

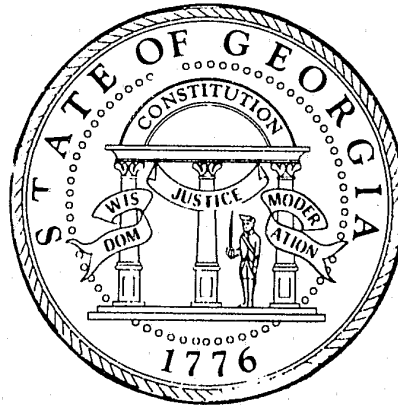
NCJRS

OCT 18 1977

ACQUISITIONS

THE STATE OF GEORGIA

SECURITY and PRIVACY PLAN



43509

December
1975

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On May 20, 1975, the Law Enforcement Assistance Administration, United States Department of Justice promulgated regulations for criminal justice information systems. These regulations required each state to submit a plan detailing programmed and operational procedures necessary for full state compliance by December 31, 1977. In a letter dated June 12, 1975, Governor George Busbee assigned the task of developing and writing the plan to the Georgia Crime Information Center, a division of the Georgia Bureau of Investigation. The State Crime Commission was asked to provide supporting assistance. The purpose of this plan is to describe those procedures the State of Georgia has taken and plans to take to comply with LEAA's regulations.

The federal regulations are directly applicable to Georgia criminal justice agencies which have accepted federal funds for the collection, storage or dissemination of criminal history record information. A compilation by the State Crime Commission lists one hundred eleven criminal justice agencies which have received direct funds for these purposes. A later verbal interpretation by the LEAA waived the collection criteria leaving 27 agencies on the applicability list. A certificate of compliance for each of these agencies is included with this Plan as required in Section 20.22 of the federal regulations.

The Georgia Crime Information Center realized the need for developing a plan to set forth procedures which realistically could be implemented by the statewide criminal justice system including agencies at the local, regional and state levels. In order to accurately assess the impact of the Federal

Regulations on Georgia's criminal justice community, extensive efforts were made to contact all agencies potentially affected by the regulations and to elicit their suggestions and comments. The GCIC mailed copies of the Federal Regulations and a survey form evaluating their impact to more than 1,000 criminal justice agencies throughout the State. Several meetings pertaining to the Regulations were conducted statewide which Clerks of Courts, judges, attorneys, probation and parole workers and law enforcement employees attended. Because of this information exchange, the plan most accurately reflects the needs of Georgia's entire criminal justice community.

The State of Georgia recognizes the need for complete, accurate, secure, and private criminal justice information. In 1973, the Georgia General Assembly enacted, as part of the GCIC Act, a mandatory arrest and disposition reporting law to effect more complete and accurate criminal history records. At the time the Federal Regulations were issued, the GCIC was drafting security and privacy regulations for the State's criminal justice information system. This plan of compliance reflects the need for protecting the individual's right to privacy, ensuring the completeness and accuracy of all criminal justice information exchanged and maintaining such information in secure facilities. The purpose clearly is not to impede or deny the flow of criminal justice information but to ensure that such information is complete and accurate and exchanged in accordance with federal and state laws.

The major component of this State's Plan of Compliance is the adoption of Rules pursuant to Georgia's Administrative Procedures Act (Georgia Laws 1964, p. 338 as amended). These Rules set forth procedures whereby Georgia's criminal justice agencies can comply with state and federal laws

regarding the completeness, accuracy, security and privacy of criminal justice information. The Rules, concomitant with existing state statute, comprise the authority to implement LEAA regulations statewide.

In order to adopt the Rules, the GCIC sought and received status as a regulatory body. This status was conferred on the GCIC Advisory Council by the Legislature in the Georgia Crime Information Center Act, (Georgia Laws 1973, p. 1311-1312). An opinion rendered by the State Attorney General confirmed this authority. The State Rules closely parallel Federal Regulations except where state authority is more restrictive. When state and federal laws conflict, federal law takes precedence. In some instances, however, LEAA has encouraged or permitted each state to legislate in accordance with its specific needs. In instances where an apparent conflict exists, legislative amendments have been proposed to remedy the conflict. Such proposed amendments are contained in the Appendix of this Plan. In those cases of conflict the GCIC has endeavored to direct criminal justice agencies toward a reasonable course of action.

The impact of federal regulations and state Rules has been substantial and will continue to manifest itself in many ways. An initial benefit already realized is the increase of inter-agency dialogue among law enforcement, corrections, courts and the GCIC. Each of these agencies has become more aware of its interaction within the criminal justice community particularly in the area of commonly kept data elements of criminal history record information. As a result of these regulations the State will benefit considerably both from more effective administration of criminal justice and from the monetary savings derived from the elimination of unnecessary and wasteful duplication of effort. Concurrent with this savings is the

possible requirement of criminal justice agencies to increase staff and/or equipment in order to comply fully with these regulations. While these expenditures may prove to be significant, they will certainly provide a valuable investment for an improved, integrated criminal justice system better able to serve the citizens of Georgia.

The Plan will examine sections 20.20 and 20.21 of the LEAA regulations. Each paragraph of these sections has been inset exactly as it appeared when published in the Federal Register. Following each paragraph from the Regulations is a narrative explaining the procedures which have been or will be implemented in order for the State to be in full compliance by December 31, 1977.

Appropriate sections of state law and regulations will be incorporated into the explicative text. All state laws and regulations cited will be included in the Appendix to this Plan.

§ 20.2 Authority.

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

The authority for implementing security and privacy regulations in the State of Georgia emanates from two sources. The first is the state law which created the central state repository, the Georgia Crime Information Center (GCIC). (Georgia Laws 1973, pp. 1301-1315.) The GCIC and the GCIC Advisory Council are charged with the responsibilities of ensuring the security and privacy of all criminal justice information collected, stored and disseminated by the GCIC.

WHEREAS, it is the intent of the General Assembly to safeguard all persons from the misuse of criminal records by any person or agency and to provide adequate safeguards and limitations on the use of all criminal history records.

Section 3. The Georgia Crime Information Center shall:

(1) Institute the necessary measures in the design, implementation, and continued operation of the criminal justice information system to ensure the privacy and security of the system. This will include establishing complete control over use and access of the system and restricting its integral resources and facilities to those either possessed or procured and controlled by Criminal Justice Agencies as defined in this Act. Such security measures must meet standards to be set by the GCIC and its Advisory Council as well as those set by the nationally operated systems for interstate sharing of information.

Section 5. There is hereby created an Advisory Council for the Georgia Crime Information Center. The duties and responsibilities of this Council are to:

(c) Ensure that adequate security safeguards are incorporated so that the data available through this system is used only by properly authorized persons and agencies.

(d) Establish appropriate disciplinary measures to be taken by GCIC in the instance of violations of data reporting or dissemination of laws, rules, and regulations by Criminal Justice Agencies or members thereof covered by this Act.

(Georgia Laws 1973, pp. 1302, 1307, 1310, 1311)

The second source of authority comes from the Rules of the Georgia Crime Information Center Advisory Council published pursuant to Georgia's Administrative Procedure Act (Ga. Laws 1964, p. 338, as Amended). With the publication of these Rules the GCIC Advisory Council is established as a regulatory agency.

140-1-.01 Organization.

(5) In matters of security and privacy all agencies and persons handling criminal justice information are subject to the provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1973 and Rules and Regulations promulgated by the United States Department of Justice. The Rules and Regulations of the Georgia Crime Information Center Advisory Council rest on the authority of federal rules and regulations as well as state law.

§ 20.20 Applicability.

(a) The regulations in this subpart apply to all State and local agencies and individuals collecting, storing, or disseminating criminal history record information processed by manual or automated operations where such collection, storage, or dissemination has been funded in whole or in part with funds made available by the Law Enforcement Assistance Administration subsequent to July 1, 1973, pursuant to Title I of the Act.

While the federal regulations only apply to those criminal justice agencies receiving funds from LEAA for the collection, storage and dissemination of criminal history record information subsequent to July 1, 1973, state Rules apply to all criminal justice agencies within the State which exchange criminal justice information within the Georgia criminal justice information system. The Georgia Crime Information Center is executing User Agreements with all criminal justice agencies who exchange information with the GCIC. These agreements specifically bind user agencies to state and federal regulations. A list of all Georgia agencies who have signed these agreements is included in the Appendix to this Plan.

140-2-.01 Scope.

(1) These Rules shall apply to all criminal justice agencies within the State and to all other agencies or persons who are or become involved with the exchange of criminal justice information with the Georgia CJIS.

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

(c) Nothing in these regulations prevents a criminal justice agency from disclosing to the public factual information concerning the status of an investigation, the apprehension, arrest, release, or prosecution of an individual, the adjudication of charges, or the correctional status of an individual, which is reasonably contemporaneous with the event to which the information relates. Nor is a criminal justice agency prohibited from confirming prior criminal history record information to members of the news media or any other person, upon specific inquiry as to whether a named individual was arrested, detained, indicted, or whether an information or other formal charge was filed, on a specified date, if the arrest record information or criminal record information disclosed is based on data excluded by paragraph (b) of this section.

These paragraphs provide for the preservation of the traditional right of the public to access criminal justice information. The records excluded here by the regulations together with the exclusion of all records defined to be public by Georgia law afford open availability to court records, original records of entry and information relevant to an individual's

current cycle of involvement with the criminal justice system. A series of interpretations by the LEAA regarding the information defined by 20.20 (b) and (c) has generated confusion within the State. A result of these sometimes contradictory interpretations has been a reluctance by agencies to disclose any information for fear of violating the regulations. By exercising reasonable and prudent judgment, this section will not have an adverse impact on either the criminal justice agencies, the news media or the general public. The GCIC has issued a series of Advisory Bulletins to provide guidance and advice to agencies as they endeavor to understand and comply with these regulations.

The same exclusions in Section 20.20 (b) and (c) in the LEAA Regulations apply in Georgia's Rules, 140-2-.01 (2) and (3).

140-2-.01 Scope.

(2) Nothing in these Rules prevents a criminal justice agency from disclosing to the public factual information which is reasonably contemporaneous with the event to which the information relates. Such information would include:

- (a) The status of an investigation.
- (b) The apprehension, arrest, release or prosecution of an individual.

(3) A criminal justice agency is not prohibited from confirming prior criminal history record information to members of the news media or any other person, upon specific inquiry as to whether a named individual was arrested, detained, indicted, or whether an information or other formal charge was filed on a specific date, if the arrest record information or criminal record information disclosed is based on data contained in:

- 1. Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons.
- 2. Original records of entry such as police blotters maintained by criminal justice agencies; compiled chronologically and required by law or long standing custom to be made public if such records are organized on a chronological basis.

3. Court records of public judicial proceedings compiled chronologically.
4. Published court opinions or public judicial proceedings.
5. Records of traffic offenses maintained by the Georgia Department of Public Safety or departments of transportation, motor vehicles or the equivalent thereof for the purpose of regulating the issuance, suspension, revocation, or renewal of driver's, pilot's or other operator's licenses.
6. Announcements of executive clemency.

State Rules provide another exclusion in 140-2-.01 (4).

(4) Nothing in these Rules shall close any record that is now or hereafter by law made public.

This ensures that every record designated a public record by Georgia law shall be open to public inspection (Ga. Code Chapter 40-27). State statute specifically requires that all records and indices maintained by the Clerk of the Court are open for public inspection (Ga. Code Chapter 24-2715).

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

This paragraph sets forth specific provisions with which Georgia criminal justice agencies must comply in order for criminal records to be complete and accurate. To be complete, the criminal history must contain all notations of arrests and any police, judicial and correctional dispositions. To ensure accurate records logging procedures and quality control measures must be instituted. Careful analysis of this section indicates a considerable impact on Georgia criminal justice agencies.

The major obstacle to maintaining complete records is disposition reporting. The LEAA regulations and State Rules require the disposition to be a part of the criminal history record within ninety days of its occurrence. Although legislation provided the GCIC with ample authority to collect dispositions, no significant effort was made to do so until the federal regulations were promulgated. A portion of the statewide meetings conducted by the security and privacy project team was devoted to the discussion of disposition collection utilizing existing resources. A significant problem is that the judicial agencies generate the bulk of dispositions but have the least staff to administer the reporting of dispositions.

