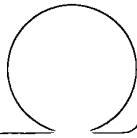


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Pennsylvania Consolidated Statutes Annotated (Purdon)

Title 18 Crimes and Offenses

PART III

MISCELLANEOUS PROVISIONS

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CHAPTER 91.—CRIMINAL HISTORY RECORD INFORMATION

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SUBCHAPTER A. GENERAL PROVISIONS

Act 1978, Nov. 26, P.L. 1274, No. 303, §§ 101 to 903, constituting 19 P.S. §§ 1511 to 1536, formerly the Criminal History Record Information Act was repealed by Act 1979, July 16, P.L. 116, No. 47, § 3.

A new Criminal History Record Information Act, constituting sections 9101 to 9183 of this title was enacted by Act 1979, July 16, P.L. 116, No. 47, § 2.

§ 9101. Short title of chapter

This chapter shall be known and may be cited as the "Criminal History Record Information Act."

1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980.

1. Construction and application

The Criminal History Record Information Act, other than subchapters B, D and F, does not restrict the public's ac-

cess to criminal records including records of charges and the disposition therefor. In re Cambria County Clerk of Courts, 13 D. & C.3d 710, 1980.

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§ 9102. Definitions

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Administration of criminal justice." The activities directly concerned with the prevention, control or reduction of crime, the apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders; criminal identification activities; or the collection, storage dissemination or usage of criminal history record information.

"Audit." The process of reviewing compliance with applicable Federal and State laws and regulations related to the privacy and security of criminal history record information.

"Automated systems." A computer or other internally programmed device capable of automatically accepting and processing data, including computer programs, data communication links, input and output data and data storage devices.

"Central repository." The central location for the collection, compilation, maintenance and dissemination of criminal history record information by the Pennsylvania State Police.

"Criminal history record information." Information collected by criminal justice agencies concerning individuals, and arising from the initiation of a criminal proceeding, consisting of identifiable descriptions, dates and notations of arrests, indictments, informations or other formal criminal charges and any dispositions arising therefrom. The term does not include intelligence information, investigative information or treatment information, including medical and psychological information, or information and records specified in section 9104 (relating to scope).

"Criminal justice agency." Any court, including the minor judiciary, with criminal jurisdiction or any other governmental agency, or subunit thereof, created by statute or by the State or Federal constitutions, specifically authorized to perform as its principal function the administration of criminal justice, and which allocates a substantial portion of its annual budget to such function. Criminal justice agencies include, but are not limited to: organized State and municipal police departments, local detention facilities, county, regional and State correctional facilities, probation agencies, district or prosecuting attorneys, parole boards, pardon boards and such agencies or subunits thereof, as are declared by the Attorney General to be criminal justice agencies as determined by a review of applicable statutes and the State and Federal constitutions or both.

"Disposition." Information indicating that criminal proceedings have been concluded, including information disclosing that police have elected not to refer a matter for prosecution, that a prosecuting authority has elected not to commence criminal proceedings or that a grand jury has failed to indict and disclosing the nature of the termination of the proceedings; or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such postponement. Dispositions of criminal proceedings in the Commonwealth shall include, but not be limited to, acquittal, acquittal by reason of insanity, pretrial probation or diversion, charge dismissed, guilty plea, nolle prosequi, no information filed, nolo contendere plea, convicted, abatement, discharge under rules of the Pennsylvania Rules of Criminal Procedure, demurrer sustained, pardoned, sentence commuted, mistrial-defendant discharged, discharge from probation or parole or correctional supervision.

"Dissemination." The oral or written transmission or disclosure of criminal history record information to individuals or agencies other than the criminal justice agency which maintains the information.

"Expunge."

(1) To remove information so that there is no trace or indication that such information existed;

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(2) to eliminate all identifiers which may be used to trace the identity of an individual, allowing remaining data to be used for statistical purposes; or

(3) maintenance of certain information required or authorized under the provisions of section 9122(c) (relating to expungement), when an individual has successfully completed the conditions of any pretrial or posttrial diversion or probation program.

"Intelligence information." Information concerning the habits, practices, characteristics, possessions, associations or financial status of any individual.

"Investigative information." Information assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing and may include modus operandi information.

"Police blotter." A chronological listing of arrests, usually documented contemporaneous with the incident, which may include, but is not limited to, the name and address of the individual charged and the alleged offenses.

"Repository." Any location in which criminal history record information is collected, compiled, maintained and disseminated by a criminal justice agency.

"Treatment information." Information concerning medical, psychiatric, psychological or other rehabilitative treatment provided, suggested or prescribed for any individual.

1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980. As amended 1979, Dec. 14, P.L. 556, No. 127, § 2, imd. effective; 1982, June 11, P.L. 476, No. 138, § 3, effective in 18⁰ days.

§ 9103. Applicability

This chapter shall apply to persons within this commonwealth and to any agency of the Commonwealth or its political subdivisions which collects, maintains, disseminates or receives criminal history record information.

1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980.

§ 9104. Scope

(a) General rule.—Except for the provisions of Subchapter B (relating to completeness and accuracy),¹ Subchapter D (relating to security)² and Subchapter F (relating to individual right of access and review),³ nothing in this chapter shall be construed to apply to:

(1) Original records of entry compiled chronologically, including, but not limited to, police blotters and press releases that contain criminal history record information and are disseminated contemporaneous with the incident.

(2) Any documents, records or indices prepared or maintained by or filed in any court of this Commonwealth, including but not limited to the minor judiciary.

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

(4) Announcements of executive clemency.

(b) Court dockets, police blotters and press releases.—Court dockets, police blotters and press releases and information contained therein shall, for the purpose of this chapter, be considered public records.

(c) Substitutes for court dockets.—Where court dockets are not maintained any reasonable substitute containing that information traditionally

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available in court dockets shall, for the purpose of this chapter, be considered public records.

(d) **Certain disclosures authorized.**—Nothing in this chapter shall prohibit a criminal justice agency from disclosing an individual's prior criminal activity to an individual or agency if the information disclosed is based on records set forth in subsection (a).

(e) **Noncriminal justice agencies.**—Information collected by noncriminal justice agencies and individuals from the sources identified in this section shall not be considered criminal history record information.

(f) Deleted by amendment. 1979, Dec. 14, P.L. 556, No. 127, § 3. 1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980. As amended 1979, Dec. 14, P.L. 556, No. 127, § 3, imd. effective; 1982 June 11, P.L. 476, No. 138, § 4, effective in 180 days.

§ 9105. Other criminal justice information

Nothing in this chapter shall be construed to apply to information concerning juveniles, except as provided in section 9123 (relating to juvenile records), unless they have been adjudicated as adults, nor shall it apply to intelligence information, investigative information, treatment information, including medical and psychiatric information, caution indicator information, modus operandi information, wanted persons information, stolen property information, missing persons information, employment history information, personal history information, nor presentence investigation information. Criminal history record information maintained as a part of these records shall not be disseminated unless in compliance with the provisions of this chapter.

