial criminal histories maintained in their manual systems. Agencies subject to the Regulations will be advised that reasonable efforts must be made to insure the completeness of records disseminated from local systems.

Both the ACJIC Act and the Federal Regulations require that individuals and agencies who have received criminal history information be notified when deletions, modifications or other corrections are made to such information. Neither Alabama law nor the Federal Regulations specify time limits for maintaining dissemination logs nor for advising of corrections to previously disseminated information, although LEAA's Privacy and Security Planning Instructions suggest dissemination logs be maintained for one year.

ACJIC will maintain criminal history dissemination logs for one year; however, agencies will be advised of corrections in a criminal record for only up to ninety days after dissemination. When the ACJIC CCH/OBTS system becomes operational, CCH summaries will be available on-line and complete rap sheets will be mailed to authorized agencies upon request. Both will contain a ninety day disclaimer stating, "This record is invalid 90 days after date of dissemination and should no longer be stored by the recipient."

Considering the advantage of an on-line CCH system and the requirement for an agency to query the central State repository prior to further dissemination of a criminal record, the ninety-day correction period is adequate and reasonable in complying with the intent of the Federal Regulations.

CHAPTER 3

LIMITATIONS ON DISSEMINATION

OF

CRIMINAL HISTORY RECORD INFORMATION

The Alabama Criminal Justice Information Center Commission is charged, by Section 5 of the ACJIC Act, with insuring that "adequate safeguards are incorporated so that data available through this system is (sic) used only by properly authorized persons and agencies." Section 31 of the Act further requires the protection of criminal history record information that has been collected, stored, processed or disseminated by the ACJIC:

"Nothing in this Act shall be construed to give authority to any person, agency or corporation or other legal entity to invade the privacy of any citizen as defined by the Constitution, the Legislature or the courts other than to the extent provided in this Act.

Disclosure of criminal histories or other information that may directly or otherwise lead to the identification of the individual to whom such information pertains, may not be made to any person, agency, corporation or other legal entity that has neither the 'need to know' nor the 'right to know' as determined by the commission pursuant to Section 5 of this Act."

Section 5 of the ACJIC Act also empowers the ACJIC Commission to establish regulations to effectuate the responsibilities charged to it by the Act. The requirements of Sections 20.21 (b), (c), and (d) of the amended regulations will be incorporated into Commission policies concerning the dissemination of criminal history record information. Commission policies, promulgated through ACJIC Privacy and Security Regulations (Appendix C), will be formulated by the Privacy and Security Committee and recommended to the full Commission for adoption. Privacy and security regulations, including dissemination restrictions, issued by the ACJIC Commission pursuant to Section 5 of the Act apply only to criminal justice information collected, stored, processed, or disseminated by the ACJIC.

Other Alabama statutes relating to the collection, storage, or dissemination of criminal history record information that would apply to data maintained by the ACJIC, and that conflict with the provisions of the ACJIC Act, are superseded by Sections 38 and 41 of the ACJIC Act. Consequently, agencies, that have been receiving criminal record information that will be obtainable through the ACJIC, will be allowed access to that data only if they qualify under the dissemination restrictions adopted by the Commission.

The commentary accompanying the regulations states that, if so construed by the State, public record laws could be sufficient statutory authority to permit the dissemination of criminal history record information under Section 20.21 (b). Alabama has a broad public record law which entitles each citizen to "inspect and take a copy of any public writing of this state, except as otherwise expressly prohibited by statute."

(Alabama Code, Title 41, Section 145.) However, the Alabama Attorney General has ruled in an opinion dated January 14, 1976, that records maintained by the ACJIC are not public records subject to public disclosure. Sections 5, 31, 35, and 36 of the ACJIC Act limit the persons who may have access to ACJIC records, including criminal history records, and prescribe criminal penalties for improper disclosure of those records.

Although the Federal regulations impose dissemination limitations on nonconviction information only, ACJIC dissemination policies apply to criminal history record information as defined in the draft ACJIC Privacy and Security Regulation No. 002. Criminal history record information is defined as:

" . . . information compiled by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges and any disposition arising therefrom, sentencing, correctional supervision and release."

The following are proposed criminal history record information dissemination policies to be implemented in conjunction with the ACJIC's computerized criminal history/offender based transaction statistics system:

- (1) Criminal Justice Agencies: Direct terminal access to the ACJIC CCH/OBTS system may be granted to criminal justice agencies for the following purposes: (a) functions related to the administration of criminal justice, as defined in ACJIC Privacy & Security Regulation No. 002; and, (b) criminal justice agency pre-employment screening.

Criminal history record information may be disseminated directly to Federal agencies or agencies of other states only if they are criminal justice agencies as defined by ACJIC Privacy & Security Regulations. (Note: "Criminal justice agencies" are public agencies, at all levels of government, which perform as their principal function, activities (1) relating to the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of criminal offenders; or, (2) relating to the collection, storage, or dissemination of criminal history record information.)

- (2) Noncriminal Justice Agencies: Certain noncriminal justice agencies, public or private, may be granted indirect access to criminal history record information collected, stored, processed, or disseminated by the ACJIC upon approval by the appropriate authority and completion of a privacy and security agreement:
- A. Agencies authorized by Alabama statute, Federal statute, executive order, local ordinance, or court order to have access to criminal history record information shall be granted indirect access to such information. Application for access under this paragraph shall be addressed to the Director, ACJIC.

- B. Agencies or individuals providing services necessary for the administration of criminal justice, pursuant to a specific agreement with a criminal justice agency, shall be allowed indirect access to criminal history information in accordance with that agreement.
- C. Agencies or individuals may be allowed access to criminal history information for the express purpose of research, evaluative, or statistical activities pursuant to a specific agreement with the ACJIC and with the approval of the Privacy and Security Committee. Persons seeking access under this paragraph shall submit to the ACJIC a completed research design that assures the security and confidentiality of the data.
- D. Records of adjudication of guilt may be available to private persons and businesses for the purposes of pre-employment screening and job assignment decisions when the duties of the employee or prospective employee involve or may involve:
1. Working in or near private dwellings without immediate supervision;
 2. Custody or control over access to cash or valuable items;
 3. Knowledge of or access to secret processes, trade secrets, or other confidential business information;
 4. Insuring the security or safety of other employees, customers, or property of the employer.

Information disseminated pursuant to this Section must be based upon positive identification by fingerprint comparison. Such information shall be available only to persons involved in the hiring or job assignment of the person whose record is disseminated and the use of the information shall be limited to the purposes for which it was given.

The ACJIC shall charge fees for disseminating records pursuant to this Section which will raise an amount of revenue which approximates, as nearly as practicable, the direct and indirect costs to the State of providing such information.

- E. Noncriminal justice agencies or individuals not otherwise authorized access to criminal history record information may be allowed indirect access upon a demonstrated "need to know" and "right to know". Application for access under this provision must be in writing to the chairman of the ACJIC Commission's Privacy and Security Committee. Upon request of the applicant or the ACJIC Director, the Privacy and Security Committee will conduct public hearings concerning the application for access to criminal history record information.
- (3) Privacy and Security Agreements: Each agency or individual authorized access to criminal history record information, whether directly or through any intermediary, must execute a privacy and security agreement with the ACJIC.

A. Criminal justice agencies shall agree to the following:

1. To receive, store, use, and disseminate criminal history record information in strict compliance with State and Federal statutes and regulations governing such information.
2. To keep such records as the ACJIC may require for the purpose of determining compliance with statutes and regulations governing criminal history information.
3. To make those records available to the ACJIC for the purpose of conducting periodic audits to determine compliance with appropriate statutes and regulations.

B. Noncriminal justice agencies shall agree to the following:

1. To receive, store, use, and disseminate criminal history record information in strict compliance with State and Federal statutes and regulations governing such information.
2. To restrict the use of criminal history record information to the purposes for which it was provided and disseminate it no further.
3. To keep such records as the ACJIC may require and to make those records available for audit to determine compliance with appropriate statutes and regulations.
4. To familiarize personnel working with or having access to criminal history record information with the appropriate statutes and regulations governing such information.

(4) Juvenile Records: The ACJIC CCH/OBTS system will not contain records on individual juvenile offenders. Section 39 of the ACJIC Act emphasizes the importance of the protection of records of juvenile offenders; it states:

"The provisions of this Act shall not alter, amend, or supersede the statutes and rules of law governing the collection, storage, dissemination or usage of records concerning individual juvenile offenders in which they are individually identified by name or other means until such time as the Alabama Legislature provides legislation permitting the collection, storage, dissemination, or usage of records concerning individual juvenile offenders."

Juvenile offender information stored by the ACJIC for the Alabama Department of Youth Services will be maintained and disseminated in strict compliance with Alabama law (See Appendix E).

CHAPTER 4

AUDIT AND QUALITY CONTROL

The Federal Regulations (Sections 20.21(a) and (e)) require two kinds of audits: a systematic internal audit performed regularly by the central State repository intended primarily to maximize accuracy and completeness of criminal records and an annual audit of State and local criminal justice users to test compliance with all regulatory requirements. This Chapter deals with the systematic audits of the central State repository (the ACJIC) and the procedures to be developed to check compliance with existing statutes and regulations by all system users.

The ACJIC Legal, Privacy and Security staff in cooperation with the CCH/OBTS system analyst will be responsible for insuring the necessary audit trails and procedures are included in the CCH/OBTS system to facilitate a systematic audit process. The annual audit of ACJIC system users will be the responsibility of the ACJIC Legal, Privacy and Security staff. Procedures for auditing the compliance of users within the Judicial branch of government will be developed in cooperation with the Alabama Department of Court Management and the Administrative Director of Courts. The annual audit of the central State repository will be conducted by a division of the Executive branch. Discussions will be held with the Governor's office to assign definite responsibility for this function.

The ACJIC will audit other criminal history repositories, subject to the Federal Regulations, which continue to disseminate criminal history record information subsequent to the implementation of the ACJIC CCH/ OBTS system or after December 31, 1977.

Systematic Audit

A continuous systematic audit will be designed by the ACJIC staff to edit and monitor the CCH/OBTS system. While currently in the design stage, procedures will be developed to:

- - check incoming data for completeness;
- - locate delinquent dispositions;
- - check all designated, required information for entry;
- - monitor appropriateness of terminal requests;
- - notify management of inappropriate request activity;
- - prevent noncriminal justice dissemination where appropriate;
- and
- - provide an audit trail which will permit tracking of individual data elements back to source documents.

The procedures for the systematic audit function will be designed and implemented in consonance with the design of the ACJIC CCH/OBTS system.

The ACJIC Technical Assistance staff, stationed throughout the State, will be in a position to assist in both the systematic and annual audit functions.

Dissemination Logs

Section 20.21(e) of the Regulations requires that records be kept on the dissemination of criminal histories to facilitate audits.

Section 17 of the ACJIC Act has a similar requirement:

"A log shall be maintained of all disseminations made of each criminal history including the date of information request and the recipient of said information."

Neither the Regulations nor State law specify time limitations for maintaining dissemination logs nor for advising recipients of criminal histories of corrections to previously disseminated information. LEAA's Privacy and Security Planning Instructions suggest dissemination logs be maintained one year.

ACJIC intends to maintain criminal history dissemination logs for one year; however, we will advise criminal justice agencies of corrections or modifications of a criminal record for only up to ninety days as specified in Chapter 2 of this Plan.

Annual Audit

ACJIC user agencies at both the State and local level will be subject to annual audits. Additionally, any agencies within the State subject to the Regulations but not a part of the Alabama Criminal Justice Information System will have the annual audit requirement fulfilled by the ACJIC.

All ACJIC users will agree by signing a Privacy and Security Agreement to hold themselves open to such audits and to maintain records that may be prescribed by the ACJIC to facilitate adequate auditing. At a minimum all user agencies which contribute data to ACJIC must maintain source documents from which such contributions were derived plus full and complete dissemination logs.

As indicated earlier in this Chapter, audit procedures for users in the Judicial segment will be jointly developed between ACJIC and the Department of Court Management.

Annual audit procedures will cover the following:

- - completeness of records and disposition reporting procedures;
- - accuracy of records;
- - dissemination practices;
- - security;
- - individual rights of inspection;
- - internal policies to comply with State and Federal regulations;
- - review of logging procedures
- - interview of personnel to determine knowledge of appropriate regulations.

Each local/regional automated criminal justice information system interfaced with ACJIC will be audited annually. A representative sample of ACJIC terminal agencies will be audited annually. Procedures will be developed in conjunction with the ACJIC Technical Assistance (TA) staff to spot-check compliance with privacy and security regulations on routine TA visits.

CHAPTER 5

SECURITY

The Director of the Alabama Criminal Justice Information Center is charged by Section 10 (9) of the ACJIC Act with implementing the necessary measures in the design and operation of the State's criminal justice information system to ensure the security of the system. Proposed system regulations (Appendix C) incorporate the requirements of Section 20.21 (f), 28CFR20, and assign responsibilities in the areas of technical security, physical security, personnel security, and employee security training.

Chapter One of the initial Alabama Privacy and Security Plan (March 16, 1976) explains the relationship between the ACJIC and the Data Systems Management Division. The privacy and security agreement that has been executed between the two agencies assures the ACJIC Director has sufficient authority to develop and implement procedures addressing all requirements of Section 20.21 (f) of the Federal regulations.

System Hardware/Software

The main processing unit to be utilized for the ACJIC CCH/OBTS system is a Univac 90/60V system with 512K core storage, a 1,000 cards-per-minute reader, 250 cards-per-minute punch, an 800 lines-per-minute printer, 1,300 mega bytes of disk storage, and both 800 and 1,600 bytes-per-inch tape drives.

The communications processing capability is provided by a dual front end system using Digital PDP 11/45 mini-computers. These systems provide the capability for both a foreground, real-time message switch with 96K words of memory and a background batch processor with 96K words of memory. Each system has its own disk drive to support an independent operating system. Additionally, a printer, card reader, communications interfaces, and tape drives allow switching from one processor to the other providing complete backup for the active communications processor.

All communications processing system components and peripherals connect to, and communicate with, each other in a single high speed bus known as the UNIBUS. With bi-directional and asynchronous communications on the UNIBUS, devices can send, receive, and exchange data independently without processor intervention. The active front end processor, connected to the UNIBUS as a subsystem, controls the allocation of the UNIBUS for peripherals and performs arithmetic and logical operations and instruction decoding.