Compliance with the requirement for complete records can best be met on the state level with the rapid development of the Case Disposition Reporting System (CDRS) by the GCIC. Close cooperation with the

Administrative Office of the Courts, the Department of Corrections and Offender Rehabilitation, the Clerks of Court, Judges, and District Attorneys is vital to the successful implementation of this project. While the GCIC has received LEAA funding for the initial development of CDRS additional federal money will be required to achieve operational status. The financial impact at the county and municipal levels will be equally, if not more severe, than at the state level. Local level compliance will be determined by the financial resources available. A logical extension of the CDRS program at the local and regional levels seems the most cost effective approach.

The financial impact of complete and accurate criminal history records is compounded by the requirement for each agency to establish quality control internal audit procedures and the requirement for checkback and notification of all agencies known to have received erroneous information. Funding will be needed to develop specific procedures for agency quality control. While GCIC cannot mandate the exact internal audit mechanisms to be instituted, model audits must be developed to provide assistance at the local level. The logging requirements will not demand significant resource allocation; manual systems can maintain a relatively simple log containing the information outlined in Rule 140-2-.06. The information can be maintained and noted directly on the case file itself.

As the focal point of the State CJIS, GCIC bears the responsibility for developing these procedures necessary for implementation. The State will look to LEAA to provide these developmental funds.

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

(1) Complete records should be maintained at a central State repository. To be complete, a record maintained at a central State repository which contains information that an individual has been arrested, and which is available for dissemination, must contain information of any dispositions occurring within the State within 90 days after the disposition has occurred. The above shall apply to all arrests occurring subsequent to the effective date of these regulations. Procedures shall be established for criminal justice agencies to query the central repository prior to dissemination of any criminal history record information to assure that the most up-to-date disposition data is being used. Inquiries of a central State repository shall be made prior to an dissemination except in those cases where time is of the essence and the repository is technically incapable of responding within the necessary time period.

The State of Georgia maintains a central state criminal history records repository within the Georgia Crime Information Center. The authority for this repository is found in State law: (Georgia Laws 1973, pp. 1301-1314) Reporting of arrest and disposition information is required of all criminal justice agencies by law since July 1, 1973.

Section 3. The Georgia Crime Information Center shall:

(a) Obtain and file fingerprints, descriptions, photographs, and any other pertinent identifying data on persons who:

(1) have been or are hereafter arrested or taken into custody in this State.

Section 4. Duties of Criminal Justice Agencies.

(a) All criminal justice agencies within the State shall submit to GCIC fingerprints, descriptions, photographs (when specifically requested), and other identifying data on persons who have been lawfully arrested or taken into custody in this State for all felonies and certain misdemeanors and as otherwise described in subsection 3 (a). It shall be the duty of all chiefs of police, sheriffs, prosecuting attorneys, courts, judges, parole and probation officers, wardens, or other persons in charge of correctional institutions in this State to furnish the GCIC with any other data deemed necessary by GCIC to carry out its responsibilities under this Act. Specifically, the responsibilities of Criminal Justice Agencies in this area will require that:

(1) All persons in charge of law enforcement agencies shall obtain, or cause to be obtained, the fingerprints according to the fingerprint system of identification established by the Director of the F.B.I., full face and profile photographs, (if photo equipment is available), and other available identifying data, of each person arrested or taken into custody for an offense of a type designated in subsection 3 (a), of all persons arrested or taken into custody as fugitives from justice, and of all unidentified human corpses in their jurisdictions, but photographs need not be taken if it is known that photographs of the type listed taken within the previous year, are on file. Fingerprints and other identifying data of persons arrested or taken into custody for offenses other than those designated may be taken at the discretion of the law enforcement agency concerned. Any person arrested or taken into custody and subsequently released without charge, or cleared of the offense through court proceedings, shall have any fingerprint record taken in connection therewith returned if required by statute or upon court order. Any such dispositions must also be reported to the GCIC.

(Georgia Laws 1973, pp. 1304, 1307)

The Rules require dispositions to be reported to GCIC within 80 days of their occurrence. The GCIC has 10 days in which to post the disposition to the criminal history record.

140-2-.03 Completeness and Accuracy of Criminal History Record Information.

(1) Law enforcement, judicial and correctional authorities shall forward all dispositions on the form and by the procedures established by the GCIC.

(2) The GCIC shall advise the proper authorities of the necessary forms and procedures so that they may fulfill completely their responsibilities.

(3) The dispositions shall be forwarded to the GCIC as soon as practicable and in each case not to exceed 80 days after disposition has occurred. The disposition shall become a part of the criminal history record within ten (10) days following its receipt.

At the present time the GCIC utilizes the FBI's method of disposition collection with the R-84 form. This form is initiated at the time of arrest. One copy of the R-84 is forwarded to the GCIC together with two copies of the arresting fingerprint card. After the State Identification number is written

on the R-84, it is returned to the contributing arresting agency. The R-84 remains with the individual's case file. At the time a final disposition occurs, whether within the law enforcement or judicial process, the disposition is added to the R-84 and returned to the GCIC. The GCIC is not mandating the specific individual to complete the disposition form. Given the diverse organization and autonomy of the courts, it would be impossible to name a specific court officer responsible for forwarding dispositions that occur within the judicial process. However, it is incumbent upon each court to designate the appropriate individual to bear the responsibility for reporting the disposition.

Within the Records Unit of the GCIC a tickler file will be established to ensure disposition reporting within the required time frame. Seventy days from the date of arrest an inquiry will be made to determine if the disposition has been posted to the record. If the disposition has been added to the record, the entry is complete and thus in compliance with state and federal regulations. If the disposition is not on the record, a reminder is generated to the originating agency requesting the disposition. If the disposition has not been generated the record is held for another seventy day period. When the disposition is forwarded to the GCIC it becomes part of the criminal history record within ten working days. Implementation of these procedures will be dependent on LEAA funding.

The GCIC will continue to expand statewide disposition reporting utilizing the R-84 system. The manual system will be phased out and replaced by the automated Case Disposition Reporting System (CDRS). This program will focus on complete disposition reporting as an integral element of offender based tracking. CDRS will collect and automate data from each major event as the offender (or accused offender) passes through the criminal justice system. This "tracking" process begins as the offender is arrested

and terminates at any exit point from the criminal justice system. In order to determine progressive movement through the criminal justice system, a flow of information must be established which will describe for every offender each significant event and the date on which the event took place. Once this data is collected, edited, and automated, the information will be available to criminal justice agencies through the statewide computer terminal network.

The Administrative Office of the Courts, (AOC), has funds to develop programs for more efficient and effective court organization and judicial administration. A part of this effort will be directed toward improving disposition reporting. Complete criminal history records are essential to the judiciary function in the administration of criminal justice. The AOC and the GCIC have agreed to cooperate to provide this need.

In order to achieve more complete records, criminal justice agencies must query GCIC records prior to any dissemination. The State Rules specifically require inquiry to GCIC prior to dissemination. In seminars relating to security and privacy held throughout the State this requirement was strongly emphasized. Exception is made only in those cases in which GCIC cannot respond within a four hour period. Local agencies are advised that the GCIC will maintain documentation of every case in which it is technically incapable of responding within a four hour period.

140-2-.04 Criminal Justice Information Exchange and Dissemination

(2) Dissemination of criminal justice information by criminal justice agencies.

(a) All criminal justice agencies shall query the GCIC prior to any dissemination to ensure that the criminal history record information is the most current available. Exception may be made in those cases when time is of the essence and the GCIC technically is incapable of responding within a four (4) hour period.

140-2-.10 Procedures Whereby an Individual May Access His Criminal History Record File.

(5) Applications made to other criminal justice agencies criminal history record files.

(a) Agencies shall query GCIC prior to permitting an individual to inspect his record to ensure that the criminal history record information is the most current available. Exception may be made in those cases when time is of the essence and GCIC technically is incapable of responding within a four (4) hour period.

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

To ensure that criminal history record information is accurate it is the duty of each criminal justice agency handling such information to establish internal procedures for systematic audits. Since there is a wide range of possible audit procedures, from sophisticated computer programming techniques to manually checking every record, the GCIC believes that it is the responsibility of each agency to create the mechanism for systematic audit. However, it is the responsibility of the GCIC to develop model procedures for the agencies should they desire assistance. In order to develop these procedures, the GCIC will require additional funds. It is anticipated that LEAA will provide funds to implement these procedures. The effectiveness of these quality control procedures will be measured by the annual audit.

The Rules require all criminal justice agencies to establish a logging system for every dissemination of criminal history record information. This will allow the necessary corrections to follow the criminal history record if an error is discovered. The logging requirement is in Rule 140-2-.03. The specific information required in the logs is in Rule 140-2-.06.

140-2-.03 Completeness and Accuracy of Criminal History Record Information.

(4) Pursuant to Section 140-2-.06 of these Rules, criminal history logs shall be maintained to provide the mechanism to correct any inaccurate information.

(5) Each agency which collects, stores or disseminates criminal history record information shall establish systematic audit trails to minimize the possibility of recording and storing inaccurate information.

(6) Annual audits shall be instituted pursuant to Section 140-2-.07 of these Rules.

140-2-.06 Criminal History Logs.

(1) Criminal History Logs shall be maintained by those agencies which disseminate criminal history record information within the scope of this Chapter.

(2) The log shall contain information concerning the dissemination of criminal history record information within the scope of this Chapter.

(3) The logs shall provide the mechanism to correct any inaccurate information.

(4) Upon finding inaccurate information of a material nature, it is the duty of the criminal justice agency of discovery to notify all agencies or persons known to have received such information.

(5) The following minimum information concerning the dissemination of criminal history record information as defined within the scope of this Chapter shall be maintained in the logs in order to provide an audit trail.

(a) Date disseminated.

(b) Individual criminal history including:

1. Name.

2. All applicable local, state and federal identifying numbers.

(c) Name of officer of dissemination.

(d) Name of agency of receipt.

(e) Name of officer of receipt.

(6) There shall be attached to each appropriate individual criminal history record case file the same information contained in the log.

(7) Computer system log.

(a) Computer system logging requirements are the same as any other logging requirements with the exception that the log may be in the form of electromagnetic storage medium.

(b) This log information must be in a form that can be reproduced as a printed list showing time, date, name and identifying number of the individual, and the recipient agency for any individual criminal history file.

(c) The printed listing must be available within ten (10) days from the date of request.

(8) All logs shall be made available for inspection by criminal justice agencies upon receipt from the GCIC Security Officer.

Authority 42 U.S.C. 3771, 28 C.F.R. § 20.21, Ga. L. 1973, pp. 1301, 1305, 1306

(b) *Limitations on dissemination.* Insure that dissemination of criminal history record information has been limited, whether directly or through any intermediary only to:

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

(2) Such other individuals and agencies which require criminal history record information to implement a statute or executive order that expressly refers to criminal conduct and contains requirements and/or exclusions expressly based upon such conduct;

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

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

(5) Agencies of State or federal government which are authorized by statute or executive order to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information; and

(6) Individuals and agencies where authorized by court order or court rule.

Both State law and State Rules pertain to the limits of dissemination of criminal justice information. The Georgia Crime Information Center is required by law to make available any information in its files which will aid criminal justice agencies in the performance of their official duties.

Section 3. The Georgia Crime Information Center shall:

(i) Make available upon request, to all local and State law enforcement agencies and courts of proper jurisdiction in this State, to all Federal law enforcement and criminal identification agencies and to State law enforcement and criminal identification agencies in other states any information in the files of the GCIC which will aid these agencies in the performance of their official duties. For this purpose the GCIC shall operate on a 24-hour basis, seven days a week. Such information may also be made available to any other agency of this State or political subdivision of this State, and to any other Federal agency, upon assurance by the agency concerned that the information is to be used for official purposes only in the prevention or detection of crime or the apprehension of criminal offenders.

