

PRIVACY AND SECURITY PLAN FOR
CRIMINAL HISTORY RECORDS IN THE
DISTRICT OF COLUMBIA

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I. INTRODUCTION

In 1973, Congress amended the Omnibus Crime Control and Safe Street Act of 1968 to provide, in Section 524b (42 USC 37716), for the collection, storage, and dissemination of criminal history record information maintained in records systems which received financial support under Title 1 of the amended Act.

In a follow-up action, the Department of Justice, through the Law Enforcement Assistance Administration (LEAA), published regulations implementing Section 524b in the Federal Register. These Regulations, effective since June 19, 1975, are included in the Code of Federal Regulations (Title 28, Chapter 1, Part 20).

The new Regulations set forth standards applying to all criminal justice information systems which store criminal history record information and which have received LEAA funding support since July, 1973. While some parts of the Regulations are intended to be fully operational with the submission of the State Privacy Plan, all parts of the Regulations are expected to be fully implemented by December 31, 1977.

The Regulations specify that each State, where applicable, must submit a Privacy Plan by March 16, 1976. This document presents the Privacy Plan of the District of Columbia Government for the content areas of criminal history record safeguards and practices. The Plan is responsive to Federal Regulations and reflects the current status of the District's activities in

these content areas. The Security and Dissemination portions of the Privacy Plan will be submitted at a later date. The purpose of this document is to detail the steps which the District of Columbia will take to comply with all regulatory requirements (except Security and Dissemination) by December 31, 1977.

The Mayor of the District of Columbia created a Privacy Review Committee and invested this body with the authority and responsibility for development of the District's Privacy Plan. In addition, the Plan is subject to the review of the District's Criminal Justice Coordinating Board which includes representatives from the city's criminal justice community. At the request of the Privacy Review Committee, the basic research necessary to develop this Plan was conducted by the staff of the District of Columbia State Planning Agency (i.e., the Office of Criminal Justice Plans and Analysis) in collaboration with representatives of the criminal justice agencies impacted by the Regulations.

II. THE CENTRAL STATE REPOSITORY

Although the Regulations fall short of mandating that each State establish a central repository for complete and comprehensive criminal history information, it is clear that the intent is to firmly fix some point of ultimate responsibility for record integrity. It is also clear that the central data base envisioned by the Regulations is the OBTS/CCH system, as conceptually delineated by PROJECT SEARCH documents and the LEAA Comprehensive Data System Program Guidelines. Where central repositories do not exist, states are encouraged to develop them. Where they do exist, they must be so designated for purposes of the Regulations.

A. Authority

The District of Columbia Government has the necessary legislative authority relating to the collection, maintenance, and storage of criminal history records in a centralized location. Under § 4-134a of the D.C. Code, the Metropolitan Police Department (MPD) is vested with central custody of criminal records.

"...[T]he Metropolitan Police force shall keep a record of each case in which an individual in the custody of any police force or of the United States Marshal is charged with having committed a criminal offense in the District (except those traffic violations and other petty offenses to which the District of Columbia Council determines this section shall not apply)."

This section of the D.C. Code also describes the elements of the criminal history record which are to be submitted to the MPD: including, the original and subsequent charges lodged against the individual, judgment of innocence or guilt by the courts, sentence if convicted, confinement to a correctional institution, ~~and the subsequent release therefrom.~~

The D.C. Code § 4-134a(b) further stipulates that:

"The Attorney General, the Corporation Counsel, the United States Commissioner for the District, the Clerk of the District Court, the Clerk of the Superior Court of the District of Columbia, and the Director of the Department of Corrections shall furnish the Chief of Police with such information as the Commissioner (Mayor) of the District of Columbia considers necessary to enable the Metropolitan Police force to carry out this section."

§ 4-134c also mandates that notice shall be given to the MPD of the authorized release of prisoners by the District Board of Parole, and D.C. Department of Corrections, and the U.S. Board of Parole. In addition, routine notification is given to the MPD concerning persons who have escaped from correctional institutions and other fugitives from justice.

One reason for establishing a central records repository was a recognized need for centralization, due to the co-existence of various federal and local criminal justice agencies in the District. Several police agencies contribute to the total law enforcement of the city, e.g., U.S. Park Police, Zoo Police,

and the Executive Protective Service. In the area of the courts, crimes committed against the Federal and D.C. laws come under the jurisdiction of the U.S. District Court and the D.C. Superior Court respectively. It can happen that criminal cases on the same individuals are concurrently active in both court systems.

In corrections and parole, the exchange of offenders between federal and local corrections institutions, and between the U.S. Parole Board and the D.C. Parole Board has long been a practice. Given such an environment, the advantage of establishing a central records source to enhance the city's criminal justice system is apparent.