1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980.

§ 9106. Prohibited information

Intelligence information, investigative information and treatment information shall not be collected in the central repository nor in any automated or electronic criminal justice information system. This prohibition shall not preclude the collection in the central repository or in any automated or electronic criminal justice information system of names, words, numbers, phrases or other similar index keys to serve as indices to investigative reports.

1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980. As amended 1979, Dec. 14, P.L. 556, No. 127, § 3, imd. effective.

REPOSITORY OR AUTOMATED SYSTEMS.

(a) General rule.--

~~(1)~~ Intelligence information, investigative information and treatment information shall not be collected in the central repository [nor in any automated or electronic criminal justice information system]. This prohibition shall not preclude the collection in the central repository [or in any automated or electronic criminal justice information system] of names, words, numbers, phrases or other similar index keys to serve as indices to investigative reports.

(B) COLLECTION OF PROTECTED INFORMATION.--

(1) INTELLIGENCE INFORMATION MAY BE PLACED IN AN
AUTOMATED OR ELECTRONIC CRIMINAL JUSTICE SYSTEM ONLY IF THE
FOLLOWING APPLY:

(I) THE CRIMINAL JUSTICE AGENCY HAS REASONABLE
SUSPICION OF CRIMINAL ACTIVITY.

(II) ACCESS TO THE INTELLIGENCE INFORMATION
CONTAINED IN THE AUTOMATED OR ELECTRONIC CRIMINAL JUSTICE
SYSTEM IS RESTRICTED TO THE AUTHORIZED EMPLOYEES OF THE
CRIMINAL JUSTICE AGENCY AND CANNOT BE ACCESSED BY ANY
OTHER INDIVIDUALS INSIDE OR OUTSIDE OF THE AGENCY.

(III) THE INTELLIGENCE INFORMATION IS RELATED TO
CRIMINAL ACTIVITY THAT WOULD GIVE RISE TO PROSECUTION FOR
A STATE OFFENSE GRADED A MISDEMEANOR OR FELONY, OR FOR A

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FEDERAL OFFENSE FOR WHICH THE PENALTY IS IMPRISONMENT FOR MORE THAN ONE YEAR. INTELLIGENCE INFORMATION SHALL BE CATEGORIZED BASED UPON SUBJECT MATTER.

(IV) THE INTELLIGENCE INFORMATION IS NOT COLLECTED IN VIOLATION OF STATE LAW.

(2) INTELLIGENCE INFORMATION MAY NOT BE COLLECTED OR MAINTAINED IN AN AUTOMATED OR ELECTRONIC CRIMINAL JUSTICE SYSTEM CONCERNING PARTICIPATION IN A POLITICAL, RELIGIOUS OR SOCIAL ORGANIZATION, OR IN THE ORGANIZATION OR SUPPORT OF ANY NONVIOLENT DEMONSTRATION, ASSEMBLY, PROTEST, RALLY OR SIMILAR FORM OF PUBLIC SPEECH, UNLESS THERE IS A REASONABLE SUSPICION THAT THE PARTICIPATION BY THE SUBJECT OF THE INFORMATION IS RELATED TO CRIMINAL ACTIVITY OR PRISON RULE VIOLATION.

(3) INVESTIGATIVE INFORMATION AND TREATMENT INFORMATION CONTAINED IN FILES OF ANY CRIMINAL JUSTICE AGENCY MAY BE PLACED WITHIN AN AUTOMATED OR ELECTRONIC CRIMINAL JUSTICE INFORMATION SYSTEM, PROVIDED THAT ACCESS TO THE INVESTIGATIVE INFORMATION AND TREATMENT INFORMATION CONTAINED IN THE AUTOMATED OR ELECTRONIC CRIMINAL JUSTICE INFORMATION SYSTEM IS RESTRICTED TO AUTHORIZED EMPLOYEES OF THAT AGENCY AND CANNOT BE ACCESSED BY INDIVIDUALS OUTSIDE OF THE AGENCY.

(C) DISSEMINATION OF PROTECTED INFORMATION.--

(1) INTELLIGENCE INFORMATION MAY BE PLACED WITHIN AN AUTOMATED OR ELECTRONIC CRIMINAL JUSTICE INFORMATION SYSTEM AND DISSEMINATED ONLY IF THE FOLLOWING APPLY:

(I) THE INFORMATION IS RELIABLE AS DETERMINED BY AN AUTHORIZED INTELLIGENCE OFFICER.

(II) THE DEPARTMENT, AGENCY OR INDIVIDUAL REQUESTING THE INFORMATION IS A CRIMINAL JUSTICE AGENCY WHICH HAS POLICIES AND PROCEDURES ADOPTED BY THE OFFICE OF ATTORNEY

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GENERAL IN CONSULTATION WITH THE PENNSYLVANIA STATE
POLICE WHICH ARE CONSISTENT WITH THIS ACT AND INCLUDE:

(A) DESIGNATION OF AN INTELLIGENCE OFFICER OR
OFFICERS BY THE HEAD OF THE CRIMINAL JUSTICE AGENCY
OR HIS DESIGNEE.

(B) ADOPTION OF ADMINISTRATIVE, TECHNICAL AND
PHYSICAL SAFEGUARDS, INCLUDING AUDIT TRAILS, TO
INSURE AGAINST UNAUTHORIZED ACCESS AND AGAINST
INTENTIONAL OR UNINTENTIONAL DAMAGES.

(C) LABELING INFORMATION TO INDICATE LEVELS OF
SENSITIVITY AND LEVELS OF CONFIDENCE IN THE
INFORMATION.

(III) THE INFORMATION IS REQUESTED IN CONNECTION
WITH THE DUTIES OF THE CRIMINAL JUSTICE AGENCY REQUESTING
THE INFORMATION, AND THE REQUEST FOR INFORMATION IS BASED
UPON A NAME, FINGERPRINTS, MODUS OPERANDI, GENETIC
TYPING, VOICE PRINT OR OTHER IDENTIFYING CHARACTERISTIC.

(2) IF AN INTELLIGENCE OFFICER OF A DISSEMINATING AGENCY
IS NOTIFIED THAT INTELLIGENCE INFORMATION WHICH HAS BEEN
PREVIOUSLY DISSEMINATED TO ANOTHER CRIMINAL JUSTICE AGENCY IS
MATERIALLY MISLEADING, OBSOLETE OR OTHERWISE UNRELIABLE, THE
INFORMATION SHALL BE CORRECTED AND THE RECIPIENT AGENCY
NOTIFIED OF THE CHANGE WITHIN A REASONABLE PERIOD OF TIME.