(Georgia Laws 1973, p. 1306)

The law establishes the provisions and limits on dissemination of criminal history information for research and statistical purposes. Similar limitations and provisions on other kinds of dissemination follow the spirit and intent of this paragraph.

Section 3. The Georgia Crime Information Center shall:

(g) Compile statistics on the nature and extent of crime in Georgia and compile other data related to planning for and operating criminal justice agencies, provided that such statistics do not identify persons. GCIC will make available all such statistical information obtained to the Governor, the General Assembly, and any other governmental agencies whose primary responsibilities include the planning, development, or execution of crime reduction programs. Access to such information by the latter governmental agencies will be on an individual written request basis wherein must be demonstrated a need to know, the intent of any analyses, dissemination of such analyses, and any security provisions deemed necessary by GCIC.

(Georgia Laws 1973, pp. 1305-1306)

The State Rules closely parallel the federal regulations limiting dissemination of criminal history record information. The specific limitations contained in Section 20.21 (b) (1), (2), (3), (4), and (5) are expressly addressed in the State Rules. The authority for the release of information pursuant to court order or court rule is understood to be beyond the scope of state regulations. The Rules include conditions of dissemination beyond those specifically mentioned in Section 20.21 (b). The State of Georgia believes these additional circumstances follow the spirit and intent of federal regulations. Rule 140-2-.04, Criminal Justice Information Exchange and Dissemination, follows in its entirety.

140-2-.04 Criminal Justice Information Exchange and Dissemination.

(1) Dissemination and exchange of criminal justice information by the GCIC.

(a) Any agency or person who desires to exchange criminal justice information with the GCIC controlled CJIS shall execute a standard user agreement.

(b) The GCIC may exchange criminal justice information with bona-fide criminal justice agencies for purposes of the administration of criminal justice and criminal justice employment based on the following criteria:

1. The Director of the GCIC shall determine bona-fide status.

2. The GCIC shall exchange any information in the files of the GCIC which may aid these agencies in the performance of their duties.

3. The head of the agency shall execute a "Standard Criminal Justice Agreement - Intrastate".

(i) Every criminal justice agency who exchanges information with the GCIC shall execute Part "A" of the "Standard Criminal Justice Agreement - Intrastate".

(ii) Every on-line user who exchanges information with the GCIC shall execute Parts "A" and "B" of the "Standard Criminal Justice User Agreement - Intrastate".

(iii) Those criminal justice agencies who wish to participate on a computer to computer basis on the GCIC/CJIS automated system may do so provided that the requirements established in the GCIC Computer to Computer Interface Standards Manual (GCIC 071673 - CCIS - 001) have been met.

(iv) The Standard Criminal Justice User Agreement - Intrastate shall read as follows:

GEORGIA CRIME INFORMATION CENTER
CRIMINAL JUSTICE INFORMATION SYSTEM

STANDARD USERS AGREEMENT (INTRASTATE)
PART "A"

PART "A" SECTION 1

This agreement is entered into this _____ day of _____, 19____, by and between the Georgia Crime Information Center, State Administrator of the Georgia Criminal Justice Information System, hereinafter referred to as GCIC, and

AGENCY _____

ADDRESS _____

a criminal justice agency, hereinafter referred to as USER AGENCY.

This agreement provides for the duties and responsibilities of both GCIC and the User Agency.

GCIC will operate and maintain a criminal justice information system which will support the collection, storage, retrieval and dissemination of all crime and offender data, both intrastate and interstate. GCIC will make available, upon request, to all bona-fide local and state criminal justice agencies, any information, including criminal history, in the files of GCIC which will aid these agencies in the performance of their official duties; provided that the dissemination of such information would not be a violation of State or Federal laws and regulations restricting its use for reasons of privacy and security.

User Agency agrees to abide by all laws of the United States, the State of Georgia and the rules and regulations of the responsible administrative agencies concerning collection, storage, retrieval and dissemination of criminal justice information.

Nothing in this agreement shall be construed so as to give authority to any person, agency or corporation or other legal entity to invade the privacy of any citizen, as defined by State and Federal law.

User Agency hereby acknowledges understanding of and shall advise all its employees of the penalties relating to illegal actions with regard to criminal justice information.

The "Georgia Crime Information Center Act"; Georgia Laws 1973, p. 1301, provides that - - -

7. Any person who willfully requests, obtains or seeks to obtain criminal offender record information under false pretenses, or who willfully communicates or seeks to communicate criminal offender record information to any agency or person except in accordance with this Act, or any member, officer, employee or agency of GCIC, the GCIC Advisory Council or any participating agency who willfully falsifies criminal offender record information, or any records relating thereto shall for each such offense be fined not more than five thousand dollars, or imprisoned in the State penitentiary not more than two years, or both. Any person who knowingly, but without criminal purpose, communicates or seeks to communicate criminal offender record information except in accordance with this Act shall for each such offense be fined not more than one hundred dollars, or imprisoned not more than ten days, or both.

User Agency agrees to indemnify and save harmless GCIC and its officials and employees from and against any and all claims, demands, actions, suits and proceedings by others, against all liability to others, including but not limited to any liability for damages by reason of or arising out of any false arrest or imprisonment, or any cause of action whatsoever, or against any loss, cost, expense, and damage, resulting therefrom, arising out of or involving any action or inaction on the part of the User Agency in the exercise or enjoyment of this agreement.

Part "B" shall be appended to and made a part of this agreement if the USER AGENCY is an on-line subscriber to the GCIC electronic data processing criminal justice information system.

PART "B"

GCIC agrees to maintain, operate and manage an electronic data processing criminal justice information system, on a 24 hour, 7 day per week basis. GCIC further agrees to serve as the State control terminal to facilitate the exchange of information between the USER AGENCY and other user agencies, National Crime Information Center (NCIC), Department of Public Safety, Department of Revenue and the National Law Enforcement Telecommunications System (NLETS). GCIC reserves the right to selectively restrict the type and scope of data to which the USER AGENCY may have access.

The type and kind of electronic equipment at the User Agency terminal(s) shall be compatible with GCIC equipment, this determination to be made by GCIC or its authorized designee. Data sets and voice grade telephone wire between and connecting the terminal station(s) and the GCIC Command Center shall be arranged for by GCIC or its designee. GCIC reserves the right to approve User Agency's equipment location, security provisions, computer interface configuration, and terminal usage volume.

User Agency shall be responsible for all costs associated with the purchase or lease of equipment, equipment maintenance, terminal operator personnel provision, supplies and as otherwise shall be incurred with the exceptions hereby stipulated. GCIC shall be responsible for the costs associated with installation and connection of terminals with the GCIC Command Center.

GCIC further assumes responsibility for training of terminal operators at no charge to the User Agency at times and locations within the State to be designated by GCIC. It is understood by and between the parties hereto that the obligation of GCIC to incur costs shall be conditional upon sufficient funds being budgeted and available to GCIC and no liability shall be incurred by GCIC by virtue of this agreement beyond monies available to it for the purposes of fulfilling this agreement.

It shall be the responsibility of User Agency to provide for conversion and entry of data into GCIC through the use of codes, procedures, and techniques as developed and provided by GCIC. GCIC shall render assistance to the User Agency in order to provide for timely, efficient and accurate implementation of terminal operations.

In keeping with the purpose of GCIC to provide assistance to all criminal justice agencies in the State, the User Agency agrees to provide to those criminal justice agencies not equipped with a GCIC terminal such assistance as may be requested in the furtherance of criminal justice information processing and communications through record inquiry, message transmittals, or record entries in keeping with GCIC standards. When furnishing such assistance to other criminal justice agencies the User Agency agrees to limit access to information, including criminal history, furnished by GCIC, to employees of criminal justice agencies which have executed a Standard User Agreement - Intrastate with GCIC.

Requests from non-criminal justice agencies and criminal justice agencies that have not signed a "Part A" should be referred to GCIC.

This concludes Part "B"

* * * * *

PART "A" SECTION 2

Either GCIC or the USER AGENCY may, upon thirty (30) days notice to the other agency in writing, cancel this agreement in whole or in part.

GCIC reserves the right to terminate this agreement with or without notice upon determining that the User Agency has violated any law, rule or regulation concerning criminal justice information or violated the terms of this agreement; such termination shall be pursuant to the laws, rules and regulations provided therefor.

IN WITNESS WHEREOF: the parties hereto have caused,

USER AGENCY

GEORGIA CRIME INFORMATION CENTER

PART "A" ONLY

USER AGENCY

GEORGIA CRIME INFORMATION CENTER

PARTS "A" AND "B"

(strike one and initial the other)

to be executed by the proper officials.

USER AGENCY

GEORGIA CRIME INFORMATION CENTER

By _____

By _____

Title _____

Title _____

Date _____

Date _____

Attest _____

Attest _____

(c) The GCIC may exchange criminal justice information with the Governor, when acting in his capacity as the Chief Law Enforcement Officer of the State.

(d) The GCIC may exchange criminal justice information with the Attorney General when performing activities relating to the apprehension or prosecution of criminal offenders.

(e) All requests received by the GCIC for criminal justice information from the news media and other non-public agencies and persons shall be referred to the Director of the GCIC. No individual at GCIC is authorized to disclose any information whatsoever to non-public agencies without approval of the Director.

(2) Dissemination of criminal justice information by criminal justice agencies.

(a) All criminal justice agencies shall query the GCIC prior to any dissemination to ensure that the criminal history record information is the most current available. Exception may be made in those cases when time is of the essence and the GCIC technically is incapable of responding within a four (4) hour period.

(b) Criminal justice agencies may exchange criminal justice information with bona-fide criminal justice agencies for the purposes of the administration of criminal justice and criminal justice employment. Any question concerning an agency's status as a bona-fide criminal justice agency shall be resolved by the Director of the GCIC.

(c) Criminal justice agencies may exchange criminal history record information with non-criminal justice agencies or persons which require criminal justice information to implement a statute or executive order that is expressly based on such conduct.

1. The GCIC shall maintain a list of all agencies and persons authorized by statute or executive order to receive such disseminations. This list shall be available upon request to the GCIC.

2. The Director of the GCIC shall determine whether an agency or person qualifies in this category.

3. Criminal history record information concerning an arrest shall not be disseminated if an interval of one year has elapsed from the date of that arrest and no disposition of the charge has been recorded and no indictment or accusation has been returned.

4. The following user agreement shall be executed by non-criminal justice agencies and persons before any criminal history record information is disseminated:

GEORGIA CRIME INFORMATION CENTER
STANDARD USER AGREEMENT
WITH NON-CRIMINAL JUSTICE AGENCIES

This agreement is entered into this _____ day of _____, 19 _____, by and between the Georgia Crime Information Center, State Administrator of the Georgia Criminal Justice Information System, hereinafter referred to as GCIC and

AGENCY _____

ADDRESS _____

hereinafter referred to as "User Agency".

This agreement emanates pursuant to Georgia Laws _____ or Executive Order _____ which authorizes User Agency to receive certain criminal history record information on specified individuals. Implementation of the above law or executive order specifically allows the user agency access to information that expressly refers to criminal conduct and contains requirements and/or exclusions expressly based on such conduct.

Use of criminal history record information shall be strictly limited to the lawful purposes for which it was given. Under no circumstances shall it be disseminated further. Nothing in this agreement shall be construed so as to give authority to any person, agency or corporation, or other legal entity to invade the privacy of any citizen, as defined by State and Federal law.

User Agency hereby agrees to abide by the federal laws and regulations pertaining to security and privacy of CJIS and by the Rules of the Georgia Crime Information Center Advisory Council filed with the Office of the Secretary of State. Receipt of a copy of these Rules is herewith acknowledged. User Agency further agrees to abide by the Georgia Crime Information Center Act, Ga. Laws, 1973, pp. 1301-1315 and understands the penalties relating to illegal actions with regard to criminal justice information. The Georgia Crime Information Center Act, Ga. Laws 1973 p. 1314 provides that . . .