Data communications services are provided through ten DQ11 and two DJ11 communications line adaptors. The DQ11 is a high speed, double-buffered, non-processor request communications device designed to interface the PDP-11 processor to a serial, synchronous communications channel. The DJ11 is a multiplexed interface between 16 asynchronous, serial data communications channels and the UNIBUS.

The ACJIC communications processor is to serve as a store and forward communications system for the data base processor, NLETS, and NCIC message traffic. In addition, it services ten communications lines with eighty-five TC-531 (hard copy) terminals and two synchronous interfaces with local criminal justice information systems.

The ACJIC will employ a data base management system (DMS/90) which has three principal functions and two data base language concepts. The three principal functions are: (1) the User -- at the programmer level; (2) the Data Base Administrator -- an individual responsible for the organization and utilization of the data base; and, (3) the Data Base Manager -- a combination of hardware and software facilities. The two data base languages are: (1) a data description language -- used to define the data in a precise and formal manner; and, (2) the data manipulation language -- used to access the data base and its descriptors.

The User communicates with the Data Base Administrator to establish a means of accessing data in the data base. Effectively, the Data Base Administrator maintains control over the accessing of data on a system-wide basis. The Data Base Administrator communicates with the Data Base Manager to establish the manner in which data is stored and accessed, and to delineate the data that can be accessed by a specific user. The User communicates with the Data Base Manager using the data manipulation language to access data that has been authorized by the Data Base Administrator.

Data security is established through rules supplied by the Data Base Administrator that specify how the Data Base Manager should enforce the security needs of the user (at the programmer level) and the requirements of the data base system. These rules constitute a security system that recognizes two dimensions of the security problem: the right-to-know and the need-to-know. The security system operates through the use of security profiles constructed from the rules specified by the Data Base Administrator.

Three basic criteria will be utilized to protect the system and data base from unauthorized access:

1. Terminal Validation. All ACJIC terminals will be accessed by the communications processor in a polled environment. This means no terminal can send data to, or receive data from the central repository until it has been polled.

The mechanism for polling individual terminals is a list of terminals (by line) which is maintained as a part of the computer operating system. These terminal addresses cannot be changed dynamically; if a terminal is added or deleted from the system, the tables must be completely regenerated. The significance of polling in the computer security system is that only terminals which are generated in the poll train can access the ACJIC.

2. Agency Code Validation. An agency code will be assigned to each agency authorized to access the system. The agency code will be unique and must be appended to each ACJIC transaction. Validation of the agency code will be by line number. The security monitor will maintain a list of all agency codes and their address (the hardware address of the terminal in the poll train). When a message is received the security monitor will extract the agency code from the message and get the terminal address from the communications management system. Using these two identifiers, the security monitor will check its internal tables to insure that it matches the terminal address assigned to that agency code.

If a match exists, the next validation step is executed; if there is no match, the transaction is terminated and the attempt logged.

3. Message Key Validation. At this point it has been determined that the terminal agency is entitled to access the system -- an authorized agency at the appropriate location. The remaining validation step involves determining if the terminal agency is authorized to execute the programs associated with the message key it entered.

Message key validation is by table. The structure of the message key validation table will be one of two alternatives:

(1) ordered by message key with authorized users for each message key; or, (2) ordered by user with message keys available to each user. The final structure of this table will be determined after all system user functions have been defined.

The message key validation table will be entered (by either agency code or message key) and checked against the appropriate portion of the input message. If the message key is valid for the agency code, the indicated transaction processor will be scheduled. If the message key is not valid, the transaction will be terminated and logged.

As previously indicated, only authorized criminal justice agencies will have direct terminal access to criminal history record information collected, stored, and disseminated by the ACJIC. Only specific data entry points will have the ability to modify and/or destroy certain data elements within the ACJIC CCH/OBTS system, e.g., the agency entering the arrest segment will be the only agency with the ability and authorization to modify the arrest portion of a criminal record.

Personnel Security

The ACJIC Director has full management control over all personnel employed at the central State repository who will have access to criminal history record information or access to areas where such information is stored. Although many technical and programming services will be provided by the Data Systems Management Division (DSMD), the ACJIC Director, through a formal agreement with DSMD has the authority to:

- (1) Select and/or approve all DSMD employees whose duties will involve direct access to criminal history record information;
- (2) Require compliance by such DSMD employees to all personnel and physical security procedures established by the ACJIC;
- (3) Initiate or cause to be initiated administrative action against such personnel for the violation of properly established security regulations.

Other agencies providing contractual services to the ACJIC, and whose employees will require access to criminal history record information or to areas where such information is stored, will be required to enter into a privacy and security agreement with the ACJIC. The agreement will contain provisions similar to those in the agreement executed with DSMD.

The ACJIC Director will be required by ACJIC Privacy and Security Regulations to develop and implement an employee screening program for all persons whose duties require access to criminal history record information. This will include ACJIC employees, employees of other government agencies providing services to the ACJIC, employees of agencies providing contractual services to the ACJIC, employees of local/regional criminal justice information systems interfaced with the ACJIC, and remote terminal operators.

Employees shall be expected to consent to an investigation of their character, previous employment, and other matters necessary to establish their suitability to work with sensitive information. Giving false information will disqualify an applicant for employment and subject a present employee to dismissal. The investigation will be designed to develop sufficient information to enable ACJIC officials to determine employability and fitness of persons entering sensitive positions. In the case of remote terminal operators and employees of local/regional CJIS interfacing with the ACJIC, the responsibility for personnel screening rests with the appropriate criminal justice agency. Compliance with this requirement will be monitored by the ACJIC.

All employees working with or having access to criminal history record information will be made aware of all statutes and regulations pertaining to the privacy and security of such information. The ACJIC Director will be required by system regulation to determine the method and frequency of such training.

Physical Security

The ACJIC Director will be delegated the authority and responsibility to insure the physical security of the ACJIC and to insure that all units of government participating in the Alabama Criminal Justice Information System comply with the security standards adopted by the ACJIC Commission.

Procedures will be developed and implemented to reasonably protect the ACJIC (the central State repository) from unauthorized access, theft, sabotage, natural or manmade disasters. These procedures will address the following areas:

- (1) Fire detection and suppression.
- (2) Access control to the ACJIC facility.
- (3) Visitor identification and control procedures.
- (4) Structural design of the ACJIC to reduce the possibility of physical damage to the system and information.
- (5) Supporting utilities.
- (6) Document control procedures to insure the proper handling of criminal history records.

Local/regional criminal justice information systems exchanging criminal history record information with the ACJIC will be required to implement similar procedures.

Agencies operating remote terminal devices having direct access to the ACJIC CCH/OBTS system must implement physical security procedures designed to limit access to the terminal to properly authorized personnel and to provide proper security to criminal history records obtained through the terminal device.

CHAPTER 6

ACCESS, REVIEW AND CHALLENGE

Procedures to allow an individual to review and challenge criminal history records pertaining to himself that have been collected, stored, processed or disseminated by the ACJIC will be implemented in conjunction with the implementation of the ACJIC CCH/OBTS system. Section 20.21(g) of the Federal Regulations is consistent with Sections 33, 34 and 35 of the ACJIC Act except in the area of administrative review (Section 20.21 (g)(3) of the Regulations). Alabama law makes no provision for an administrative level of review if an agency fails to correct a record to the satisfaction of the individual seeking the correction. The procedure for complying with this requirement is described below.

Procedures to allow the review and challenge of criminal histories will include the following:

1. Place of Review. An individual wishing to review his criminal history record that is maintained by the ACJIC will be able to request a review through any ACJIC terminal agency.
2. Verification of Identity. Identity of the individual seeking to review his record must be satisfactorily established through fingerprinting.
3. Manner of Review. Section 32 of the ACJIC Act permits individual review upon written application to the Commission. The ACJIC fingerprint card that will be used in the CCH/OBTS system will provide a space for

requesting a records review. Upon completion of this form at an ACJIC terminal agency, the fingerprint card/review application form will be forwarded to the DPS Identification Bureau to verify the identity of the individual.

Upon ID verification, the ACJIC will forward one copy of the individual's criminal history to the agency where the application for review was filed. The individual will review his record in the presence of an official of the local agency and enter any challenges he may have on standard forms to be provided by the ACJIC. He must indicate the precise nature of the challenge and submit any documentation he possesses that would support his challenge.

All documentation, including the record reviewed will be returned to the ACJIC for administrative purposes and forwarded to the agency originally having custody or control of the challenged record. The agency of record will review the challenge and initially determine what action should be taken. If the challenge is resolved to the individual's satisfaction, appropriate changes will be made to the original record and the record stored by the ACJIC. Agencies having received that record during the previous 90-day period will be notified.

If the record is not corrected to the individual's satisfaction, he may appeal to the ACJIC Commission. The Commission will hear the appeal at its next regular session and the appellant may present any evidence or witnesses he desires. The agency of record will be permitted to substantiate its decision to dismiss the initial challenge.

If the Commission rules to correct or otherwise modify the record, the agency of record will be formally notified. The record stored in the ACJIC will be corrected or modified in accordance with the Commission's decision and recipients of the record during the previous 90 days will be so notified.

If the individual is not satisfied with the Commission's ruling, he may appeal within 30 days to the circuit court of the county of his residence or the circuit court in the county where the agency of record exists (Section 33, ACJIC Act).

Should the record in question be found to be inaccurate, incomplete or misleading, the court shall order it to be appropriately purged, modified or supplemented by an explanatory notation. The ACJIC will promptly notify prior recipients of the record.

4. Times of Inspection; Fees. Section 35 of the ACJIC Act allows agencies at which records are sought to be inspected to prescribe reasonable hours and places of inspection and to impose fees (not to exceed five dollars) as are reasonably necessary. A standard fee will be collected and forwarded to the State General Fund for disposition.
5. Instructions to Criminal Justice Repositories. Other agencies in the State subject to the Regulations which are not a part of the Alabama Criminal Justice Information System have been advised of the requirement to provide individuals with the right to access and review their records.
6. Public Notice. ACJIC will give public notice of the procedures for inspection and challenge of criminal records maintained by the ACJIC by press releases to the public news media. In addition, notices will be sent to all criminal justice agencies participating in the system for posting on bulletin boards. Notices will include the time and places for review, fees, procedures for the verification of identity, rules regarding counsel, and the submission of explanatory material. Public notification will be completed prior to the implementation of the ACJIC CCH/OBTS system.

APPENDIX A

ALABAMA ACT NO. 872 REGULAR SESSION, 1975

(ACJIC Enabling Legislation)

Each Probate Judge, Sheriff, and the Clerk and Register of the Circuit Court is required by law to preserve this slip or pamphlet in a book kept in his office until the Act is published in permanent form.

ALABAMA LAW
(Regular Session, 1975)

Act No. 872

S. 711—St. John, Foshee

AN ACT

Providing for the establishment of an Alabama Criminal Justice Information Center Commission in order to establish a statewide criminal justice information system; providing for the reporting of arrests and the disposition of persons charged by the state, county and municipal criminal justice agencies; providing for intra and inter-state, as well as national and international cooperation with other criminal justice agencies; and providing penalties for violations of provisions of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. The following words, when used in this Act, shall have the meanings ascribed to them below, unless the context clearly indicates a different meaning:

“Criminal justice agencies” shall be understood to include those public agencies at all levels of government which perform as their principal function activities or planning for such activities relating to the identification, apprehension, prosecution, adjudication, or rehabilitation of civil, traffic and criminal offenders.

“Offense” means any act which is a felony or is a misdemeanor as described in Section 11 herein.

“Criminal Justice Information System” and “system” shall be construed to include that portion of those public agencies, procedures, mechanisms, media and Criminal Justice Information Center forms as well as the information itself involved in the origination, transmittal, storage, retrieval, analysis and dissemination of information related to reported offenses, offenders, and actions related to such events or persons, required to be reported to, received by, as well as stored, analyzed and disseminated by the Alabama Criminal Justice Information Center Commission through the Center.

“Commission” means the Alabama Criminal Justice Information Center Commission.

“ACJICC” means the Alabama Criminal Justice Information Center Commission.

"ACJIC" means the Alabama Criminal Justice Information Center.

"Center" means the Alabama Criminal Justice Information Center.

"Director" means Director of the Alabama Criminal Justice Information Center.

Section 2. There is hereby created and established an Alabama Criminal Justice Information Center Commission, hereinafter referred to as Commission, which Commission shall establish, develop, and continue to operate a center and system for the inter and intra state accumulation, storage, retrieval, analysis and dissemination of vital information relating to certain crimes, criminals and criminal activity to be known as the Alabama Criminal Justice Information Center. Central responsibility for the development, maintenance, operation and administration of the Alabama Criminal Justice Information Center shall be vested with the Director of the ACJIC under the supervision of the Alabama Criminal Justice Information Center Commission.

Section 3. The Alabama Criminal Justice Information Center Commission shall be composed of two sections. The voting section will include: the Attorney General, the chairman of the Pardon and Parole Board, the Commissioner of the Board of Corrections, the President of the Alabama Sheriffs' Association, the Director of the Department of Public Safety, the President of the Alabama Association of Chiefs of Police, the Director of the Alabama Law Enforcement Planning Agency, the President of the District Attorney's Association, the President of the Circuit Clerks' Association, the Chief Justice of the Alabama Supreme Court, the President of the Alabama Association of Intermediate Court Judges, the President of the Circuit Judges' Association, the Governor's Coordinator of Alabama Highway and Traffic Safety, and the Director of the Data Systems Management Division of the Alabama Department of Finance.

The advisory section will include: the Presiding Officer of the Alabama Senate, the Speaker of the Alabama House of Representatives, the President of the Association of County Commissions of Alabama, the President of the Alabama League of Municipalities, the Administrative Director of the Courts, and a citizen of the State of Alabama, to be appointed by the Governor.

The member shall have authority to select a designee based upon qualifications and with a view of continuity of represen-

tation and attendance at the Commission meetings. No person or individual shall continue to serve on the Alabama Criminal Justice Information Center Commission when he no longer officially represents the function or serves in the capacity enumerated herein as a member to which he was elected or appointed.