Thus, the legislative authority necessary to establish a central state repository already exists in the District of Columbia. Further, this authority has been vested in the central records system of the Metropolitan Police Department.

B. Current Status of the Central Repository

The Metropolitan Police Department currently maintains various internal record systems and files which contain criminal history information. Some files serve specialized law enforcement functions and do not constitute an aggregated criminal history (e.g., warrant files). Portions of MPD records are manual, partially automated, or completely automated. Presently, the most complete

file of criminal history information is maintained in the manual records of the MPD Identification and Records Division.

The Identification and Records Division maintains extensive historical information relating to criminal charges and subsequent dispositions on individuals arrested by MPD in the District of Columbia. Records for felonies and serious misdemeanors are supported by fingerprint identification and a unique number is assigned to an individual's record. Historically, three sets of criminal history files were maintained for law enforcement purposes.

Since August 1974, with the assistance of a grant from the Law Enforcement Assistance Administration (LEAA), the MPD has been consolidating the manual records into one central file which would contain the most complete and accurate information on criminal histories available. Additionally, the manual records are being copied to microfiche to allow more rapid record access and retrieval. In preparation for a computerized criminal history (CCH) system, the consolidation of information into one file was accompanied by the implementation of an automated Identification Index which contains the basic identifying information on all persons arrested by the MPD.

C. Proposed Development

In July, 1975, the District of Columbia Government received an LEAA grant for the development and implementation of an Offender Based Transaction Statistics (OBTS)/Computerized Criminal History (CCH) System. Funded by the LEAA Comprehensive Data System (CDS) Program, the OBTS/CCH grant was awarded to the Office of Criminal Justice Plans and Analysis (OCJPA) with the latter agency subgranting funds to the participating criminal justice agencies as necessary for system development and implementation. Subgrant agencies include the MPD, the D.C. Bail Agency, D.C. Department of Corrections, the D.C. Parole Board, and the Office of Crime Analysis.

Although precluded from receiving LEAA funding support by virtue of its Federal status, the United States Attorney's Office (USAO) of the Department of Justice, which prosecutes felonies and major misdemeanors under the D.C. Code, has agreed to participate in the OBTS/CCH system. The USAO's computerized information system, PROMIS, captures court-related data pertaining to both District and Federal offenses committed in the city.

The Office of Crime Analysis (OCA), a division of the Office of Criminal Justice Plans and Analysis, has been assigned responsibility for coordinating the activities required to build the OBTS/CCH system. One of the key objectives of the proposed OBTS/CCH System is to provide timely, accurate, and comprehensive

criminal history information to criminal justice agencies with a need to know.

As described in the D.C. Criminal Justice Information System Master Plan, the OBTS/CCH System will directly provide automated services related to the collection, storage, and dissemination of criminal history information to all authorized criminal justice agencies. Consistent with the Regulations, the system will acquire information concerning all dispositional transactions from the criminal justice agencies necessary to insure the completeness and accuracy of criminal history information. Each participating agency will submit information that describes the individual's latest status at each stage of the criminal justice process.

The OBTS/CCH System is in the early stages of development and it is anticipated that the system will require eighteen to twenty-four months to become operational.

III. COMPLETENESS AND TIMELINESS OF CRIMINAL HISTORY RECORDS

A. Background and Definitions

Section 524(b) of the Safe Streets Act of 1973 requires that automated criminal history record information be kept current and that disposition data be included with arrest data to the maximum extent feasible. The Federal Regulations establish standards by requiring that with respect to arrests occurring after June 19, 1975, "to the maximum extent feasible," dispositions must be reported to the central state repository within 90 days of the time when they occur. Dispositions must also be reported as quickly as possible to any other facility which disseminates criminal history records. As a further measure to insure that only the most complete data is disseminated, the Federal Regulations require that, except in cases where "time is of the essence" and requisite response cannot be obtained with sufficient speed, disseminates must query the central state repository with regard to open or new arrests prior to disseminating criminal history data outside the agency.

The word "disposition" is defined in Section 20.3(e) of the Regulations to mean "Information disclosing that criminal proceedings have been concluded..." The intent of this section is to acquire and record significant events concerning an

arrestee/defendant/offender as he passes through the criminal justice process from entry into the system to eventual exit from the system.