Section 7. Any person who willfully requests, obtains or seeks to obtain criminal offender record information under false pretenses, or who willfully communicates or seeks to communicate criminal offender record information to any agency or person except in accordance with this Act, or any member, officer, employee or agent of GCIC, the GCIC Advisory Council or any participating agency who willfully falsifies

criminal offender record information, or any records relating thereto, shall for each such offense be fined not more than five thousand dollars, or imprisoned in the State penitentiary not more than two years, or both. Any person who knowingly, but without criminal purpose, communicates or seeks to communicate criminal offender record information except in accordance with this Act shall for each such offense be fined no more than one hundred dollars, or imprisoned not more than ten days, or both.

The User Agency assumes full responsibility for all criminal history record information received from the GCIC under the terms of this agreement.

Either the GCIC or the User agency may cancel this agreement upon thirty (30) days written notice to the other agency.

The GCIC reserves the right to terminate this agreement with or without notice upon determining that the User Agency has violated any law, rule or regulation concerning criminal history record information or violated the terms of this agreement. Such termination shall be pursuant to all laws, rules and regulations provided therefor.

IN WITNESS WHEREOF: the parties hereto have caused this agreement to be executed by the proper officials.

USER AGENCY

GEORGIA CRIME INFORMATION CENTER

BY _____
TITLE _____
DATE _____
ATTEST _____

BY _____
TITLE _____
DATE _____
ATTEST _____

(d) Criminal justice agencies may allow access to criminal history record information by individuals and agencies pursuant to a specific agreement with the criminal justice agency to provide services required for the development of systems related to the administration of criminal justice pursuant to that agreement. The agreement shall authorize specific access to data, limit the use of data to purposes for which given and ensure the security and confidentiality of the data consistent with these Rules and federal regulations on security and privacy.

(e) Criminal justice agencies may disseminate criminal history record information to agencies of State or federal government which are authorized by statute or executive order to conduct investigations determining employment suitability or eligibility for specific classified positions requiring security clearance access to classified information. The Director of the GCIC shall determine whether an individual or agency qualifies under this category. Criminal history record information which is disseminated pursuant to this subparagraph (e) shall be used only in determining employment suitability or eligibility for specific classified positions requiring security clearances allowing access to classified information and for no other purpose.

(f) Criminal justice agencies may disseminate criminal history record information to individuals and agencies for the express purpose of research, evaluative or statistical activities pursuant to a standard user's agreement.

1. The Director of the GCIC shall determine which individuals and agencies shall qualify under this category.

2. No recipient of this information shall use or reveal any research or statistical information furnished under this Rule by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this Rule. Copies of such information shall be immune

from legal process, and shall not, without the consent of the person or agency furnishing such information be admitted as evidence used for any purpose in any action, suit, or other judicial or administrative proceedings.

3. The following user agreement shall be executed:

GEORGIA CRIME INFORMATION CENTER
STANDARD USER AGREEMENT FOR DISSEMINATION
OF RESEARCH OR STATISTICAL CRIMINAL JUSTICE INFORMATION

This agreement is entered into this _____ day of _____, 19____ by and between the Georgia Crime Information Center, State Administrator of the Georgia Criminal Justice Information System, hereinafter referred to as GCIC and

AGENCY _____

ADDRESS _____

hereinafter referred to as "User Agency".

This agreement establishes the conditions under which the GCIC may disseminate sensitive criminal justice information to the User Agency for the express purpose of research, evaluative or statistical activities. Sensitive criminal justice information may not identify specific individuals, only groups or group characteristics.

The User Agency shall append to this agreement a written statement explaining explicitly the User Agency's need to know such information, the intent of any analyses and the dissemination of such analyses.

Use of sensitive criminal justice information shall be strictly limited to the lawful purposes for which it was given. Under no circumstances shall it be disseminated further. Nothing in this agreement shall be construed so as to give authority to any person, agency, or corporation, or other legal entity to invade the privacy of any citizen, as defined by State and Federal law.

No User Agency shall use or reveal any research or statistical information furnished through this agreement by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this agreement. Information obtained through this agreement shall be immune from legal process, and shall not, without the consent of the person or agency furnishing such information be admitted as evidence used for any purpose in any action, suit, or other judicial or administrative proceedings. User Agency shall notify GCIC and the agency from which the information was obtained of any attempt of any other person to obtain sensitive criminal justice information from User Agency by legal process or otherwise.

User Agency hereby agrees to abide by the federal laws and regulations pertaining to security and privacy of the Criminal Justice Information Systems and by the Rules of the Georgia Crime Information Center Advisory Council filed with the Office of the Secretary of State. Receipt of a copy of these Rules is herewith acknowledged. User Agency further agrees to abide by the Georgia Crime Information Center Act, Ga. Laws, 1973, pp. 1301-1315 and understands the penalties relating to illegal actions with regard to criminal justice information. The Georgia Crime Information Center Act, Ga. Laws 1973, p. 1314 provides that . . .

Section 7. Any person who willfully requests, obtains or seeks to obtain criminal offender record information under false pretenses, or who willfully communicates or seeks to communicate criminal offender record information to any agency or person except in accordance with this Act, or any member, officer, employee or agent of GCIC, the GCIC Advisory Council or any participating agency who willfully falsifies criminal offender record information, or any records relating thereto, shall for each such offense be fined not more than five thousand dollars, or imprisoned in the State penitentiary not more than two years, or both. Any person who knowingly, but without criminal purpose, communicates or seeks to communicate criminal offender record information except in accordance with this Act shall for each such offense be fined not more than one hundred dollars, or imprisoned not more than ten days, or both.

The user Agency assumes full responsibility for all sensitive criminal justice information received from the GCIC under the terms of this agreement.

Either the GCIC or the User Agency may cancel this agreement upon thirty (30) days written notice to the other agency.

The GCIC reserves the right to terminate this agreement with or without notice upon determining that the User Agency has violated any law, rule or regulation concerning sensitive criminal justice information or violated the terms of this agreement. Such termination shall be pursuant to all laws, rules and regulations provided therefor.

IN WITNESS WHEREOF: the parties hereto have caused,

USER AGENCY

GEORGIA CRIME INFORMATION CENTER

to be executed by the proper officials.

USER AGENCY

GEORGIA CRIME INFORMATION CENTER

By _____

By _____

Title _____

Title _____

Date _____

Date _____

Attest _____

Attest _____

(3) Limitation on exchange and dissemination of criminal justice information.

(a) No criminal justice information shall be disseminated except as provided by these Rules.

(b) Use of criminal history record information disseminated to non-criminal justice agencies under these Rules and federal regulations shall be limited to the purposes for which it was given and may not be disseminated further.

(c) No agency or individual shall confirm the existence or non-existence of criminal history record information for employment or licensing checks except as provided by paragraphs (1)(b), (2)(c), (2)(e), of this Rule.

(d) Nothing in this Rule shall mandate dissemination of criminal history record information to any agency or individual.

Authority 42 U.S.C. 3771, 28 C.F.R. §20.21, Ga. L. 1973, pp. 1301, 1302, 1303, 1305, 1306, 1307, 1310, 1314.

(c) General policies on use and dissemination. Insure adherence to the following restrictions:

Throughout the development of Georgia's plan of compliance, it has been the GCIC policy to emphasize the general policies of dissemination. While Sections 20.21 (b) and (c) have created the greatest controversy among the majority of criminal justice agencies, the GCIC repeatedly has pointed out that these limitations are not the sole purpose underlying the regulations. Equally important is the need for complete and accurate records. Nor are these limitations aimed at destroying the flow of criminal justice information, but only to ensure that this flow is in accordance with state and federal law.

The principles of the demonstrated need to know and the right to know are inherent in Georgia's Rules pertaining to dissemination. All decisions on dissemination must be guided by these principles. All disseminations must be strictly limited to only those purposes for which they were requested. The dissemination of a statement of "no record" is governed by the same limitations and provisions as the dissemination of a criminal history record.

Criminal justice agencies have been warned continually to exercise caution when legally disseminating criminal history record information to persons with whom they do not have regular contact. Every precaution must be taken to ensure the positive identity and credentials of every person rightfully requesting criminal history record information. Two-way radio communication dissemination of criminal history record information is strictly forbidden.

(1) Criminal history record information concerning the arrest of an individual may not be disseminated to a non-criminal justice agency or individual (except under § 20.21(b) (3), (4), (5), (6)) if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

State Rules require the identical restriction on dissemination of criminal history record information to non-criminal justice agencies when no disposition has been recorded.

140-2-.04 Criminal Justice Information Exchange and Dissemination.

(c) Criminal justice agencies may exchange criminal history record information with non-criminal justice agencies or persons which require criminal justice information to implement a statute or executive order that is expressly based on such conduct.

3. Criminal history record information shall not be disseminated if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no indictment or accusation has been returned.

(2) Use of criminal history record information disseminated to non-criminal justice agencies under these regulations shall be limited to the purposes for which it was given and may not be disseminated further.

The State of Georgia has incorporated this limitation and actively advises this policy.

140-2-.04 Criminal Justice Information Exchange and Dissemination.

(3) Limitation on exchange and dissemination of criminal justice information.

(a) No criminal justice information shall be disseminated except as provided by these Rules.

(b) Use of criminal history record information disseminated to non-criminal justice agencies under these Rules and federal regulations shall be limited to the purposes for which it was given and may not be disseminated further.

In addition, the Rules identify criminal justice information as a "Secret of State" which is required to be confidential and must be collected, stored and disseminated pursuant to state or federal law.

140-2-.02 Data Security Requirements for Criminal Justice Information.

(2) Any secret information, criminal history record information, sensitive information or restricted information is a "Secret of State" which is required by the policy of the State, the interest of the community and the right of privacy of the citizens of this State to be confidential. Such information shall not be divulged except as permitted by the Act and by these Rules.

The "need to know" principle as a prerequisite for dissemination is clearly defined within the State Rules.

140-2-.02 Data Security Requirements for Criminal Justice Information.

(3) Criminal justice agencies shall disseminate criminal justice information only to those agencies and persons who have a need for such information in order to perform duties in the administration of criminal justice or as otherwise provided by statute, executive order or these Rules.

(3) No agency or individual shall confirm the existence or non-existence of criminal history record information for employment or licensing checks except as provided in paragraphs (b)(1), (b)(2), and (b)(5) of this section.

The Rules address the same exclusion.

140-2-.04 Criminal Justice Information Exchange and Dissemination.

(3) Limitation on exchange and dissemination of criminal justice information.

(c) No agency or individual shall confirm the existence or non-existence of criminal history record information for employment or licensing checks except as provided by paragraphs (1)(b), (2)(c), (2)(e), of this Rule.

(4) This paragraph sets outer limits of dissemination. It does not, however, mandate dissemination of criminal history record information to any agency or individual.

State Rules set forth the conditions governing dissemination of criminal justice information but do not mandate dissemination.

140-2-.04 Criminal Justice Information Exchange and Dissemination.

(3) Limitation on exchange and dissemination of criminal justice information.

(d) Nothing in this Rule shall mandate dissemination of criminal history record information to any agency or individual.

Exception is made by State law which requires the GCIC to exchange information with criminal justice agencies which will aid them in the performance of their official duties.

140-2-.04 Criminal Justice Information Exchange and Dissemination.

(1) Dissemination and exchange of criminal justice information by the GCIC.

(b) The GCIC may exchange criminal justice information with bona-fide criminal justice agencies for purposes of the administration of criminal justice and criminal justice employment based on the following criteria:

2. The GCIC shall exchange any information in the files of the GCIC which may aid these agencies in the performance of their duties.

Section 3. The Georgia Crime Information Center shall:

(i) Make available upon request, to all local and State law enforcement agencies and courts of proper jurisdiction in this State, to all Federal law enforcement and criminal identification agencies, and to State law enforcement and criminal identification agencies in other states any information in the files of the GCIC which will aid these agencies in the performance of their duties.

(d) *Juvenile records.* Insure that dissemination of records concerning proceedings relating to the adjudication of a juvenile as delinquent or in need of supervision (or the equivalent) to non-criminal justice agencies is prohibited, unless a statute or Federal executive order specifically authorizes dissemination of juvenile records, except to the same extent as criminal history records may be disseminated as provided in § 20.21 (b) (3), (4), and (6).