Section 4. The Commission shall, upon its first meeting, which shall be called by the Governor within ninety (90) days after this Act becomes effective, elect from its membership a chairman and a vice-chairman who shall serve for a period of one (1) year. The vice-chairman shall act in the place of the chairman in his absence or disability. The Commission shall meet at such times as designated by the Commission or by the chairman at the state capital or at other places as is deemed necessary or convenient, but the chairman of the Commission must call a meeting four (4) times a year at the state capital or main location of the ACJIC in the months of January, April, July and October. The chairman of the Commission may also call a special meeting of the Commission at any time he deems it advisable or necessary. A quorum shall be a simple majority of the voting Commission membership or their designees and all matters coming before the Commission shall be voted on by the Commission. The Commission will keep or cause to be kept a record of all transactions discussed or voted on by the Commission.

Members of the Commission and their designees shall serve without compensation, except payment of their expenses may be paid in accordance with the applicable state travel regulations.

Section 5. The Commission shall establish its own rules regulations and policies for the performance of the responsibilities charged to it herein.

The Commission shall ensure that the information obtained under authority of this Act shall be restricted to the items germane to the implementation of this Act and shall ensure that the Alabama Criminal Justice Information Center Commission is administered so as not to accumulate any information or distribute any information that is not required by this Act.

The Commission shall ensure that adequate safeguards are incorporated so that data available through this system is used only by properly authorized persons and agencies.

The Commission shall appoint a Privacy and Security Committee from the membership of the Commission who are

elected officials consisting of a chairman and three members to study the privacy and security implications of criminal justice information and to formulate policy recommendations for consideration by the Commission concerning the collection, storage, dissemination or usage of criminal justice information.

The Commission may establish other policies and promulgate such regulations that provide for the efficient and effective use and operation of the Alabama Criminal Justice Information Center under the limitations imposed by the terms of this Act.

Section 6. The Commission shall appoint a Director and a Deputy Director for the Alabama Criminal Justice Information Center who shall be responsible for (a) the development, maintenance, and operation of the ACJIC as required by the terms of this Act, and (b) the implementation and operation of policies, programs, and procedures established by the Commission under the limitations of this Act.

The qualifications of the Director and Deputy Director shall be determined by the State Personnel Department. However, the ACJIC shall not disseminate any information concerning any person to any criminal justice agencies outside of the State of Alabama unless said information pertains to a conviction of the person.

Section 7. The Director shall maintain the necessary staff along with support services necessary to enable the effective and efficient performance of the duties and responsibilities ascribed to the ACJIC herein under the supervision of the Commission.

Section 8. The staff and personnel employed by the Commission for the development and operation of the Center and system shall be governed by the personnel merit system rules and regulations of the State Personnel Department. Employees of agencies or institutions which are transferred to the Center or Commission under the provisions of this Act shall remain in their respective employments, and shall be considered to meet the requirements of the department in terms of training and experience; but nothing herein shall be construed to prevent or preclude the removal of an employee for cause in the manner provided by law. Such employees shall continue to enjoy employment conditions, including but not limited to salary range and advancement at a level no less than those enjoyed prior to transfer to the Center or Commission. All time accumulated while engaged in such prior employment shall be credited toward all privileges enjoyed under state merit employment.

Section 9. The Alabama Criminal Justice Information Center Commission shall provide for a uniform crime reporting system for the periodic collection and analysis of crimes reported to any and all criminal justice agencies within the state. The collection of said data and time for submission of data will be subject to Alabama Criminal Justice Information Center Commission regulation making authority.

Section 10. The Alabama Criminal Justice Information Center Commission acting through the Director of the Alabama Criminal Justice Information Center shall:

(1) Develop, operate and maintain an information system which will support the collection, storage, retrieval, analysis and dissemination of all crime and offender data described in this Act consistent with those principles of scope, security and responsiveness prescribed by this Act.

(2) Cooperate with all criminal justice agencies within the State in providing those forms, procedures, standards and related training assistance necessary for the uniform operation of the statewide ACJIC crime reporting and criminal justice information system.

(3) Offer assistance and, when practicable, instruction to all criminal justice agencies in establishing efficient systems for information management.

(4) Compile statistics on the nature and extent of crime in Alabama and compile data for planning and operating criminal justice agencies, provided that such statistics do not identify persons. The Commission will make available all such statistical information obtained, to the Governor, the Legislature, the Judiciary, and any such other governmental agencies whose primary responsibilities include the planning, development, or execution of crime reduction programs. Access to such information by such governmental agencies will be on an individual written request basis or in accordance with the approved operational procedure wherein must be demonstrated 1) a need to know, 2) the intent of any analyses, 3) dissemination of such analyses; and will be subject to any security provisions deemed necessary by the Commission.

(5) Periodically publish statistics, no less frequently than annually, that do not identify persons, and report such information to the chief executive officers of the agencies and branches of government concerned. Such information shall accurately reflect the level and nature of crime in this State and the general operation of the agencies within the criminal justice system.

(6) Make available, upon request, to all criminal justice agencies in this State, to all federal criminal justice and criminal identification agencies and to State criminal justice and criminal identification agencies in other states any information in the files of the ACJIC which will aid these agencies in crime fighting. For this purpose the ACJIC shall operate 24-hours per day, 7 days per week.

(7) Cooperate with other agencies of this State, the crime information agencies of other states, and the Uniform Crime Reports and National Crime Information Center systems of the Federal Bureau of Investigation or any entity designated by federal government as the central clearing house for criminal justice information systems in developing and conducting an interstate, national and international system of criminal identification, records and statistics.

(8) Provide the administrative mechanisms and procedures necessary to respond to those individuals who file requests to view their own records as provided for elsewhere in this Act and to cooperate in the correction of the central ACJIC records and those of contributing agencies when their accuracy has been successfully challenged either through the related contributing agencies or by court order issued on behalf of the individual.

(9) Institute the necessary measures in the design, implementation, and continued operation of the criminal justice information system to ensure the privacy and security of the system. Such security measures must meet standards to be set by the Commission as well as those set by the nationally operated systems for interstate sharing of such information.

Section 11. The Alabama Criminal Justice Information Center Commission is authorized to obtain, compare, file, analyze and disseminate, and all state, county and municipal criminal justice agencies are required to report fingerprints, descriptions, photographs, and any other pertinent identifying and historical criminal data on persons who have been or are hereafter arrested or convicted in this state or any state for an offense which is a felony or an offense which is a misdemeanor escalating to a felony involving, but not limited to: possession of burglary tools or unlawful entry; engaging in unlawful commercial gambling; dealing in gambling; dealing in gambling devices; contributing to the delinquency of a child; robbery, larceny or dealing in stolen property; possession of controlled substances and illegal drugs including marijuana; firearms; dangerous weapons; explosives; pandering; prostitu-

tion; rape; sex offenses where minors or adults are victims; misrepresentation; fraud; and, worthless checks.

Section 12. All criminal justice agencies within the State shall submit to the ACJIC by forwarding to the Alabama Department of Public Safety fingerprints, descriptions, photographs (when specifically requested), and other identifying data on persons who have been lawfully arrested in this State for all felonies and certain misdemeanors described in Section 11 herein. It shall be the duty of all chiefs of police, sheriffs, prosecuting attorneys, parole and probation officers, wardens, or other persons in charge of correctional or detention institutions in this State to furnish the ACJIC with any other data deemed necessary by the Commission to carry out its responsibilities under this Act.

Section 13. Pertinent identifying data and historical criminal information may be obtained and disseminated on any person confined to any workhouse, jail, reformatory, prison, penitentiary of other penal institution having been convicted of an offense described in Section 11.

Section 14. Pertinent identifying data and historical criminal information may be obtained and disseminated on any unidentified human corpse found in this state.

Section 15. The Alabama Criminal Justice Information Center Commission is authorized to compare all fingerprint and other identifying data received with information already on file and ascertain whether or not a criminal record is found for that person, and at once inform the requesting agency or arresting officer of such facts.

Section 16. Information in a criminal history, other than physical and identifying data, shall be limited to those offenses in which a conviction was obtained or to data relating to the current cycle of criminal justice administration if the subject has not yet completed that cycle.

Section 17. A log shall be maintained of all disseminations made of each criminal history including the date of information request and the recipient of said information.

Section 18. The Alabama Criminal Justice Information Center Commission shall establish guidelines for appropriate measures to be taken in the instance of any violation of data reporting or dissemination, and shall initiate and pursue appropriate action for violations of rules, regulations, laws and constitutional provisions pertaining thereto.

Section 19. All persons in this State in charge of law enforcement and correction agencies shall obtain, or cause to be obtained the fingerprints according to the fingerprint system of identification established by the Commission, full face and profile photographs (if photo equipment is available), and other identifying data, of each person arrested for an offense of a type designated in Section 11, of all persons arrested or taken into custody as fugitives from justice, and of all unidentified human corpses in their jurisdictions; but photographs need not be taken if it is known that photographs of the type listed taken within the previous year, are on file. Fingerprints and other identifying data of persons arrested for offenses other than those designated in this Act may be taken at the discretion of the agency concerned. If any person arrested or taken into custody and subsequently released without charge, or cleared of the offense through criminal justice proceedings, such disposition shall be reported by all state, county and municipal criminal justice agencies to ACJIC within 30 days of such action, and all such information shall be eliminated and removed.

Section 20. Fingerprints and other identifying data required to be taken by this Act shall be forwarded within 24 hours after taking for filing and classification, but the period of 24 hours may be extended to cover any intervening holiday or weekend. Photographs taken shall be forwarded at the discretion of the agency concerned; but, if not forwarded, the fingerprint record shall be marked "Photo available" and the photographs shall be forwarded subsequently if the Commission so requests.

Section 21. All persons in this State in charge of criminal justice agencies shall submit to the ACJIC by forwarding to the Alabama Department of Public Safety detailed descriptions of arrest warrants and related identifying data immediately upon determination of the fact that the warrant cannot be served for the reasons stated. If the warrant is subsequently served or withdrawn, the criminal justice agency concerned must immediately notify the ACJIC of such service or withdrawal. Also, the agency concerned must annually, no later than January 31 of each year, and at other times if requested by the Commission confirm to the ACJIC all arrest warrants of this type which continue to be outstanding.

Section 22. All persons in charge of state penal and correctional institutions shall obtain fingerprints, according to the fingerprint system of identification established by the Commission, and full face and profile photographs of all persons

received on commitment to these institutions. The prints so taken shall be forwarded to the ACJIC by forwarding to the Alabama Department of Public Safety together with any other identifying data requested, within 10 days after the arrival at the institution of the person committed. At the time of release, the institution will again obtain fingerprints as before and forward them to ACJIC within 10 days along with any other related information requested by the Commission. Immediately upon release, the institution shall notify ACJIC of the release of such person.

Section 23. The Alabama Department of Public Safety shall forward within a reasonable period, not to exceed 72 hours, all data collected pursuant to Sections 12, 21, and 22 of this Act.

Section 24. All persons in charge of criminal justice agencies in this State shall furnish the ACJIC with any other identifying data required in accordance with guidelines established by the ACJIC. All criminal justice agencies in this State having criminal identification files shall cooperate in providing to ACJIC information in such files as will aid in establishing the nucleus of the State criminal identification file.

Section 25. All criminal justice agencies within the State shall submit to the ACJIC periodically at a time and in such a form as prescribed by the Commission information regarding only the cases within its jurisdiction. Said report shall be known as the "Alabama Uniform Crime Report" and shall include crimes reported and otherwise processed during the reporting period. Said report shall contain the number and nature of offenses committed, the disposition of such offenses and such other information as the Commission shall specify, relating to the method, frequency, cause and prevention of crime.

Section 26. All criminal justice agencies within the State shall report to the ACJIC in a time and manner prescribed by the Commission, all persons wanted by, and all vehicles and property stolen from their jurisdictions. The report shall be made as soon as is practical after the investigating department or agency either ascertains that a vehicle or identifiable property has been stolen or obtains a warrant for an individual's arrest or determines that there are reasonable grounds to believe that the individual has committed the crime. In no event shall this time exceed 12 hours after the reporting department or agency determines that it has grounds to believe that a vehicle or property was stolen or that the wanted person should be arrested. The Commission shall have authority to in-

stitute any and all procedures necessary to trace and complete the investigative cycles of stolen vehicles or wanted persons.

Section 27. If it is determined by the reporting agency that a person is no longer wanted due to his apprehension or any other factor, or when a vehicle or property reported stolen is recovered, the determining agency shall notify immediately the Alabama Criminal Justice Information Center. Furthermore, if the agency making such apprehension or recovery is other than the one which made the original wanted or stolen report, then it shall notify immediately the originating agency of the full particulars relating to such apprehension or recovery.

Section 28. The Administrator of the Department of Court Management or chief administrative officer of any other entity that is charged with the compilation of information and statistics pertaining to the disposition of criminal cases shall report such disposition to the ACJIC within a reasonable time after formal rendition of judgment as prescribed by the Commission.

Section 29. All probation and parole officers shall supply the ACJIC with the information on delinquent parolees required by this Act in a time and manner prescribed by the Commission.

Section 30. Any governmental agency which is not included within the description of those departments and agencies required to submit the uniform crime report, which desires to submit such a report, shall be furnished with the proper forms by the ACJIC. When a report is received by ACJIC from a governmental agency not required to make such a report, the information contained therein shall be included within the periodic compilation provided for in this Act.

Section 31. Nothing in this Act shall be construed to give authority to any person, agency or corporation or other legal entity to invade the privacy of any citizen as defined by the Constitution, the Legislature or the courts other than to the extent provided in this Act.

Disclosure of criminal histories or other information that may directly or otherwise lead to the identification of the individual to whom such information pertains, may not be made to any person, agency, corporation or other legal entity that has neither the "need to know" nor the "right to know" as determined by the commission pursuant to Section 5 of this Act.

Section 32. The Center shall make a person's criminal

records available for inspection to him or his attorney upon written application to the Commission. Forms, procedures, identification and other related aspects pertinent to such access may be prescribed by the Commission in providing access to such records and information.

Section 33. If an individual believes such information to be inaccurate or incomplete he may request the original agency having custody or control of the detail records to purge, modify or supplement them and to so notify the ACJIC of such changes. Should the agency decline to so act, or should the individual believe the agency's decision to be otherwise unsatisfactory, the individual or his attorney may within 30 days of such decision enter an appeal to the circuit court of the county of his residence or to the circuit court in the county where such agency exists, with notice to the agency, pursuant to acquiring an order by such court that the subject information be expunged, modified, or supplemented by the agency of record. The court in each such case shall conduct a de novo hearing, and may order such relief as it finds to be required by law. Such appeals shall be entered in the same manner as appeals are entered from the court of probate, except that the appellant shall not be required to post bond nor pay the costs in advance. If the aggrieved person desires, the appeal may be heard by the judge at the first term or in chambers. A notice sent by registered mail shall be sufficient service on the agency of disputed record that such appeal has been entered. The party found to be in error shall assume all costs involved.