The word "dissemination" is not defined in the Federal Regulations. However, ~~the accompanying instructions define the word to mean a~~ transmission of criminal history data to "agencies other than the criminal justice agency which maintains criminal history record information."¹ Thus, intra-agency transfers of information would not normally constitute a dissemination except in the unusual case where there is an intra-agency transfer of data from a criminal justice sub-component to a non-criminal justice sub-component of the same agency. For purposes of the "query before dissemination" rule, the instructions also indicate that transfers of information relating only to a charge in process do not constitute dissemination, provided that in the particular circumstances "it is clear... that no disposition has occurred."²

The term "criminal justice agency" means either a court or governmental agency (or sub-unit thereof) "which performs the administration of criminal justice pursuant to (state) statute or (state) executive order and which allocates a substantial part of its annual budget to the administration of criminal justice."

¹Privacy and Security Planning instruction, published June 30, 1975 by LEAA, p.21.

²Ibid., p.21.

(Federal Regulations, Section 20.3(c). The word "substantial" has been defined to mean in excess of 50 percent of the annual budget.³ Whatever accounting methods may be used to reach the 50 percent figures, the Commentary to the Federal Regulations indicates that to qualify as a ~~criminal justice agency~~, an agency must perform, as its principal function, one of the functions comprising the administration of criminal justice as defined in Section 20.3(d).

As the definition of criminal history record in Section 20.3(b) indicates, the term refers to information collected by criminal justice agencies relating to individuals "consisting of identifiable descriptions and notations of arrest...indictments, information or other formal criminal charges and any disposition arising therefrom, sentencing, correctional supervision and release." On page 7, the Instructions state that the definition was intended to cover all of the standard OBTS/CCH (Offender Based Transaction Statistics/Computerized Criminal History) data elements. Of perhaps greater significance, the Instructions indicate that even when the relevant data elements occur outside their normal CCH setting, they nevertheless fall within the scope of the Federal Regulations. Thus, all agencies which maintain records containing "notations" of citizens' prior criminal involvement may -- particularly if they have received financial help from LEAA for the collection, storage, or dissemination of such records since July of 1973 -- be subject to the regulatory requirements.

³ Ibid., p.5

B. Criminal Justice System Components

This section briefly describes existing procedures for reporting dispositions to the central repository. In contrast to the previous section which discusses the central repository in broad terms, this section identifies the major segments of the District of Columbia's criminal justice system that will be impacted by the development of the OBTS/CCH System.

1. Police

When an arrest is made for a serious misdemeanor or felony, the defendant's fingerprints are taken by the Identification and Records Division of MPD. After a defendant's initial arrest, a unique number called a PDID number is assigned.

If the individual should be rearrested at a future date, the same number would be used. In this way, "one-person-one-number" allows for linkage between previous and future contacts with the criminal justice system. The PDID number is also the basis for tracking the individual's contact, if any, with other components of the criminal justice system, and it is the unique identifier forming the cornerstone of the District's proposed OBTS/CCH system. All new entries are also entered in the automated Identification Index. Once the fingerprint card and the accompanying charge notation are

filed with MPD central records, a Police-Prosecutor Report (Form 163) is filed with the United States Attorney's Office or Corporation Counsel for further processing of the case with both the police and the prosecutor maintaining separate file copies.

2. Prosecution

Upon reception of Form 163, the prosecutor reviews the initial charges and reaches a determination of whether to prosecute. The disposition whether it results in processing or dropping a case, is recorded in both the manual and automated systems of the prosecutor's office. This office submits the fingerprint card and charge notations to the FBI to check whether the defendant is a multi-state offender.⁴ While the case is being processed by the prosecutor, entries are made into the automated system, the Prosecutor's Management Information System (PROMIS). Transactions regarding prosecutorial and court processing are transmitted to the MPD central repository to insure completeness and accuracy of criminal record information.

3. Courts

Each criminal case entering the Superior Court is assigned a court docket number by the Clerk. This number serves as the tracking

⁴ A recent court decision prohibits the MPD from routinely disseminating arrest records to the FBI except under special circumstances. See Utz v. Cullinane, 520 F.2d 467 (D.C. 1975). The ruling was based on a local ordinance, the Duncan Ordinance; adopted by the D.C. Board of Commissioners on Oct. 10, 1967. The impact of this ruling will be more fully discussed in the Dissemination portion of the plan to be submitted at a later date.

identifier for a large part of the court's record system. The court docket number is also captured by the PROMIS system to enhance the interface between the prosecutor and the courts, especially with regard to the former's responsibilities for case management, assignment of resources, and a variety of related prosecutorial functions. Although the courts maintain their own record system, it is more advantageous to utilize the PROMIS system for reporting of most court dispositions in the OBTS. Although not a full-pledged participant in an integrated OBTS/CCH system, the Superior Court provides criminal history information to criminal justice agencies for administration of justice purposes. The Court is in the process of implementing a probation reporting system and the development of this module will further enhance disposition reporting. Probation information is currently reported to the MPD in accordance with § 4-134c of the D.C. Code.

