

170059

TITL: Compendium of State Privacy and Security Legislation: 1997
Overview - MISSOURI ; _____ Revised Statutes Annotated

AUTHOR: US Department of Justice, Bureau of Justice Statistics
Washington, DC 20531

SALE: US Department of Justice, Bureau of Justice Statistics
National Institute of Justice/NCJRS Paper Reproduction Sales
Box 6000, Dept. F
Rockville, MD 20849

DOCUMENT #: 170659

DATE: 1997

PAGE: 44 p

ORIG: United States

LANG: English

SUBJECT: Legislation/policy descriptions

ANNOTATION: This is a 1997 overview of State law pertinent to the
privacy and security of criminal justice information.

MISSOURI

CRIMINAL RECORDS, CENTRAL REPOSITORY

CROSS REFERENCE

Department of corrections to notify repository of pardon, commutation of sentence or reprieve, RSMo 217.800

43.500. Definitions.—

As used in sections 43.500 to 43.530, the following terms mean:

(1) "Central repository", the Missouri state highway patrol criminal records division for compiling and disseminating complete and accurate criminal history records;

(2) "Committee", criminal records advisory committee;

(3) "Criminal history record information", information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release;

(4) "Final disposition", the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system;

(5) "State offense cycle number", a preprinted number on the state fingerprint card which is used to identify each arrest which may include multiple offenses for which a person is fingerprinted. This number will be associated with an offense incident from the date of arrest to the date the offender exits from the criminal justice system;

(6) "Without undue delay", as soon as possible but not later than thirty days after the criminal history event;

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

(L. 1986 H.B. 873 & 874 § 1)

43.503. Arrest, charge and disposition of misdemeanors and felonies to be sent to highway patrol—procedure for certain juveniles.—

1. For the purpose of maintaining complete and accurate criminal history record information, all police officers of this state, the clerk of each court, the department of corrections, the sheriff of each county, the chief law enforcement official of a city not within a county and the prosecuting attorney of each county or the circuit attorney of a city not within a county shall submit certain criminal arrest, charge, and disposition information to the central repository for filing without undue delay in the form and manner required by sections 43.500 to 43.530.

2. All law enforcement agencies making misdemeanor and felony arrests as determined by section 43.506 shall furnish without undue delay, to the central repository, fingerprints, charges, and descriptions of all persons who are arrested for such offenses on standard fingerprint forms supplied by the highway patrol. All such agencies shall also notify the central repository of all decisions not to refer such arrests for prosecution. An agency making such arrests may enter into arrangements with other law enforcement agencies for the purpose of furnishing without undue delay such fingerprints, charges, and descriptions to the central repository upon its behalf. In instances where an individual less than seventeen years of age is taken into custody for an offense which would be considered a felony if committed by an adult, the arresting officer shall take one set of fingerprints for the central repository and may take another set for

MISSOURI

inclusion in a local or regional automated fingerprint identification system. These fingerprints shall be taken on fingerprint cards which are plainly marked "juvenile card" and shall be provided by the central repository. The fingerprint cards shall be so constructed that only the fingerprints, unique identifying number, and the court of jurisdiction are made available to the central or local repository. The remainder of the card which bears the individual's identification and the duplicate unique number shall be provided to the court of jurisdiction. The appropriate portion of the juvenile fingerprint card shall be forwarded to the central repository and the courts without undue delay. The fingerprint information from the card shall be captured and stored in the automated fingerprint identification system operated by the central repository. The juvenile fingerprint card shall be stored in a secure location, separate from all other fingerprint cards. In the event the fingerprints from this card are found to match latent prints searched in the automated fingerprint identification system, the court of jurisdiction shall be so advised.

3. The prosecuting attorney of each county or the circuit attorney of a city not within a county shall notify the central repository on standard forms supplied by the highway patrol of all charges filed, including all those added subsequent to the filing of a criminal court case, and whether charges were not filed in criminal cases for which the central repository has a record of an arrest. All records forwarded to the central repository by prosecutors or circuit attorneys as required by sections 43.500 to 43.530 shall include the state offense cycle number of the offense, and the originating agency identifier number of the reporting prosecutor, using such numbers as assigned by the highway patrol.

4. The clerk of the courts of each county or city not within a county shall furnish the central repository, on standard forms supplied by the highway patrol, with all final dispositions of criminal cases for which the central repository has a record of an arrest or a record of fingerprints reported pursuant to subsections 6 and 7 of this section. Such information shall include, for each charge:

- (1) All judgments of not guilty, judgments or pleas of guilty including the sentence, if any, or probation, if any, pronounced by the court, nolle pros, discharges and dismissals in the trial court;
- (2) Court orders filed with the clerk of the courts which reverse a reported conviction or vacate or modify a sentence;
- (3) Judgments terminating or revoking a sentence to probation, supervision or conditional release and any resentencing after such revocation; and
- (4) The offense cycle number of the offense, and the originating agency identifier number of the reporting court, using such numbers as assigned by the highway patrol.

5. The clerk of the courts of each county or city not within a county shall furnish court judgment and sentence documents and the state offense cycle number of the offense, which result in the commitment or assignment of an offender, to the jurisdiction of the department of corrections. This information shall be reported to the department of corrections at the time of commitment or assignment. If the offender was already in the custody of the department of corrections at the time of such subsequent conviction, the clerk shall furnish notice of such subsequent conviction to the department of corrections by certified mail, return receipt requested, within ten days of such disposition.

6. After the court pronounces sentence, including an order of supervision or an order of probation granted for any offense which is required by statute to be collected, maintained, or disseminated by the central repository, the prosecuting attorney or the circuit attorney of a city not within a county shall ask the court to order a law enforcement agency to fingerprint immediately all sentenced persons appearing before the court who have not previously been fingerprinted for the same case. The court shall order the requested fingerprinting if it determines that any sentenced person has not previously been fingerprinted for the same case. The law enforcement agency shall submit such fingerprints to the central repository without undue delay.

7. The department of corrections shall furnish the central repository with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency, or discharge of an individual who has been sentenced to the department's custody for any offenses which are mandated by this act to be collected, maintained or disseminated by the central repository. All records forwarded to the central repository by the department as required by sections

MISSOURI

43.500 to 43.530 shall include the offense cycle number of the offense, and the originating agency identifier number of the department using such numbers as assigned by the highway patrol. (L. 1986 H.B. 873 & 874 § 2, A.L. 1990 H.B. 974, A.L. 1992 S.B. 638, A.L. 1993 S.B. 180, A.L. 1995 H.B. 174, et al.)

*"This act" (H.B. 974, 1990) contains numerous sections. Consult Disposition of Sections table for definitive listing.

43.504. Access to central repository by private entities responsible for probation services—restrictions.—

Notwithstanding section 610.120, RSMo, the sheriff of any county, the sheriff of the city of St. Louis, and the judges of the circuit courts of this state may make available, for review, information obtained from the central repository to private entities responsible for probation supervision pursuant to sections 559.600 to 559.615, RSMo. When the term of probation is completed or when the material is no longer needed for purposes related to the probation, it shall be returned to the court or destroyed. The private entities shall not use or make this information available to any other person for any other purpose. (L. 1993 S.B. 180)

43.506. Crimes to be reported, exceptions—method of reporting—repository of latent prints.—

1. Those offenses considered reportable for the purposes of sections 43.500 to 43.530 include all felonies and serious or aggravated misdemeanors consistent with the reporting standards established by the National Crime Information Center, Federal Bureau of Investigation, for the Federal Interstate Identification Index System. In addition, all cases arising under sections 566.010 to 566.141, RSMo, where the defendant pleads guilty to an offense involving a child under seventeen years of age and the court imposes a suspended imposition of sentence shall be reported. The following types of offenses will not be considered reportable for the purposes of sections 57.403, RSMo, 43.500 to 43.530, and 595.200 to 595.218, RSMo: disturbing the peace, curfew violation, loitering, false fire alarm, disorderly conduct, nonspecific charges of suspicion or investigation, and general traffic violations and all misdemeanor violations of the state wildlife code. Second and subsequent offense traffic violations for driving under the influence of drugs or alcohol are reportable. All offenses considered reportable shall be reviewed annually and noted in the Missouri charge code manual established in section 43.512. All information collected under sections 43.500 to 43.530 shall be available only as set forth in section 610.120, RSMo.

2. With the exception of the manual reporting of arrests and fingerprints by law enforcement agencies as noted in subsection 2 of section 43.503, and notwithstanding subsections 2 to 7 of section 43.503, law enforcement agencies, court clerks, prosecutors and custody agencies may report required information by electronic medium either directly to the central repository or indirectly to the central repository via other criminal justice agency computer systems in the state with the approval of the advisory committee.

3. In addition to the repository of fingerprint records for individual offenders, the central repository of criminal history records for the state shall maintain a repository of latent prints. (L. 1986 H.B. 873 & 874 § 3, A.L. 1989 S.B. 215 & 58, A.L. 1991 H.B. 566)

CROSS REFERENCE

Arrest records, open records law, certain records closed when, exceptions, RSMo 610.100 to 610.120

43.507. Disclosure of criminal history information, who may receive.—

All criminal history information, in the possession or control of the central repository, except criminal intelligence and investigative information, may be made available to qualified persons and organizations for research, evaluative and statistical purposes under written agreements reasonably designed to ensure the security and confidentiality of the information and the protection of the privacy interests of the individuals

MISSOURI

who are subjects of the criminal history. Prior to such information being made available, information that uniquely identifies the individual shall be deleted. Organizations receiving such criminal history information shall not reestablish the identity of the individual and associate it with the criminal history information being provided.

(L. 1989 S.B. 215 & 58)

43.509. Rulemaking authority, department of public safety—rulemaking procedure.—

The director of the department of public safety shall, in accordance with the provisions of chapter 536, RSMo, establish such rules and regulations as are necessary to implement the provisions of sections 43.500 to 43.530. All collection and dissemination of criminal history information shall be in compliance with chapter 610, RSMo, and applicable federal laws or regulations. Such rules shall relate to the collection of criminal history information from or dissemination of such information to criminal justice, noncriminal justice, and private agencies or citizens both in this and other states. No rule or portion of a rule promulgated under the authority of sections 43.500 to 43.530 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

(L. 1986 H.B. 873 & 874 § 4, A.L. 1994 H.B. 1437 & 1148, A.L. 1995 S.B. 3)

43.512. Charge code manual, publication, use.—

The central repository, with the approval of the supreme court, shall publish and make available to criminal justice officials, a standard manual of codes for all offenses in Missouri. The manual of codes shall be known as the "Missouri Charge Code Manual", and shall be used by all criminal justice agencies for reporting information required by sections 43.500 to 43.530.