Section 34. Should the record in question be found to be inaccurate, incomplete, or misleading, the court shall order it to be appropriately purged, modified or supplemented by an explanatory notation. Each agency or individual in the State with custody, possession or control of any such record shall promptly cause each and every copy thereof in his custody, possession or control to be altered in accordance with court's order. Notification of each such deletion, amendment and supplementary notation shall be promptly disseminated to any individuals or agencies to which the records in question have been communicated including the ACJIC, as well as to the individual whose records have been ordered so altered.

Section 35. Agencies, including ACJIC, at which criminal offender records are sought to be inspected may prescribe reasonable hours and places of inspection, and may impose such additional procedures, fees (not to exceed five dollars), or restrictions, including fingerprinting, as are reasonably necessary both to assure the records' security, to verify the identities

of those who seek to inspect them, and to maintain an orderly and efficient mechanism for such accesses. All fees collected are to be forwarded to the State General Fund for disposition.

Any person who willfully requests, obtains or seeks to obtain criminal offender record information under false pretenses, or who willfully communicates or seeks to communicate criminal offender records information to any agency or person except in accordance with this Act, or any member, officer, employee or agent of the ACJICC, the ACJIC, or any participating agency who willfully falsifies criminal offender record information, or any records relating thereto, shall for each offense be fined not less than five thousand dollars nor more than ten thousand dollars, or imprisoned in the state penitentiary not more than five years, or both.

Section 36. Any person who knowingly communicates or seeks to communicate criminal offender record information, except in accordance with this Act, shall upon conviction be guilty of a misdemeanor and for each such offense may be fined not less than five hundred dollars, nor more than ten thousand dollars, or imprisoned not less than thirty days, nor more than one year, or both.

Section 37. Any officer or official mentioned in this Act who neglects or refuses to make any report to do any act required in this Act, is subject to prosecution for a misdemeanor and, if found guilty, may be fined not less than one hundred dollars or more than ten thousand dollars and may be confined in a county jail for not more than one year. He shall also be subject to prosecution for nonfeasance and if found guilty, be subject to removal from office therefor.

Section 38. In the event of conflict, this Act shall to the extent of the conflict supersede all conflicting parts of existing statutes which regulate, control or otherwise relate, directly or by implication, to the collection, storage, and dissemination or usage of fingerprint identification, offender criminal history, uniform crime reporting, and criminal justice activity data records or any conflicting parts of existing statutes which relate directly or by implication, to any other provisions of this Act.

Section 39. The provisions of this Act shall not alter, amend, or supersede the statutes and rules of law governing the collection, storage, dissemination or usage of records concerning individual juvenile offenders in which they are individually identified by name or other means until such time as the Alabama Legislature provides legislation permitting the

collection, storage, dissemination or usage of records concerning individual juvenile offenders.

Section 40. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 41. All laws or parts of laws which conflict with this Act are hereby repealed. No part of this Act shall violate provisions of Data Systems Act No. 1299, S. 717, Regular Session of 1973, (Acts of 1973, Page 2214), or Judicial Article Act No. 1051, S.214, Regular Session of 1973, (Acts of 1973, Page 1676), or Youth Services Act No. 816, H.756, Regular Session of 1973, (Acts of 1973, Page 2161). Provision of information under this Act shall be limited by all Constitutional provisions, limitations and guarantees including but not limited to, due process, the right of privacy and the tripartite form of Alabama's State government.

Section 42. The process for appeals by an individual or governmental body of any rules and regulations promulgated by the Commission shall first be to the Commission proper. The appellant may present his argument at a regular meeting of the Commission requesting the alteration or suggesting the non-applicability of a particular rule and/or regulation. If the appellant is not satisfied by the action of the Commission, then an appeal may be made to the Circuit Court in Montgomery County.

Section 43. Annually, the Commission shall present to the Governor a request for funds based on projected needs for criminal justice information systems in the State, together with a budget showing proposed expenditures; and the Governor may include in his appropriation bill a request for funds to meet the financial needs of the Commission.

Section 44. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved October 7, 1975.

Time: 3:45 P.M.

I hereby certify that the foregoing copy of an Act of the Legislature of Alabama has been compared with the enrolled Act and it is a true and correct copy thereof.

Given under my hand this 21st day of October, 1975.

McDOWELL LEE
Secretary of Senate

APPENDIX B

ALABAMA ACT NO. 1299, REGULAR SESSION, 1973

(DSMD Enabling Legislation)

Each Probate Judge, Sheriff, and the Clerk and Register of the Circuit Court is required by law to preserve this slip or pamphlet in a book kept in his office until the Act is published in permanent form.

ALABAMA LAW

(Regular Session, 1973)

Act No. 1299

S. 717- -Pelham, Lybrand, Harris

AN ACT

To create a Data Systems Management Division within the Finance Department, to provide its powers, duties, and authority, to authorize the employment of a Director of such division and additional employees and to provide for their compensation, to create an Advisory Committee and its composition, and to make appropriation.

Be It Enacted by the Legislature of Alabama:

Section 1. There shall be in the Finance Department a Division of Data Systems Management, which shall be headed by and under the direction, supervision, and control of an officer who shall be designated as Director of such division, to be appointed by the Director of Finance with the approval of the Governor. The compensation of such officer shall be fixed at an amount commensurate with the duties and responsibilities of such officer.

Section 2. The functions, powers, and duties of the Division of Data Systems Management shall be as follows:

(1) To plan, control, and coordinate State data processing activities in such manner to insure the most economical use of State resources.

(2) To develop and maintain a master plan for the State's data processing activities.

(3) To establish and supervise the administration of such data processing centers deemed necessary to best serve the data processing needs of all agencies.

(4) To provide for the centralization, consolidation, and shared use of equipment and services deemed necessary to obtain maximum utilization and efficiency in data processing operations.

(5) To transfer to any data processing center the data processing activities of any agency.

(6) To provide systems design and programming services to all State agencies.

(7) To select and procure by purchase or by lease any and all data processing systems and associated software deemed necessary to best serve the data processing needs of the State.

(8) To conduct data processing studies as deemed necessary and to enter contracts with other agencies, organizations, corporations, or individuals to make such studies as are deemed to be necessary.

(9) To prepare contract specifications for equipment and services.

(10) To adopt such rules and regulations deemed necessary to carry out the duties and responsibilities imposed by this Act.

Section 3. The Director of Finance may employ, subject to the State Merit System Act, such additional employees as deemed necessary to enable the division to perform its duties and responsibilities set out in this Act and their compensation shall be fixed in accordance with the State Merit System pay plan.

Section 4. There is hereby created an Advisory Committee to meet on the call of the Director of the Data Systems Management Division and to advise him on such matters as he deems necessary. The Advisory Committee shall be composed of the head of each data processing unit in State service.

Section 5. There is hereby appropriated to carry out the provisions of this Act the sum of \$50,000 for each of the fiscal years ending September 30, 1974, and September 30, 1975, from any funds in the State Treasury not otherwise appropriated.

Section 6. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 8. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

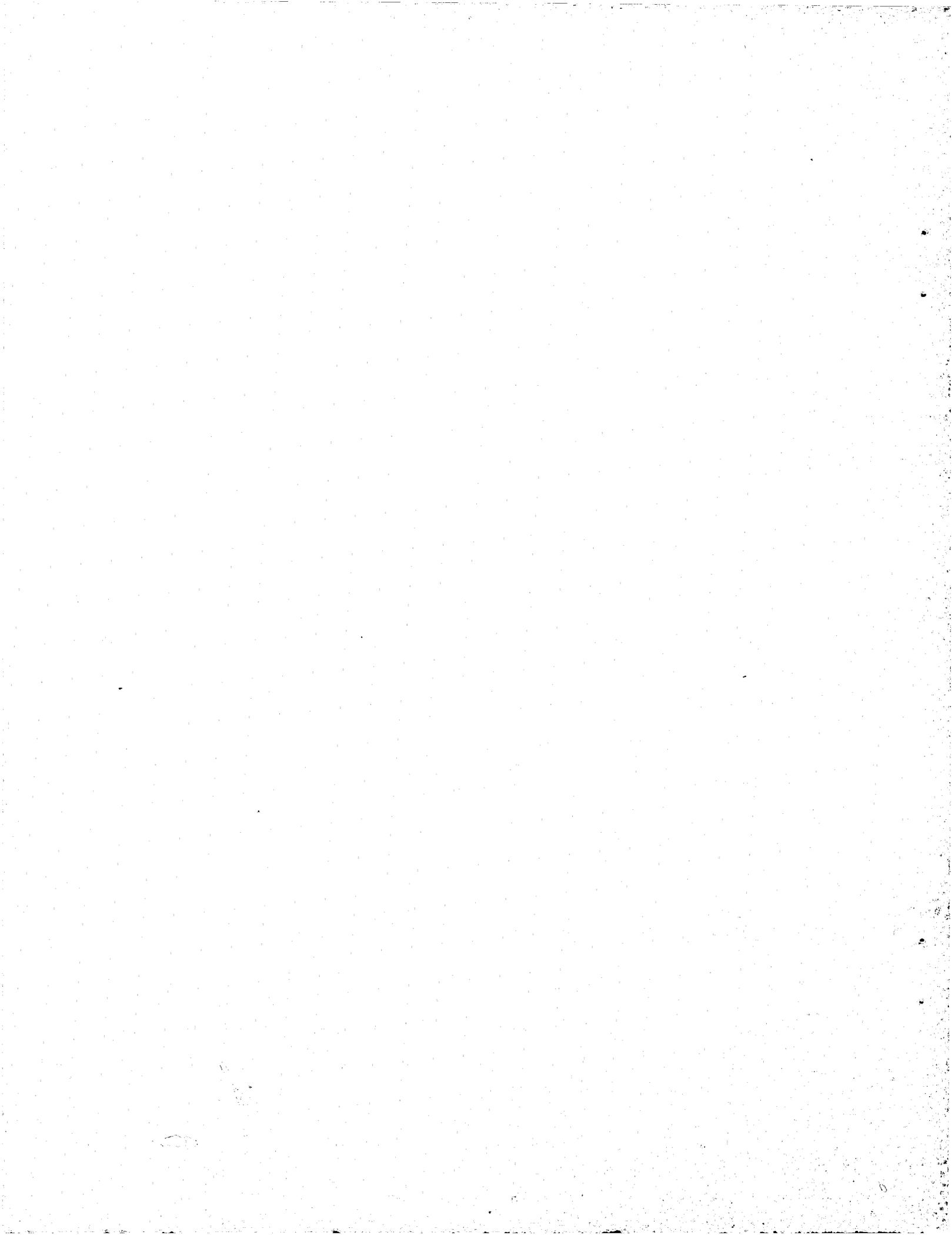
Approved September 19, 1973.

Time: 2:55 P.M.

I hereby certify that the foregoing copy of an Act of the Legislature of Alabama has been compared with the enrolled Act and it is a true and correct copy thereof.

Given under my hand this 24th day of October, 1973.

McDOWELL LEE
Secretary of Senate



APPENDIX C

ACJIC PRIVACY & SECURITY REGULATIONS

(Draft)

STATE OF ALABAMA

CRIMINAL JUSTICE INFORMATION CENTER

In accordance with the provisions of Alabama Act No. 872, Regular Session 1975, Section 5, the Alabama Criminal Justice Information Center Commission authorizes the promulgation of the following regulations to insure the security and confidentiality of the criminal history record information collected, stored, processed and disseminated by the Alabama Criminal Justice Information Center (ACJIC).

Numerical/Subject Index

ACJIC Privacy & Security Regulations

<u>Regulation No.</u>	<u>Title</u>
001	ADMINISTRATIVE PROCEDURES Purpose: This regulation sets forth the requirements and procedures for the issuance of new or revised regulations.
002	DEFINITIONS Purpose: This regulation defines terms used in ACJIC Privacy & Security Regulations.
003	CRIMINAL HISTORY DISSEMINATION LIMITATIONS Purpose: This regulation defines the dissemination policies for criminal records collected, stored and disseminated by the ACJIC.
004	PERSONNEL SECURITY Purpose: This regulation describes the procedure by which personnel security is achieved and maintained.

Regulation No.

Title

005

PHYSICAL SECURITY

Purpose: This regulation defines physical security in terms of protection from accidental loss or intentional damage to the system.

006

INDIVIDUAL ACCESS, REVIEW, AND CHALLENGE

Purpose: This regulation defines procedures for individual access, review, and challenge of criminal records under ACJIC control.

007

AUDIT AND QUALITY CONTROL

Purpose: This regulation defines audit responsibilities, audit trails and records required to facilitate regulation compliances audits.

ADMINISTRATIVE PROCEDURES

Purpose: This regulation sets forth the procedures for issuing new or revised privacy and security regulations and the procedure for appealing existing regulations.

1. Authority. ACJIC privacy and security regulations are issued by the ACJIC Commission through the authority of Section 5, Alabama Act No. 872, Regular Session 1975.

2. Procedure for Modification of Regulations.

- A. Recommended changes, additions, or deletions to ACJIC privacy and security regulations should be directed to the Chairman, Privacy and Security Committee, 858 South Court Street, Montgomery, Alabama 36130.
- B. Proposed changes, additions, or deletions will be presented to the Privacy and Security Committee for review. Committee recommendations will be forwarded to the ACJIC Commission for approval/disapproval.
- C. Disapproved recommendations will be returned to the originator with appropriate comments as to the reason(s) for disapproval.

3. Appeal Procedures. The process of appeals by an individual or governmental body of any rules and regulations promulgated by the Commission shall first be to the Commission proper. The appellant may present his

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argument at a regular meeting of the Commission requesting the alteration or suggesting the nonapplicability of a particular rule and/or regulation. If the appellant is not satisfied by the action of the Commission, then an appeal may be made to the circuit court of Montgomery County.

This regulation has been reviewed and approved by the ACJIC Commission and Privacy & Security Committee.

Attest:

DRAFT

R. W. Blaylock, Director
Alabama Criminal Justice Information Center

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ACJIC
858 South Court Street
Montgomery, Alabama 36130

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DEFINITIONS

Purpose: This regulation defines terms used in ACJIC privacy and security regulations.