(3) CRIMINAL JUSTICE AGENCIES SHALL ESTABLISH RETENTION
SCHEDULES FOR INTELLIGENCE INFORMATION. INTELLIGENCE
INFORMATION SHALL BE PURGED UNDER THE FOLLOWING CONDITIONS:

(I) THE DATA IS NO LONGER RELEVANT OR NECESSARY TO
THE GOALS AND OBJECTIVES OF THE CRIMINAL JUSTICE AGENCY.

(II) THE DATA HAS BECOME OBSOLETE, MAKING IT
UNRELIABLE FOR PRESENT PURPOSES; AND THE UTILITY OF

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UPDATING THE DATA WOULD BE WORTHLESS.

(III) THE DATA CANNOT BE UTILIZED FOR STRATEGIC OR TACTICAL INTELLIGENCE STUDIES.

(4) INVESTIGATIVE AND TREATMENT INFORMATION SHALL NOT BE DISSEMINATED TO ANY DEPARTMENT, AGENCY OR INDIVIDUAL UNLESS THE DEPARTMENT, AGENCY OR INDIVIDUAL REQUESTING THE INFORMATION IS A CRIMINAL JUSTICE AGENCY WHICH REQUESTS THE INFORMATION IN CONNECTION WITH ITS DUTIES, AND THE REQUEST IS BASED UPON A NAME, FINGERPRINTS, MODUS OPERANDI, GENETIC TYPING, VOICE PRINT OR OTHER IDENTIFYING CHARACTERISTIC.

(5) EACH MUNICIPAL POLICE DEPARTMENT ACCESSING AUTOMATED INFORMATION SHALL FILE A COPY OF ITS PROCEDURES WITH THE PENNSYLVANIA STATE POLICE FOR APPROVAL. SUCH PLAN SHALL BE REVIEWED WITHIN 60 DAYS.

(6) EACH DISTRICT ATTORNEY ACCESSING AUTOMATED INFORMATION SHALL FILE A COPY OF ITS PROCEDURES WITH THE OFFICE OF ATTORNEY GENERAL FOR APPROVAL. SUCH PLAN SHALL BE REVIEWED WITHIN 60 DAYS.

(D) SECONDARY DISSEMINATION PROHIBITED.--A CRIMINAL JUSTICE AGENCY WHICH POSSESSES INFORMATION PROTECTED BY THIS SECTION, BUT WHICH IS NOT THE SOURCE OF THE INFORMATION, SHALL NOT DISSEMINATE OR DISCLOSE THE INFORMATION TO ANOTHER CRIMINAL JUSTICE AGENCY BUT SHALL REFER THE REQUESTING AGENCY TO THE AGENCY WHICH WAS THE SOURCE OF THE INFORMATION. THIS PROHIBITION SHALL NOT APPLY IF THE AGENCY RECEIVING THE INFORMATION IS INVESTIGATING OR PROSECUTING A CRIMINAL INCIDENT IN CONJUNCTION WITH THE AGENCY POSSESSING THE INFORMATION. AGENCIES RECEIVING INFORMATION PROTECTED BY THIS SECTION ASSUME THE SAME LEVEL OF RESPONSIBILITY FOR THE SECURITY OF SUCH INFORMATION AS THE AGENCY WHICH WAS THE SOURCE OF THE INFORMATION.

~~(D)~~ (E) Notations of the record.--Criminal justice agencies maintaining intelligence information, investigative information or treatment information must enter, as a permanent part of an individual's information file, a listing of all persons and agencies to whom they have disseminated that particular information, the date of the dissemination and the purpose for which the information was disseminated. This listing shall be maintained separate from the record itself.

~~(E)~~ (F) Security requirements.--Every criminal justice agency collecting, storing or disseminating intelligence information, investigative information or treatment information shall insure the confidentiality and security of such information by providing that wherever such information is maintained, a criminal justice agency must:

(1) institute procedures to reasonably protect any repository from theft, fire, sabotage, flood, wind or other natural or man-made disasters;

(2) select, supervise and train all personnel authorized to have access to intelligence information, investigative information or treatment information;

(3) insure that, where computerized data processing is employed, the equipment utilized for maintaining intelligence information, investigative information or treatment information is dedicated solely to purposes related to the administration of criminal justice, or, if the equipment is not used solely for the administration of criminal justice, the criminal justice agency is accorded equal management participation in computer operations used to maintain the intelligence information, investigative information or treatment information.

(f) (G) Penalties.--Any person, including any agency or organization, who violates the provisions of this section shall be subject to the administrative penalties provided in section 9181 (relating to general administrative sanctions) and the civil penalties provided in section 9183 (relating to civil actions) IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL PENALTY PROVIDED BY LAW.

SUBCHAPTER B. COMPLETENESS AND ACCURACY

§ 9111. Duties of criminal justice agencies

It shall be the duty of every criminal justice agency within the commonwealth to maintain complete and accurate criminal history record information and to report such information at such times and in such manner as required by the provisions of this chapter or other applicable statutes. 1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980.

§ 9112. Mandatory fingerprinting

(a) General rule.—Fingerprints of all persons arrested for a felony, misdemeanor or summary offense which becomes a misdemeanor on a

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second arrest after conviction of that summary offense, shall be taken by the arresting authority, and within 48 hours of the arrest, shall be forwarded to, and in a manner and such a form as provided by, the central repository.

(b) Other cases.—

(1) Where private complaints for a felony or misdemeanor result in a conviction, the court of proper jurisdiction shall order the defendant to submit for fingerprinting by the municipal police of the jurisdiction in which the offense was allegedly committed or in the absence of a police department, the State Police. Fingerprints so obtained shall, within 48 hours, be forwarded to the central repository in a manner and in such form as may be provided by the central repository.

(2) Where defendants named in police complaints are proceeded against by summons, or for offenses under section 3929 (relating to retail theft), the court of proper jurisdiction shall order the defendant to submit within five days of such order for fingerprinting by the municipal police of the jurisdiction in which the offense allegedly was committed or, in the absence of a police department, the State Police. Fingerprints so obtained shall, within 48 hours, be forwarded to the central repository in a manner and in such form as may be provided by the central repository.

(c) Transmittal of information.—The central repository shall transmit the criminal history record information to the criminal justice agency which submitted a complete, accurate and classifiable fingerprint card. 1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980. As amended 1979, Dec. 14, P.L. 556, No. 127, § 3, imd. effective; 1982, June 11, P.L. 476, No. 138, § 4, effective in 180 days.

§ 9113. Disposition reporting by criminal justice agencies

(a) Reports of dispositions required.—All criminal justice agencies, including but not limited to, courts, county, regional and state correctional institutions and parole and probation agencies, shall collect and submit reports of dispositions occurring within their respective agencies for criminal history record information, within 90 days of the date of such disposition to the central repository as provided for in this section.