(L. 1986 H.B. 873 & 874 § 5)

43.515. Rulemaking authority, highway patrol criminal record division.—

The central repository, with the approval of the attorney general, shall publish regulations governing the security and privacy of criminal history record information as required by this state and by federal law or regulation.

(L. 1986 H.B. 873 & 874 § 6)

43.518. Criminal records advisory committee, established—purpose—members—meetings, quorum—minutes, distribution, filing of.—

1. There is hereby established within the department of public safety a "Criminal Records Advisory Committee" whose purpose is to recommend general policies with respect to the philosophy, concept and operational principles of the Missouri criminal history record information system established by sections 43.500 to 43.530, in regard to the collection, processing, storage, dissemination and use of criminal history record information maintained by the central repository.

2. The committee shall be composed of the following officials or their designees: the director of the department of public safety; the director of the department of corrections and human resources; the attorney general; the director of the Missouri office of prosecution services; the president of the Missouri prosecutors association; the president of the Missouri court clerks association; the chief clerk of the Missouri state supreme court; the director of the state courts administrator; the chairman of the state judicial record committee; the chairman of the circuit court budget committee; the presidents of the Missouri peace officers association; the Missouri sheriffs association; the Missouri police chiefs association or their successor agency; the superintendent of the Missouri highway patrol; the chiefs of police of agencies in jurisdictions with over two hundred thousand population; except that, in any county of the first class having a charter form of government, the chief executive of the county may designate

MISSOURI

another person in place of the police chief of any countywide police force, to serve on the committee; and, at the discretion of the director of public safety, as many as three other representatives of other criminal justice records systems or law enforcement agencies may be appointed by the director of public safety. The director of the department of public safety will serve as the permanent chairman of this committee.

3. The committee shall meet as determined by the director but not less than semiannually to perform its duties. A majority of the appointed members of the committee shall constitute a quorum.

4. No member of the committee shall receive any state compensation for the performance of duties associated with membership on this committee.

5. Official minutes of all committee meetings will be prepared by the director, promptly distributed to all committee members, and filed by the director for a period of at least five years.

(L. 1986 H.B. 873 & 874 §7)

43.521. Juveniles not to be fingerprinted, exception.—

Sections 43.500 to 43.530 shall not require fingerprinting of juvenile offenders or reporting of information pertaining to a proceeding pursuant to the Missouri juvenile code, except in those cases where a juvenile is certified to the circuit court to stand trial as an adult.

(L. 1986 H.B. 873 & 874 § 8)

43.524. Requests for delayed compliance, how made, when.—

1. Records required to be filed with the central repository under the provisions of sections 43.500 to 43.530 shall be filed beginning January 1, 1988. The moneys in the fund as set forth in section 43.530 shall be subject to appropriation by the general assembly for the particular purpose for which collected. On January 1, 1987, the central repository as defined in subdivision (1) of section 43.500 shall begin to charge the fees set forth in section 43.530.

2. An agency required to comply with the provisions of sections 43.500 to 43.530 may request a delay for compliance with sections 43.500 to 43.530 on the basis of technical restraints, and shall submit with the request for delayed compliance a description of the restraint and the earliest date possible for resolution of the restraint.

3. The director of the department of public safety shall submit the request for delayed compliance to the criminal records advisory committee for review and approval within thirty days of receipt and advise the requesting agency of the committee recommendation within sixty days of the receipt of the request.

4. All such requests for delayed compliance must be submitted to the director of the department of public safety no later than October 1, 1986, and no delay may be granted which extends the date for compliance past January 1, 1989.

(L. 1986 H.B. 873 & 874 § 9)

43.527. Payment for records, exceptions.—

For purposes of sections 43.500 to 43.530 all federal and nonstate of Missouri agencies shall pay for criminal records checks, fingerprint searches, and any of the information as defined in subdivision (3) of section 43.500, when such information is not related to the administration of criminal justice. For purposes of sections 43.500 to 43.530 the administration of criminal justice is defined in subdivision (7) of section 43.500.

(L. 1986 H.B. 873 & 874 § 10)

43.530. Fees, method of payment—criminal record system fund, established— fund not to lapse.—

For each request received by the central repository, as defined in subdivision (1) of section 43.500, the

MISSOURI

requesting entity shall pay a fee of not more than five dollars per request for criminal history record information and pay a fee of not more than fourteen dollars per request for classification and search of fingerprints. Each such request shall be limited to check and search on one individual. Each request shall be accompanied by a check, warrant, voucher, or money order payable to the state of Missouri-criminal record system. There is hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section 33.080, RSMo, to the contrary, if the moneys collected and deposited into this fund are not totally expended annually for the purposes set forth in section 43.527, the unexpended moneys in such fund shall remain in the fund and the balance shall be kept in the fund to accumulate from year to year.
(L. 1986 H.B. 873 & 874 § 11, A.L. 1993 S.B. 180)

43.531. Criminal history information to be available to qualified persons and organizations.—

For the protection of children, all criminal history information, in the possession or the control of the Missouri criminal records repository, except criminal intelligence and investigative information, may be made available to qualified persons and organizations for research, evaluative and statistical purposes under written agreements reasonably designed to ensure the security and confidentiality of the information and the protection of the privacy interests of the individuals who are the subjects of the criminal history. Prior to such information being made available, information that uniquely identifies the individual must be deleted. Organizations receiving such criminal history information shall not reestablish the identity of the individual and associate it with the criminal history information being provided. The provisions of section 610.120, RSMo, shall not apply to depersonalized criminal history information releases for research purposes.

(L. 1989 H.B. 502, et al. § 7)

*Word "identify" appears in original rolls.

43.540. Criminal conviction record checks, patrol to conduct, when, procedure, information to be released, who may request—use limited to staff and volunteer applicants, confidentiality, violation, penalty.—

1. As used in this section, the following terms mean:

(1) "Criminal record review", a request to the highway patrol for information concerning any criminal history record for a felony or misdemeanor;

(2) "Patrol", the Missouri state highway patrol;

(3) "Provider", any licensed day care home, licensed day care center, licensed child placing agency, licensed residential care facility for children, licensed group home, licensed foster family group home, or licensed foster family home;

(4) "Youth services agency", any public or private agency, school, or association which provides programs, care or treatment for or which exercises supervision over minors.

2. Upon receipt of a written request from a youth service agency or a provider, with the written consent of the applicant, the highway patrol shall conduct a criminal record review of an applicant for a paid or voluntary position with the agency or provider if such position would place the applicant in direct contact with minors.

3. Any request for information made pursuant to the provisions of this section shall be on a form provided by the highway patrol and shall be signed by the person who is the subject of the request.

4. The patrol shall respond in writing to the youth service agency or provider making a request for information under this section and shall inform such youth service agency or provider of the nature of the offense, and the date, place and court. Notwithstanding any other provision of law to the contrary, the youth service agency or provider making such request shall have access to all records of arrests resulting in

MISSOURI

an adjudication where the applicant was found guilty or entered a plea of guilty or nolo contendere in a prosecution under sections 566.010 to 566.141, RSMo, or under the laws of any state or the United States for offenses described in sections 566.010 to 566.141, RSMo, during the period of any probation imposed by the sentencing court.

5. Any information received by a provider or a youth services agency under this section shall be used solely for the providers or youth service agencies' internal purposes in determining the suitability of an applicant or volunteer. The information shall be confidential and any person who discloses the information beyond the scope allowed in this section shall be subject to a class A misdemeanor. The patrol shall inform, in writing, the provider or youth services agency of the requirements of this subsection and the penalties therein at the time it releases any information under this section.

(L. 1988 H.B. 1559 § 1, A.L. 1991 H.B. 566, A.L. 1994 S.B. 693)

Effective 1-1-95

*Words "they release" appear in original rolls.

43.541. Senate investigator to have access to criminal history without charge from criminal justice agencies reporting to central repository.—

Each criminal justice agency which submits criminal arrest, charge and disposition information to the central repository shall make criminal history information available on request to the investigator of the Missouri senate without charge.

(L. 1992 H.B. 852 § 1)

43.543. Certain agencies to submit fingerprints, reporting.—

Any state agency listed in section 621.045, RSMo, or any state agency which provides programs, care or treatment for or which exercises supervision over minors shall submit two sets of fingerprints for any person seeking employment with such agency or provider or for any person who is seeking the issuance or renewal of a license, permit or certificate of registration or authority from such agency, for the purpose of checking the person's prior criminal history when the state agency determines a nationwide check is warranted. The fingerprint cards and any required fees shall be sent to the Missouri state highway patrol's criminal records division. The first set of fingerprints shall be used for searching the state repository of criminal history information. If no identification is made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the submitting state agency of any criminal history information or lack of criminal history information discovered on the individual. Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the state agency making the record request.

(L. 1993 S.B. 180)

STATEWIDE LAW ENFORCEMENT EMERGENCY HOTLINE

43.600. Patrol to maintain toll-free hotline for reports of drunken or reckless driving, auto accidents or breakdowns, and criminal activities—duties of patrol after receipt—false reports, penalty.—

1. The department of public safety, through the highway patrol, shall establish and maintain a statewide toll-free emergency telephone service which shall be operated on a twenty-four-hour schedule. The telephone system shall be capable of receiving reports of an individual operating a motor vehicle while

MISSOURI

in an intoxicated or drugged condition; careless and reckless driving; auto accidents; or criminal activity. This number can also be used to inform the highway patrol that the person operating a vehicle has vehicular problems.

2. This service shall receive reports over a single statewide toll-free number. Upon receiving such a report, the highway patrol shall contact the law enforcement agency of the jurisdiction where the reported suspected driver or incident was observed at which time the appropriate law enforcement official or highway patrolman may investigate the reported suspect.

3. Any person convicted of filing a false report shall be guilty of a class B misdemeanor and may be fined up to five hundred dollars.

(L. 1988 S.B. 800 §§ 1, 2, 3)

MISSOURI

Vernon's Annotated Missouri Statutes

57.103. Sheriff to fingerprint and photograph prisoners—report to highway patrol—contents of report (second class and certain first class counties)

The sheriff in each county of the first class not having a charter form of government and in each county of the second class shall take pictures of and fingerprint any person who is taken into or placed in the custody of the sheriff by virtue of a warrant charging a felony. The report shall contain the following information:

- (1) The name of the person;
- (2) A description of the person and any other data to identify the person;
- (3) The nature of the criminal offense.