Georgia's Juvenile Code restricts access and dissemination of juvenile records to the authority of court order. The court may allow authorized persons to inspect juvenile records for statistical studies and compilations strictly under those conditions imposed by the Court. Juvenile records must be maintained separately from adult records.

Chapter 24A-35. FILES AND RECORDS.

24A-3501 Inspection of Court Files and Records. Except in cases arising under Section 24A-3101, and subject to the requirements of Section 24A-2201(d), all files and records of the court in a proceeding under this Code are open to inspection only upon order of the court. The judge may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and distribution the judge may deem proper, and may punish by contempt any violation of those conditions.

Chapter 24A-35, §24-3501, (1971) Georgia Acts 750.

24-3502 Law Enforcement Records. Law enforcement records and files concerning a child shall be kept separate from the records and files of arrests of adults. Unless a charge of delinquency is transferred for criminal prosecution under Section 24A-2501, the interest of national security requires, or the court otherwise orders in the interest of the child, the records and files shall not be open to public inspection or their contents disclosed to the public; but, with the consent of the court, inspection of the records and files is permitted by:

- (a) A juvenile court having the child before it in any proceeding;
- (b) Counsel for a party to the proceedings;

(c) The offices of public institutions or agencies to whom the child is committed;

(d) Law enforcement officers of other jurisdictions when necessary for the discharge of their official duties; and

(e) A court in which he is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him.

Chapter 24A-35, § 24-3502, (1971) Georgia Acts 751.

Note: Chapter 24A-35, § 24A-3101 pertains to traffic records.
Chapter 24A-35, § 24A-2201 pertains to Hearing, Findings and Dismissal.
Subparagraph (d) allows parties or their counsel to examine written reports involving custody of the child. Excepted are those reports which would be prejudicial to the interests of the child.

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

The State plans to institute procedures to ensure that effective annual audits are conducted by external and independent auditors. The Georgia State Crime Commission will audit the GCIC. The GCIC will conduct the annual audits of all law enforcement and correctional institutions according to Rule 140-2-.07. GCIC field agents will perform the bulk of the audits. This force will be assisted by technically oriented personnel from the GCIC Data Security Officer's staff when computerized agencies are audited. Additional funding will be required by the GCIC in order to audit properly approximately fifteen hundred criminal justice agencies. It is anticipated that the LEAA will make available money for the implementation of the procedures required by this Plan.

140-2-.07 Audit Procedures.

(1) The GCIC shall institute audit procedures to ensure that criminal history record information is accurate.

(2) The Director of the GCIC shall appoint a security officer who will audit and examine criminal justice agencies to ensure compliance with these Rules.

(a) The GCIC Security Officer and members of the GCIC field staff shall visit on an unannounced random basis all criminal justice agencies who have signed user agreements with GCIC.

(b) A representative sample of agencies shall be visited annually.

(c) The GCIC Security Officer may or may not announce his presence when auditing or examining a criminal justice agency.

(d) The GCIC Security Officer shall report the results of examinations and audits to the Director of GCIC.

(3) The following shall be made available to the GCIC Security Officer and members of the GCIC field staff for the purpose of audit, inspection and examinations to determine compliance with these Rules.

- (a) Physical facility.
- (b) Personnel records.
- (c) Criminal history record files.
- (d) Criminal history record information handling procedures.
- (e) Criminal history logs.
- (f) Computer system hardware.
- (g) Computer system software.
- (h) Computer system documentation.

In addition, the Administrative Office of the Courts has been assigned the duty of auditing all court agencies by the state legislature. The GCIC will conduct an audit of any criminal history record information maintained by the AOC.

Both the GCIC and the Administrative Office of the Courts will examine a representative sample of the appropriate criminal justice agencies. These agencies will be selected by randomly, not haphazardly, drawing agencies using a sampling design that stratifies agencies based on the size of the population. Statewide agencies will be assigned to the strata which contains agencies that handle about the same number of records. Probably, agencies serving more than 75,000 persons will be audited once every year. Agencies serving less than 10,000 persons will be audited once every five years. Agencies serving 10,000 to 75,000 persons will be audited once every three years.

The annual audits will be conducted according to the applicable parts of the Standards for Audit of Governmental Organizations, Programs, Activities and Functions published by the Comptroller General of the United States in 1972. All samples will be drawn according to accepted statistical procedures. All agencies and records will be selected randomly. The size of the sample will be determined by the principles of sampling from a hypergeometric probability distribution which is commonly used in statistical auditing. The number of agencies or records drawn will be large enough to ensure with 95% confidence that the error rate within the population is less than some specified criterion. When sampling agencies the criterion probably will be 5%. Audits for record accuracy or completeness conducted once every one, three, or five years will have criteria of $\frac{1}{2}\%$, 1%, or $2\frac{1}{2}\%$ respectively.

The systematic and annual audits of the central repository will include the random selection of records to be traced through the internal update procedures back through the field input processing to terminate at the source document. The records selected for these audits for a given month or year probably will be limited to those records originating in law enforcement, court, or correction agencies selected to be audited during that given time period.

The source documents, data elements, dissemination logs, and audit trail documents to be produced and retained by each agency have not been specifically determined at this time. However, agencies will be required to produce and retain sufficient information to ensure accountability at both the level of the employee and agency. In addition, sufficient documentation of systematic audits will be retained and made available to the external auditor to facilitate his audit.

Aspects of the annual audit which cannot be determined by statistical auditing procedures will be ascertained by a procedure similar to the one used to obtain the certifications of compliance submitted with this Plan. Such certification procedures will rely on interview and inspection to verify adherence to all non-measurable aspects of the Rules.

Each agency, whether manual or automated, will be audited in a manner to ensure adherence to the Rules. However, in the case of automated agencies, additional auditors with expertise in the audit of automated systems will be utilized.

(f) *Security.* Insure confidentiality and security of criminal history record information by providing that wherever criminal history record information is collected, stored, or disseminated, a criminal justice agency shall—

Note: The plan does not include Section 20.21 (f) Security since LEAA advises that this portion of the regulations will be revised. This part of the plan will be submitted when LEAA publishes the revision.

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

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

Georgia law and regulations clearly mandate the individual's right to access and review his criminal history record file. Prior to the promulgation of security and privacy regulations by LEAA, state law required the GCIC to have procedures established whereby an individual could inspect the criminal history, and receive any portion he wished to contest. While these procedures have been operational, state Rules have further refined the mechanics for individual access.

There are three avenues available to an individual who wishes to inspect his record. He may:

1. Apply directly to GCIC.
2. Apply to GCIC through another criminal justice agency.
3. Apply to local criminal justice agency. In this case, the agency must query GCIC prior to any dissemination. An individual's designated attorney also may inspect his client's criminal history record. Positive verification for applications processed at the GCIC requires that the applicant be fingerprinted.

The logging requirements have been instituted to provide the mechanism whereby all criminal justice agencies known to have received an incorrect record or any portion thereof, are contacted and provided the correct record. Both state law and state Rules mandate the logging of criminal history record disseminations.

Section 6. Nothing in this Act shall be construed so as to give authority to any person, agency or corporation or other legal entity to invade the privacy of any citizen as defined by the General Assembly or the courts other than to the extent provided in this Act.

The Center shall make a person's criminal records available for inspection to him or his attorney upon written application to GCIC. Should such person or his attorney contest the accuracy of any portion of such records, it shall be mandatory upon the GCIC to make available to said person or his attorney a copy of the contested record upon written application identifying the portion of the record contested and showing the reason for the contest of accuracy. Forms, procedures, identification and other related aspects pertinent to such access may be proscribed by GCIC in making such access available.

.....

Agencies, including GCIC, at which criminal offender records are sought to be inspected may prescribe reasonable hours and places of inspection, and may impose such additional procedures, fees (not to exceed three dollars), or restrictions, including fingerprinting, as are reasonably necessary both to assure the records' security, to verify the identities of those who seek to inspect them, and to maintain an orderly and efficient mechanism for such accesses.

(Georgia Laws 1973, p. 1312)

140-2-.10 Procedures Whereby An Individual May Access His Criminal History Record File.

(1) General procedures for access to the GCIC criminal history record file.

(a) All applications must be accompanied by a current set of that individual's fingerprints.

(b) All applications for an individual to inspect his criminal history file must be on the form provided by GCIC.

(c) A money order or cash in the amount of \$3.00 must accompany every application.

1. Money orders shall be made payable to the Georgia Bureau of Investigation.

2. A receipt shall be issued to the individual.

(d) Inspection of the file, or in the case of no file a statement indicating that fact, shall be produced for review by the individual who shall sign indicating review of same. The statement indicating no record shall remain on file at GCIC.

(2) Applications from individuals to GCIC to inspect their record.

(a) Individual applications to inspect a person's own criminal history file shall be accepted between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday. No applications shall be accepted on legal State holidays.

(b) Fingerprints shall be taken by a GCIC fingerprint technician.

(c) The Chief of Records and Identification or his designee shall be responsible for internal handling of the application including the collection of fees.

(3) Applications from individuals taken at other criminal justice agencies for processing at GCIC.

(a) Other criminal justice agencies may take applications from individuals for review of their file from GCIC provided that:

1. The agency has signed a Standard Criminal Justice User Agreement - Intrastate with GCIC.

2. The applications are complete and signed by an agency officer responsible for fingerprinting. Only properly completed applications will be processed at the GCIC.

(b) GCIC will produce a copy of the individual's file and forward same via Certified Mail, Return Receipt Requested, Deliver Only to Addressee, to the Requesting Agency Officer.

(c) Authorization for inspection of the record by the individual will be the responsibility of this officer who will sign the application receipt at the place indicated on the form.

(4) Applications from an individual's attorney to be processed at GCIC. An attorney can inspect a copy of his client's criminal history record file provided:

(a) If taken by a criminal justice agency other than GCIC, that the criminal justice agency taking application has signed a Standard Criminal Justice User Agreement - Intrastate with the GCIC.

(b) The application is properly completed and accompanied by the individual's fingerprint card and shall be signed by the individual.

(c) A letter of authorization authorizing the GCIC to allow inspection of the individual's record by his attorney is required. Such letter shall be signed by said individual and accompanied by a certificate executed by the attorney as to his representation of the individual.

(d) The attorney is properly identified. It shall be the responsibility of the person and agency accepting the application to insure proper identification of the attorney.

(5) Applications made to other criminal justice agencies criminal history record files.

(a) Agencies shall query GCIC prior to permitting an individual to inspect his record to insure that the criminal history record information is the most current available. Exception may be made in those cases when time is of the essence and GCIC technically is incapable of responding within a four (4) hour period.

(b) Pursuant to the substance and content of these Rules, criminal justice agencies other than GCIC which maintain criminal history record information may prescribe their own applicable forms and procedures for an individual or his attorney to review his file.

(c) The fee for such applications shall not exceed three dollars (\$3.00).

(d) These criminal justice agencies shall impose such procedures and restrictions as are reasonably necessary:

1. To assure the records' security.
2. To verify the identities of those who seek to inspect them, this may include but not necessarily mandate fingerprinting.
3. To maintain an orderly and efficient mechanism for such access.

Following is the application form used at GCIC by individuals who wish to inspect or contest their criminal history record.

GEORGIA BUREAU OF INVESTIGATION
GEORGIA CRIME INFORMATION CENTER

APPLICATION FOR INDIVIDUAL'S CRIMINAL
HISTORY RECORD

Instructions for Completion

1. All applicants must provide the information requested in Part I, General Identification and Part II, Applicant's Awareness Statement. Part III is to be completed to acknowledge that the applicant has inspected his criminal history as it is contained within the files of the Georgia Crime Information Center. Part IV is to be completed to acknowledge that the applicant does not have a criminal history record within the files of the Georgia Crime Information Center. Part V is to be completed if the applicant desires to contest his record and that contest has been initiated. Only that portion of the record under contest will be released to the applicant.
2. The applicant's attorney may inspect or contest his client's record. The attorney must provide the required information described above and furnish proof of identification to the GCIC authorized officer. A letter of authorization from the individual to the attorney is required. This must be witnessed by the officer taking fingerprints required in No. 3 below.
3. The applicant's fingerprints must be taken by a professional law enforcement officer using a standard FBI applicant type fingerprint card and must accompany this application.
4. A \$3.00 fee must accompany this application. Cash or money orders payable to the Georgia Bureau of Investigation must accompany applications taken at GCIC. For applications taken at other criminal justice agencies, money orders payable to the Georgia Bureau of Investigation must accompany this application.
5. All requests for record modification or deletion shall be addressed in writing to the Director, Georgia Crime Information Center, Post Office Box 1456, Atlanta, Georgia, 30301.