(b) Courts.—Courts shall collect and submit criminal court dispositions as required by the Administrative Office of Pennsylvania Courts.

(c) Correctional institutions.—County, regional and state correctional institutions shall collect and submit information regarding the admission, release and length of sentence of individuals sentenced to local and county institutions as required by the Bureau of Correction.

(d) Probation and parole offices.—County probation and parole offices shall collect and submit information relating to the length of time and charges for which an individual is placed under and released from the jurisdiction of such agency as required by the Pennsylvania Board of Probation and Parole.

(e) State agencies.—The Administrative Office of Pennsylvania Courts, the Bureau of Correction, the Pennsylvania Board of Probation and Parole and the Pennsylvania Board of Pardons shall collect and submit to the central repository such information necessary to maintain complete and accurate criminal history record information. Each State agency listed in this subsection shall submit to the central repository any reports of dispositions occurring within their respective agencies and such information reported from county and local criminal justice agencies.

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§ 9114. Correction of inaccurate information

Within 15 days of the detection of inaccurate data in a criminal history record, regardless of the manner of discovery, the criminal justice agency which reported the information shall comply with the following procedures to effect correction:

(1) Correct its own records.

(2) Notify all recipients, including the central repository, of the inaccurate data and the required correction.

1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980.

SUBCHAPTER C. DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION

§ 9121. General regulations

(a) **Dissemination to criminal justice agencies.**—Criminal history record information maintained by any criminal justice agency shall be disseminated without charge to any criminal justice agency or to any non-criminal justice agency that is providing a service for which a criminal justice agency is responsible.

(b) **Dissemination to noncriminal justice agencies and individuals.**—Criminal history record information shall be disseminated by a State or local police department to any individual or noncriminal justice agency only upon request:

(1) A fee may be charged by a State or local police department for each request for criminal history record information by an individual or noncriminal justice agency.

(2) Before a State or local police department disseminates criminal history record information to an individual or noncriminal justice agency, it shall extract from the record all notations of arrests, indictments or other information relating to the initiation of criminal proceedings where:

(i) three years have elapsed from the date of arrest;

(ii) no conviction has occurred; and

(iii) no proceedings are pending seeking a conviction.

(c) **Data required to be kept.**—Any criminal justice agency which disseminates criminal history record information must indicate to the recipient that the information disseminated is only that information contained in its own file, the date of the last entry, and that a summary of the State-wide criminal history record information may be obtained from the central repository.

(d) **Extracting from the record.**—When criminal history record information is maintained by a criminal justice agency in records containing investigative information, intelligence information, treatment information or other nonpublic information, the agency may extract and disseminate only the criminal history record information if the dissemination is to be made to a noncriminal justice agency or individual.

(e) **Dissemination procedures.**—Criminal justice agencies may establish reasonable procedures for the dissemination of criminal history record information.

(f) **Notations on record.**—Repositories must enter as a permanent part of an individual's criminal history record information file, a listing of all persons and agencies to whom they have disseminated that particular criminal history record information and the date and purpose for which the information was disseminated. Such listing shall be maintained separate from the record itself.

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§ 9122. Expungement

(a) **Specific proceedings.**—Criminal history record information shall be expunged in a specific criminal proceeding when:

(1) No disposition has been received or, upon request for criminal history record information, no disposition has been recorded in the repository within 18 months after the date of arrest and the court of proper jurisdiction certifies to the director of the repository that no disposition is available and no action is pending. Expungement shall not occur until the certification from the court is received and the director of the repository authorizes such expungement; or

(2) A court order requires that such nonconviction data be expunged.

(b) **Generally.**—Criminal history record information may be expunged when:

(1) An individual who is the subject of the information reaches 70 years of age and has been free of arrest or prosecution for ten years following final release from confinement or supervision; or

(2) An individual who is the subject of the information has been dead for three years.

(c) **Maintenance of certain information required or authorized.**—Notwithstanding any other provision of this chapter, the prosecuting attorney and the central repository shall, and the court may, maintain a list of the names and other criminal history record information of persons whose records are required by law or court rule to be expunged where the individual has successfully completed the conditions of any pretrial or post-trial diversion or probation program. Such information shall be used solely for the purpose of determining subsequent eligibility for such programs. Criminal history record information may be expunged as provided in subsection (b)(1) and (2). Such information shall be made available to any court upon request.

(d) **Notice of expungement.**—Notice of expungement shall promptly be submitted to the central repository which shall notify all criminal justice agencies which have received the criminal history record information to be expunged.

(e) **Public records.**—Public records listed in section 9104(a) (relating to scope) shall not be expunged.

(f) **District attorney's notice.**—The court shall give ten days prior notice to the district attorney of the county where the original charge was filed of any applications for expungement under the provisions of subsection (a)(2).

§ 9123. Juvenile records

(a) **Expungement of juvenile records.**—Notwithstanding the provisions of section 9105 (relating to other criminal justice information) and except upon cause shown, expungement of records of juvenile delinquency cases wherever kept or retained shall occur after ten days notice to the district attorney, whenever the court upon its motion or upon the motion of a child or the parents or guardian finds:

(1) a complaint is filed which is not substantiated or the petition which is filed as a result of a complaint is dismissed by the court other than as a result of a consent decree;

(2) five years have elapsed since the final discharge of the person from commitment, placement, probation or any other disposition and referral and since such final discharge, the person has not been convicted of a felony, misdemeanor or adjudicated delinquent and no proceeding is pending seeking such conviction or adjudication; or

(3) the individual is 21 years of age or older and a court orders the expungement.

(b) **Notice to prosecuting attorney.**—The court shall give notice of the applications for the expungement of juvenile records to the prosecuting attorney.

(c) **Dependent children.**—All records of children alleged to be or adjudicated dependent may be expunged upon court order after the child is 21 years of age or older.

§ 9124. Use of records by licensing agencies

(a) **State agencies.**—Except as provided by this chapter, a board, commission or department of the Commonwealth, when determining eligibility for licensing, certification, registration or permission to engage in a trade, profession or occupation, may consider convictions of the applicant of crimes but the convictions shall not preclude the issuance of a license, certificate, registration or permit.

(b) **Prohibited use of information.**—The following information shall not be used in consideration of an application for a license, certificate, registration or permit:

- (1) Records of arrest if there is no conviction of a crime based on the arrest.
- (2) Convictions which have been annulled or expunged.
- (3) Convictions of a summary offense.
- (4) Convictions for which the individual has received a pardon from the Governor.
- (5) Convictions which do not relate to the applicant's suitability for the license, certificate, registration or permit.