The sheriff shall send a copy of the report, including a duplicate picture and fingerprints, to the main office of the state highway patrol, in Jefferson City. The report shall be filed in the office of the highway patrol, and copies of any report shall be available to any sheriff or law enforcement official upon the request of the sheriff or law enforcement official, when necessary in the performance of his official duties.

Amended by Laws 1973, p. 140, § 1.

57.105. To fingerprint and photograph prisoners—report to highway patrol (class three and four counties)

The sheriff in each county of the third and fourth class, shall take pictures of and fingerprint any person accused of or convicted of a criminal offense when the person is taken into or placed in the custody of sheriff. The report shall contain the following information:

- (1) The name of the person;
- (2) A description of the person, and any other data to identify the person;
- (3) The nature of the criminal offense; and
- (4) Whether the person was accused or convicted.

The sheriff shall send a copy of the report, including a duplicate picture and fingerprints, to the main office of the state highway patrol, in Jefferson City. The report shall be filed in the office of the highway patrol, and copies of any report shall be available to any sheriff or law enforcement official upon the request of the sheriff or law enforcement official, when necessary in the performance of his official duties. (L.1959 H.B.No.296 § 1(1))

Public Records

109.180. Public records open to inspection—refusal to permit inspection, penalty

Except as otherwise provided by law, all state, county and municipal records kept pursuant to statute or ordinance shall at all reasonable times be open for a personal inspection by any citizen of Missouri, and those in charge of the records shall not refuse the privilege to any citizen. Any official who violates the provisions of this section shall be subject to removal or impeachment and in addition shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding one hundred dollars, or by confinement in the county jail not exceeding ninety days, or by both the fine and the confinement. (L.1961 p. 548 § 1)

109.190. Right of person to photograph public records—regulations

In all cases where the public or any person interested has a right to inspect or take extracts or make copies from any public records, instruments or documents, any person has the right of access to the records, documents or instruments for the purpose of making photographs of them while in the possession, custody and control of the lawful custodian thereof or his authorized deputy. The work shall be done under the supervision of the lawful custodian of the records who may adopt and enforce reasonable rules governing the work. The work shall, where possible, be done in the room where the records, documents or instruments are by law kept, but if that is impossible or impracticable, the work shall be done in another room or place as nearly adjacent to the place of custody as possible to be determined by the custodian of the records. While the work authorized herein is in progress, the lawful custodian of the records may charge the person desiring to make the photographs a reasonable rate for his services or for the services of a deputy to supervise the work and for the use of the room or place where the work is done. (L.1961 p. 548 § 2)

195.290. Records, how expunged, exception

After a period of not less than six months from the time that an offender was placed on probation by a court, such person, who at the time of the offense was twenty-one years of age or younger, may apply to the court which sentenced him for an order to expunge from all official records, except from those records maintained under the comprehensive drug abuse prevention and control act, as enacted in 1970, and all recordations of his arrest, trial and conviction. If the court determines, after a hearing and after reference to the controlled dangerous substances registry, that such person during the period of such probation and during the period of time prior to his application to the court under this section has not been guilty of any offenses, or repeated violation of the conditions of such probation, he shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied prior to such arrest and conviction. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest or trial or conviction in response to any inquiry made of him for any purpose.

610.100. Records required—records open to public—closed records—arrest defined

All law enforcement agencies of this state, of any county, and of any municipality, shall maintain records of all arrests made by such law enforcement agency. Records of arrests shall be made available to the public. If any person is arrested and not charged with an offense against the law within thirty days of his arrest, official records of the arrest and of any detention or confinement incident thereto shall thereafter be closed records except that the disposition portion of the record may be accessed for purposes of exculpation and except as provided in section 610.120. As used in sections 610.100 to 610.150, the term "arrest" means an actual restraint of the person of the defendant, or by his submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked. The officer must inform the defendant by what authority he acts, and shall also show the warrant if required.

610.105. Effect of nolle prosequi—dismissal—sentence suspended on record.—If the person arrested is charged but the case is subsequently nolle prossed, dismissed, or the accused is found not guilty or imposition of sentence is suspended in the court in which the action is prosecuted, official records pertaining to the case shall thereafter be closed records when such case is finally terminated except as provided in section 610.120.

(L. 1973 S. B. 1 § 7, A. L. 1981 H. B. 354)

610.106. Suspended sentence prior to September 28, 1981, procedure to close records.—Any person as to whom imposition of sentence was suspended prior to September 28, 1981, may make a motion to the court in which the action was prosecuted after his discharge from the court's jurisdiction for closure of official records pertaining to the case. If the prosecuting authority opposes the motion, an informal hearing shall be held in which technical rules of evidence shall not apply. Having regard to the nature and circumstances of the offense and the history and character of the defendant and upon a finding that the ends of justice are so served, the court may order official records pertaining to the case to be closed, except as provided in section 610.120.

MISSOURI

such records have become closed records shall thereafter, under any provision of law, be held to be guilty of perjury or otherwise of giving a false statement by reason of his failure to recite or acknowledge such arrest or trial in response to any inquiry made of him for any purpose, except as provided in section 491.050, RSMo, and section 610.120.

610.115. Penalty.—A person who knowingly violates any provision of sections 610.100, 610.105, 610.106, or 610.120 is guilty of a class A misdemeanor.

(L. 1973 S. B. 1 § 2, A. L. 1981 H. B. 354)

610.120. Records to be confidential—accessible to whom, purposes

Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this section. They shall be available only to courts, administrative agencies, and law enforcement agencies for purposes of prosecution, litigation, sentencing, and parole consideration. All records which are closed records shall be removed from the records of the courts, administrative agencies, and law enforcement agencies which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.

Added by Laws 1981, p. 638, § 1.

MISSOURI

ARREST RECORDS

CROSS REFERENCE

Criminal records central repository, highway patrol regulation, records closed, when, RSMo 43.500 to 43.530

610.100. Definitions—arrest and incident records shall be available to public—closed records, when—record redacted, when—access to incident reports, record redacted, when—action for disclosure of investigative report authorized, costs—application to open incident and arrest reports, civil penalty—identity of victim of sexual offense.—

1. As used in sections 610.100 to 610.150, the following words and phrases shall mean:

(1) "Arrest", an actual restraint of the person of the defendant, or by his submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked;

(2) "Arrest report", a record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefor;

(3) "Inactive", an investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:

(a) A decision by the law enforcement agency not to pursue the case;

(b) Expiration of the time to file criminal charges pursuant to the applicable statute of limitations, or ten years after the commission of the offense; whichever date earliest occurs;

(c) Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons;

(4) "Incident report", a record of a law enforcement agency consisting of the date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency;

(5) "Investigative report", a record, other than an arrest or incident report, prepared by personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response to an incident report or in response to evidence developed by law enforcement officers in the course of their duties.

2. Each law enforcement agency of this state, of any county, and of any municipality, shall maintain records of all incidents reported to the agency, investigations and arrests made by such law enforcement agency. All incident reports and arrest reports shall be open records. Notwithstanding any other provision of law other than the provisions of subsections 4, 5 and 6 of this section or section 320.083, RSMo, investigative reports of all law enforcement agencies are closed records until the investigation becomes inactive. If any person is arrested and not charged with an offense against the law within thirty days of his arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed for purposes of exculpation and except as provided in section 610.120.

3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a record or document of a law enforcement officer or agency, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this chapter.

4. Any person, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to this section or section 610.150 for purposes of investigation of any civil claim or defense, as provided by this subsection. Any individual, his

MISSOURI

attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident, and may obtain access to other records closed by a law enforcement agency pursuant to this section. Within thirty days of such request, the agency shall provide the requested material or file a motion pursuant to this subsection with the circuit court having jurisdiction over the law enforcement agency stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. If, based on such motion, the court finds for the law enforcement agency, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this subsection.

5. Any person may bring an action pursuant to this subsection in the circuit court having jurisdiction to authorize disclosure of the information contained in an investigative report of any law enforcement agency, which would otherwise be closed pursuant to this section. The court may order that all or part of the information contained in an investigative report be released to the person bringing the action. In making the determination as to whether information contained in an investigative report shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any person identified in the investigative report in regard to the need for law enforcement agencies to effectively investigate and prosecute criminal activity. The investigative report in question may be examined by the court in camera. The court may find that the party seeking disclosure of the investigative report shall bear the reasonable and necessary costs and attorneys' fees of both parties, unless the court finds that the decision of the law enforcement agency not to open the investigative report was substantially unjustified under all relevant circumstances, and in that event, the court may assess such reasonable and necessary costs and attorneys' fees to the law enforcement agency.

6. Any person may apply pursuant to this subsection to the circuit court having jurisdiction for an order requiring a law enforcement agency to open incident reports and arrest reports being unlawfully closed pursuant to this section. If the court finds by a preponderance of the evidence that the law enforcement officer or agency has purposely violated this section, the officer or agency shall be subject to a civil penalty in an amount not to exceed five hundred dollars, and the court shall order payment by such officer or agency of all costs and attorneys' fees, as provided by section 610.027.

7. The victim of an offense under chapter 566, RSMo, may request that his or her identity be kept confidential until a charge relating to said incident is filed.

(L. 1973 S.B. 1 § 6, A.L. 1981 H.B. 554, A.L. 1993 H.B. 170, A.L. 1994 S.B. 554, A.L. 1995 H.B. 135)

(1986) Application of this block of sections to records kept before September 28, 1973, does not violate constitutional ban on ex post facto or retrospective legislation contained in section 13 of Article I of the Missouri Constitution. *Martin v. Schmalz*, 713 S.W.2d 22 (Mo.App. 1986).

(1993) Arrest records of venirepersons obtained by state did not violate statute which required such records to be closed to general public. Arrest records may be accessed for use in selecting jury. *State v. Johnson*, 858 S.W.2d 254 (Mo. App. E.D.).

610.105. Effect of nolle pros—dismissal—sentence suspended on record.—

If the person arrested is charged but the case is subsequently nolle prossed, dismissed, or the accused is found not guilty or imposition of sentence is suspended in the court in which the action is prosecuted, official records pertaining to the case shall thereafter be closed records when such case is finally terminated except that the disposition portion of the record may be accessed for purposes of exculpation and except as provided in section 610.120.