In the Capital City, the U.S. District Court has jurisdiction over the commission of Federal violations. These violations constitute a small percentage of the crimes perpetrated in the District of Columbia. All defendants, either Federal or local, come to the attention of the D.C. Bail Agency which reviews the case and makes recommendations concerning pre-trial release. Under these circumstances, arrest data from Federal cases is known to the central repository. In addition, the PROMIS system has recently instituted a program designed to capture Federal Court case information.

4. Bail Agency

The D.C. Bail Agency was created by Congress in 1966, Public Law 89-465, 18 U.S.C. §§ 3146 et seq. (Supp. II, 1966), D.C. Code §§ 23-901 et seq. (1967 ed.)⁵, to organize and supervise in conjunction with the courts a pre-trial release program for defendants who were eligible for personal bond. The statute applied to persons charged under the U.S. Code and the D.C. Code.

The functions assigned to the D.C. Bail Agency were more fully clarified and amended by the Court Reorganization Act of 1970, Public Law No. 91-358, in particular, D.C. Code §§ 23-1301 et seq. The functions assigned to the D. C. Bail Agency can be described in several broad categories. First, the agency is the information arm of the court in the initial bail determination process. In that role, the agency interviews all arrestees brought before the court, evaluates their potential for pre-trial release with respect to their community ties and prior criminal involvement, and submits reports with recommendations to the bail-setting magistrates. Second, the agency supervises those persons granted a non-surety form of release, and reports violations of pre-trial release conditions to the court and the U.S. Attorney. Finally, the agency assists pre-trial releasees in securing employment or necessary medical and/or social services.

⁵All citations to the D.C. Code are to the current edition (1973 or Supp. II, 1975) unless otherwise noted.

6. Parole

Parole dispositions and decision-making rest with the D.C. Parole Board. The Board is autonomous in matters dealing with parole issuance or revocation. However, in practice, there are many interrelationships between the Department of Corrections and the Parole Board. This is particularly evident when the information system is considered.

Automated parole data is maintained as a module on the CRISYS system. Parole dispositions are entered and updated by means of terminals hooked into the correctional data base. The automation of parole data has come from OBTS/CCH funding resources, and the development of this sub-system is in the early stages of implementation.

7. Office of Crime Analysis

In June 1972, the District of Columbia submitted its "Action Plan for the Development of a Comprehensive Criminal Justice Data System". In the Plan, it was stated that the basic organizational philosophy was that each criminal justice agency, i.e., the police, courts, prosecutor and corrections, would maintain responsibility for the operation of their systems.

The Office of Crime Analysis, a division of the Office of Criminal Justice Plans and Analysis, is responsible for insuring that the

necessary design modifications are implemented and for the continuing development of crime statistics. Such an approach enables each criminal justice agency to maintain its own organizational entity while at the same time providing the capability to collect data and develop crime statistics for the entire criminal justice system in the District of Columbia.

In addition, the Office of Crime Analysis, with the assistance of a grant from the Law Enforcement Assistance Administration, has established a Statistical Analysis Center (SAC) which also will provide technical assistance to the District's criminal justice agencies. Among the objectives of the Statistical Analysis Center are:

- To provide general coordination of the entire Comprehensive Data System effort; and
- To provide a source of funds and technical assistance to criminal justice operating agencies to be used in developing the components of the Comprehensive Data System.

Among the primary activities of the Office of Crime Analysis, in conjunction with the Statistical Analysis Center, was the initiation and ongoing development and coordination of the OBTS/CCH System effort within the District of Columbia. Thus, the Office of Crime Analysis, in its established role as systems and statistics coordinator under the Comprehensive Data System program, and specifically in relation to the program's OBTS/CCH component, provides oversight assistance with regard to quality control aspects of automated criminal history information.

C. Disposition Reporting

As indicated in previous sections, authority for the central repository is vested in the central records operation of the Metropolitan Police Department. § 4-134a of the D.C. Code also includes provisions ~~which appear to satisfy the Regulation requirements for disposition reporting.~~

Dispositions are reported to the MPD in compliance with the D.C. Code. All major criminal justice agencies, in various ways and in different degrees, submit criminal history information to the MPD. Criminal Justice Information is exchanged between agencies in both manual and computerized forms.

While dispositions are being reported, improvements in interagency transfer of information are being identified as part of OBTS/CCH development. Current reporting of post arrest events and dispositions to the central repository is characterized by several deficiencies: (1) Lack of effective agency policies and procedures; (2) fragmented and relatively inefficient means of acquiring criminal history data, including source document reports, printouts, and terminal inquiries; and (3) lack of sufficient quality control monitoring to ensure record completeness and accuracy; (4) general incompatibility of data elements due to individualized development of agency systems; and (5) minimal system interfaces regarding access and retrieval of information among the existing automated criminal justice agencies.