(c) **State action authorized.**—Boards, commissions or departments of the Commonwealth authorized to license, certify, register or permit the practice of trades, occupations or professions may refuse to grant or renew, or may suspend or revoke any license, certificate, registration or permit for the following causes:

- (1) Where the applicant has been convicted of a felony.
- (2) Where the applicant has been convicted of a misdemeanor which relates to the trade, occupation or profession for which the license, certificate, registration or permit is sought.

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(d) Notice.—The board, commission or department shall notify the individual in writing of the reasons for a decision which prohibits the applicant from practicing the trade, occupation or profession if such decision is based in whole or part on conviction of any crime.

1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980. As amended 1979, Dec. 14, P.L. 556, No. 127, § 3, imd. effective.

§ 9125. Use of records for employment

(a) General rule.—Whenever an employer is in receipt of information which is part of an employment applicant's criminal history record information file, it may use that information for the purpose of deciding whether or not to hire the applicant, only in accordance with this section.

(b) Use of information.—Felony and misdemeanor convictions may be considered by the employer only to the extent to which they relate to the applicant's suitability for employment in the position for which he has applied.

(c) Notice.—The employer shall notify in writing the applicant if the decision not to hire the applicant is based in whole or in part on criminal history record information.

1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980. As amended 1979, Dec. 14, P.L. 556, No. 127, § 3, imd. effective; 1982, June 11, P.L. 476, No. 138, § 4, effective in 180 days.

SUBCHAPTER D. SECURITY

§ 9181. Security requirements for repositories

Every criminal justice agency collecting, storing or disseminating criminal history record information shall ensure the confidentiality and security of criminal history record information by providing that wherever such information is maintained, a criminal justice agency must:

(1) Institute procedures to reasonably protect any repository from theft, fire, sabotage, flood, wind or other natural or man-made disasters.

(2) Select, supervise and train all personnel authorized to have access to criminal history record information.

(3) Ensure that, where computerized data processing is employed, the equipment utilized for maintaining criminal history record information is solely dedicated to purposes related to the administration of criminal justice, or, if the equipment is not used solely for the administration of criminal justice, the criminal justice agency shall be accorded equal management participation in computer operations used to maintain the criminal history record information.

§ 9141. [ANNUAL AUDIT OF REPOSITORIES] AUDITS.

(A) AUDIT REQUIRED.--

(1) THE ATTORNEY GENERAL SHALL CONDUCT ANNUAL AUDITS OF THE CENTRAL REPOSITORY AND OF A REPRESENTATIVE SAMPLE OF ALL REPOSITORIES. THE OFFICE OF ATTORNEY GENERAL SHALL CONDUCT A REVIEW OF STATE CRIMINAL JUSTICE AGENCIES' AUTOMATED POLICIES AND PROCEDURES ESTABLISHED PURSUANT TO SECTION 9106 (RELATING TO INFORMATION IN CENTRAL REPOSITORY OR AUTOMATED SYSTEMS) TO ENSURE THAT THE PROVISIONS OF THIS CHAPTER ARE UPHELD WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS ACT.

(2) THE PENNSYLVANIA STATE POLICE SHALL CONDUCT AN ANNUAL AUDIT OF AT LEAST 5% OF ALL MUNICIPAL POLICE DEPARTMENT PLANS, POLICIES OR PROCEDURES WHICH ARE IMPLEMENTED PURSUANT TO SECTION 9106(C), TO ENSURE THAT THE PROVISIONS OF THIS CHAPTER ARE UPHELD. THE FIRST SUCH AUDIT SHALL BE CONDUCTED WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS ACT. A COPY OF THE AUDIT SHALL BE SUBMITTED TO THE ATTORNEY GENERAL.

(B) ACCESS TO RECORDS.--PERSONS CONDUCTING THE AUDIT SHALL BE PROVIDED ACCESS TO ALL RECORDS, REPORTS AND LISTINGS REQUIRED TO CONDUCT AN AUDIT OF CRIMINAL HISTORY RECORD INFORMATION, AND ALL PERSONS WITH ACCESS TO SUCH INFORMATION OR AUTHORIZED TO

RECEIVE SUCH INFORMATION SHALL COOPERATE WITH AND PROVIDE INFORMATION REQUESTED.

(C) CONTENTS OF AUDIT.--THE AUDIT SHALL CONTAIN A REPORT OF DEFICIENCIES AND RECOMMENDATIONS FOR THE CORRECTION OF SUCH DEFICIENCIES. UPON THE COMPLETION OF EVERY AUDIT, THE AUDITED AGENCY SHALL CARRY OUT THE RECOMMENDATIONS WITHIN A REASONABLE PERIOD OF TIME UNLESS THE AUDIT REPORT IS APPEALED TO THE ATTORNEY GENERAL AND THE APPEAL IS UPHELD.

(D) MODIFICATION OF RECOMMENDATIONS.--THE ATTORNEY GENERAL SHALL HAVE THE POWER TO MODIFY THE CORRECTIVE MEASURES RECOMMENDED BY THE AUDIT.

§ 9142. Quality control

Each repository shall establish effective procedures, in compliance with rules and regulations promulgated by the Attorney General, for the completeness and accuracy of criminal history record information. 1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980.

§ 9143. REGULATIONS.

IT SHALL BE THE DUTY AND RESPONSIBILITY OF THE ATTORNEY GENERAL IN CONSULTATION WITH THE PENNSYLVANIA STATE POLICE TO ADOPT RULES AND REGULATIONS PURSUANT TO THIS ACT. THE OFFICE OF ATTORNEY GENERAL IN CONSULTATION WITH THE PENNSYLVANIA STATE POLICE SHALL HAVE THE POWER AND AUTHORITY TO PROMULGATE, ADOPT, PUBLISH AND USE GUIDELINES FOR THE IMPLEMENTATION OF THIS ACT FOR A PERIOD OF ONE YEAR IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THIS SECTION PENDING ADOPTION OF FINAL RULES AND REGULATIONS.

Section 4 7. This act shall take effect as follows:

(1) Section 3 4 of this act, amending section 9106, shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.

**SUBCHAPTER F. INDIVIDUAL RIGHT OF
ACCESS AND REVIEW**

§ 9151. Right to access and review

(a) **General rule.**—Any individual or his legal representative has the right to review, challenge, correct and appeal the accuracy and completeness of his criminal history record information.

(b) **Prisoners.**—Persons incarcerated in correctional facilities and institutions may authorize a correctional employee to obtain a copy of their criminal history record information for the purpose of review, challenge and appeal.

1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980.

§ 9152. Procedure

(a) **Rules and regulations.**—The Attorney General in cooperation with appropriate criminal justice agencies shall promulgate rules and regulations to implement this section and shall establish reasonable fees.