(L. 1973 S.B. 1 § 7, A.L. 1981 H.B. 554, A.L. 1993 H.B. 170)

610.106. Suspended sentence prior to September 28, 1981, procedure to close records.—

Any person as to whom imposition of sentence was suspended prior to September 28, 1981, may make a motion to the court in which the action was prosecuted after his discharge from the court's jurisdiction for

MISSOURI

closure of official records pertaining to the case. If the prosecuting authority opposes the motion, an informal hearing shall be held in which technical rules of evidence shall not apply. Having regard to the nature and circumstances of the offense and the history and character of the defendant and upon a finding that the ends of justice are so served, the court may order official records pertaining to the case to be closed, except as provided in section 610.120.

(L. 1981 H.B. 554)

(1985) Held, that a witness can be impeached by his prior guilty plea, even though he had completed probation under a suspended imposition of sentence. *State v. Brooks*, (A.) 694 S.W.2d 851.

610.110. Failure to recite closed record excused—exceptions.—

No person as to whom such records have become closed records shall thereafter, under any provision of law, be held to be guilty of perjury or otherwise of giving a false statement by reason of his failure to recite or acknowledge such arrest or trial in response to any inquiry made of him for any purpose, except as provided in section 491.050, RSMo, and section 610.120.

(L. 1973 S.B. 1 § 8, A.L. 1981 H.B. 554)

610.115. Penalty.—

A person who knowingly violates any provision of section 610.100, 610.105, 610.106, or 610.120 is guilty of a class A misdemeanor.

(L. 1973 S.B. 1 § 9, A.L. 1981 H.B. 554)

610.120. Records to be confidential—accessible to whom, purposes—child care, defined.—

1. Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this section and section 43.507, RSMo. They shall be available to the sentencing advisory commission created in section 558.019, RSMo, for the purpose of studying sentencing practices, and only to courts, law enforcement agencies, child care agencies, department of revenue for driving record purposes, facilities as defined in section 198.006, RSMo, in-home services provider agencies as defined in section 660.250, RSMo, the division of workers' compensation for the purposes of determining eligibility for crime victims' compensation pursuant to sections 595.010 to 595.075, RSMo, and federal agencies for purposes of prosecution, sentencing, parole consideration, criminal justice employment, child care employment, nursing home employment and to federal agencies for such investigative purposes as authorized by law or presidential executive order. These records shall be made available for the above purposes regardless of any previous statutory provision which had closed such records to certain agencies or for certain purposes. All records which are closed records shall be removed from the records of the courts, administrative agencies, and law enforcement agencies which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.

2. As used in this section, the term "child care" includes providers and youth services agencies as those terms are defined in section 43.540, RSMo, elementary and secondary school teachers, and elementary and secondary school bus drivers, whether such drivers are employed by a school or an entity which has contracted with the school to provide transportation services.

(L. 1981 H.B. 554, A.L. 1983 S.B. 72, A.L. 1989 S.B. 215 & 58, A.L. 1992 S.B. 573 & 634, A.L. 1994 H.B. 1677 and S.B. 554 and S.B. 763)

MISSOURI

610.122. Arrest record expunged, requirements.—

Notwithstanding other provisions of law to the contrary, any record of arrest recorded pursuant to section 43.503, RSMo, may be expunged if the court determines that the arrest was based on false information and the following conditions exist:

- (1) There is no probable cause, at the time of the action to expunge, to believe the individual committed the offense;
 - (2) No charges will be pursued as a result of the arrest;
 - (3) The subject of the arrest has no prior or subsequent misdemeanor or felony convictions;
 - (4) The subject of the arrest did not receive a suspended imposition of sentence for the offense for which the arrest was made or for any offense related to the arrest; and
 - (5) No civil action is pending relating to the arrest or the records sought to be expunged.
- (L. 1993 H.B. 170 § 1 and H.B. 562 § 11, A.L. 1995 H.B. 135)

610.123. Procedure to expunge, supreme court to promulgate rules—similar to small claims.—

1. Any person who wishes to have a record of arrest expunged pursuant to section 610.122 may file a verified petition for expungement in the civil division of the circuit court in the county of the arrest as provided in subsection 4 of this section. The petition shall include the following information or shall be dismissed if the information is not given:

- (1) The petitioner's:
 - (a) Full name;
 - (b) Sex;
 - (c) Race;
 - (d) Date of birth;
 - (e) Driver's license number;
 - (f) Social security number; and
 - (g) Address at the time of the arrest;
- (2) The offense charged against the petitioner;
- (3) The date the petitioner was arrested;
- (4) The name of the county where the petitioner was arrested and if the arrest occurred in a municipality, the name of the municipality;
- (5) The name of the agency that arrested the petitioner;
- (6) The case number and court of the offense.

2. The petition shall name as defendants all law enforcement agencies, courts, prosecuting attorneys, central state depositories of criminal records or others who the petitioner has reason to believe may possess the records subject to expungement. The court's order shall not affect any person or entity not named as a defendant in the action.

3. The court shall set a hearing on the matter no sooner than thirty days from the filing of the petition and shall give reasonable notice of the hearing to each official or agency or other entity named in the petition.

4. If the court finds that the petitioner is entitled to expungement of any record that is the subject of the petition, it shall enter an order directing expungement. A copy of the order shall be provided to each agency identified in the petition pursuant to subsection 2 of this section.

5. The supreme court shall promulgate rules establishing procedures for the handling of cases filed pursuant to the provisions of this section and section 610.122. Such procedures shall be similar to the procedures established in chapter 482, RSMo, for the handling of small claims.

(L. 1993 H.B. 170 § 2 and H.B. 562 § 12, A.L. 1995 H.B. 135)

610.124. Destruction of arrest records—removal from all electronic files—FBI requested to

MISSOURI

expunge—protest to expungement, procedure.—

1. All records ordered to be expunged pursuant to section 610.123 shall be destroyed, except as provided in this section. If destruction of the record is not feasible because of the permanent nature of the record books, such record entries shall be blacked out. Entries of a record ordered expunged pursuant to section 610.123 shall be removed from all electronic files maintained with the state of Missouri. The central repository shall request the Federal Bureau of Investigation expunge the records from its files.

2. Any petitioner, or agency protesting the expungement, may appeal the court's decision in the same manner as provided for other civil actions.

(L. 1993 H.B. 170 § 3 and H.B. 562 § 13)

610.125. Failure to comply with expungement order, penalty—knowingly using expunged record for gain, penalty.—

1. A person who knowingly fails to expunge or obliterate, or releases arrest information which has been ordered expunged pursuant to section 610.123 commits a class B misdemeanor.

2. A person who, knowing the records have been ordered expunged, uses the arrest information for financial gain commits a class D felony.

(L. 1993 H.B. 170 § 4 and H.B. 562 § 14)

610.126. Expungement does not deem arrest invalid—department of revenue may retain records necessary for administrative actions on driver's license—power to close or expunge record, limitation.—

1. An expungement of an arrest record shall not reflect on the validity of the arrest and shall not be construed to indicate a lack of probable cause for the arrest.

2. Except as provided by sections 610.122 to 610.126, the courts of this state shall have no legal or equitable authority to close or expunge any arrest record.

3. The petitioner shall not bring any action subsequent to the expungement against any person or agency relating to the arrest described in the expunged records.

(L. 1993 H.B. 170 § 5 and H.B. 562 § 15, A.L. 1995 H.B. 135 and H.B. 174, et al.)

"911" REPORTS—CONFIDENTIAL

610.150. "911" telephone reports inaccessible, exceptions.—

Except as provided by this section, any information acquired by a law enforcement agency by way of a complaint or report of a crime made by telephone contact using the emergency number, "911", shall be inaccessible to the general public. However, information consisting of the date, time, specific location and immediate facts and circumstances surrounding the initial report of the crime or incident shall be considered to be an incident report and subject to section 610.100. Any closed records pursuant to this section shall be available upon request by law enforcement agencies or the division of workers' compensation or pursuant to a valid court order authorizing disclosure upon motion and good cause shown.

(L. 1988 H.B. 1667 § 1, A.L. 1995 H.B. 135)

LAW ENFORCEMENT AGENCY RECORDS

610.200. Law enforcement agency log or record available for inspection and copying.—

MISSOURI

All local law enforcement agencies that maintain a daily log or record that lists suspected crimes, accidents, or complaints, shall make available the following information for inspection and copying by the public:

- (1) The time, substance, and location of all complaints or requests for assistance received by the agency;
- (2) The time and nature of the agency's response to all complaints or request for assistance; and
- (3) If the incident involves an alleged crime or infraction:
 - (a) The time, date, and location of occurrence;
 - (b) The name and age of any victim, unless the victim is a victim of a crime under chapter 566, RSMo;
 - (c) The factual circumstances surrounding the incident; and
 - (d) A general description of any injuries, property or weapons involved.

(L. 1995 H.B. 135 § 1)

MISSOURI

NONCRIMINAL JUSTICE AGENCIES

ELIGIBLE TO RECEIVE

CRIMINAL OFFENSE RECORDS

<u>Agency</u>	<u>Reason</u>	<u>Statutory Reference</u>
State Personnel Director	Merit System Qualification	36.180
Governor and Legislature	Impeachment or Removal from Office	106.020 286.020
School Boards	Termination of Teachers	168.114
Applicant Must Provide to Director of Division of Health	Employment as Ambulance Technician, Technician Apprentice, or Nursing Home Ad- ministrator	190.135 190.150 198.415
Department of Revenue	Check Eligibility for Hardship Driving Privilege	302.309
Superintendent of Insurance	Qualifications for Public Adjustor and Adjustor Solicitors Insurance Companies	325.030 375.141
Applicant Must Provide to Superintendent of Insurance	License as Insurance Agent	375.018
Missouri Board for Architects, Professional Engineers and Land Surveyors	Licensing Architects, Engineers, & Surveyors	327.441
Missouri Dental Board	Licensing Dentists and Dental Hygienists	332.321 332.331
State Board of Embalmers and Funeral Directors	Licensing Embalmers & Funeral Directors	333.121

MISSOURI

<u>Agency</u>	<u>Reason</u>	<u>Statutory Referen</u>
State Board of Registration for the Healing Arts	Licensing Physicians & Surgeons	334.590
State Board of Optometry (certified copy of court record required)	Licensing Optometrists	336.110
Board of Pharmacy	Licensing Pharmacists	338.055
Missouri Veterinary Medical Board	Licensing Veter- inarians	340.140
Board of Nursing Home Administrators	Licensing Nursing Home Administrators	344.040
Department of Health, and Welfare	Licensing Hearing Aid Personnel	346.105
Boards of Directors of Savings and Loan Associa- tions	Qualification for election to Board of Directors	369.109
Commissioner of Securities	License as Agent (applicant must provide)	409.202 409.204
U.S. Civil Service Commission, U.S. Army, U.S. Navy, U.S. Air Force	Employment or Recruit- ment Eligibility	Federal Laws
County Clerk (Given by Prosecuting Attorney)	Remove Names from Eligible Voter Roles	116.080 559.470 560.610 564.710

MISSOURI

Regulations

Policy 1.1.1: The Director of the Department of Public Safety by order of the Governor of the State of Missouri shall issue policies to assure the security and privacy of criminal history record information in the state.