Quality control procedures aimed at closely monitoring delinquent disposition reporting are being built into the OBTS/CCH system. The OBTS file will be structured in segments logically reflecting the criminal history record. Thus, the record will be initiated by entry of identification data, followed normally by arrest, bail, prosecution, courts, and correctional data. Entry of consecutive information presumes timeliness of reporting in order for the system to function effectively.

Typically, the system will be designed to reject an illogical sequence, such as entering correctional data prior to a court disposition. Quality control procedures will also insure that when the data elements in the data bases of the criminal justice agencies are identical, that the data content is consistent. In addition, the OBTS/CCH System will contain the case identifier numbers of the participating agencies in its master file, e.g., police number, court docket number, corrections inmate number, etc.

The proposed OBTS/CCH will further alleviate existing information deficiencies by establishing an automated data base which sharply defines and streamlines coordination of information among participating agencies. With the exception of the courts, the criminal history data bases are resident on the computer system of the MPD. The OBTS/CCH design calls for stronger linking of information to create complete criminal history records consistent with the Regulations.

The administration of the District of Columbia court system rests with the Joint Committee on Judicial Administration which sets policies relating to the business of the courts and the improvement of the administration of justice (D.C. Code §11-1701). The Joint Committee is composed of the Chief Judge of the District of Columbia Court of Appeals who acts as Chairman, Chief Judge of the Superior Court, one associate appellate judge and two Superior Court Judges elected annually by the judicial community. In addition, the respective Chief Judges are charged with the supervision of the internal administration of each court.

With respect to court records, the Executive Officer of the Courts; subject to the approval of the Joint Committee, is responsible for policies and practices surrounding the maintenance and safeguarding of court information (D.C. Code §11-1745). Such information shall be made available at all "reasonable times" to: (1) the United States Department of Justice; (2) Mayor; (3) D.C. Commission on Judicial Disabilities and Tenure; or (4) such other agencies as the Joint Committee may specify.

In the context of an integrated data base linking the city's criminal justice agencies, the D.C. Superior Court has expressed its concern over the constitutionality of mandatory participation in an OBTS-like system under the control of the executive branch of government. Such participation, in the court's perspective, may encroach upon the separation of powers doctrine. It is

anticipated that the OBTS/CCH System development process will include discussions with court officials regarding participation in the system, and the manner and extent to which record information may be submitted in the interest of the administration of justice in the city.

D. Query Before Dissemination

As a further guarantee that decisions about individuals who have previously been arrested are based on current information, the Regulations require that the central repository establish procedures to permit inquiry of its files prior to dissemination. An additional requirement is that inquiries "shall be made prior to any dissemination except...where time is of the essence and the repository is technically incapable of responding with sufficient speed."

Inquiries pursuant to this requirement will require the record subject's name and Police Department Identification Number (PDID). Computerized access to the Identification Index containing this information is available to the major criminal justice agencies operating on the MPD computer. Once the OBTS/CCH System becomes operational, the complete record will be accessible by terminal inquiry. In contrast to other states, the District's system will operate in a much smaller geographical area. Timeliness of reporting the latest dispositions to the central repository is enhanced because virtually all inquiring agencies are located on the same

computer system.

Before implementing the pre-dissemination inquiry capability, appropriate procedures will be developed to insure the protection of the privacy and security of the central repository. The procedure will include rules regarding terminal logs, validation of users and terminals, physical security of terminals and limitation on disseminations. To a large degree, these rules are already in existence. However, the OBTS/CCH development will review existing operations and, at a minimum, meet the privacy and security standards embodied in the Regulations.

E. Juvenile Records

Public Law 91-358, Section 196 allocated the responsibility for the administration of the Juvenile Court to the Chief Judge of the District of Columbia Court of General Sessions. The court, by authority of the D.C. Code, maintains restrictive safeguards on access to and disclosure of juvenile records.

Three types of juvenile records are identified in the D.C. Code:

(1) case records (§ 16-2330); (2) social records (§ 16-2331); and (3) law enforcement records (§ 16-2332 and § 16-2333). All record types are kept confidential and not open to inspection, except where appropriate. Juvenile records can be made available to officers and staff of the court, prosecutor, child's attorney, supervising agencies designated by the court, or other persons

authorized to have access by special order, where it is recognized by the court that such party has a professional interest in the child's welfare. However, these exceptions notwithstanding, and upon judicial discretion, "the Superior Court may by rule or special order provide that particular items or classes of items in juvenile social records shall not be open to inspection except pursuant to rule or special order" (D.C. Code § 16-2330(c)).