PART I - GENERAL INFORMATION

Date: _____

Applicant's Name: _____

Street Address: _____

Phone: _____

Attorney's Name: _____

Business Address: _____

City: _____

County: _____

OFFICIAL USE ONLY

Originating Agency: _____

Address: _____

Name of Authorized Officer: _____

Signature of Authorized Officer: _____

Date: _____

Fingerprint Card Attached?

Yes _____

No _____

PART II - APPLICANT'S AWARENESS STATEMENT

Each applicant must be aware of the penalties provided in Georgia law for obtaining and/or giving out criminal history record information under false pretenses. The applicant must read the portion of Georgia law given below and acknowledge he is aware of the penalties provided therein.

Approved by the Governor in 1973, Georgia Laws 1973, pp. 1304-1315 entitled Georgia Crime Information Center; provides penalties for unlawful or unauthorized dissemination of criminal history information. That portion of the Act pertaining to such provision states:

"Section 7. Any person who willfully requests, obtains or seeks to obtain criminal offender record information under false pretenses, or who willfully communicates or seeks to communicate criminal offender record information to any agency or person except in accordance with this Act, or any member, officer, employee or agent of GCIC, the GCIC Advisory Council or any participating agency who willfully falsifies criminal offender record information, or any records relating thereto, shall for each such offense be fined not more than five thousand dollars, or imprisoned in the State penitentiary not more than two years, or both. Any person who knowingly, but without criminal purpose, communicates or seeks to communicate criminal offender record information except in accordance with this Act shall for each such offense be fined not more than one hundred dollars, or imprisoned not more than ten days, or both."

I acknowledge having read the above section of the GCIC Act, Georgia Laws 1973, pp. 1301-1315 pertaining to unlawful dissemination of criminal offender record information. I fully understand the penalties for such dissemination, falsification, and communication as stated therein, and, as subject to such, do hereby agree to abide by the law in compliance with the confidentiality of criminal offender record information.

Signed: _____ Date: _____

PART III - INSPECTION OF THE CRIMINAL HISTORY RECORD

APPLICANT'S STATEMENT

I, being the person named above or the attorney of record for the above named individual, herewith request that my criminal record be made available to me for my inspection. I understand that my fingerprints will be taken for purposes of positive identification and that a \$3.00 fee is due and payable with this application.

Signed: _____ Date: _____

Signed: _____ Date: _____

I have read and understand the section of Georgia law quoted, and, being the person named above, I acknowledge that I have seen my criminal record.

Signed: _____ Date: _____

POSITIVE IDENTIFICATION REQUIRED

GCIC OFFICIAL USE ONLY

Record Released for Inspection by:

Application Received:

(Authorized Officer Only)

Title: _____

By: _____

Date: _____

If returned by mail use
CERTIFIED MAIL-RETURN
REQUESTED-ADDRESSEE ONLY-
ATTACH POSTAL RECEIPT HERE

PART IV - STATEMENT OF NO RECORD

AS OF _____

Name: _____

Address: _____

City: _____

The above named individual has no criminal history record contained within the files of the Georgia Crime Information Center.

This statement of no record carries the same weight as any dissemination of criminal history record information. This statement must remain within the files of the GCIC and may not be duplicated for any dissemination other than as authorized by state and federal regulations on security and privacy of criminal justice information.

I have read and understand the section of Georgia law pertaining to unlawful and unauthorized dissemination of criminal history information. I acknowledge that I do not have a criminal record within the files of the Georgia Crime Information Center.

Signed: _____

Date: _____

For the GCIC: _____

GCIC Authorized Official: _____

PART V - CONTESTING THE RECORD

Name: _____

Address: _____

City: _____

Attorney's Name: _____

Business Address: _____

City: _____

County: _____

I, being the individual named above, or the attorney of record for the above named individual, herewith request a copy of my criminal history record be made available to me or to my attorney for the sole purpose of contesting the record. I acknowledge that I will receive only that portion of my criminal history record that I wish to contest. I further understand that I may use the record only for the purposes for which it was given and no other purposes.

I have read and understand the section of Georgia law pertaining to unlawful and unauthorized dissemination of criminal history record information.

Name: _____

Date: _____

Attorney's Name: _____

Date: _____

For the GCIC: _____

Date: _____

GCIC Authorized Agency Officer: _____

Date: _____

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

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

Section 6. . . .

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

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

(Georgia Laws 1973, p. 1312)

140-2-.10 Procedures Whereby An Individual May Access His Criminal History Record File.

(6) A copy of the contested portion of an individual's criminal history record may be disseminated only if the individual or his attorney wish to contest the completeness and accuracy of the record and that contest has been initiated.

(7) An individual who wishes to challenge or modify his criminal history record file must do so in accordance with Section 140-1-.06 of these Rules.

140-1-.06 Contested Cases Governed by Express Statutory Provisions. Contested cases which arise under Georgia Laws 1973, pp. 1301, 1312 are governed by provisions contained therein rather than by the Administrative Procedure Act. Contested cases thereunder shall be conducted in accordance with the procedures provided in that statute.

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

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

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

Section 3. The Georgia Crime Information Center shall:

(b) Compare all fingerprint and other identifying data received with those already on file and whether or not a criminal record is found for that person, at once inform the requesting agency or arresting officer of such facts. If a criminal history is thus disseminated it shall be limited to those offenses in which a conviction was obtained or to data relating to the current cycle of criminal justice administration if the subject has not yet completed that cycle. A log shall be maintained of all disseminations made of each individual criminal history including at least the date and recipient of such information:

(Georgia Laws 1973, p. 1305)

140-2-.06 Criminal History Logs.

(1) Criminal History Logs shall be maintained by those agencies which disseminate criminal history record information within the scope of this Chapter.

(2) The log shall contain information concerning the dissemination of criminal history record information within the scope of this Chapter.

(3) The logs shall provide the mechanism to correct any inaccurate information.

(4) Upon finding inaccurate information of a material nature, it is the duty of the criminal justice agency of discovery to notify all criminal justice agencies or persons known to have received such information.

(5) The following minimum information concerning the dissemination of criminal history record information as defined within the scope of this Chapter shall be maintained in the logs in order to provide an audit trail.

(a) Date disseminated.

(b) Individual criminal history including:

1. Name.

2. All applicable local, state and federal identifying numbers.

(c) Name of officer of dissemination.

(d) Name of agency of receipt.

(e) Name of officer of receipt.

(6) There shall be attached to each appropriate individual criminal history record case file the same information contained in the log.

(7) Computer system log.

(a) Computer system logging requirements are the same as any other logging requirements with the exception that the log may be in the form of electromagnetic storage medium.

(b) This log information must be in a form that can be reproduced as a printed list showing time, date, name and identifying number of the individual, and the recipient agency for any individual criminal history file.

(c) The printed listing must be available within ten (10) days from the date of request.

(8) All logs shall be made available for inspection by criminal justice agencies upon request from the GCIC Security Officer.

Note that in 140-2-.06 (2)(5) the logs are required to be kept on all disseminations. However, in 140-2-.06 (4) all criminal justice agencies receiving any inaccurate information must be notified of the corrected record. This allows the individual the option to decide which non-criminal justice agencies or persons, if any, he wants notified of the corrected record.

Throughout the development of this Security and Privacy Plan, the Georgia Crime Information Center has exerted sincere and conscientious efforts to implement as many of the Plan's procedures as possible within the current financial and legal parameters. The project staff together with the Field Coordination Unit have worked continually to keep the statewide criminal justice community informed and current on the impact of security and privacy regulations. The criminal justice agencies and all persons affected by the regulations have shown a willingness to cooperate to effect an orderly implementation of the regulations. The Field Coordination Unit will continue to conduct training seminars throughout the state to explain the regulations and assist local criminal justice agencies in implementation procedures.

In order to fully implement the procedures described in this Plan, state and local agencies will require additional financial allocations. Funding will be needed to continue the development of the Case Disposition Reporting System, to develop an effective tickler file to insure complete disposition reporting, to develop procedures for systematic audits and quality control within each agency, and to develop procedures for annual audits. The State of Georgia looks to LEAA to provide such funding as will be necessitated to implement this Plan completely by December 31, 1977.

Throughout the implementation phase, the Georgia Crime Information Center will continue to work with all federal, state, regional and local agencies to insure all criminal history information is complete and accurate, to insure that such information is exchanged in accordance with all state and federal statutes, to protect the individual's right to privacy and to guarantee the individual the right to inspect his criminal history record. The State of Georgia will strive to balance the concerns of the public's right to know with the individual's right to privacy in order to most effectively serve the interests of its citizens.

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INTRODUCTION

The purpose of this supplement is to update Georgia's Security and Privacy Plan previously submitted to the Law Enforcement Assistance Administration on March 16, 1976. This plan fulfills the requirements made in the Department of Justice, LEAA regulations promulgated on March 19, 1976.

Following the format of the original plan, this supplemental plan will utilize state administrative regulations to demonstrate procedures the State of Georgia has instituted to implement the LEAA regulations. This plan is presented in three parts: a revised portion on limitations on dissemination, a new portion on security and an addendum to the certificates of compliance.

State Rules and Regulations governing criminal justice information comprise the major components of this plan. For the State of Georgia, the Georgia Crime Information Center Council (formerly the Georgia Crime Information Center Advisory Council) holds the authority to establish Rules to insure the security and privacy of criminal justice information. The Council's Rules and subsequent amendments have been issued in accordance with Georgia's Administrative Procedures Act. (Ga. Laws 1964, p. 338 as amended.) The Rules set forth procedures whereby Georgia's criminal justice agencies can comply with state and federal laws regarding the completeness, accuracy, security and privacy of criminal justice information. Georgia Rules, in concert with state statutes comprise the authority with which to insure the compliance of federal laws and regulations.

The Supplemental Plan will examine Sections 20.21 (b) Limitations on Dissemination and (f) Security. Each of these paragraphs has been inset directly from the regulations. Following each paragraph is a narrative explaining the necessary procedures to bring the State into full compliance by December 31, 1976.

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

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

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

(3) Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement. The agreement shall specifically authorize

access to data, limit the use of data to purposes for which given, insure the security and confidentiality of the data consistent with these regulations, and provide sanctions for violation thereof;

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

These dissemination limitations do not apply to conviction data.

Following the publication of the LEAA regulations on May 20, 1975, the GCIC Advisory Council promulgated State Rules governing the statewide usage, storage and dissemination of criminal history record information. These Rules established the same firm limitations on dissemination set forth in the original LEAA regulations.

While the GCIC Advisory Council has amended its Rules on dissemination to implement state law, the Council did not recede substantially from the original parameters on dissemination. Only one change in the State Rules has been made as a result of the revised federal regulations. The bulk of the amendments follow state law and were in accordance with the original Section 20.21 (b) on dissemination.

This portion of the plan, then, describes the current status of legal disseminations of criminal history record information within the State of Georgia.

The 1976 Session of the Georgia General Assembly passed two different bills pertaining to the dissemination of criminal history information. One bill (House Bill 732) applied to non-criminal justice public agencies, the other bill (Senate Bill 494) pertained to private employers. Governor George Busbee signed both bills and they became effective July 1, 1976. Rules to implement these bills also went into effect July 1, 1976.

House Bill 732 empowers the GCIC Council to regulate the dissemination of criminal history record information to certain public agencies. Those non-criminal justice public agencies which do not have specific federal or state statutory authority to receive criminal history records may present their need for such information to the Council. The requesting agency must demonstrate how its need is related to the prevention or detection of crime or the apprehension of criminal offenders. The Council will consider each agency's request by job classification on an individual basis. If the agency's positions are approved to receive criminal records for applicants, fingerprints are required and all record checks must be made at the GCIC. Prior to the initial dissemination a user agreement between GCIC and the user agency must be executed. This binds the user agency to all applicable state and federal laws on security and privacy.