Policy 1.1.2: The Director of the Department of Public Safety has designated the Missouri State Highway Patrol to serve as the central repository for criminal history record information in Missouri. The Superintendent of the Missouri State Highway Patrol shall prepare and issue procedures to implement the policies approved and established by the Director of the Department of Public Safety.

Policy 1.2.1: The Department of Public Safety shall prepare a Criminal History Record Information Plan as required by the Department of Justice regulations (40 FR 49789 and 41 FR 11714).

Policy 1.3.1: The Department of Public Safety will draft legislation necessary to comply with federal laws and regulations in the privacy and security area.

Policy 1.4.1: The Missouri State Highway Patrol shall develop a system for monitoring compliance with the state criminal history record information plan and its related procedures.

Policy 1.4.2: Each criminal justice agency in Missouri which is required to comply with the federal regulations on criminal history record information shall file statements and plans for compliance with the Missouri State Highway Patrol.

Policy 1.4.3: The failure of criminal justice agencies in Missouri to comply with federal regulations on criminal history record information shall subject such agencies to a federal fine not to exceed \$10,000, the termination of LEAA funds, and the loss of access to criminal history record information.

Policy 2.1.1: The official full and complete record of an offender which includes records of all NCIC criteria offenses (See Appendix VII) and dispositions will be collected, stored, and disseminated by the central site repository.

MISSOURI

Policy 2.1.2: All criminal justice agencies in the State of Missouri shall submit fingerprint records to the Missouri State Highway Patrol on all subjects arrested for criteria offenses (as established by the NCIC uniform offense classification) for initial identification and for subsequent submission to the FBI, if required.

Policy 2.1.3: Prior to any dissemination of criminal history record information, criminal justice agencies shall query the Missouri State Highway Patrol central repository except in those cases where time is of essence and the repository is technically incapable of responding within the necessary time period.

Policy 2.2.1: The Missouri State Highway Patrol shall maintain the necessary automated data processing equipment and telecommunications and terminal facilities to provide criminal identification and criminal history record services to all criminal justice agencies in the state.

Policy 2.2.2: Criminal history record information shall include all assembled individual records which contain fingerprint identification data and notations regarding any formal criminal justice transaction involving the identified individual.

Policy 2.2.3: Procedures shall be established by all criminal justice agencies to insure that dispositions of all case transactions occurring in the state are reported to the Missouri State Highway Patrol central repository within thirty (30) days after occurrence for inclusion on arrest records available for dissemination. Each disposition reported by a criminal justice agency to the Missouri State Highway Patrol must be supported by a fingerprint impression of the right index finger.

Policy 2.2.4: All criminal justice agencies in Missouri shall adopt a common technique for assigning a unique tracking number to each arrest incident to facilitate tracking of all transactions subsequent to the arrest and to provide accurate reference to original source documents.

Policy 2.3.1: The Missouri State Highway Patrol shall develop and implement a delinquent disposition report monitoring system for criminal history record information offenses.

MISSOURI

Policy 2.3.2: Upon finding inaccurate criminal history record information of a material nature, the disseminating agency(s) shall correct its records and notify all agencies or individuals known to have received such information.

Policy 3.1.1: Criminal justice agencies which disseminate criminal history record information shall execute user agreements with any receiving agency.

Policy 3.1.2: The Missouri State Highway Patrol shall prepare and execute user agreements with criminal justice agencies to control the access and dissemination of criminal history record information received from the central repository.

Policy 3.1.3: The Missouri State Highway Patrol shall prepare and execute user agreements with authorized non-criminal justice agencies to control the access and dissemination of criminal history record information received from the central repository.

Policy 3.2.1: Any criminal justice agency which places limitations on dissemination of conviction data or data relating to pending cases shall file with the Director of the Department of Public Safety a statement explaining and describing such limitations.

Policy 3.2.2: Juvenile records will not be disseminated in Missouri except by order of the court as referenced in Chapter 211 of the revised statutes of Missouri.

Policy 4.2.1: The Director of the Department of Public Safety shall cause an annual audit to be performed on the Missouri State Highway Patrol central repository to assess compliance with all criminal history record information laws, regulations, and policies.

Policy 4.2.2: The Missouri State Highway Patrol shall perform an annual audit of a representative sample of criminal justice agencies in the State of Missouri to assess compliance with all criminal history record information laws, regulations and policies.

MISSOURI

Policy 5.1.1: All criminal justice agencies shall implement procedures to protect against unauthorized access to criminal history record information systems.

Policy 5.2.1: Before any dissemination of criminal history record information takes place the disseminating agency must assure that the potential recipient is an agency or individual permitted to receive information.

Policy 5.3.1: All criminal justice agencies shall implement procedures to ensure the physical security of criminal history record information.

Policy 5.4.1: The central site repository will provide training to acquaint criminal justice agencies/employees with privacy and security laws, regulations and policies.

Policy 5.5.1: All criminal justice agencies shall adopt security standards for staff working with criminal history record information.

Policy 6.1.1: The Department of Public Safety shall develop and issue standards and procedures to insure the individual's right to access and review criminal history record information maintained at the central site repository.

Policy 6.2.1: The Director of the Department of Public Safety shall establish a procedure to provide for administrative review and the necessary correction of any claim by an individual to whom the information relates that the criminal history record information is inaccurate or incomplete.

Policy 6.2.2: All appeals for administrative review of challenged information shall be directed to the Director of the Department of Public Safety.

Policy 6.2.3: The central site repository and other agencies which disseminate criminal history record information will develop a system for notifying prior recipients of erroneous criminal history record information.

MISSOURI

TABLE OF CONTENTS

<u>TITLE</u>	<u>SECTION</u>	<u>PAGE #</u>
PREFACE		
DEFINITIONS	11 CSR 30-4.010	3
AGENCIES AND PERSONS REQUIRED TO FURNISH CHRI	11 CSR 30-4.020	5
POLICE AGENCY PROCEDURES FOR FURNISHING DESCRIPTIONS OF PERSONS AND THEIR CHARGES TO MCRR AND PROSECUTING OR CIRCUIT ATTORNEYS	11 CSR 30-4.030	6
PROSECUTING AND CIRCUIT ATTORNEY PROCEDURES FOR FURNISHING CHRI TO MCRR AND THE COURTS	11 CSR 30-4.040	13
COURT CLERK PROCEDURES FOR FURNISHING CHRI TO MCRR AND TO DEPARTMENT OF CORRECTIONS AND HUMAN RESOURCES	11 CSR 30-4.050	17
DEPARTMENT OF CORRECTIONS AND HUMAN RESOURCES PROCEDURES FOR FURNISHING CHRI TO MCRR	11 CSR 30-4.060	18
DISSEMINATION OF CHRI FROM MCRR/USER FEE WHEN REQUIRED CHRI FOR STATISTICAL PURPOSES	11 CSR 30-4.070	19
REPORTING CHRI TO MCRR VIA ELECTRONIC MEDIUM	11 CSR 30-4.080	21
PRIVACY AND SECURITY REQUIREMENTS	11 CSR 30-4.090	22

MISSOURI

RULES AND REGULATIONS FOR MAINTAINING THE MISSOURI CRIMINAL RECORDS REPOSITORY

PREFACE

Section 43.503, RSMo 1986, mandates all Missouri criminal justice agencies to report criminal history information to the Missouri State Highway Patrol Criminal Records Division. This division of the Highway Patrol will also be known as the Missouri Criminal Records Repository (MCRR). Regulations contained in section 43.509, RSMo 1986, authorized the Department of Public Safety to establish rules, regulations and forms for furnishing CHRI to the state repository. This authority is delegated to MCRR.

Section 43.518, RSMo 1986, established within the Department of Public Safety a "Criminal Records Advisory Committee" whose purpose is to recommend general policies with respect to the philosophy, concept and operational principles of the Missouri criminal history record information system.

The Missouri criminal records committee is comprised of the following persons:

- Director of the Department of Public Safety
- Director of the Department of Corrections and Human Resources
- The Attorney General of Missouri
- The Director of the Missouri Office of Prosecution Services
- The President of the Missouri Prosecutors Association
- President of Missouri Court Clerks Association
- The Chief Clerk of the Missouri State Supreme Court
- The Director of the State Courts Administrator
- The Chairman of the State Judicial Record Committee
- The Chairman of the Circuit Court Budget Committee
- The President of the Missouri Peace Officers Association
- The President of the Missouri Sheriffs Association
- The President of the Missouri Police Chiefs Association
- The Superintendent of the Missouri State Highway Patrol
- The Chief of Police - St. Louis City
- The Chief of Police - Kansas City
- Chief of police of agency in jurisdictions with over 200,000 population, except - the chief executive of first class county with charter form of government may designate someone other than chief
- Committee person at large - appointed by Director of the Department of Public Safety
- Committee person at large (Same as above)
- Committee person at large (Same as above)

MISSOURI

Title 11 - DEPARTMENT OF PUBLIC SAFETY

Division 30 - Director's Office

Chapter 4 - MISSOURI CRIMINAL RECORDS REPOSITORY and PRIVACY/SECURITY INFORMATION

ADMINISTRATIVE RULES

11 CSR 30-4.010 Definitions

PURPOSE: To define terms used in the rules for maintaining the Records Repository.

(1) **Missouri Criminal Records Repository (MCRR)** - The Missouri State Highway Patrol Criminal Records Division, located at 1510 East Elm, Jefferson City, Missouri, will also be known as the Missouri Criminal Records Repository. MCRR is responsible for compiling and disseminating complete and accurate criminal history record information.

(2) **Reportable Offenses** - All offenses listed in the Missouri Charge Code Manual that are identified as being reportable to the Missouri Criminal Records Repository.

(3) **Criminal History Record Information (CHRI)** - 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.

(4) **Final Dispositions** - The formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system.

(5) **State Offense Cycle Number (OCN)** - A preprinted number on the state fingerprint card which is used to identify each arrest and may include multiple offenses for which a person is fingerprinted. This number will be associated with an offense from the date of arrest to the date the offender exits from the criminal justice system.