Juvenile information acquired by the law enforcement agency (Metropolitan Police Department) during the course of apprehension and detention of juvenile is subject to D.C. Code §§ 16-2332-2333. These records are also closed to public inspection. Exceptions to inspection generally follow the exceptions listed in the preceding paragraph. Unlawful disclosure of juvenile records maintained in the law enforcement agency or the court is a misdemeanor and punishable by a maximum penalty of \$250.00 and/or 90 days in jail. (D.C. Code § 16-2335).

Subject to a motion, juvenile records may also be sealed upon order of the court (D.C. Code § 16-2334). The sealing order shall apply to the law enforcement agency files as well as any other agency active in the juvenile case. However, it is possible for U.S. District Court judges to receive juvenile records in appropriate circumstances.

IV. INDIVIDUAL RIGHT OF ACCESS AND REVIEW

This portion of the Regulations provides that procedures must be instituted to "insure the individual's right to access and review of criminal history information for purposes of completeness and accuracy" (20.21). ~~Procedures must be designed so that 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" (20.21(g)(1)). The Regulations require that these procedures be "completely operational" upon Plan submission (20.22(b)(1)).

The procedures developed and implemented by the District Government are as follows:

A. Verification of Identify

The individual must provide identification which will verify that he is the subject of the record sought. To assure certainty of the verification, fingerprints will be required. The prints will be matched against the existing set of prints prior to the release of any information or inspection of records.

To expedite the record review or challenge process, the following procedures have been implemented by the Identification and Records Division of the MPD.

1. The individual shall be required to sign and complete the form "P.D. 70" and specify on the form his reasons for the review or challenge.
2. The individual will be assessed a \$3.00 fee to defray the cost of fingerprinting and record search. A paid receipt will be given.
3. Fingerprints of the individual making the request will be taken and imprinted on the reverse side of the P.D. 70.
4. A search of the fingerprint files will be conducted by personnel of the Identification and Records Division. As a result of the search, the identity of the individual will be confirmed or unconfirmed.

B. Point of Review

The site for approved review of criminal history information will be the Metropolitan Police Department Headquarters. From the standpoint of records location, this site is ideally suited since this is the site of the central repository. From the standpoint of convenience to the individual, the location is reasonably located within the city and readily accessible to the public. All reviews will be conducted in person by the subject of record at the central facility. Due care will be taken not to inconvenience any citizen, especially out of town visitors, from expeditiously completing the purpose of their visit.

G. Obtaining A Copy

The Regulations require that "a copy of the record should ordinarily be available only when it is clearly established that it is necessary for the purpose of challenge (20.21(g)(1)). The intent of this requirement in the Regulations is to be seen in the supplemental planning instructions provided by the LEAA.

Any attempt by employers to subvert the restrictions on dissemination by requiring prospective employers to obtain a copy of their criminal history can thus be discouraged by making it a practice only to give the subject a copy of that portion of the record which is to be challenged, and then only after the challenge process is actually initiated (such as by filing a claim of inaccuracy).⁶

Accordingly, the individual will be required on the P.D. 70 to indicate that the request is for purposes of challenge. Following a review, a copy of the record can be issued, provided that it is necessary to pursue or initiate the challenge, unless it is clear that a copy of the record is not necessary. Local authority for the release of the record is to be found in the Duncan Ordinance,

⁶ Privacy and Security Planning Instructions, Supplement No. 1, August 20, 1975, LEAA.

which states that,

"... copies or extracts of adult arrest records or statements of the non-existence of such records shall be released to applicants therefore upon the payment of fees to be based upon the costs of editing and producing such copies, extracts, or statements..."⁷

D. Content of Challenge

Consistent with the Regulations, the individual questioning the accuracy of criminal history information will submit relevant information as to the correct version of the record and the reasons why it is believed to be correct. The P.D. 70 form will be provided for recording all such challenges, signifying the name of the subject, date, and explanation of information areas thought to be incomplete or inaccurate. As noted earlier, the form will require the signature of the person making the challenge.

All individual challenges will be recorded and filed for official documentation purposes. Basic descriptive information concerning the challenge will be transposed to a cross-reference file logging all such requests. This file will contain a historical accounting of all challenges and serve as a pointer to the original documents of record.

⁷ Report of the Committee to Investigate the Effect of Police Arrest Records on Employment Opportunities in the District of Columbia, December 1, 1967, p.835.