The statutory authority for these kinds of disseminations is found in Georgia Laws 1973, p. 1306 as amended. Ga. Laws 1976 pages 619 and 620.

The Georgia Crime Information Center shall:

"(i) Make available upon request, to all local and State criminal justice agencies, to all federal criminal justice agencies and criminal justice agencies in other states any information in the files of the GCIC which will aid these agencies in the performance of their official duties. For this purpose the GCIC shall operate on a 24-hour basis, seven days a week. Such information, when authorized by the Council, may also be made available to any other agency of this State or political subdivision of this State, and to any other federal agency, upon assurance by the agency concerned that the information is to be used for official purposes only in the prevention or detection of crime or the apprehension of criminal offenders."

The Rule to implement this subparagraph is found in Rule 140-2-.04 Criminal Justice Information Exchange and Dissemination. It is as follows:

(f) The Georgia Crime Information Center may disseminate certain criminal history record information to any other agency of this State, political sub-division of this State or any federal agency upon determination by the GCIC Council that such information is to be used for official purposes only in the prevention or detection of crime or the apprehension of criminal offenders.

1. The criminal history record information disseminated shall be limited to records of adjudications of guilt, dispositions and arrest records unsupported by dispositions less than one year old.

2. Each agency shall set forth in writing its need for and use of criminal history record information received. The agency shall demonstrate how its use of criminal history record information is related to the prevention or detection of crime or the apprehension of criminal offenders.

3. Each agency who desires to be authorized to receive criminal history record information from the GCIC by the GCIC Council shall present their request in writing to the Director of the GCIC. This request shall be received at least thirty days prior to a Council meeting for consideration by that session and shall be accompanied by the recommendation from the Director of the GCIC.

4. The GCIC Council shall consider each agency's request on an individual basis and shall reply within 30 days after the Council's meeting in writing to the requesting agency as to the Council's decision. The Secretary of the Council shall be responsible for notifying the agency of the decision.

5. Prior to the initial dissemination of any criminal history record information the agency shall execute the GCIC standard user agreement with non-criminal justice agencies pursuant to Rule 140-2-.04 (2)(c)4.

6. To establish positive identification legible fingerprints shall be required to accompany the agency's request.

(i) For each applicant one complete set of legible, inked fingerprints shall be required.

(ii) All fingerprints shall be taken on the Standard FBI Applicant Card (FBI Form Number FD 258) or a comparable card approved by the GCIC. All required identifying data shall be completed.

(iii) All applicant cards shall be directed to the Automated Identification and Criminal History Section, GCIC, P.O. Box 1456, Atlanta, Georgia 30301.

(iv) The GCIC shall not be responsible for supplying the applicant forms or for taking the fingerprint impressions.

7. All criminal history record information disseminated pursuant to this sub-paragraph shall be subject to the Data Security Requirements contained in Rule 140-2-.02.

8. All agencies receiving criminal history record information pursuant to this sub-paragraph shall be subject to the annual audit pursuant to Rule 140-2-.07.

The other state bill pertaining to dissemination, Senate Bill 494, provides that records of adjudications of guilt be made available to private employers and commercial establishments for two purposes. The first purpose is for the purpose of making "employment and job assignment decisions". The second purpose is to "make available records of persons apprehended for or suspected of a specific criminal act or acts of which such establishment in the course of his employment is a victim".

The Council, in their Rules, defined an adjudication of guilt to include nolo contendere and to mean a judgment or sentence that determines the defendant is guilty of a violation of a criminal statute. It includes the notation of arrest and conviction, and if known, the sentence or fine imposed, and all available probation, parole and release information pertinent to the charge. Each business receiving criminal history record information must sign a statement acknowledging the confidentiality of the record received. All applicable businesses and commercial establishments are subject to an annual audit and are required to maintain a log on those records they receive.

Fingerprints are required on all employment checks and they must come to GCIC for processing. Investigative name checks do not require fingerprints and may be made through the local criminal justice agencies.

The authority for these disseminations is found in Georgia Laws 1973 p. 1301 as amended by Georgia Laws 1976 pages 1401-1404. This law in its entirety is in the Appendix. The Rules to implement this bill are found in Rule 140-2-.04 Criminal Justice Information Exchange and Dissemination. The Rule follows:

(g) The Georgia Crime Information Center may disseminate certain criminal history record information to private persons, businesses and commercial establishments.

1. Such dissemination shall occur only after the GCIC has fulfilled its duties and obligations to other criminal justice agencies as required by law and the criminal justice agencies of the Act.

2. The criminal history record information disseminated shall be exclusively limited, without exception, to records of adjudications of guilt including nolo contendere. An adjudication of guilt, including nolo contendere, shall mean a judgment or sentence that determines the defendant is guilty of a violation of a criminal statute. It shall include the notation of arrest and conviction, and if known, the sentence or fine imposed, and all available probation, parole and release information pertinent to the charge.

3. Any private person, business or commercial establishment making a decision adversely affecting an individual based on any information received from the GCIC or its agents pursuant to this subparagraph shall notify the individual of all information received from GCIC.

(i) This information shall include that a record of adjudications of guilt including nolo contendere was obtained from GCIC, the contents of the record and the effect such record had upon the decision.

(ii) A copy of this notification shall be forwarded to the GCIC for the purposes of audit.

4. Prior to the initial dissemination of any record of adjudication of guilt including nolo contendere each private person, business or commercial establishment shall sign an awareness statement, including a hold harmless clause, acknowledging the confidentiality of the record received.

5. Each private person, business or commercial establishment specifically authorized to receive records of adjudications of guilt including nolo contendere, shall be assigned a non-transferable code number by which to identify the request as legitimate.

6. All records of adjudications of guilt including nolo contendere received by private persons, businesses and commercial establishments from the GCIC pursuant to this paragraph shall be subject to the Data Security Requirements of Rule 140-2-.02.

7. All private persons, businesses and commercial establishments receiving information pursuant to this paragraph shall be subject to an annual audit contained in Rule 140-2-.07.

8. All private persons, businesses and commercial establishments who receive information from the GCIC pursuant to this paragraph shall maintain a log noting the individual whose record they received, the authority by which they received such information and any notification to the individual as required by subparagraph (g)(2) above.

(i) This log shall be a separate, self contained document in the form of a chronological listing.

(ii) This log shall be made available in list format upon request and shall be accessible for audit.

(iii) This log shall be maintained for a period of four (4) years.

9. All private persons, businesses or commercial establishments who receive information pursuant to this paragraph shall be subject to completion of a yearly certificate of compliance on the form supplied by the GCIC.

10. Records of adjudications of guilt including nolo contendere may be available to private persons, businesses and commercial establishments for the purposes of making employment and job assignment decisions.

(i) Records may be available only to private employers on those employees or prospective employees whose job duties include:

(I) Working in or near private dwellings without immediate supervision.

(II) Custody or control over or access to cash or valuable items.

(III) Knowledge of or access to secret processes, trade secrets or other confidential information.

(IV) Ensuring the security or safety of other employees, customers, or property of the employer.

(ii) There shall be a charge of \$6.25 for each dissemination for employment purposes. This amount approximates the cost to the State for processing the request. The GCIC Council maintains the privilege to change this figure without formally amending these Rules as the cost of processing fluctuates. Requests without a check or money order payable to the Georgia Bureau of Investigation in the proper amount may be returned.

(iii) Records of adjudications of guilt including nolo contendere shall be disseminated only to the appropriate personnel of the private person, business, or commercial establishment.

(iv) Disseminations shall not be made to any intermediary or agent of the private person, business or commercial establishment.

(v) Without exception fingerprints shall be required to accompany every dissemination pursuant to this subparagraph.

(I) For each applicant one complete set of legible, inked fingerprint impressions shall be required which may be maintained for audit purposes by GCIC.

(II) All fingerprints shall be taken on the Standard FBI Applicant Fingerprint Card (FBI Form Number FD 258) or comparable card approved by GCIC. It shall contain all the required identifying data.

(III) All applicant cards shall be directed to the Automated Identification and Criminal History Section, GCIC, P.O. Box 1456, Atlanta, Georgia 30301.

(IV) The GCIC shall not be responsible for supplying the applicant forms or for taking the fingerprint impressions.

11. The GCIC may make available to private persons, businesses or commercial establishments records of adjudications of guilt including nolo contendere or persons apprehended for or suspected of a specific criminal act or acts of which the private person, business or commercial establishment or an employee therein is a victim.

(i) Identification shall be made by fingerprint comparison except as hereinafter provided.

(I) For each suspect one complete set of legible inked fingerprint impressions shall be required which may be maintained for audit purposes.

(II) All fingerprints shall be taken on the Standard FBI Arrest Fingerprint Card (FBI Form Number FD 249) and shall contain all required identifying data.

(III) All applicant cards shall be directed to the Automated Identification and Criminal History Section, GCIC, P.O. Box 1456, Atlanta, Georgia 30301.

(IV) The GCIC shall not be responsible for supplying the forms or for taking the fingerprint impressions.

(ii) In those cases when fingerprints are not available or time prohibits the use of fingerprints, a list of possible subjects shall be returned. Three possible subjects shall routinely satisfy the request unless more or fewer than three are requested or fewer than three are available.

Rule 140-2-.04 (2)

(g) Criminal justice agencies may make available to businesses and commercial establishments certain criminal history record information of persons apprehended for or suspected of a specific criminal act or acts of which an employee therein is a victim.

1. Criminal history record information shall be limited to adjudications of guilt including nolo contendere.

2. Criminal justice agencies may charge the requestor a fee for processing the request.

3. Criminal justice agencies may establish procedures for processing these requests at the local level.

4. Fingerprints may be required unless they are not available or time prohibits their use.

5. Disseminations pursuant to this paragraph may be of the category in which time is of the essence and rapid dissemination is essential. For the purposes of this subparagraph, time is of the essence when GCIC technically is incapable of responding within a fifteen (15) minute period.

6. Where local criminal justice agencies inquire with GCIC the originating agency code (OAC) and the purpose of the request shall be included with the request.

(I) The private person, business or commercial establishment shall demonstrate a good faith effort to supply fingerprints or shall supply a letter stating reasons for non-compliance.

(II) The private person, business or commercial establishment if available, shall furnish the GCIC the suspect's name, sex, race and date of birth.

(III) When available, other information shall accompany the request such as place of birth, scars, marks, tatoos, hair color, eye color, State Identification Number, FBI Number, military service serial number, driver's license number, local law enforcement numbers, aliases and license tag number.

(IV) The individual's Social Security Number may be used as an identification tool if the suspect is advised that the use of his Social Security Number is optional and will be used in a computerized file.

(V) For each subject's record disseminated the business or commercial establishment shall be charged \$6.25 (i.e. for a list of 3 possibles the cost would be \$18.75). This amount approximates the cost of the State for processing the request. The GCIC Council maintains the privilege to change this figure without formally amending these Rules as the cost of processing fluctuates.

(iii) All requests shall be in writing from an authorized person which includes the identifying code number.

A further amendment in the Rules was made to allow for the dissemination of criminal history record information for the purposes of international travel, the issuance of visas and the granting of citizenship.

Rule 140-2-.04 (3) reads as follows:

(e) Nothing in these Rules shall prohibit the dissemination of criminal history record information for the purposes of international travel such as issuing visas and granting citizenship. The applicant shall attest the criminal history record information received is for these purposes only.

(f) Security.

The requirements set forth in §20.21 (f) Security are met or exceeded by different sections of Chapter 140-2 of the Council's Rules. Personnel, physical, data and system security is of paramount importance to the Georgia Criminal Justice Information System and several rules have been promulgated to insure the overall security of all facets of the system. All applicable rules with the exception of Rule 140-2-.11, Security Requirements for Criminal Justice Information in a Data Processing Environment, have been in effect since March 16, 1976. Rule 140-2-.11 has been in effect since July 15, 1976.