1. The term "criminal justice agencies" means only those public agencies, or subunits thereof at all levels of government which perform as their principal function activities (1) relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of criminal offenders; or (2) relating to the collection, storage, and dissemination of criminal history record information.

2. The terms "criminal history record information," "criminal history information," or "criminal histories" mean information compiled by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges and any disposition arising therefrom, sentencing, correctional supervision and release. It shall be understood not to include intelligence, analytical and investigative reports and files, nor statistical records and reports in which individuals are not identified and from which their identities are not ascertainable.

3. The terms "Act" or "ACJIC Act" mean Alabama Act No. 872, Regular Session, 1975.

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4. The term "Commission" means Alabama Criminal Justice Information Center Commission.
5. The term "ACJIC" means Alabama Criminal Justice Information Center.
6. The term "CCH/OBTS system" means computerized criminal history/offender-based transaction statistics system. CCH records an offender's formal contacts with each segment of the criminal justice system. OBTS is an identification-based statistical system which describes the aggregate experiences of an offender in terms of type, relation and time-frame of the criminal justice process.
7. The term "direct access" means access or the right to access by an agency or individual to data maintained by the ACJIC without the intervention of another and independent agency or individual.
8. The term "administration of criminal justice" means the performance of any of the following activities: detection, apprehension, detention, pre-trial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. It also includes criminal identification activities and the collection, storage and dissemination of criminal history record information.

This regulation has been reviewed and approved by the ACJIC Commission and the Privacy & Security Committee.

Attest:

DRAFT

R. W. Blaylock, Director
Alabama Criminal Justice Information Center

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CRIMINAL HISTORY DISSEMINATION POLICIES & PROCEDURES

Purpose: This regulation defines dissemination policies and procedures for criminal history record information collected, stored, processed, or disseminated by the ACJIC.

1. Agencies authorized access to criminal history record information:

A. Criminal Justice Agencies

Criminal justice agencies, upon completion of a Privacy and Security Agreement as specified in paragraph 2 of this regulation, shall be authorized direct access to criminal history record information for the following purposes:

- (1) Functions related to the administration of criminal justice.
- (2) Criminal justice agency pre-employment screening.

Applications for such access shall be addressed to the Director, ACJIC.

Criminal history record information may be disseminated directly to Federal agencies and agencies of other states only if they are criminal justice agencies within the meaning of these regulations.

B. Noncriminal Justice Agencies

The following types of noncriminal justice agencies may be authorized indirect access to criminal history record information upon approval by the appropriate authority and completion of a Privacy and Security Agreement:

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- (1) Agencies authorized by State or Federal statute, executive order, local ordinance, or court order to have access to criminal history information shall be granted indirect access to such information. Dissemination will be through the ACJIC or designated criminal justice agencies. Application for access to criminal history information under this paragraph shall be addressed to the Director, ACJIC.
- (2) Agencies or individuals providing services necessary for the administration of criminal justice, pursuant to a specific agreement with a criminal justice agency, shall be authorized indirect access to criminal history record information in accordance with that agreement. The agreement shall specifically authorize access to criminal history information, limit the use of information to the purposes for which it was given, insure the security and confidentiality of the information consistent with these regulations, and provide sanctions for violations of these regulations.
- (3) Agencies or individuals may be authorized access to criminal history record information for the express purpose of research, evaluative or statistical activities pursuant to a specific agreement with the ACJIC and with the approval of the Privacy and Security Committee. Individuals or agencies seeking access under this paragraph shall submit to the ACJIC a completed research design

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that assures the security and confidentiality of the data. Dissemination will be through the ACJIC or designated criminal justice agencies.

- (4) Businesses or private persons may be allowed access to records of adjudication of guilt for the purpose of making employment and job assignment decisions about employees or prospective employees whose duties involve or may involve:
- (a) Working in or near private dwellings without immediate supervision;
 - (b) Custody or control over access to cash or valuable items;
 - (c) Knowledge of or access to secret processes, trade secrets or other confidential business information; and,
 - (d) Insuring the security or safety of other employees, customers, or property of the employer.

Records disseminated pursuant to this paragraph will be based upon positive identification by fingerprint comparison. Such information shall be available only to persons involved in the hiring or job assignment of the person whose record is made available and the use of the information shall be limited to the purposes for which it was given. Dissemination will be through the ACJIC only.

Application for records under this Section shall be in writing to the Director, ACJIC. Fees shall be charged for disseminating such records which will raise an amount of revenue which approximates, as nearly as practicable, the direct and indirect costs to the State of providing the information.

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(5) Agencies or individuals not otherwise authorized access to criminal history record information collected, stored, processed, or disseminated by the ACJIC, may be authorized indirect access to such information upon a demonstrated "need to know" and "right to know". Application for access under this paragraph shall be in writing to the Chairman, Privacy and Security Committee. Upon request by the applicant or upon the ACJIC's own motion, the Privacy and Security Committee shall conduct public hearings at which it may receive evidence and hear statements concerning the application for access to criminal history record information. Access to information under this paragraph will be through the ACJIC or designated criminal justice agencies.

2. Privacy and Security Agreements. Each agency or individual authorized access to criminal history record information, whether directly or through any intermediary, shall enter into a Privacy and Security Agreement with the ACJIC.

A. Criminal justice agencies shall agree to the following:

- (1) To receive, store, use, and disseminate criminal history record information in strict compliance with State and Federal statutes and regulations governing criminal history record information.
- (2) To make its records available to the ACJIC for the purpose of conducting periodic audits to determine compliance with statutes and regulations governing criminal history record information.

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- (3) To keep such records as the ACJIC may require to facilitate such audits.

B. Noncriminal justice agencies shall agree to the following:

- (1) To receive, store, and use criminal history record information in strict compliance with State and Federal statutes and regulations governing criminal history record information.
- (2) To restrict the use of criminal history record information to the purposes for which it was provided and disseminate it no further.
- (3) To keep such records as the ACJIC may require and to make those records available for audit to determine compliance with appropriate statutes and regulations.
- (4) To familiarize personnel working with or having access to criminal history record information with the appropriate statutes and regulations governing such information.

3. General Policies on the Use and Dissemination of Criminal History Record Information.

- A. Criminal history record information concerning individual juvenile offenders in which they are individually identified by name or other means will be used and disseminated in accordance with Alabama statutes and rules of law concerning such information.
- B. No agency or individual having access to criminal history record information maintained by the ACJIC, whether directly or through any intermediary, shall confirm the existence or nonexistence of such information to any person or agency that would not be eligible to receive the information itself.

JUN 17 1976

This regulation has been reviewed and approved by the ACJIC Commission and Privacy and Security Committee.

Attest:

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R. W. Blaylock, Director
Alabama Criminal Justice Information Center

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PERSONNEL SECURITY

Purpose: This regulation establishes procedures by which personnel security is achieved and maintained. The procedures include employment screening, management control, in-service training, penalties, and system discipline.

1. Employment Screening. Applicants for employment and those presently employed by the Alabama Criminal Justice Information Center or Commission whose duties require access to criminal history record information or to areas where such information is stored, shall consent to an investigation of their character, previous employment, and other matters necessary to establish their suitability to work with sensitive information. Giving false information will disqualify an applicant from employment and subject a present employee to dismissal. The investigation will be designed to develop sufficient information to enable ACJIC officials to determine employability and fitness of persons entering sensitive positions.

Employees of other State government departments and employees of nongovernmental agencies providing contractual services, whose duties require access to criminal history record information or areas where such information is stored, shall be subject to pre-employment screening.

Remote terminal operators and employees of local/regional criminal justice information systems exchanging criminal history record information with the ACJIC are also subject to personnel security screening. This responsibility rests with the appropriate criminal justice agency.

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ACJIC personnel records, including employment suitability investigations, are confidential and will be made available only to ACJIC officials who require access to such information in the performance of their official duties.

2. Management Control.

- A. Personnel employed by the Data Systems Management Division (DSMD) Alabama Department of Finance, who are designated to provide technical services to the ACJIC for the operation of the criminal justice information system, shall be subject to the management control of the ACJIC Director in the areas specified in this regulation.

The ACJIC Director shall execute a privacy and security agreement with the DSMD which shall include the following conditions:

- (1) DSMD personnel whose assigned duties involve the collection, storage, processing, or dissemination of criminal history record information shall be under the supervision of the ACJIC Director, or his designee, while performing those duties. The ACJIC Director shall have the authority to select and/or approve all DSMD employees so assigned.
- (2) DSMD personnel whose duties require access to criminal history record information or to areas where such information is stored shall be subject to all personnel and physical security procedures established by the ACJIC Director.

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(3) DSMD personnel working with or having access to criminal history record information shall be subject to legal and administrative sanctions provided for the abuse, unauthorized access, disclosure, or dissemination of criminal history record information.

B. Nongovernmental agencies providing contractual services to the ACJIC, and whose employees will require access to criminal history record information or to areas where such information is stored, shall enter into a privacy and security agreement with the ACJIC. The agreement shall include provisions similar to those in paragraph A (1), (2), and (3) above.

3. In-Service Training. All persons working with or having access to criminal history record information collected, stored, processed, or disseminated by the ACJIC shall be made aware of all statutes and regulations pertaining to the privacy and security of such information. This training requirement shall apply to remote terminal operators and system personnel of local/regional criminal justice information systems interfaced with the ACJIC as well as ACJIC employees.

The ACJIC Director shall determine the method and frequency of required privacy and security training.

4. Penalties for Violation of System Security Standards. Persons employed by the ACJIC or Commission or who are otherwise under the management control of the ACJIC Director, who are found to be in violation of ACJIC privacy and security regulations or statutes

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and regulations governing the privacy and security of criminal history record information, may be subject to the following administrative penalties:

- A. A formal reprimand which will be made a part of the employee's permanent personnel record.
- B. Suspension without pay for a period not to exceed thirty days.
- C. Termination of employment.

All administrative penalties enumerated herein shall be administered in strict compliance with the provisions of the Alabama Code, Title 55, Chapter 9, Personnel Department and Merit System.

5. System Discipline. Persons functioning as operators of remote terminals and the personnel of local or regional criminal justice information systems that are interfaced with the statewide criminal justice information system are subject to the system security standards established by the ACJIC Commission and promulgated through ACJIC privacy and security regulations.

Any violation of the provisions of these regulations by any employee or officer of any public agency, in addition to any applicable criminal or civil penalties, should be punished by suspension, discharge, reduction in grade, or any other administrative penalties as are deemed appropriate by the agency; provided, however, that such penalties shall be imposed only if they are permissible under any applicable statutes governing the employment of the individual in question.

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This regulation has been reviewed and approved by the ACJIC Commission and Privacy and Security Committee.

Attest:

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R. W. Blaylock, Director
Alabama Criminal Justice Information Center

PHYSICAL SECURITY

Purpose: This regulation defines physical security standards for the Alabama Criminal Justice Information Center and assigns responsibilities for monitoring system security.

1. Responsibility for System Security. The Director of the Alabama Criminal Justice Information Center shall insure that all personnel and units of government participating in the Alabama Criminal Justice Information System comply with the security standards adopted by the ACJIC Commission.

2. Physical Security Standards.

A. The Alabama Criminal Justice Information Center.

The ACJIC Director shall develop and enforce procedures to reasonably protect the ACJIC from unauthorized access, theft, sabotage, natural or manmade disaster. Such procedures shall address the following areas:

- (1) Fire detection and suppression systems.
- (2) Access control to the ACJIC facility; particular attention must be given to areas where criminal history record information is processed and stored.
- (3) Visitor identification and control procedures.
- (4) Structural design of the ACJIC facility to reduce the possibility of physical damage to the system and information.

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- (5) Supporting utilities.
- (6) Document control procedures to insure the proper handling of criminal history records.

B. Local/Regional Criminal Justice Information Systems.

Agencies operating criminal justice information systems which interface with the ACJIC shall develop and implement security procedures in the following areas:

- (1) Computer centers should be protected from unauthorized access, theft, sabotage, fire, flood, wind, or other natural or manmade disasters.
- (2) System personnel who have direct access to ACJIC criminal history record information must be screened in accordance with the requirements established in ACJIC Privacy & Security Regulation No. 004, Personnel Security.
- (3) Visitors to computer centers having direct access to ACJIC criminal history record information must be accompanied by staff personnel at all times.

C. ACJIC Remote Terminal Devices.

Agencies having direct terminal access to the ACJIC shall institute procedures to reasonably protect the terminal device and any criminal history record information obtained through the terminal. Such procedures must include the following minimum measures:

- (1) Terminal devices must be placed in physically secure locations within the authorized agency. To be secure, the agency operating the terminal must be able to control physical access to the device on a twenty-four hour per day, seven day per week basis.