(b) **Requests for information.**—Any individual requesting to review his or her own criminal history record information shall submit proper identification to the criminal justice agency which maintains his or her record. Proper identification shall be determined by the officials of the repository where the request is made. If criminal history record information exists the individual may review a copy of such information without undue delay for the purpose of review and challenge.

(c) **Challenge of accuracy.**—The individual may challenge the accuracy of his or her criminal history record information by specifying which portion of the record is incorrect and what the correct version should be.

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Failure to challenge any portion of the record in existence at that time will place the burden of proving the inaccuracy of any part subsequently challenged upon the individual. Information subsequently added to such record shall also be subject to review, challenge, correction or appeal.

(d) **Review of challenge.**—All criminal justice agencies shall have 60 days to conduct a review of any challenge and shall have the burden of proving the accuracy of the record. If the challenge is deemed valid, the appropriate officials must ensure that:

- (1) The criminal history record information is corrected.
- (2) A certified and corrected copy of the criminal history record information is provided to the individual.
- (3) Prior erroneous criminal history record information disseminated to criminal justice agencies shall be destroyed or returned and replaced with corrected information.
- (4) The individual is supplied with the names of those noncriminal justice agencies and individuals which have received erroneous criminal history record information.

(e) **Appeals.**—

(1) If the challenge is ruled invalid, an individual has the right to appeal the decision to the Attorney General within 30 days of notification of the decision by the criminal justice agency.

(2) The Attorney General shall have the authority to conduct administrative appeal hearings in accordance with the Administrative Agency Law.¹

(3) The decision of the Attorney General may be appealed to the Commonwealth Court by an aggrieved individual.

1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980.

¹ 2 Pa.C.S.A. §§ 501 et seq. and 701 et seq.

§ 9158. Individual rights on access and review

Any individual exercising his or her right to access and review under the provisions of this subchapter shall be informed when criminal history record information is made available that he or she is under no obligation to divulge such information to any person or agency.

1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980.

SUBCHAPTER G. RESPONSIBILITY OF ATTORNEY GENERAL

§ 9161. Duties of the attorney general

The Attorney General shall have the power and authority to:

(1) Establish rules and regulations for criminal history record information with respect to security, completeness, accuracy, individual access and review, quality control and audits of repositories.

(2) Establish the maximum fees which may be charged for the cost of reproducing criminal history record information for individual access and review for research or statistical purposes and for access by noncriminal justice agencies and individuals.

(3) Make investigations concerning all matters touching the administration and enforcement of this chapter and the rules and regulations promulgated thereunder.

(4) Institute civil proceedings for violations of this chapter and the rules and regulations adopted thereunder.

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(5) Conduct annual audits of the central repository and of a representative sample of all repositories within the commonwealth, collecting, compiling, maintaining and disseminating criminal history record information.

(6) Appoint such employees and agents as it may deem necessary. 1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980. As amended 1979, June 11, P.L. 476, No. 138, § 4, effective in 180 days.

SUBCHAPTER H. PUBLIC NOTICE

§ 9171. Requirements of repositories relating to public notice

Repositories maintaining criminal history record information shall inform the public and post in a public place, notice of the existence, purpose, use and accessibility of the criminal history record information they maintain and the requirements of the repository for identification on individual access and review.

1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980.

SUBCHAPTER I. SANCTIONS

§ 9181. General administrative sanctions

Any person, including any agency or organization, who violates the provisions of this chapter or any regulations or rules promulgated under it may:

(1) Be denied access to specified criminal history record information for such period of time as the Attorney General deems appropriate.

(2) Be subject to civil penalties or other remedies as provided for in this chapter.

(3) In the case of an employee of any agency who violates any provision of this chapter, be administratively disciplined by discharge, suspension, reduction in grade, transfer or other formal disciplinary action as the agency deems appropriate.

1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980. As amended 1982, June 11, P.L. 476, No. 138, § 4, effective in 180 days.

§ 9182. Deleted by amendment. 1979, Dec. 14, P.L. 556, No. 127, § 3, imd. effective

§ 9183. Civil actions

(a) Injunctions.—The Attorney General or any other individual or agency may institute an action in a court of proper jurisdiction against any person, agency or organization to enjoin any criminal justice agency, noncriminal justice agency, organization or individual violating the provisions of this chapter or to compel such agency, organization or person to comply with the provisions of this chapter.

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(b) Action for damages.—

(1) Any person aggrieved by a violation of the provisions of this chapter or of the rules and regulations promulgated under this chapter, shall have the substantive right to bring an action for damages by reason of such violation in a court of competent jurisdiction.

(2) A person found by the court to have been aggrieved by a violation of this chapter or the rules or regulations promulgated under this chapter, shall be entitled to actual and real damages of not less than \$100 for each violation and to reasonable costs of litigation and attorney's fees. Exemplary and punitive damages of not less than \$1,000 nor more than \$10,000 shall be imposed for any violation of this chapter, or the rules or regulations adopted under this chapter, found to be willful.

1979, July 16, P.L. 116, No. 47, § 2, effective Jan. 1, 1980.

Repealed in Part

This section is repealed by Act 1980, Oct. 15, P.L. 950, No. 164, § 504, to the extent that it authorizes the institution of an action by a Commonwealth agency, but the duties imposed upon the Attorney General by this section shall not be affected.

* * *

Title 61

IDENTIFICATION OF CRIMINALS

§ 2171. State police to procure and file photographs, etc.

From and after the passage of this act, the Pennsylvania State Police shall continue to procure and file for record photographs, pictures, descriptions, fingerprints, and such other information as may be pertinent, of all persons who have been, or may hereafter be, convicted of crime within this Commonwealth, and also of all well-known and habitual criminals wherever they may be procured.

§ 2172. Authorities in penal institutions to furnish information

It shall be the duty of the persons in charge of any State penal institution, or of any jail, prison, or workhouse within this Commonwealth, to furnish to the Pennsylvania State Police, upon request, the fingerprints, photographs, and description of any person detained in such institution, jail, prison, or workhouse.

1927, April 27, P.L. 414, § 2; 1937, June 29, P.L. 2433, § 2; 1943, April 28, P.L. 119, § 2.

§ 2173. Fingerprints or photographs of criminals; copies to state police; duties of state police

The Pennsylvania State Police, the persons in charge of State penal institutions, the wardens or keepers of jails, prisons, and workhouses within this Commonwealth, and all police officers within the several political subdivisions of this Commonwealth, shall have the authority to take, or cause to be taken, the fingerprints or photographs of any person in custody, charged with the commission of crime, or who they have reason to believe is a fugitive from justice or a habitual criminal, except persons charged with a violation of "The Vehicle Code" which is punishable upon conviction in a summary proceeding unless they have reason to believe the person is a fugitive from justice or a habitual criminal; and it shall be the

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duty of the chiefs of bureaus of all cities within this Commonwealth to furnish daily, to the Pennsylvania State Police, copies of the fingerprints and, if possible, photographs, of all persons arrested within their jurisdiction charged with the commission of felony, or who they have reason to believe are fugitives from justice or habitual criminals, such fingerprints to be taken on forms furnished or approved by the Pennsylvania State Police. It shall be the duty of the Pennsylvania State Police, immediately upon the receipt of such records, to compare them with those already in their files, and, if they find that any person arrested has a previous criminal record or is a fugitive from justice, forthwith to inform the arresting officer, or the officer having the prisoner in charge, of such fact.