E. Administrative Review

The merit of each challenge will be reviewed by the personnel of the Identification and Records Division of the Metropolitan Police Department. If it is thought that the record is incomplete or inaccurate in any respect, ~~supervisory personnel will inform~~ the individual that an investigation will be made, and written notification of the results will be provided within ten (10) business days. Consideration of each challenge under administrative review will be weighed by the Director of the Identification and Records Division. Should the investigation acknowledge that the record is incomplete or inaccurate, the Director shall cause the record to be corrected or updated and other agencies or individuals to whom the information was disseminated will be notified in accordance with the Regulations.

F. Administrative Appeal

The Regulations provide that "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" (20.21(g)(3)). The appellate procedures should also include provisions as to whether the individual may be present, whether he may have counsel, whether he may present evidence and examine witnesses, whether a record of the proceedings will be kept, and how the decision of the

appeal will be implemented. If the judgment of the administrative appeal body fails to satisfy the individual, recourse may be taken to a judicial appeal. In the District of Columbia, the administrative body to consider appeals regarding challenges to the accuracy or completeness of criminal history records will be the Board of Appeals and Review.⁸ ~~The Board, established by the Mayor~~ pursuant to authority vested in him by the District of Columbia Administrative Procedure Act⁹, is empowered to review all appeals of certain agency actions. Consistent with this authority, the Board will review all appeals filed by citizens regarding access and review of their criminal history record. The composition of the Board includes both D.C. government employees and private citizens, some of whom have legal training.

G. Correction Procedure

Where the challenge is deemed to be valid, i.e., a correction to the record is necessary, the central repository will take the appropriate steps to correct its records. In turn, the central repository will notify all criminal justice agencies to whom the information was disseminated. The criminal justice agencies will respond by certifying to the central repository that the correction has been effected. Upon the request of the individual, a listing of all non-criminal

⁸Org. Ord. No. 115 (1955) (as amended)

⁹D.C. Code §§1501 et seq.

justice agencies that received the information shall be provided so as to allow the individual to take steps to correct erroneous information held by such agencies. To facilitate the correction process, dissemination logs reflecting agencies or individuals that received information will be maintained.

II. Information Subject to Review

As defined in Section 20.3(b) of the Regulations, the information subject to an individual's review of his own record shall include factual data concerning formal stages of the criminal justice process. Specifically, factual data are generally equivalent to the data elements contained in an OBTS/CCH System. The District's OBTS/CCH system is currently in its initial stages of development. However, the basic guideline for inclusion of data elements in the system is SEARCH Technical Memorandum #4, January, 1972:

Implementing Statewide Criminal Justice Statistics Systems - The Model and Implementation Environment. Intelligence and investigative information are not within the purview of an OBTS/CCH repository, nor does such information come under the authority of the Regulations.

I. Public Notice of Rights of Access

The public notice concerning rights of inspection and challenge of criminal history record information will be made by press releases distributed to the public news media. Procedures regarding inspec-

tion and challenge will be published in the public notice section of the major newspapers and displayed in the major criminal justice agencies and other public buildings in the city. The notices will prescribe times and places for review, verification of identity procedures, rules regarding counsel, and submission of relevant materials supporting the request. Public notice will be accomplished with the official submission of the plan to Federal authorities.

In accordance with the District of Columbia Administrative Procedure Act (D.C. Code §§ 1-1504 et seq.), notice of the procedures described in this section will be published in the District of Columbia Register. The effective date of these procedures shall not occur in less than thirty (30) days following such notice, during which time any interested persons may petition and voice their opinion.

V. AUDITS AND QUALITY CONTROL

The Federal Regulations (Section 20.21(a) and (e)] require that audit functions be established to assure the completeness and accuracy of criminal history records. Two types of audit are dictated. The first is a systematic audit, which serves as an ongoing quality control function involving accuracy checks as the information is changed, added, or deleted in the central repository files. The second is an annual audit conducted by an outside agency, probably on a sampling basis, with the objective of appraising the extent to which the record keeping practices of the criminal justice system are consistent with the Regulations and the State's own Privacy Plan. The first type of audit addresses the internal procedures which have been set up by the State to insure records integrity and safeguards, and it presumes the creation of audit trails and dissemination logs for full accountability of the collection, storage, and dissemination of records. The second kind of audit is periodic and comprehensive, in that it also includes a review of the internal procedures established in the systematic audit.

The responsibility for the systematic audit will be shared by the MPD and the Office of Criminal Justice Plans and Analysis, Office of Crime Analysis. The MPD will maintain audit responsibility over all manual records which serve its law enforcement needs and

objectives, e.g., fingerprint cards and "rap sheets". In line with the division of responsibility anticipated in the development of the OBTS/CCH system, the OCA will monitor the quality control of the automated flow of information. The OCA will also initiate field visits to other components of the criminal justice system where the modification of data entry practices is required or delinquent disposition reporting is apparent. This approach is consistent with OCA's mandate to coordinate the District's criminal justice information systems. It also provides a proper balance by relieving the MPD of the role conflict involved in their auditing the operations of other criminal justice agencies.