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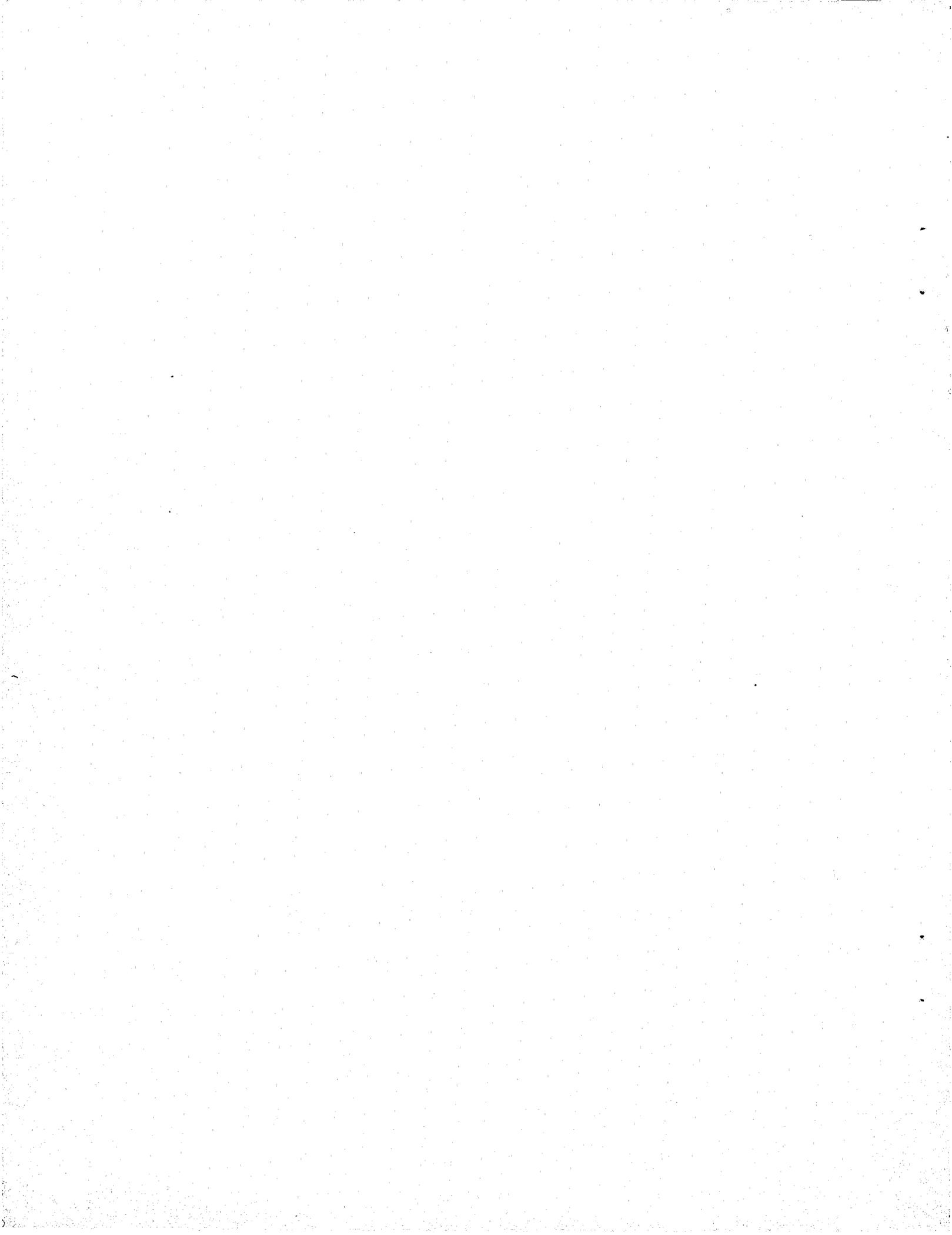
- (2) Remote terminal operators must be screened in accordance with the requirements established by ACJIC Privacy & Security Regulation No. 004.
- (3) Printed copies of criminal history record information obtained through ACJIC remote terminals must be afforded security, to prevent unauthorized access to or use of that information.

This regulation has been reviewed and approved by the ACJIC Commission and Privacy and Security Committee.

Attest

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R. W. Blaylock, Director
Alabama Criminal Justice Information Center



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ACJIC
858 South Court Street
Montgomery, Alabama 36130

JUN 17 1976

INDIVIDUAL ACCESS, REVIEW, AND CHALLENGE

Purpose: This regulation defines procedures for individual access, review, and challenge of criminal history record information under the control of the ACJIC.

Each individual shall have the right to review criminal history record information relating to himself that has been collected, stored, and disseminated by the ACJIC. Each criminal justice agency having direct terminal access to the ACJIC shall make available the facilities and personnel necessary to permit such reviews. Reviews shall be conducted in accordance with the following procedures:

1. Information Subject to Review. The individual's right to review and challenge information extends only to criminal history record information as defined by these Regulations. It does not include intelligence or investigative information or other related files.
2. Grounds for Challenge. Criminal history record information may be challenged when the individual to whom it relates believes it is inaccurate, incomplete, or misleading.
3. Application for Review. An individual wishing to review his criminal history record that is maintained by the ACJIC may apply through any criminal justice agency having direct access to ACJIC. Written application

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shall consist of the completion of the Access and Review portion of an ACJIC fingerprint card and the required fingerprinting to verify the identity of the individual seeking review. The fingerprint card/review application form shall be forwarded to the Department of Public Safety Identification Bureau to verify the identity of the individual.

4. Manner of Review. Upon ID verification, the ACJIC will forward one copy of the individual's criminal record to the agency where the application for review was filed. Upon presentation of a sworn authorization from the individual involved, together with proof of identity, an individual's attorney may be permitted to examine the individual's criminal record.

The individual shall review his record in the presence of an official of the local criminal justice agency and enter any challenges he may have on standard forms to be provided by the ACJIC. He should indicate the precise nature of the challenge and submit any documentation he possesses to support the challenge.

All documentation, including the criminal record reviewed, shall be returned to the ACJIC for processing. If a challenge to a portion of the criminal record is lodged, the challenged record will be forwarded by the ACJIC to the agency originally having custody or control of the challenged record.

The agency of record shall review the challenged record and return it with the agency's response to the ACJIC. If the challenge is resolved to the individual's satisfaction, appropriate changes will be made in the ACJIC record and disseminated to agencies having received that record in the previous 90-day period.

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If the record is not corrected or modified to the individual's satisfaction, he may appeal to the ACJIC Commission. The appeal will be heard at the Commission's next regular session. The appellant may be represented by an attorney and present any witnesses or evidence he desires. The agency of record shall be permitted to substantiate its decision to dismiss the initial challenge.

If the Commission rules to correct or otherwise modify the record, the agency of record will be formally notified and the record stored by the ACJIC shall be appropriately changed. Recipients of the record during the previous 90 days shall be notified by the ACJIC.

5. Judicial Review. Should the individual be dissatisfied with the Commission's ruling, he may appeal within 30 days to the circuit court of the county of his residence or the circuit court in the county of the agency of record.

6. Copy of Criminal Record. The reviewing individual may make a written summary or notes in his own handwriting of that portion of the criminal record he challenges. Criminal justice agencies are not required to provide equipment for copying.

7. Fees. A fee of five dollars shall be charged to an individual seeking review of his criminal record to defray administrative costs and shall be collected at the time of application to review. Fees so collected shall be forwarded to the ACJIC for distribution to the State General Fund.

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JUN 17 1976

This regulation has been reviewed and approved by the ACJIC Commission and the Privacy & Security Committee.

Attest:

R. W. Blaylock, Director
Alabama Criminal Justice Information Center

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ACJIC
858 South Court Street
Montgomery, Alabama 36130

JUN 17 1976

AUDIT AND QUALITY CONTROL PROCEDURES

Purpose: This regulation defines audit responsibilities, audit trails, and records required to facilitate Regulation compliance audits.

NOTE: This regulation will be developed in conjunction with the ACJIC CCH/OBTS system to include all audit trails and procedures included in the system design. ACJIC and the Department of Court Management will jointly develop audit procedures for agencies in the Judicial segment.

APPENDIX D

ACJIC PRIVACY & SECURITY AGREEMENTS

**Agreements for ACJIC local terminal agencies.

PRIVACY AND SECURITY AGREEMENT

between

The Alabama Criminal Justice Information Center

and

Pursuant to Act No. 872, Alabama Legislature, Regular Session, 1975, the Alabama Criminal Justice Information Center (hereinafter ACJIC) and _____ (hereinafter the "User Agency") hereby agree to exchange data pertaining to the administration of criminal justice, including such criminal history record information as may be contained in the files of the User Agency, ACJIC, or the National Crime Information Center (hereinafter NCIC), on the following terms and conditions:

1. Duties of ACJIC:

Upon receipt of inquiries from the User Agency for criminal justice information, including criminal history record information, ACJIC will search its files and return, in as expeditious manner as possible consistent with delivery systems available to it, such criminal justice information as may be contained in its files.

2. Duties of the User Agency:

The User Agency agrees to collect, receive, store, use and disseminate all information covered by the terms of this agreement in strict compliance with State and Federal laws and regulations and NCIC regulations governing such collection, storage, use or dissemination. The User Agency will familiarize its personnel with and fully adhere to Alabama Act 872, Regular Session 1975, and regulations issued pursuant thereto. Regulations referred to above are attached hereto and incorporated herein by reference.

3. Audits:

The User Agency hereby agrees to make its records available to ACJIC for the purpose of conducting periodic audits of the User's compliance with all laws and regulations regarding the collection, storage, use or dissemination of information furnished to the User Agency under the terms of this agreement. The User Agency agrees to keep such records as ACJIC may from time to time direct to facilitate such audits.

4. Executory Clause:

It is understood by and between the parties hereto that ACJIC is obligated to provide the services described in paragraph 1 above to the User Agency only to the extent that public funds are made available to ACJIC for that purpose. ACJIC shall incur no liability on account of the undertakings described in paragraph 1 above beyond the money made available to it for such purposes.

5. Suspension of Service, Sanctions, Cancellation:

ACJIC may immediately suspend furnishing all or part of the information covered by the terms of this agreement to the User Agency for violation of any Federal law or regulation or any Alabama State law or administrative regulations governing the collection, storage, processing or dissemination of criminal justice information. The User hereby agrees that knowing violations of Alabama Act No. 872, Regular Session 1975, and regulations issued pursuant thereto by the User or its employees will subject the User or employee to the penalties provided in Sections 35, 36, and 37 of that Act. ACJIC shall resume furnishing any information authorized hereunder when it is satisfied that all violations have been eliminated. Either ACJIC or the User Agency may, on 30 days written notice, terminate this agreement for any reason.

6. Indemnification of ACJIC:

The User Agency agrees to indemnify and save harmless ACJIC, its officers and employees, from and against any and all claims, demands, actions, suits and proceedings brought by others arising out of the terms of this agreement or founded upon the negligence or other wrongful conduct of the User Agency including but not limited to, any liability for loss or damages by reason of any claim of false imprisonment or false arrest.

7. Effective Date:

This agreement shall become effective when signed by the Director of ACJIC or his designee and the official having legal authority to bind the User Agency.

Alabama Criminal Justice Information Center

by: _____

date: _____

User Agency

by: _____

date: _____

**Agreement for State-level agencies for which ACJIC provides management information system (MIS) services.

PRIVACY & SECURITY AGREEMENT

between

the Alabama Criminal Justice Information Center

and

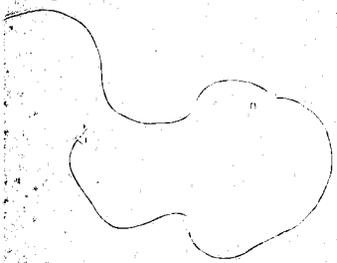
Pursuant to Act No. 872, Alabama Legislature, Regular Session 1975, the Alabama Criminal Justice Information Center (hereinafter ACJIC) and _____ (hereinafter User Agency) hereby agree to exchange data pertaining to the administration of criminal justice, including criminal history record information, contained in the files of the User Agency, ACJIC, or the National Crime Information Center, on the following terms and conditions:

1. Responsibilities of User Agency:

The User Agency agrees to receive, store, use and exchange criminal history record information, or other criminal justice information identifiable to private individual, in strict compliance with all present and future Federal and State laws and regulations governing the collection, storage, processing or dissemination of criminal justice information. In particular the User Agency will familiarize its personnel with and fully adhere to all rules and regulations issued pursuant to Alabama Act No. 872, Regular Session 1975. Federal and ACJIC regulations referred to above are attached hereto and incorporated herein by reference.

2. Research and Statistical Studies:

Research and/or statistical studies utilizing information subject to this agreement which are performed for the User Agency by persons who are not regular employees of the User Agency, must receive prior approval of the ACJIC Director or his designee. Persons employed by the User Agency to conduct research or statistical studies utilizing information subject to this agreement must execute a written agreement with ACJIC acknowledging responsibility in complying with all applicable statutes and regulations concerning the privacy and security of criminal justice information.



CONTINUED

1 OF 2

3. Audits:

The User Agency hereby agrees to make its records available to ACJIC for the purpose of conducting periodic audits of the User's compliance with all laws and regulations applicable to the information furnished to the User Agency subject to this agreement. The User Agency agrees to keep such records as ACJIC may from time to time direct to facilitate such audits.

4. Suspension of Service, Sanctions:

ACJIC may immediately suspend furnishing all or part of the information subject to this agreement to the User Agency for violation of any Federal law or regulation or any Alabama State law or administrative regulations governing the collection, storage, processing or dissemination of criminal justice information. The User hereby agrees that knowing violations of Alabama Act No. 872, Regular Session 1975, and regulations issued pursuant thereto, by the User or its employees will subject the User or employee to the penalties provided in Sections 35, 36, and 37 of that Act. ACJIC shall resume furnishing any information authorized hereunder when it is satisfied that all violations have been eliminated.

5. Indemnification of ACJIC:

The User Agency agrees to indemnify and save harmless ACJIC, its officers and employees, from and against any and all claims, demands, actions, suits and proceedings brought by others arising out of the terms of this agreement or founded upon the negligence or other wrongful conduct of the User Agency including but not limited to, any liability for loss or damages by reason of any claim of misuse of criminal justice information.

6. Effective Date:

This agreement shall become effective when signed by the Director of ACJIC or his designee and the official having legal authority to bind the User Agency.

Alabama Criminal Justice Information Center

by: _____

date: _____

User Agency

by: _____

date: _____

PRIVACY AND SECURITY AGREEMENT

between

the Alabama Criminal Justice Information Center

and

the Data Systems Management Division

The Alabama Criminal Justice Information Center (hereinafter ACJIC) and the Data Systems Management Division, Department of Finance (hereinafter DSMD) agree to the following terms and conditions in order to insure compliance with State and Federal statutes and regulations and National Crime Information Center regulations governing the collection, storage, processing and dissemination of criminal history record information:

1. The ACJIC Director shall have the authority to set and enforce policies concerning the computer operations involved in the collection, storage, processing or dissemination of criminal history record information.

2. DSMD personnel assigned duties involving the collection, storage, processing or dissemination of criminal history record information shall be under the supervision of the ACJIC Director or his designee while performing those duties. The ACJIC Director shall have the authority to select and/or approve all DSMD employees so assigned.

3. DSMD employees whose duties require they have access to criminal history record information or to areas where such information is stored will be subject to all personnel and physical security procedures the ACJIC Director may establish.

4. The ACJIC Director shall develop and enforce procedures to reasonably protect any repository of criminal history information from unauthorized access, theft, sabotage, natural or manmade disasters.

5. Employee education concerning the substance and intent of statutes and regulations governing the security and confidentiality of criminal history record information shall be the responsibility of the ACJIC Director.

6. DSMD employees subject to the provisions of this agreement shall be subject to the legal and administrative sanctions prescribed for the abuse, unauthorized access, disclosure or dissemination of criminal history record information.