§ 2174. State police to cooperate with other agencies for criminal identification

It shall be the duty of the Pennsylvania State Police to cooperate with agencies of other States and of the United States, having similar powers, to develop and carry on a complete interstate, national, and international system of criminal identification and investigation, and also to furnish, upon request, any information in its possession concerning any person charged with crime to any court, district attorney, or police officer of this Commonwealth, or of another state or of the United States.

§ 2175. District attorneys to employ fingerprint experts; compensation; files of fingerprints

(a) The district attorneys of the several counties are hereby authorized and empowered, from time to time, to employ the services of experts on fingerprints to assist them in the investigation of pending cases and to testify upon the trial thereof. The compensation of any such expert shall be fixed by the district attorney employing him, with the approval of the court of quarter sessions, and shall be paid from the county treasury upon warrant of the county commissioners in the usual manner.

(b) The district attorney of any county, the warden or keeper of the county jail, or any expert employed by the district attorney, or any other person designated by the district attorney, shall have the power, upon the written order of the district attorney, to take the fingerprints of any persons confined in the county jail of such county for use in the identification of the prisoner or upon his trial.

(c) The district attorneys of the several counties shall keep and arrange files of the fingerprints, taken under the provisions of this act, of persons convicted of crime and shall destroy the fingerprints of all persons acquitted. The files of fingerprints maintained by the district attorneys shall be open to the inspection of any other district attorney of this Commonwealth, or their representatives, or of the Pennsylvania State Police, or any sheriff or police or peace officer.

(d) District attorneys shall not be authorized to take fingerprints, under this section, of persons arrested for misdemeanors, unless the district attorneys have reason to believe that such persons are old offenders against the penal laws of this Commonwealth.

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§ 2176. Refusal to make reports; destruction of police records; penalties

Neglect or refusal of any person mentioned in this act to make the report required herein, or to do or perform any other act on his part to be done or performed in connection with the operation of this act, shall constitute a misdemeanor, and such person shall, upon conviction thereof, be punished by a fine of not less than five nor more than twenty-five dollars, or by imprisonment in the county jail for a period of not exceeding thirty days, or by both, in the discretion of the court. Such neglect or refusal shall also constitute malfeasance in office and subject such person to removal from office. Any person who removes, destroys, or mutilates any of the records of the Pennsylvania State Police, or of any district attorney, shall be guilty of a misdemeanor,¹ and such person shall, upon conviction thereof, be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail for a period of not exceeding one year, or by both, in the discretion of the court.

Title 65

Public Records

§ 66.1 Definitions

In this act¹ the following terms shall have the following meanings:

(1) "Agency." Any department, board or commission of the executive branch of the Commonwealth, any political subdivision of the Commonwealth, the Pennsylvania Turnpike Commission, or any State or municipal authority or similar organization created by or pursuant to a statute which declares in substance that such organization performs or has for its purpose the performance of an essential governmental function.

(2) "Public Record." Any account, voucher or contract dealing with the receipt or disbursement of funds by an agency or its acquisition, use or disposal of services or of supplies, materials, equipment or other property and any minute, order or decision by an agency fixing the personal or property rights, privileges, immunities, duties or obligations of any person or group of persons: Provided, That the term "public records" shall not mean any report, communication or other paper, the publication of which would disclose the institution, progress or result of an investigation undertaken by an agency in the performance of its official duties, except those reports filed by agencies pertaining to safety and health in industrial plants; It shall not include any record, document, material, exhibit, pleading, report, memorandum or other paper, access to or the publication of which is prohibited, restricted or forbidden by statute law or order or decree of court, or which would operate to the prejudice or impairment of a person's reputation or personal security, or which would result in the loss by the Commonwealth or any of its political subdivisions or commissions or State or municipal authorities of Federal funds, excepting therefrom however the record of any conviction for any criminal act.

As amended 1971, June 17, P.L. 160, No. 9, § 1.

§ 66.2 Examination and inspection

Every public record of an agency shall, at reasonable times, be open for examination and inspection by any citizen of the Commonwealth of Pennsylvania. 1957, June 21, P.L. 390, § 2.

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§ 66.3 Extracts, copies, photographs or photostats

Any citizen of the Commonwealth of Pennsylvania shall have the right to take extracts or make copies of public records and to make photographs or photostats of the same while such records are in the possession, custody and control of the lawful custodian thereof or his authorized deputy. The lawful custodian of such records shall have the right to adopt and enforce reasonable rules governing the making of such extracts, copies, photographs or photostats. 1957, June 21, P.L. 390, § 3.

§ 66.4 Appeal from denial of right

Any citizen of the Commonwealth of Pennsylvania denied any right granted to him by section 2 or section 3 of this act,¹ may appeal from such denial to the Court of Common Pleas of Dauphin County if an agency of the Commonwealth is involved, or to the court of common pleas of the appropriate judicial district if a political subdivision or any agency thereof is involved. If such court determines that such denial was not for just and proper cause under the terms of this act, it may enter such order for disclosure as it may deem proper. 1957, June 21, P.L. 390, § 4.

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Regulations

REGULATIONS FOR THE ADMINISTRATION OF THE CRIMINAL HISTORY RECORD INFORMATION ACT

Subpart K. CRIMINAL INFORMATION CHAPTER 195. CRIMINAL RECORDS

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§ 195.1. Definitions.

The following words and terms, when used in this chapter, shall have, unless the context clearly indicates otherwise, the following meanings.

Administration of criminal justice - The activities directly concerned with the prevention, control or reduction of crime and the apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders; criminal identification activities; or the collection, storage, dissemination, or usage of criminal history record information.

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Automated systems - A computer or other internally programmed device capable of automatically accepting and processing data, including computer programs, data communication links, input and output data, and data storage devices.

Central repository - The central location for the collection, compilation, maintenance, and dissemination of criminal history record information by the Pennsylvania State Police.

Criminal history record information - Information collected by criminal justice agencies concerning individuals and arising from the initiation of a criminal proceeding, consisting of identifiable descriptions, and dates and notations of arrests, indictments, informations, or other formal criminal charges and any dispositions arising therefrom; the term does not include intelligence information, investigative information, treatment information, or information and records specified in 18 Pa. C. S. § 9104.