(6) **Without Undue Delay** - As soon as possible but not later than thirty (30) days after the criminal history event.

(7) **Administration of Criminal Justice** - Performance or any of the following activities: detection; apprehension; detention; pre-trial release; post-trial release; prosecution; adjudication; correctional supervision of 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, including fingerprint searches, photographs and other indicia of identification.

MISSOURI

(8) **Police Agency** - Each city, county and state agency having employees with peace officer powers, regardless of size.

(9) **Peace Officer** - Members of the state highway patrol, all state, county and municipal law enforcement officers possessing the duty and power of arrest for violation of the general laws of the state.

(10) **Statewide Judicial Information System (SWJIS)** - The automated information system established by the Supreme Court to collect and compile court caseload data. The system is maintained by the Office of State Courts Administrator, Jefferson City, Missouri.

MISSOURI

11 CSR 30-4.020 Agencies and Persons Required to Furnish CHRI

PURPOSE: To establish who is required to furnish CHRI to MCRR.

(1) All police agencies, prosecuting and circuit attorneys, court clerks and the Department of Corrections and Human Resources shall furnish CHRI to MCRR without undue delay.

MISSOURI

11 CSR 30-4.030 Police Agency Procedures for Furnishing Descriptions on Persons and Their Charges to MCRR and Prosecuting or Circuit Attorneys

PURPOSE: To establish a system for each police agency to follow when furnishing a description of a person and his/her charges to MCRR and to prosecuting or circuit attorneys.

(1) A police agency shall be responsible for completing a fingerprint card/form set supplied by MCRR on reportable offenses as instructed in the following regulations. The form set consists of a card having blocks to be filled in on both sides, and two carbon copies having blocks to be filled in only on their front side. Normally the parts of the form set will not be separated until the front side has been filled in, including a complete set of fingerprints. In any event the officer or clerk making the entries on the front of the card shall verify that the same information is readable on the carbon copies. Listed below are procedures for police agencies to follow when taking a person into custody.

(A) Two (2) or more agencies/same offense - If peace officers from two (2) or more police agencies arrest a person for the same offense(s) the agency that will forward the information to the prosecutor or make application for warrant shall be responsible for completing the fingerprint card/form set and forward the appropriate forms to the prosecuting or circuit attorney.

(B) Single agency/prosecution - When an arresting officer releases a person he has arrested to a receiving officer who routinely reports to the same prosecuting or circuit attorney, the arresting officer should complete the fingerprint card/form set and forward the forms to the prosecuting or circuit attorney.

(C) Agency turned subject over to different jurisdiction - A police agency arresting a person, with or without a warrant, and will release the person to a police agency in a different prosecutory jurisdiction for prosecution shall be responsible for completing the fingerprint/disposition form and indicate in the final disposition block #19 as turned over to (TOT) or posted bond, name and address of police agency, date and warrant number if available. The forms should be destroyed.

(D) Agency receiving subject from different jurisdiction - A police agency taking custody of a person arrested by an officer who routinely reports to a different prosecuting or circuit attorney will be responsible for completing a fingerprint card/form set and forwarding the disposition forms to the prosecuting or circuit attorney.

(E) Municipality/multiple counties - When peace officers arrest a person in reference to one of their cases, regardless of the county of prosecution, they are responsible for completing the fingerprint card/form set and forwarding the forms to the prosecuting or circuit attorney. The agency who takes custody of the offender will not re-fingerprint the person.

MISSOURI

1. Example: Kansas City Police officers arrest a person in Jackson County in reference to a Kansas City case in Clay County. Kansas City Police Department would be responsible for completing the fingerprint card/form set and the submitting the disposition form set to the prosecuting attorney of Clay County. When Clay County authorities take the offender into custody, no additional fingerprints should be taken.

(F) Probation violation subject printed on original charge - When a peace officer arrests an individual for a probation violation and the person has been fingerprinted on the original charge, no additional fingerprints will be required. The court has agreed to include the OCN number on the warrant. If it is unknown whether the person has been fingerprinted or if additional charges are listed in conjunction with the probation violation, the fingerprint card/form set is required and forms should be forwarded to the prosecuting or circuit attorney.

(G) Arrest without warrant - If a peace officer makes an arrest in his jurisdiction without a warrant, he will fingerprint the individual and submit the forms to the prosecuting or circuit attorney for his action. If a warrant is issued for the person, the OCN number will be listed on the warrant. If the person is released pending issuance of the warrant he need not be fingerprinted when the arrest warrant is served unless additional charges are included.

(2) A police agency shall be ordered by the court to fingerprint and be responsible for completing a fingerprint card/form set on persons for which the court has pronounced sentence, if the court determines that the person has not been previously fingerprinted for the same case. The police agency shall forward the fingerprint card to the MCRR.

(3) The form set should be forwarded to the appropriate personnel by the arresting officer under the following conditions:

(A) A peace officer reports a reportable offense to a prosecuting or circuit attorney; and

(B) When peace officers arrest a person in reference to one of their cases, regardless of the county of prosecution, the arresting officer should complete the fingerprint card/form set and submit the form set to the prosecuting attorney or circuit attorney.

(4) The form set shall be destroyed under the following conditions:

(A) Arrested subject released, information not referred to prosecuting attorney or circuit attorney; or

(B) If the person arrested is turned over to a peace officer or posted bond for prosecution in a different jurisdiction, with the exception of (3) (B).

MISSOURI

(5) Each side of the fingerprint card is illustrated. Figure #1 represents the front side and Figure #2 represents the back side.

(A) The card should be completed by using the typewriter. The completed fingerprint card less the disposition forms shall be forwarded to MCRR without undue delay.

(B) Instructions for completing the card are as follows:

1. Enter state assigned identification number (SID) if available;
2. Enter complete name of subject arrested;
3. Offense cycle number. Pre-printed eight digit number;
4. Enter your agency's offense cycle number is assigned;
5. Enter any known aliases the subject uses;
6. Enter arresting agency identifier (ORI), MO-----, name and address of arresting agency;
7. Leave blank (for state usage only);
8. Signature of person fingerprinted (should be signed in ink);
9. Enter subject's date of birth. If subject is a juvenile, court certification that he/she is to be tried as an adult must be attached;
10. Enter date subject was fingerprinted and the signature of the official taking the fingerprints (signature should be in ink);
11. Enter sex, race*, height, weight, hair and eye color of subject arrested;

*W White (includes Mexicans and Latins)

B Black

I (Am Indian or Alaskan Native)

A (Asian or Pacific Islander)

U Unknown

12. Enter subject's place of birth (state, territorial possessions, province or country);
13. Enter date subject arrested or received;

MISSOURI

14. Enter your local agency case number;
15. Enter brief description of all charges, NCIC offense code, and the offense penal range. (See Missouri Charge Code Manual). If the arrest is for parole or probation violations, include original charge information. Enter any addition charges in space #33;
16. Enter FBI number of subject arrested if available;
17. Leave blank (for state usage, fingerprint classification);
18. Same as #1. Enter SID number if available;
19. Enter one of the following final dispositions if appropriate. Include warrant number if available -
 - A. Turned over to (TOT), name of police agency, date of disposition (use only when it is a different prosecutory jurisdiction);
 - B. Posted bond, name of agency who wanted the individual, date (use only when it is a different prosecutory jurisdiction); or
 - C. Released, information not referred to prosecuting attorney or circuit attorney.
20. Enter social security number of the person arrested;
21. Fingerprint blocks, a complete set of tenprints shall be obtained;
22. Indicate if palm prints and/or photograph are available in your file;
23. Enter arresting agency name and ORI. If your agency is the contributor of the fingerprint card and your ORI is entered in block #6, leave blank;
24. Enter county of arrest and arresting officer's badge number;
25. Enter the Missouri statute(s) violated and corresponding Missouri offense code for all charges listed in block #15 (See Missouri Charge Code Manual);
26. Enter subject's employer is available;
27. Enter occupation of subject arrested;
28. Enter residence of subject arrested;

MISSOURI

29. Enter all scars, marks, tattoos and amputations of person arrested;
30. Enter basis for caution if appropriate;
31. Enter date of offense if different than date of arrest;
32. Additional charges information should be included in this space. If charges are indicated attach a list of these charges to the form set that is to be forwarded to the prosecuting or circuit attorney;
33. Enter the name, ORI and complete address of any agencies desiring a copy of the subject's criminal history record.

MISSOURI

FIGURE #1

SID NO. MO. M O 1.		LAST NAME <u>NAM</u> FIRST NAME MIDDLE NAME 2.			OFFENSE CYCLE NO. 3 91044102	
LOCAL OFFENSE CYCLE NUMBER 4.		ALIASES 5.		ARRESTING AGENCY NAME & ORI 6.		
SIGNATURE OF PERSON FINGERPRINTED 8.		7.				DATE OF BIRTH <u>DOB</u> 9.
THIS DATA MAY BE COMPUTERIZED IN LOCAL, STATE AND NATIONAL FILES		DATE ARRESTED OR RECEIVED <u>DOA</u> 13.		SEX	RACE	HGT.
DATE SIGNATURE OF OFFICIAL TAKING FINGERPRINTS 10.		YOUR NO. <u>OCA</u> 14.		WGT.	EYES	HAIR
OFFENSE & NCIC OFFENSE CODE OFFENSE TYPE (F) (M) (O) 1. 15. 2. 3. 4.		FBI NO. <u>FBI</u> 16.		PLACE OF BIRTH <u>POB</u> 12.		
FINAL DISPOSITION WARRANT NO. 19.		SID NO. <u>SID</u> 18.		LEAVE BLANK		
		SOCIAL SECURITY NO. <u>SOC</u> 20.		CLASS. 17.		
				REF.		
				NCIC CLASS - FPC		

-----21.-----				
1. R. THUMB	2. R. INDEX	3. R. MIDDLE	4. R. RING	5. R. LITTLE
-----21.-----				
6. L. THUMB	7. L. INDEX	8. L. MIDDLE	9. L. RING	10. L. LITTLE
LEFT FOUR FINGERS TAKEN SIMULTANEOUSLY		L. THUMB	R. THUMB	RIGHT FOUR FINGERS TAKEN SIMULTANEOUSLY