Rule 140-2-.05 addresses the overall concern with security:

Rule 140-2-.05 Security and Privacy of Criminal Justice Information.

Criminal justice information, regardless of the source of such information shall not be altered, obtained, copied, destroyed, delayed, misplaced, misfiled, given, bought, or sold when the intent of such action is to obstruct justice or illegally invade the privacy of any person, agency, corporation or other legal entity.

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

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

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

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

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

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

(iii) The destruction of records is limited to designated terminals under the direct control of the criminal justice agency responsible for creating or storing the criminal history record information.

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

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

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

The bulk of these requirements are met by Rule 140-2-.11. The Rule in its entirety follows:

140-2-.11 Security Requirements for Criminal Justice Information in a Data Processing Environment.

(1) Collection, storage, dissemination and message switching of criminal history record information by means of electronic data processing shall be kept secure by meeting or exceeding the following minimum security requirements.

(a) Where data are collected, stored or disseminated using a computer(s) the data shall be protected from access by unauthorized persons by means of software or hardware protect features which include logging attempted access by unauthorized terminals or persons.

(b) Where data are switched from one point to another using a computer said data transfer shall be protected from access by unauthorized persons by means of software or hardware protect features.

1. Message switching computers other than the GCIC computers shall be programmed or constructed in such a manner to prevent unauthorized copying or retention of the text of the message being switched.

2. Message switching computers other than the GCIC computers may log the handling of any message traffic and record such data elements as date, time, message number, origin, and destination. The text of the message shall not be recorded.

(c) Computers storing or disseminating criminal history record information shall perform logging activities pursuant to Rule 140-2-.06.

(d) Computer systems and the agencies operating or administratively responsible for the operating of computer systems utilized in whole or in part for the collection, storage, dissemination or message switching of criminal history record information shall be subject to an annual audit pursuant to Rule 140-2-.07.

(e) Physical security standards for computer systems used in whole or in part for the collection, storage, dissemination or message switching of criminal history record information shall be maintained pursuant to Rule 140-2-.08.

(f) Personnel Security Standards for persons hired, employed, or retained to operate, program or maintain computer systems shall be pursuant to Rule 140-2-.09 and as follows:

1. The criminal justice agency responsible for the collection, storage, dissemination or message switching of criminal history record information operating in a computer under the direct administrative control of the criminal justice agency itself shall not employ, hire or retain any person who shall have been convicted, by any State or the Federal Government, of any crime, the punishment for which could have been imprisonment in a Federal or State Prison or institution; nor shall said person have been convicted of sufficient misdemeanors to establish a pattern of disregard for the law.

2. The criminal justice agency responsible for the collection, storage, dissemination or message switching of criminal history record information using a computer not under the direct administrative control of the criminal justice agency shall have the right to investigate persons and to reject summarily the services of any person who shall have been convicted, by any State or Federal Government, of any crime, the punishment for which could have been imprisonment in a Federal or State prison or institution; nor shall said person have been convicted of sufficient misdeameanors to establish a pattern of disregard for the law.

(g) Special requirements for computers used and shared by criminal justice and non-criminal justice agencies when the criminal justice use involves collection, storage, dissemination or message switching of criminal history record information shall be in effect no later than December 31, 1977.

1. Wherever shared memory are used, those memory locations used for criminal history record information data elements shall be cleared when released or returned to the available memory pool for non-criminal justice data processing.

2. Peripheral Input/Output data buffers used to process criminal history record information shall be cleared when the peripheral device or data buffer is released for non-criminal justice input/output.

3. Intermediate, semi-permanent and permanent storage mediums such as magnetic disk and tape shall be cleared before they are released for non-criminal justice purposes.

(h) Secret data or data contained in a criminal justice system, whether dedicated or shared, shall be kept under maximum security conditions. Penalties for disclosure shall be in accordance with Section 7 of the Act.

(i) Liability for misuse of secret data or of criminal history record information processed in a shared computer environment shall be the responsibility of the agency administratively responsible for the direct supervision of the person or computer hardware or software involved in the misuse.

Authority: 42 USC 3771, 28 CFR § 20.21, Ga. L. 1973, pp. 1307, 1310, 1311.

Section 20.21 (f)

(3) (A) (vii)

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

Section 20.21 (f)

(3) (D)

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

The physical security requirements are fulfilled by Rule 140-2-.08
Physical Security Standards for Criminal Justice Agencies. The Rule follows:

Rule 140-2-.08 Physical Security Standards for Criminal Justice Agencies.

(1) Facilities that house criminal justice agencies should have a secure area, out of public view, with controlled or limited access, in which criminal justice information is handled.

(2) Criminal justice agencies with on-line computer terminals should place those terminals in the secure area defined in Paragraph (1) of this Rule.

(3) Criminal justice agencies shall institute reasonable procedures to protect any central depository of criminal history record information from unauthorized access, theft, sabotage, fire, wind, flood, power failure and any other natural or man-made disasters.

(4) Criminal justice agencies who operate CJIS satellite computer systems should consider the following:

(a) These agencies should provide heavy duty non-exposed walls; fire, smoke and intrusion detectors; emergency power systems; and electronic or manually guarded access.

(b) A fire resistant vault or safe should be off site of storage or auxiliary programming software and files.

Authority: 28 CFR § 20.21 Ga. L. 1973, pp. 1301, 1306, 1307, Administrative History Original Rule was filed on February 25, 1976; effective March 16, 1976.

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

Audit procedures have been provided for in the Rules to insure compliance with the federal and state laws and regulations. The Rule follows:

Rule 140-2-.07 Audit Procedures.

(1) The GCIC shall institute audit procedures to insure that criminal history record information is accurate.

(2) The Director of the GCIC shall appoint a security officer who will audit and examine criminal justice agencies to insure compliance with these Rules.

(a) The GCIC Security Officer and members of the GCIC field staff shall visit on an unannounced random basis all criminal justice agencies who have signed user agreements with GCIC.

(b) A representative sample of agencies shall be visited annually.

(c) The GCIC Security Officer may or may not announce his presence when auditing or examining a criminal justice agency.

(d) The GCIC Security Officer shall report the results of examinations and audits to the Director of GCIC.

(3) The following shall be made available to the GCIC Security Officer and members of the GCIC field staff for the purpose of audit, inspection and examinations to determine compliance with these Rules.

- (a) Physical facility..
- (b) Personnel records..
- (c) Criminal history record files.
- (d) Criminal history record information handling procedures.
- (e) Criminal history logs.
- (f) Computer system hardware.

(g) Computer system software.

(h) Computer system documentation.

Authority: 42 USC 3771, 28 CFR § 20.21, Ga. L. 1973, pp. 1301, 1302, 1305, 1306, 1307, 1309, Administrative History. Original Rule was filed on February 25, 1976; effective March 16, 1976.

- (4) The criminal justice agency will:
 - (A) Screen and have the right to reject for employment, based on good cause, all personnel to be authorized to have direct access to criminal history record information.
 - (B) Have the right to initiate or cause to be initiated administrative action leading to the transfer or removal of personnel authorized to have direct access to such information where such personnel violate the provisions of these regulations or other security requirements established for the collection, storage, or dissemination of criminal history record information.
 - (C) Institute procedures, where computer processing is not utilized, to assure that an individual or agency authorized direct access is responsible for (i) the physical security of criminal history record information under its control or in its custody and (ii) the protection of such information from unauthorized access, disclosure, or dissemination.
 - (E) Provide that direct access to criminal history record information shall be available only to authorized officers or employees of a criminal justice agency and, as necessary, other authorized personnel essential to the proper operation of the criminal history record information system.
- (5) Each employee working with or having access to criminal history record information shall be made familiar with the substance and intent of these regulations.

Personnel security is addressed in Rule 140-2-.09 Personnel Security Standards for Criminal Justice Agencies. Additional personnel security regulations have been established in Rule 140-2-.11 (f) which appeared previously in the Supplemental Plan. Rule 140-2-.09 reads as follows:

140-2-.09 Personnel Security Standards for Criminal Justice Agencies.

(1) Applicants for employment and those presently employed by criminal justice agencies who handle criminal justice information within the scope of this Chapter, shall consent to an investigation of their good moral character, reputation and honesty. All applicants shall submit to a fingerprint identification check.

(2) The investigation should produce sufficient information for the appropriate official to determine the applicant's suitability and fitness for employment.

(3) Giving false information shall disqualify an applicant and be cause for employee dismissal.

(4) The State Security Questionnaire shall be used for background investigations and shall be a permanent part of the personnel file.

(5) All personnel directly associated with the maintenance or dissemination of criminal history data shall attend a training seminar. The purpose of this seminar shall be to inform employees of federal and state regulations and laws regarding the security and privacy of criminal justice data.

(6) Criminal justice agencies shall establish clearance categories for all criminal justice personnel in accordance with the information classes defined in Section 140-1-.02 (2)(b) of these Rules. All clearance categories shall be authorized in strict accordance with need to know and right to know principles. Although these clearance categories can be accepted by other criminal justice agencies; the agency granting the clearance shall be responsible for the integrity of that clearance.

(7) A criminal justice agency shall have the power to determine legitimate security purposes for which personnel can be permitted to work in a defined area where criminal justice information is stored, collected or disseminated.

(8) A criminal justice agency shall select and supervise all personnel authorized to have direct access to criminal history record information and restricted information.

(9) Each criminal justice agency shall keep and make available upon request to the GCIC a current list of employees cleared to handle criminal history records or secret information.

(10) All employees of criminal justice agencies who handle criminal justice information shall be expected to sign an Awareness Statement which shall read as follows:

AWARENESS STATEMENT FOR
CRIMINAL JUSTICE AGENCIES EMPLOYEES

State and Federal Laws and Regulations provide for the security and integrity of criminal justice information. Each person who works with or has direct access to criminal justice information must be familiar with the contents of these laws and regulations.

Federal regulations have been issued by the United States Department of Justice, Law Enforcement Assistance Administration. They require that wherever criminal history record information appears, it shall be collected, stored and disseminated in a manner to ensure the completeness, accuracy and security of such information. The substance and intent of these regulations provide protection to individual's rights of privacy.

State guidelines are described in the Rules of the Georgia Crime Information Center Advisory Council filed with the Office of the Secretary of State. These Rules establish the procedures and define the regulations governing all agencies who exchange criminal justice information with eligible agencies or persons.

The Georgia law establishing the Georgia Crime Information Center provides penalties for unlawful or unauthorized dissemination of criminal justice information. That portion of the law states:

Section 7. "Any person who willfully requests, obtains or seeks to obtain criminal offender record information under false pretenses, or who willfully communicates or seeks to communicate criminal offender record information to any agency or person except in accordance with this Chapter, or any member, officer, employee or agent of GCIC, the GCIC Advisory Council or any participating agency who willfully falsifies criminal offender record information, or any records relating thereto, shall for each such offense be fined not more than two years, or both. Any person who knowingly, but without criminal purpose, communicates or seeks to communicate criminal offender record information except in accordance with this Chapter shall for each such offense be fined not more than \$100, or imprisoned not more than 10 days, or both."

Georgia Laws 1973, p. 1314.

I acknowledge that I have received instructions about the intent and content of federal and state regulations concerning the security and privacy of criminal justice information. I further acknowledge that I have read the above section of the Georgia Crime Information Center Law pertaining to unlawful dissemination of criminal offender record information. I fully understand the penalties for such dissemination, falsification, and communication as stated and, as subject to such, do hereby agree to abide by the law in compliance with the confidentiality of criminal offender record information.

Signed: _____ Date: _____

Witnessed: _____

Authority: 28 CFR § 20.21 Ga. L. 1973, pp. 1301, 1302, 1304, 1306, 1307, 1310, 1312, 1314, Administrative History. Original Rule was filed on February 25, 1976; effective March 16, 1976.

The GCIC has made extensive efforts to familiarize its personnel with the content of state and federal security and privacy regulations. Five training seminars were conducted in the early months of 1976 to train all personnel on security and privacy. In addition, the GCIC field staff of seventeen special agents have conducted training sessions throughout the State.

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