Criminal justice agency - Any court including the minor judiciary with criminal jurisdiction or any other governmental agency or subunit thereof created by statute or by the State or Federal constitutions, specifically authorized to perform as its principal function the administration of criminal justice, and which allocates a substantial portion of its annual budget to such function. Criminal justice agencies include, but are not limited to organized State and municipal police departments, local detention facilities, county, regional and State correctional facilities, probation agencies, district or prosecuting attorneys, parole boards, and pardon boards.

Disposition - Information indicating that criminal proceedings have been concluded including information disclosing that police have elected not to refer a matter for prosecuting, that a prosecuting authority has elected not to commence criminal proceedings, or that a grand jury has failed to indict and disclosing the nature of the termination of the proceedings or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such postponement. Dispositions of criminal proceedings in this Commonwealth shall include, but not be limited to acquittal, acquittal by reason of insanity, pretrial probation or diversion, charge dismissed, guilty plea nolle prosequi, no information filed, nolo contendere plea, convicted, abatement, discharge under the provisions of 234 Pa. Code (relating to rules of criminal procedure), demurrer sustained, pardoned, sentence commuted, mistrial - defendant, discharge from probation or parole, or correctional supervision.

Dissemination - The oral or written transmission or disclosure of criminal history record information to individuals or agencies other than the criminal justice agency which maintains the information.

Expunge - To remove information so that there is no trace or indication that such information existed; or to eliminate all identifiers which may be used to trace the identity of an individual, allowing remaining data to be used for statistical purposes.

Intelligence information - Information concerning the habits, practices, characteristics, history, possessions, associations, or financial status of any individual.

Investigative information - Information assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing; the term may include modus operandi information.

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Repository - Any location in which criminal history record information is collected, compiled, maintained, and disseminated by a criminal justice agency.

Secondary dissemination - (Reserved)

Treatment information - Information concerning medical, psychiatric, psychological, or other rehabilitative treatment provided, suggested, or prescribed for any individual.

§ 195.2. Completeness and accuracy.

(a) As to each written indication contained in a repository's records that a criminal charge has been brought against an individual, the repository shall maintain a complete and accurate criminal record as to that charge.

(b) A complete and accurate criminal history record as to a particular criminal charge shall include but not be limited to the following:

(1) The full name and aliases of the individual charged.

(2) An accurate statement of the crime charged, including the title of the offense and the statutory citation and the Offense Tracking Number (OTN) - with appropriate prefixes and suffixes - whenever an OTN has been assigned.

(3) The final or latest disposition of the charge.

(4) The sentence imposed for a conviction of the charge.

(c) The timely recording and reporting of dispositions, the taking and filing of fingerprints, the expunging of information, and the correcting of inaccurate information shall be conducted in the manner set forth in 18 Pa. C. S. § 9111-9114, 9121-9123 and 9153.

§ 195.3. Uniform schedule of fees.

Individuals and noncriminal justice agencies requesting criminal history record information, whether for individual access and review or for other purposes shall pay a nonrefundable fee of \$10 for each request made. Such fee shall be paid by check or money order and shall be made payable to the responding repository.

§ 195.4. Access and review.

(a) An individual shall be permitted to review his own criminal history record information maintained by any repository.

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(b) The individual wishing to review his own record shall complete a Request for Review of Criminal History Record Information Form which may be obtained from the Pennsylvania State Police or from any repository. The individual making such a request shall be required to indicate on the application form only his full name including any aliases, his current address, the date and place of his birth and his social security number. The completed form should then be delivered, by mail or in person, to the repository maintaining the information the individual wishes to review.

(c) An individual exercising his right to review his criminal history record information shall be informed that he is not required to divulge such information or the lack thereof to any person or agency.

(d) If, after a proper search, criminal history record information is not found in the responding repository, the individual shall be so informed, in writing, within 30 days of receipt by the repository of the application form and fee.

(e) If criminal history record information is found in the responding repository, the repository shall, within 30 days of receipt of the application form and fee, deliver by mail to the address indicated on the application form or deliver in person a copy of the information to the individual making the request.

(f) If the individual requests information from a repository other than the central repository, the repository which disseminates the criminal history record information shall indicate to the recipient that the information disseminated is only the information contained in its own files as of the date of the last entry and that a summary of the statewide criminal history record information may be obtained from the central repository.

§ 195.5. Challenge.

(a) Enclosed along with the copy of the criminal history record information shall be a postage paid form - the Challenge Form - which is to be completed and returned within 30 days of the date the form is received by the subject of the criminal history record information and which states that the subject has reviewed the criminal history information and that he understands that those portions of the record not challenged shall be presumed by law to be accurate. The challenge form shall state in bold letters: "YOU HAVE 30 DAYS FROM THE DATE OF THIS NOTICE TO CHALLENGE THE ACCURACY OF THE INFORMATION CONTAINED HEREIN."

(b) An individual wishing to challenge the accuracy of the reviewed criminal history record information must, within 30 days of the date the information is received, submit the Challenge Form to the repository identifying therein the portion or portions of the record being challenged and providing his correct version of his record and an explanation of why he believes his version to be correct.

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(c) Upon receiving such written notification of a challenge, the repository maintaining the criminal history information being challenged shall conduct a review for accuracy, which review shall be completed within 60 days of the date the challenge is received. The responding repository has the burden of showing the accuracy of the information; except that, when the information has been contributed by another repository, the contributing repository shall, upon request by the responding repository, verify or correct such information within 30 days of the date the request for verification is received.

(d) The findings of the repository shall be communicated to the individual. If the repository determines that the record is correct, the repository shall so notify the individual and advise him of his right to appeal. Such notice and advice shall be delivered to the individual at the address indicated on the challenge Form.

(e) If the challenge is determined to be valid, the repository shall so notify the individual by mail at the address indicated on the challenge form, and the repository shall insure that:

- (1) the record is corrected;
- (2) a certified and corrected copy of the record is provided to the individual;
- (3) errors in criminal history record information previously disseminated to criminal justice agencies are eliminated and replaced with corrected information.
- (4) the individual is supplied with the names and addresses of those noncriminal justice agencies and individuals which have received erroneous criminal history record information; and
- (5) every reasonable effort is made to notify those individuals and noncriminal justice agencies to whom the erroneous information was disseminated; such notification shall include a certified and corrected copy of the record.

§ 195.6. Security.

Each criminal justice agency which collects, compiles, maintains, or disseminates criminal history record information shall develop and implement a plan to insure the security of all such information contained in its repositories. Such plan shall conform to the requirements of 18 Pa. C. S. § 9131, and a copy of the plan shall be submitted to the Attorney General by March 5, 1980. The Attorney General may approve or disapprove such plan or portions thereof and may require that different procedures be implemented to insure security.