MISSOURI

FIGURE #2

FINGERPRINT CARD		MISSOURI HIGHWAY PATROL, GENERAL HEADQUARTERS, P.O. BOX 568, JEFFERSON CITY, MO. 65102 TELEPHONE NO. 314 751-3313	
22. PALM PRINTS TAKEN? <input type="checkbox"/> YES <input type="checkbox"/> NO PHOTO AVAILABLE? <input type="checkbox"/> YES <input type="checkbox"/> NO		IF AVAILABLE, PASTE PHOTO HERE NO STAPLES SINCE PHOTOGRAPH MAY BECOME DETACHED INDICATE NAME, DATE TAKEN, FBI NUMBER, CONTRIBUTOR AND ARREST NUMBER ON REVERSE SIDE, WHETHER ATTACHED TO FINGERPRINT CARD OR SUBMITTED LATER.	
23. CONTRIBUTING AGENCY - NAME - ORI (IF OTHER THAN ARRESTING AGENCY)			
24. COUNTY OF ARREST	ARRESTING OFFICER'S BADGE NO.		
STATUTE-RSMO/LOCAL ORDINANCE 1. 2. 3. ----- 25. ----- 4. 5. 6. 7.	MISSOURI CHARGE CODE		
EMPLOYER: NAME AND ADDRESS 26.		SEND COPY OF COMPLETE CRIMINAL HISTORY RECORD TO: 33.	
OCCUPATION 27.			
RESIDENCE OF PERSON FINGERPRINTED 28.			
SCARS, MARKS, TATTOOS, AND AMPUTATIONS <u>SMT</u> 29.			
BASIS FOR CAUTION <u>ICQ</u> 30.		LEAVE BLANK	
DATE OF OFFENSE <u>DOO</u> 31.			
ADDITIONAL INFORMATION 32.			
		DO NOT WRITE IN THIS SPACE FILMED NAME SEARCH CLASS FP SEARCH CODED TERMINAL OPR ANSWERED SHP-108C	

MISSOURI

11 CSR 30-4.040 Prosecuting and Circuit Attorney Procedures for Furnishing CHRI to MCRR and the Courts

PURPOSE: To establish system for each prosecuting and circuit attorney to follow when furnishing CHRI to MCRR.

(1) Each prosecuting and/or circuit attorney, upon filing a reportable offense reported by a peace officer shall furnish the information to MCRR either by submitting the blue carbon copy of the disposition form set or by electronic medium. The white copy of the form set shall be furnished to the court of jurisdiction for purposes of making the OCN number available to them. When charges are not filed, the complete form set shall be destroyed. If the OCN is known at the time the information or complaint is filed by the prosecuting attorney or circuit attorney, the OCN shall be provided to the court. If the defendant is scheduled to appear in separate court divisions, the OCN shall be provided to each division. If the OCN is not known at the time of filing, the prosecuting or circuit attorney shall provide the number to the court as soon as known. When the court issues the warrant, the OCN should be listed on the warrant. The blue carbon copy is illustrated in Figure #3. The white court copy is illustrated in Figure #4. If reporting manually the following method should be followed.

(A) Entries shall be made in block 1 through 5.

(B) Complete as instructed using typewriter or hard tip pen -

1. The prosecuting attorney or circuit attorney must indicate the charges filed for the offense cycle number. All other charges reported by the arresting agency will be considered no filed by MCRR;
2. Enter prosecutor's case number if charge(s) filed;
3. Enter the originating agency identifier (ORI) number of the prosecuting or circuit attorney's office;
4. Enter date the action was taken; and
5. Signature of the prosecuting or circuit attorney taking the action.

(2) If electronic reporting is approved by the Criminal Records Committee, like information must be provided in the appropriate format.

(3) Any change(s) in the prosecuting or circuit attorney's action shall be reported to MCRR.

(A) The supplemental action form illustrated in Figure #5 will be used for reporting any changes if the blue copy of the prosecutor's action form has previously been submitted to MCRR.

MISSOURI

(B) The form should be completed as follows:

1. Enter defendant's name;
2. Enter as least two (2) numeric identifiers (subject's date of birth, OCN number or SID number);
3. Enter charge(s), date of arrest and count number(s) for which the supplemental information pertains;
4. Enter changes in prosecutor's or circuit attorney's action;
5. Enter any comments pertaining to the case;
6. Enter reporting agency name, address and ORI;
7. Enter date of report; and
8. Signature of person completing the form.

(3) In the event a court pronounces sentence, including an order of supervision or an order of probation granted for any offense which is required by statute to be collected by MCRR, the prosecuting attorney or the circuit attorney of a city not within a county shall ask the court to order a police agency to fingerprint immediately all sentenced persons appearing before the court who have not previously been fingerprinted for the same case. The police agency shall submit such fingerprints to MCRR without undue delay.

MISSOURI

FIGURE #3

SID NO. MO.		LAST NAME <u>NAM</u> FIRST NAME MIDDLE NAME			OFFENSE CYCLE NO. 91044102	
LOCAL OFFENSE CYCLE NUMBER		ALIASES		ARRESTING AGENCY NAME & ORI		
SIGNATURE OF PERSON FINGERPRINTED				DATE OF BIRTH <u>DOB</u>		
THIS DATA MAY BE COMPUTERIZED IN LOCAL, STATE AND NATIONAL FILES		DATE ARRESTED OR RECEIVED <u>DOA</u>		SEX	RACE	HGT. WGT. EYES HAIR
DATE	SIGNATURE OF OFFICIAL TAKING FINGERPRINTS		YOUR NO. <u>OCA</u>		ACTION TAKEN BY PROSECUTING ATTORNEY OR CIRCUIT ATTORNEY	
1.			FBI NO. <u>FBI</u>		1.	
2.			SID NO. <u>SID</u>		2.	
3.			SOCIAL SECURITY NO. <u>SOC</u>		3.	
4.			PROSECUTOR'S CASE NO. 2.		4.	
		PROSECUTOR'S ORI NO. 3.				
		DATE 4.		SIGNATURE 5.		

THE PROSECUTING ATTORNEY OR CIRCUIT ATTORNEY SHALL NOTIFY THE MISSOURI STATE HIGHWAY PATROL CRIMINAL RECORD DIVISION OF ACTION TAKEN

FIGURE #4

SID NO. MO.		LAST NAME <u>NAM</u> FIRST NAME MIDDLE NAME			OFFENSE CYCLE NO. 91044102	
LOCAL OFFENSE CYCLE NUMBER		ALIASES		ARRESTING AGENCY NAME & ORI		
SIGNATURE OF PERSON FINGERPRINTED				DATE OF BIRTH <u>DOB</u>		
THIS DATA MAY BE COMPUTERIZED IN LOCAL, STATE AND NATIONAL FILES		DATE ARRESTED OR RECEIVED <u>DOA</u>		SEX	RACE	HGT. WGT. EYES HAIR
DATE	SIGNATURE OF OFFICIAL TAKING FINGERPRINTS		YOUR NO. <u>OCA</u>		ACTION TAKEN BY PROSECUTING ATTORNEY OR CIRCUIT ATTORNEY	
1.			FBI NO. <u>FBI</u>		1.	
2.			SID NO. <u>SID</u>		2.	
3.			SOCIAL SECURITY NO. <u>SOC</u>		3.	
4.			PROSECUTOR'S CASE NO. 2.		4.	
		PROSECUTOR'S ORI NO. 3.				
		DATE 4.		SIGNATURE 5.		

THIS COPY IS TO PROVIDE OFFENSE CYCLE NUMBER AND ARREST/CHARGE INFORMATION TO THE COURT

FIGURE #5

 SUPPLEMENTAL ACTION PROSECUTING ATTORNEY/CIRCUIT ATTORNEY & COURT ACTION SHP-284		
DEFENDANT'S NAME	LAST	FIRST
1.		
DATE OF BIRTH	OFFENSE CYCLE NUMBER (OCN)	STATE IDENT NUMBER (SID)
2.		
CHARGE(S) COUNT NUMBER(S)		
3.		
CHANGE(S) IN PROSECUTOR'S ACTION		
4.		
ADDITIONAL COURT DISPOSITION		
SENTENCE REVERSED & REMANDED	COUNT NO.	DATE
PROBATION REVOKED (EXPLAIN ACTION)	COUNT NO.	DATE
EXPUNGEMENT	COUNT NO.	DATE
JUDGEMENT OF DISCHARGE	COUNT NO.	DATE
OTHER (EXPLAIN IN DETAIL)	COUNT NO.	DATE
COMMENTS:		
5.		
REPORTING AGENCY NAME/ORI		
6.		
DATE	SIGNATURE	
7.	8.	

MISSOURI

11 CSR 30-4.050 Court Clerk Procedures for Furnishing CHRI to MCRR and to Department of Corrections and Human Resources

PURPOSE: To establish a system for each court clerk to follow when furnishing CHRI to MCRR and to the Department of Corrections and Human Resources.

(1) The court clerk shall furnish MCRR with the final disposition of each case relating to a reportable offense filed by a prosecuting or circuit attorney, to include when such an offense is reduced. The court clerk shall report in one of the following ways:

(A) By submitting the necessary case disposition and supplemental court action data to the Statewide Judicial Information System (SWJIS); or

(B) By submitting the necessary case disposition data by electronic medium which has been approved by the Criminal Records Committee.

(2) When a change of venue is granted, the court clerk where the case was originally filed shall forward the OCN received from the prosecuting or circuit attorney together with all other original papers to the court to which the case was transferred.

(3) When the court pronounces sentence, including an order of supervision or an order of probation granted for any offense which is required by statute to be reported to MCRR and it is determined that the person(s) appearing before the court has not previously been fingerprinted for the same case upon request of the prosecuting attorney or the circuit attorney, the court shall order a law enforcement agency to fingerprint immediately all sentenced person(s). The police agency shall submit such fingerprints to MCRR without undue delay and provide the OCN to the court of jurisdiction.

(4) When the court receives a complaint or information which contains an OCN from the prosecuting attorney or circuit attorney, the OCN shall be listed on the warrant when it is issued.

(5) If a warrant is issued by the court for a probation violation on a reportable offense, the court clerk shall list the OCN from the original charges on the warrant.

(6) The court clerk shall report the original charge, including the OCN, if probation is revoked.

(7) The court clerk shall furnish the Department of Corrections and Human Resources information on all defendants convicted and sentenced to their department for custody supervision. The report shall include, but is not limited to: the name of the convicted person; state offense cycle number, if known; charge; Missouri statute number, if known; court case number; date of sentence; and length of sentence on all counts.

MISSOURI

11 CSR 30-4.060 Department of Corrections and Human Resources Procedures for Furnishing CHRI to MCRR

PURPOSE: To establish a system for the Department of Corrections and Human Resources to follow when furnishing CHRI to MCRR.