Alabama Criminal Justice Information Center:

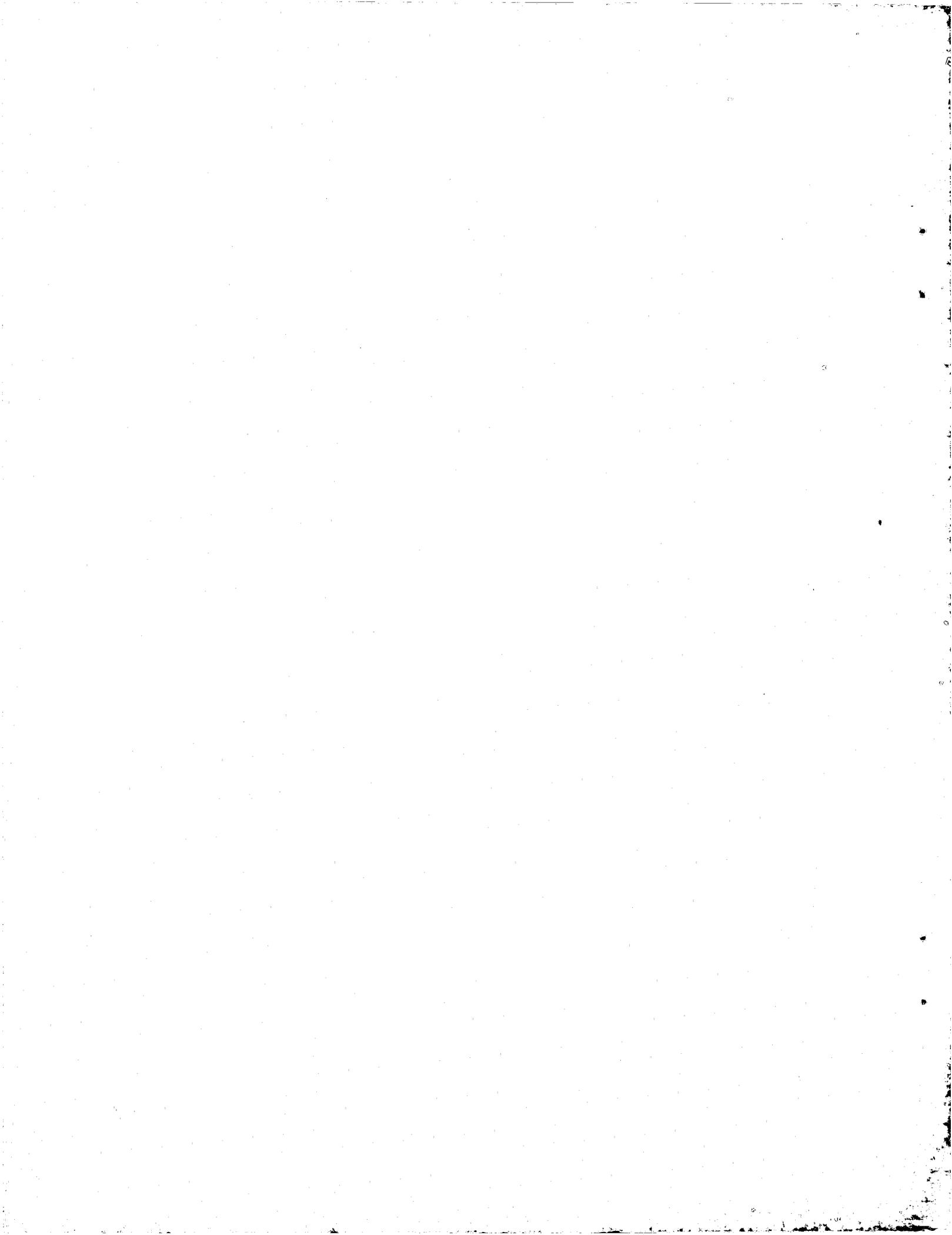
Director

Date

Data Systems Management Division:

Director

Date



APPENDIX E

ALABAMA LAW GOVERNING JUVENILE OFFENDER RECORDS

ALABAMA LAW GOVERNING JUVENILE OFFENDER RECORDS

Judicial Article Implementation Act, Act No. 1205, Regular Session, 1975

Article 5. JUVENILE PROCEEDINGS:

5-101. Definitions. - As used in this article:

- (a) "adult" means an individual 19 years of age or older;
- (b) "aftercare" means such conditions and supervision as the court orders after release of legal custody;
- (c) "child" prior to January 1, 1978, means an individual under the age of 17; or under 19 years of age who committed the act of delinquency with which he is charged before reaching the age of 17 years. After December 31, 1977, "child" means an individual under the age of 18; or under 19 years of age and who committed the act of delinquency with which he is charged before reaching the age of 18 years;
- (d) "child in need of supervision" means a child who:
 - (1) being subject to compulsory school attendance, is habitually truant from school; or
 - (2) disobeys the reasonable and lawful demands of his parents, guardian or other custodian and is beyond their control; or
 - (3) has committed an offense established by law but not classified as criminal or one applicable only to children; and
 - (4) in any of the foregoing is in need of care or rehabilitation;
- (e) "commit" means to transfer legal and physical custody;

5-142. Social and legal records; inspection. -

(a) Social, medical and psychiatric or psychological records, including reports of preliminary inquiries, predisposition studies, of delinquent, in need of supervision and dependent children, including supervision records of such children, shall be filed separate from other files and records of the court and shall be open to inspection only by the following:

- (1) the judge and probation officers and professional staff assigned to serve the court;
- (2) representatives of a public or private agency, or department providing supervision or having legal custody of the child;
- (3) any other person or agency by leave of the court, having a legitimate interest in the case or in the work of the court;
- (4) the probation and other professional staff assigned to serve a criminal court, including the prosecutor and the attorney for the defendant for use in considering the sentence to be imposed upon a convicted person, who, prior thereto, had been a party to the proceedings in court; and
- (5) the child's parent (except where parental rights have been terminated) or guardian and the child's counsel and the child's guardian ad litem.

(b) All or any part of the records enumerated in subsection (a), or information secured from such records,

when presented to and used by the judge in court or otherwise in a proceeding under this article, shall also be made available to the parties to the proceedings and their counsel and representatives.

(c) All other court records, including docket, petitions, motions and other papers filed with a case, transcripts of testimony, findings, verdicts, orders and decrees, shall be open to inspection only by those persons and agencies designated in subsections (a) and (b) of this section.

(d) Whoever, except for the purposes permitted and in the manner provided by this section, discloses or makes use of or knowingly permits the use of information concerning a child before the court directly or indirectly derived from the records of the court or acquired in the course of official duties, upon conviction thereof shall be guilty of a misdemeanor.

5-143. Law enforcement records. -

(a) The court shall, by rule, require all law enforcement agencies to take special precautions to insure that law enforcement records and files concerning a child will be maintained in such manner and under such safeguards as will protect against disclosure to any unauthorized person. Unless a charge of delinquency is transferred for criminal prosecution under section 5-129, or the court otherwise orders in the interest of the child or of national security, such records and files with respect to such child shall not be open to public inspection nor their contents disclosed to the public.

(b) Inspection of such records and files shall be permitted only to the following:

(1) a juvenile court having the child currently before it in any proceeding;

(2) the officers of the department of pensions and security, the department of youth services, public and nongovernmental institutions or agencies to which the child is currently committed, and those responsible for his supervision after release;

(3) any other person, agency, or institution, by order of the court, having a legitimate interest in the case or in the work of the law enforcement agency;

(4) law enforcement officers of other jurisdictions when necessary for the discharge of their current official duties;

(5) the probation and other professional staff of a court in which the child is subsequently convicted of a criminal offense for the purpose of a presentence report or other dispositional proceedings, or by officials of penal institutions and other penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him; and

(6) the parent, guardian or other custodian and counsel for the child.

(c) Whoever, except as provided in subsections (a) and (b) above, directly or indirectly discloses or makes use of or knowingly permits the use of information concerning a child described in said subsections, upon conviction thereof shall be guilty of a misdemeanor.

5-144. Children's fingerprints; photographs. -

(a) Fingerprints of a child 14 or more years of age who is referred to court for an alleged delinquent act may be taken and filed by law enforcement officers investigating the commission of a felony. If the court does not find that the child committed the alleged felony, the fingerprint card and all copies of the fingerprints shall be destroyed.

(b) If latent fingerprints are found during the investigation of an offense and a law enforcement officer has reason to believe that they are those of the child in custody, he may fingerprint the child regardless of age or offense for purpose of immediate comparison with the latent fingerprints. If the comparison is negative, the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and the child is under 14 years of age and referred to court, the fingerprint card and other copies of the fingerprints shall be delivered to the court for disposition. If the child is not referred to court, the print shall be immediately destroyed.

(c) If the court finds that a child 14 or more years of age has committed a felony, the prints may be retained in a local file and copies sent to a central state depository; provided, that the court shall, by rule, require special precautions to be taken to insure that such fingerprints will be maintained in such manner and under such safeguards as to limit their use to inspection for comparison purposes by law enforcement officers or by staff of the depository only in the investigation of a crime.

(d) A child in custody shall not be photographed for criminal identification purposes without the consent of the court unless the case is transferred for criminal prosecution.

(e) Any person who willfully violates provisions of this section shall, upon conviction thereof, be guilty of a misdemeanor.

5-145. Sealing and destruction of records. -

(a) On motion of the part of a person who has been the subject of a delinquency petition or on the court's own motion, the court shall vacate its order and findings and order the sealing of the legal and social files and records of the court, probation services, and of any other agency in the case if it finds that:

(1) 2 years have elapsed since the final discharge of the person from legal custody or supervision, or 2 years after the entry of any other court order not involving custody or supervision; and

(2) he has not been convicted of a felony or misdemeanor involving moral turpitude, or adjudicated delinquent prior to the filing of the motion, and no proceeding is pending seeking such conviction or adjudication. The motion and the order may include the files and records specified in section 5-142.

(b) Reasonable notice of the motion shall be given to:

(1) the prosecutor;

(2) the authority granting the discharge if the final discharge was from an institution, parole or probation; and

(3) the law enforcement officers, department and central depository having custody of the files and records specified in section 5-142 and included in the motion.

(c) Upon the entry of the order, the proceedings in the case shall be treated as if they never occurred, and all index references shall be deleted and the court and law enforcement officers and departments shall reply and the person may reply to any inquiry that no record exists with respect to such person. Inspection of the files and records included in the order may thereafter be permitted by the court only upon motion by the person who is the subject of such records, and only to those persons named in the motion; provided, however, the court in its discretion may by special order in an individual case permit inspection by or release of information in the records to any clinic, hospital or agency which has the person under care.

(d) Any adjudication of delinquency or conviction of a felony or a crime involving moral turpitude subsequent to sealing shall have the effect of nullifying the sealing order.

(e) A person who has been the subject of a delinquency petition and has met the conditions stipulated in subsection (a) (2), may, five years after reaching the age of majority, file a motion requesting the destruction of all records pertaining to his case. If the court grants the motion, copies of the order shall be sent to all offices or agencies that are repositories of such records and all such offices and agencies shall comply with the order.

(f) Upon the entry of a sealing order or a destruction order, all references including arrest, complaint, referrals, petitions, reports and orders, shall be removed from all agency, official and institutional files and sealed or destroyed as aforesaid and a

finding of delinquency shall be deemed never to have occurred. No child who has been the subject of such a sealing or destruction order shall be deemed to have been arrested ab initio within the meaning of the general statutes, with respect to proceedings so sealed or destroyed, and in response to any inquiry or on any application or in any proceeding the person may state that he has never been arrested, taken into custody, committed, or adjudicated a delinquent with regard to the proceedings so sealed or destroyed.

(g) A person who has been the subject of a delinquency petition shall be notified of his rights under subsections (a) and (c) at the time of his final discharge.

to read as follows:

"§23. Duties of probation officers; records. -

A probation officer shall investigate all cases referred to him for investigation by any court or by the board and shall report in writing thereon. He shall furnish to each person released on probation under his supervision a written statement of the conditions of probation and shall instruct him regarding the same. Such officer shall keep informed concerning the conduct and condition of each person on probation under his supervision by visiting, requiring reports and in other ways and shall report thereon in writing as often as the court or the board may require. Such officer shall use all practicable and suitable methods, not inconsistent with the provisions imposed by the court, to aid and encourage persons on probation and to bring about improvements in their conduct and condition. Such officer shall keep detailed records of his work and shall make such reports in writing to the court and the board as they may require. A probation officer shall have, in the execution of his duties, the powers of arrest and the same right to execute process as is now given, or may hereafter be given by law, to the sheriffs of this state. Provided further, that all reports, records and data assembled by any probation officer and referred to the court shall be privileged and shall not be available for public inspection except upon order of the court to which the same was referred. And provided, however, that in no case shall the right to inspect said report be denied the defendant or his counsel after said report has been completed or filed."

APPENDIX F

CERTIFICATION

CERTIFICATION

The ACJIC was created by the Alabama Legislature to develop and implement a statewide criminal justice information system and to be the central repository for criminal justice information. (See Appendix A for enabling legislation.) The Alabama Department of Public Safety (DPS) was designated by an Act of the Legislature in 1943 as the central assembling agency for arrest fingerprint cards for the State and performs the identification function for State and local criminal justice agencies. Upon implementation of the ACJIC CCH/OBTS system, the DPS will no longer disseminate "rap" sheets but shall continue to perform the identification function and maintain arrest fingerprint source documents. Because of the level of development of the ACJIC CCH/OBTS system and the current responsibilities of the DPS Identification Bureau, a LEAA Form 6600/9, Certification for a Central State Repository, is submitted for both the ACJIC and the DPS.

Authorizing Legislation

The Alabama law to be utilized to implement the requirements of 28CFR20 is Act No. 872 of the 1975 Regular Session, Alabama Legislature (Appendix A). This Act, as explained in the Plan, establishes a central State repository, mandates the reporting of arrests and dispositions, and authorizes the promulgation of rules and regulations to insure the security and confidentiality of criminal justice information collected, stored, or disseminated by the ACJIC.

Progress Towards Problem Resolution

As specified throughout the Plan, the ACJIC CCH/OBTS system is in the developmental stage. A development/implementation timetable is presented on page seven.

The authority to require complete disposition reporting is discussed in Chapter Two of the Plan. Exact reporting procedures, forms, data entry points, etc., have not been finally determined. ACJIC systems analysts are currently working with the Alabama criminal justice community to design management information systems for the various components of the criminal justice system from which the CCH/OBTS data elements will be drawn. Complete disposition information will not be available on a statewide basis until the ACJIC CCH/OBTS program is implemented, which will be prior to the required implementation date of the completeness and accuracy provision.