(1) The Department of Corrections and Human Resources shall furnish MCRR with a complete description, including fingerprints, state offense cycle number, charge, state statute, Missouri state charge code, court case number, sentencing date, sentencing county and length of confinement. The CHRI for each charge for which a person is serving shall be forwarded to MCRR on a specially designed fingerprint card which will be supplied by MCRR.

(2) Each time there is a change in an individual's custody status, or if there is additional charge and sentence information added to a persons commitment record, the Department of Corrections and Human Resources shall furnish MCRR with a copy of the additional charge and sentence information. The above will be accomplished by using institution forms or by electronic medium.

11 CSR 30-4.070 Dissemination of CHRI From MCRR/User Fee When Required/CHRI for Statistical Purposes

PURPOSE: To establish a system for the dissemination of CHRI for criminal justice purposes, employment purposes, statistical purposes, licensing and for concealable weapons permit, for the review and challenge and when the information is released to criminal justice, noncriminal justice, citizens or the individual of the records and for the paying of fees when required.

(1) Criminal justice agencies shall receive complete CHRI for criminal justice purposes and criminal justice employment purposes.

(2) Criminal justice agencies shall receive the following CHRI for the issuance of a concealable firearms permit:

(A) All conviction data;

(B) All charges for which an individual is currently under the jurisdiction of the criminal justice system; and

(C) All charges resulting in an imposition of sentence being suspended (SIS) until such time as the case is finally terminated.

(D) Information regarding an arrest, if it is within thirty (30) days of the arrest and no action has been taken by the prosecuting or circuit attorney.

(3) Noncriminal justice agencies or citizens shall receive the following CHRI for employment, licensing purposes or reasons stated in the request:

(A) All conviction data;

(B) All charges for which an individual is currently under the jurisdiction of the criminal justice system; and

(C) All charges which have resulted in a imposition of sentence being suspended (SIS) until such time as case is finally terminated.

(D) Information regarding an arrest, if it is within thirty (30) days of the arrest and no action has been taken by the prosecuting or circuit attorney.

(4) Federal noncriminal justice agencies shall receive complete CHRI for such investigative purposes as authorized by law or presidential executive order.

(5) The person of an identification record may obtain a copy of his/her CHRI for review or challenge purposes by submitting a written request via U. S. mails directly to the Missouri State Highway Patrol, Criminal Records Division, P. O. Box 568, Jefferson City, Missouri 65102 or may present his/her written request in person during regular business hours to

MISSOURI

the Missouri State Highway Patrol, Criminal Records Division, Annex Building, 1510 East Elm Street, Jefferson City, Missouri.

(A) Requests for CHRI must be accompanied by satisfactory proof of identity, which shall consist of name, date of birth and a set of rolled-inked fingerprint impressions placed upon fingerprint cards or forms commonly utilized for applicant or law enforcement agencies. The request must be accompanied by a fee of fourteen dollars (\$14) in the form of a certified check, warrant, voucher or money order payable to the "State of Missouri - Criminal Record System." Any request for waiver of the fee shall accompany the original request for the CHRI and shall include a claim and proof of indigency.

(B) No fees will be charged for challenge of a previously supplied record by an individual when a person challenges his/her record. A set of fingerprints will be required if the identity of the person is in question.

(6) MCRR shall charge a fee of not more than five dollars (\$5) for each name check and a fee of not more than fourteen dollars (\$14) for each fingerprint processed before CHRI can be disseminated to any federal or nonstate of Missouri agency when such information is requested for a matter not related to the administration of criminal justice. The fee should be either a certified check, warrant, voucher or money order payable to the "State of Missouri - Criminal Record System." The request with the fee stapled thereto should be mailed to the Missouri State Highway Patrol, Criminal Records Division, P. O. Box 568, Jefferson City, Missouri 65102.

(7) Each request to obtain CHRI for employment or licensing purposes must be accompanied by a fee of five dollars (\$5) in the form of a certified check, warrant, voucher or money order payable to the "State of Missouri - Criminal Record System." The request with check stapled thereto should be mailed to the Missouri State Highway Patrol, Criminal Records Division, P. O. Box 568, Jefferson City, Missouri 65102. Any request for waiver of the fee shall accompany the original request for the CHRI and shall include a claim and proof of indigency.

(8) MCRR shall not disseminate or publish statistical information derived from CHRI which identifies individual criminal justice agencies other than to compile or disseminate statistical information from CHRI which describe general offender characteristics and the general disposition of the criminal cases.

MISSOURI

11 CSR 30-4.080 Reporting CHRI to MCRR via Electronic Medium

PURPOSE: To establish a procedure for prosecuting or circuit attorneys, custody agencies and court clerks to follow when such agencies and person choose to report CHRI to MCRR via electronic medium.

(1) Prosecuting or circuit attorneys, custody agencies and court clerks have the capability to develop a system of reporting CHRI via electronic medium to MCRR. Those agencies planning to implement such a system should contact the Criminal Records Division of the Missouri State Highway Patrol. Arrangements will be made for your department's personnel and personnel from the Missouri State Highway Patrol's Information Systems Division to develop the necessary interface to allow for the reporting of the required data elements.

(2) All Systems developed for the reporting of CHRI electronically must be approved by the Criminal Records Advisory Committee.

MISSOURI

11 CSR 30-4.090 Privacy and Security Requirements

PURPOSE: To Establish a rule governing the procedures for dissemination of criminal history record information and to assure that the privacy and security of individuals have not been violated.

(1) Criminal History Record Information (CHRI)

(A) CHRI 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, any disposition arising therefrom, sentencing, correctional supervision and release.

(B) The regulations do not apply to CHRI 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 longstanding custom to be made public, if 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 regulating the issuance, suspension, revocation or renewal of drivers', pilots' or other operators' licenses; and
6. Announcements of executive clemency.

(2) Completeness and Accuracy

(A) To meet accuracy and completeness requirements, the Missouri State Highway Patrol's Criminal Records Division has been designated by state law as the central repository of CHRI for the state.

(B) For the purpose of maintaining complete and accurate criminal history record information, all police officers of this state, the clerk of each court, the Department of Corrections and Human Resources, the sheriff of each county, the chief law enforcement official of a city not within a county and the prosecuting attorney of each county or the circuit attorney of a city not within a county shall submit certain criminal arrest, charge and disposition information to the central repository for filing without undue delay (within 30 days) in the form and manner required by sections 43.500 to 43.530.

MISSOURI

(3) Dissemination

(A) Criminal justice agencies shall receive complete CHRI for criminal justice purposes and criminal justice employment purposes.

(B) Criminal justice agencies shall receive the following CHRI for the issuance of concealable firearms permit:

1. All conviction data;
2. All charges for which an individual is currently under the jurisdiction of the criminal justice system; and
3. All charges resulting in an imposition of sentence being suspended (SIS) until such time as the case is finally terminated.
4. Information regarding an arrest, if it is within thirty (30) days of the arrest and no action has been taken by the prosecuting or circuit attorney.

(C) Noncriminal justice agencies or citizens shall receive the following CHRI for employment, licensing purposes or reasons stated in the request:

1. All conviction data;
2. All charges for which an individual is currently under the jurisdiction of the criminal justice system; and
3. All charges resulting in an imposition of sentence being suspended (SIS) until such time as the case is finally terminated.
4. Information regarding an arrest, if it is within thirty (30) days of the arrest and no action has been taken by the prosecuting or circuit attorney.

(D) Federal noncriminal justice agencies shall receive complete CHRI for such investigative purposes as authorized by law or presidential executive order.

(4) Agency Audit

(A) By federal regulation every state is required to conduct biennial audits of randomly selected criminal justice agencies to assure that privacy and security regulations are being followed.

(B) To make this audit possible, agencies are required to retain appropriate records. Agencies will need to account for each dissemination in a log so that the audit can be performed. The log should contain the name of the subject on whom the record is disseminated,

MISSOURI

the name of the recipient of the information, the agency he represents, whether the agency is criminal justice or not, the purpose for which the information is to be used, address of the agency, date and time.

(C) Criminal justice agencies may choose a manual or automated dissemination logging system. Agencies which are not automated and rely on other systems, such as the central repository for automated dissemination logging, must log all secondary dissemination. Secondary dissemination is defined as "The dissemination of any CHRI response to another criminal justice agency or to an individual within another criminal justice agency or to anyone legally entitled to receive such information who is outside the original agency." These logs shall be maintained for thirteen (13) months from the date of dissemination.

(D) The reporting of a criminal justice transaction to a state, local or federal repository is not a dissemination of information. Also agencies are not required to account for "no record" responses.

(5) Security of Criminal History Record Information

(A) Agencies providing security must be mindful of computer software and hardware, restriction of file access and safeguard policies regarding computer operation in the following areas: protection through proper storage; protection through computer programs; legitimate destruction of records; detection of unauthorized penetration of programs or files; protection of security and protection from destruction.

(B) Agencies must screen prospective employees who will have access to CHRI and be responsible for transferring or removing personnel in cases of violation.

(C) The agency must institute manual procedures for physical and data security, institute manual procedures to prevent file destruction and limit direct access to criminal history record information.

(D) Each employee working with or having access to criminal history record information shall be made familiar with the substance and intent of these regulations.

(6) Access and Review

(A) Any individual shall, upon satisfactory verification of his/her identity, be entitled to review without undue burden to either the criminal justice agency or the individual any CHRI maintained about himself/herself and obtain a copy thereof when necessary for challenge or review.

(B) Employees who process, access and review inquiries must be cautious when a person asks to see his/her CHRI. Positive identification is required. A drivers license with a photo may be sufficient;

MISSOURI

however, if identification is questionable fingerprints may be required.

(C) If a person has accessed and reviewed his/her CHRI and disagrees with the information, a challenge can follow. The challenge may be oral or written indicating that the record is inaccurate or incomplete and be accompanied by a corrected version.

(D) If it is determined that there is an error in the record the agency must make the necessary correction. At the individual's request the agency must give him/her the names of all non-criminal justice agencies to whom the data has been disseminated. Disseminations to criminal justice agencies will not be disclosed.

(E) The correcting agency shall notify all criminal justice recipients of the corrected information.

(F) The individual is not entitled to data contained in intelligence, investigatory or other related files and shall not be construed to include any other information than that defined as CHRI.

(G) When an error in a CHRI record has been detected and the correction has been made, the correcting agency shall forward corrected copies to the central repository including a copy for the Federal Bureau of Investigation.

(H) In the event an agreement cannot be reached between the individual and the agency being challenged, the individual may proceed with an administrative appeal to the Director of the Department of Public Safety, Truman Building, 8th Floor, Jefferson City, Missouri 65101.