Financial assistance for the development of the ACJIC CCH/OBTS system is being provided by LEAA through Comprehensive Data Systems (CDS) program.

Statutory Authority for Noncriminal Justice Uses

Public record laws in Alabama are broadly written and allow private citizens to inspect and copy wide categories of public documents. The following excerpts from the Alabama Code defines the State's public record doctrine:

Title 55, Section 289(6) -

Public records defined. - Public records comprise all written, typed, or printed books, papers, letters, documents and maps made or received in pursuance of law by the public officers of the state, counties, municipalities, and other subdivisions of government in the transactions of public business, and include also any record, authorized to be made by any law of this state, belonging or pertaining to any court of record, justice of the peace, or any other public record authorized by law, or any paper, pleading, exhibit, or other writing, filed with, in or by any such court, office or officer. (1945, p. 486, § 1, appvd. July 7, 1945.)

Title 41, Section 144 -

Public officer or servant defined. - A public officer or servant, as used in this article, is intended to and shall include, in addition to the ordinary public offices, departments, commissions, bureaus and boards of the state, and the public officers and servants of counties, cities and towns, all persons whatsoever occupying positions in state institutions. (1915, p. 287.)

Title 41, Section 145. -

Every citizen entitled to inspect and copy public records. - Every citizen has a right to inspect and take a copy of any public writing of this state, except as otherwise expressly provided by statute.

Title 41, Section 146 -

Refusal of public officer to permit examination of records. - Any public officer, having charge of any book or record, who shall refuse to allow any person to examine such record free of charge, must, on conviction, be fined not less than fifty dollars.

Title 41, Section 147 -

Public officers bound to give copies. - Every public officer having the custody of a public writing, which a citizen has a right to inspect, is bound to give him, on demand, a certified copy of it, on payment of the legal fees therefor, and such copy is admissible as evidence in like cases and with like effect as the original writing.

The ACJIC Act (Appendix A) has exempted the criminal history record information collected, stored, or disseminated by the ACJIC from Alabama's public record laws. In an opinion dated January 14, 1976, the Attorney General of Alabama stated,

"Sections 5, 31, 35, and 36 of Act No. 872 make it clear that the Criminal Justice Information System records are not 'public

records' subject to public disclosure. These sections limit the persons who may have access to these records and prescribe criminal penalties for improper disclosure of these records."

As discussed in Chapter 3, the ACJIC Commission will ultimately determine the qualifications for access to criminal history records collected, stored, or disseminated by the ACJIC. The requirements of Section 20.21(b), (c), and (d) of the Regulations, when finalized, will be considered in determining authorization for access.

APPENDIX G

TITLE 28, PART 20

THE CODE OF FEDERAL REGULATIONS

federal register

FRIDAY, MARCH 19, 1976



PART III:

DEPARTMENT OF JUSTICE

**Law Enforcement Assistance
Administration**



CRIMINAL HISTORY RECORDS

**Collection, Storage, and Dissemination
of Information**

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

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

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

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

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

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

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

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

Pursuant to the authority vested in the Law Enforcement Assistance Administration by sections 501 and 524 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1973, Pub. L. 93-83, 87 Stat. 197 (42 U.S.C. 3701 *et seq.*) (Aug. 6, 1973), these amendments to Chapter I of Title 28 of the Code of Federal Regulations are hereby adopted to become final on April 19, 1976. These amendments only amend subparts A and B. Subpart C remains the same.

Subpart A—General Provisions

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

Subpart B—State and Local Criminal History Record Information Systems

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

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

- 20.30 Applicability.
 20.31 Responsibilities.
 20.32 Includable offenses.
 20.33 Dissemination of criminal history record information.
 20.34 Individual's right to access criminal history record information.
 20.35 National Crime Information Center Advisory Policy Board.
 20.36 Participation in the Computerized Criminal History Program.

- Sec.
 20.27 Responsibility for accuracy, completeness, currency.
 20.28 Sanction for noncompliance.

Authority: Pub. L. 93-83, 87 Stat. 197 (42 USC 3701, *et seq.*; 28 USC 534), Pub. L. 92-544, 86 Stat. 1115.

Subpart A—General Provisions

§ 20.1 Purpose.

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

§ 20.2 Authority.

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

§ 20.3 Definitions.

As used in these regulations:

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

(b) "Criminal history record information" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system.

(c) "Criminal justice agency" means: (1) courts; (2) a government agency or any submit thereof which performs the administration of criminal justice pursuant to a statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.

(d) The "administration of criminal justice" means performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.

(e) "Disposition" means information disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to com-

mence criminal proceedings and also disclosing the nature of the termination in the proceedings; or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such postponement. Dispositions shall include, but not be limited to, acquittal, acquittal by reason of insanity, acquittal by reason of mental incompetence, case continued without finding, charge dismissed, charge dismissed due to insanity, charge dismissed due to mental incompetency, charge still pending due to insanity, charge still pending due to mental incompetence, guilty plea, nolle prosequi, no paper, nolo contendere plea, convicted, youthful offender determination, deceased, deferred disposition, dismissed—civil action, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial—defendant discharged, executive clemency, placed on probation, paroled, or released from correctional supervision.

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

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

(h) An "executive order" means an order of the President of the United States or the Chief Executive of a State which has the force of law and which is published in a manner permitting regular public access thereto.

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

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

(k) "Nonconviction data" means arrest information without disposition if an interval of one year has elapsed from the date of arrest and no active prosecution of the charge is pending; or information disclosing that the police have elected not to refer a matter to a prosecutor, or that a prosecutor has elected not to commence criminal proceedings, or that proceedings have been indefinitely postponed, as well as all acquittals and all dismissals.

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

Subpart B—State and Local Criminal History Record Information Systems

§ 20.20 Applicability.

(a) The regulations in this subpart apply to all State and local agencies and individuals collecting, storing, or disseminating criminal history record information processed by manual or automated operations where such collection, storage, or dissemination has been funded in whole or in part with funds

made available by the Law Enforcement Assistance Administration subsequent to July 1, 1973, pursuant to Title I of the Act. Use of information obtained from the FBI Identification Division or the FBI/NCIC system shall also be subject to limitations contained in Subpart C.

(b) The regulations in this subpart shall not apply to criminal history record information contained in: (1) posters, announcements, or lists for identifying or apprehending fugitives or wanted persons; (2) original records of entry such as police blotters maintained by criminal justice agencies, compiled chronologically and required by law or long standing custom to be made public, if such records are organized on a chronological basis; (3) court records of public judicial proceedings; (4) published court or administrative opinions or public judicial, administrative or legislative proceedings; (5) records of traffic offenses maintained by State departments of transportation, motor vehicles or the equivalent thereof for the purpose of regulating the issuance, suspension, revocation, or renewal of driver's, pilot's or other operators' licenses; (6) announcements of executive clemency.

(c) Nothing in these regulations prevents a criminal justice agency from disclosing to the public criminal history record information related to the offense for which an individual is currently within the criminal justice system. Nor is a criminal justice agency prohibited from confirming prior criminal history record information to members of the news media or any other person, upon specific inquiry as to whether a named individual was arrested, detained, indicted, or whether an information or other formal charge was filed, on a specified date, if the arrest record information or criminal record information disclosed is based on data excluded by paragraph (b) of this section. The regulations do not prohibit the dissemination of criminal history record information for purposes of international travel, such as issuing visas and granting of citizenship.

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

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

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

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

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

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

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

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

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

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

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

These dissemination limitations do not apply to conviction data.

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

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

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

(d) *Juvenile records.* Insure that dissemination of records concerning proceedings relating to the adjudication of a juvenile as delinquent or in need of supervision (or the equivalent) to non-criminal justice agencies is prohibited, unless a statute, court order, rule or court decision specifically authorizes dissemination of juvenile records, except to the same extent as criminal history records may be disseminated as provided in § 20.21(b) (3) and (4).

(e) *Audit.* Insure that annual audits of a representative sample of State and local criminal justice agencies chosen on a random basis shall be conducted by the State to verify adherence to these regulations and that appropriate records shall be retained to facilitate such audits. Such records shall include, but are not limited to, the names of all persons or agencies to whom information is disseminated and the date upon which such information is disseminated. The reporting of a criminal justice transaction to a State, local or Federal repository is not a dissemination of information.

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

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

(2) Access to criminal history record information system facilities, systems operating environments, data file contents whether while in use or when stored in a media library, and system documentation is restricted to authorized organizations and personnel.

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

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

(ii) Operation programs are used that will prohibit inquiry, record updates, or destruction of records, from any terminal other than criminal justice system terminals which are so designated.

(iii) The destruction of records is limited to designated terminals under the direct control of the criminal justice agency responsible for creating or stor-

ing the criminal history record information.

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

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

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

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

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

(4) The criminal justice agency will:

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

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

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

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

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

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

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

(g) *Access and review.* Insure the individual's right to access and review of criminal history information for purposes of accuracy and completeness by instituting procedures so that—

(1) Any individual shall, upon satisfactory verification of his identity, be entitled to review without undue burden to either the criminal justice agency or the individual, any criminal history record information maintained about the individual and obtain a copy thereof when necessary for the purpose of challenge or correction;

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

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

(4) Upon request, an individual whose record has been corrected shall be given the names of all non-criminal justice agencies to whom the data has been given;

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

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

§ 20.22 Certification of Compliance.

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

(b) The certification shall include—

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

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

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

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

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

§ 20.23 Documentation: Approval by LEAA.

Within 90 days of the receipt of the plan, LEAA shall approve or disapprove the adequacy of the provisions of the plan and certification. Evaluation of the plan by LEAA will be based upon whether the procedures set forth will accomplish the required objectives. The evaluation of the certification(s) will be based upon whether a good faith effort has been shown to initiate and/or further compliance with the plan and regulations. All procedures in the approved plan must be fully operational and implemented by December 31, 1977. A final certification shall be submitted in December 1977.

§ 20.24 State laws on privacy and security.

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

§ 20.25 Penalties.

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

RICHARD W. VELDE,
Administrator.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 20.21(b). The limitations on dissemination in this subsection are essential to fulfill the mandate of section 524(b) of the Act which requires the Administration to assure that the "privacy of all information is adequately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes." The categories for dissemination established in this section reflect suggestions by hearing witnesses and respondents submitting written commentary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

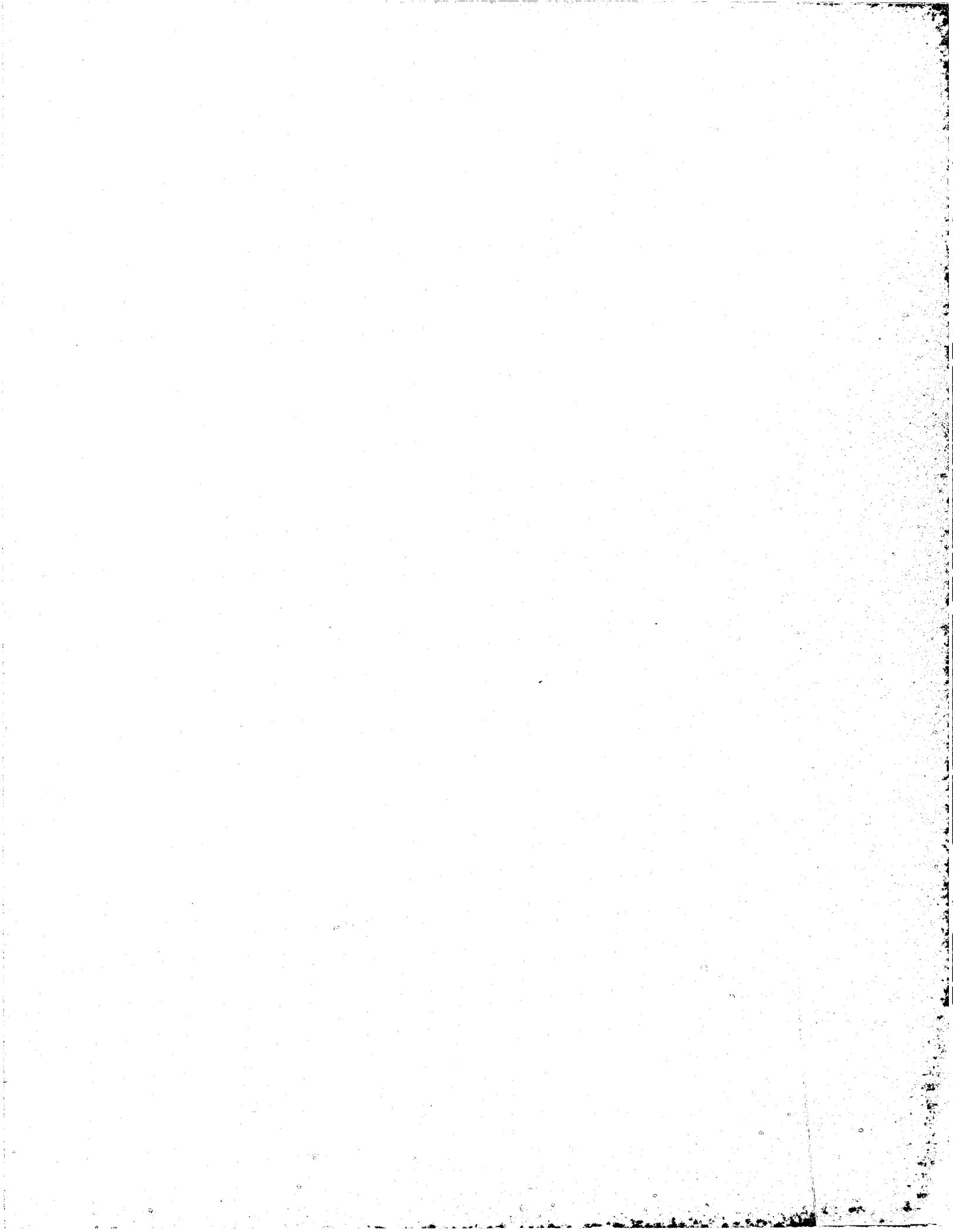
§ 20.21(g)(5). Not every agency will have done this in the past, but henceforth adequate records including those required under 20.21(e) must be kept so that notification can be made.

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

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

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

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