The MPD and OCA will cooperatively develop the working procedures for the audit plan. The procedures will insure corresponding accuracy and completeness of information between manual and automated criminal history records. OCA staff performance of quality control responsibilities is required by the OBTS/CCH grant funding, but the assumption of these duties awaits further development of the OBTS/CCH System.

A. Systematic Audit

A continuous systematic audit will be developed jointly by the MPD and OCA to automatically edit and monitor the OBTS/CCH System. The audit activities will include:

- 1) checking incoming data for completeness
- 2) checking incoming data for consistency and accuracy

- 3) flagging delinquent dispositions
- 4) notifying other criminal justice agencies of incompleteness or inaccuracy
- 5) resolving discrepancies in the data submitted by two or more criminal justice agencies
- 6) developing audit trails which permit tracking of individual data elements back to source documents
- 7) preventing non-criminal justice dissemination where inappropriate
- 8) monitoring appropriateness of terminal requests.

It should be noted that the MPD has particular responsibility for the last two items. The major role of the OCA will involve the quality control of data submitted to the OBTS/CCH System by the participating agencies. In essence, management control of access to the automated system and dissemination to non-criminal justice agencies are the operational responsibilities of the MPD.

1. Delinquent Dispositions

The instructions supplementing the Regulations suggest a need for a delinquent disposition monitoring system to oversee the timely reporting of dispositions. As part of the OBTS/CCH System, software will be written to flag all output which may contain potentially delinquent dispositions. Criminal history records requested by non-criminal justice agencies containing open

...arrests more than one year old would be automatically withheld unless permitted under the exceptions to Section 20.21(c)(1).

2. Dissemination Tracking Procedures

In order to meet the regulatory requirements with respect to the record correction, the MPD will maintain a complete dissemination log on all criminal history records. The logs will show:

- 1) the requesting agency
- 2) recipient of the record
- 3) date sent
- 4) PDID number of the subject
- 5) type of agency (criminal justice or non-criminal justice)

Records will also reflect all corrections which have been disseminated during the year, including the agency receiving the corrected record, the PDID or name of the subject and the date that the corrected copy was transmitted.

Agencies receiving criminal histories from the central repository would be required to execute a Use and Dissemination Agreement to maintain dissemination logs listing elements identical to those maintained in the MPD dissemination log.

B. Annual Audit

To meet the requirement of Section 20.21(e), the MPD Central Repository staff together with staff from the OCA will design and implement an annual audit utilizing random sampling procedures to test compliance by all user agencies with applicable provisions of the Federal Regulations, District of Columbia law, and Executive Orders pertaining to the processing of criminal history records. All users will agree, by signing a Use and Dissemination Agreement, to hold themselves open to such audits and to maintain such documents as are determined to be necessary to facilitate adequate auditing. At a minimum, all user agencies which contribute data to the Central Repository must maintain source documents from which such contributions were derived plus full and complete dissemination logs. The annual auditing system will be designed and implemented by July, 1977.

The annual audit will be conducted in three basic parts as follows:

1. Procedural Audit

This audit will examine the extent to which procedures have been implemented to insure compliance with the Federal Regulations and local laws. This section of the audit will cover:

- *- completeness of records and disposition reporting procedures;

- accuracy of records;
- dissemination practices (query, limitations, tracking);
- security (hardware, software, personnel, physical); and
- individual's right of inspection.

Methods used in conducting this audit will include:

- reviews of written procedures and manuals;
- personnel interviews to evaluate understanding and practice;
- observation of the facility site and system operations.

2. Records Audit

This audit will evaluate the completeness and accuracy of Central Repository files as measured against records of original entry.

It will be conducted by taking a random selection of source documents at local agencies to evaluate:

- the percentage of entry of arrests and dispositions into the Central Repository and/or local files;
- the accuracy of data entry to provide the error rate for critical field data;
- the percentage of delinquent dispositions entered;
- delays in disposition reporting.

All evaluations will be based on statistically significant samples of original entry records.

3. Audit of Activity Logs

This audit will evaluate the effectiveness of the system's tracking procedures. Records to be examined include dissemination logs, record corrections logs, and physical and terminal access logs. Besides inspection of logs, the audit team will:

- review logging procedures;
- interview personnel handling records or processing records corrections; and
- observe each system's daily operations.

C. Sanctions

The information developed through the annual and systematic audits will be used to evaluate compliance with both Federal and local regulations. When an agency is found to be in error, the MPD or the OCA will provide technical assistance and guidance to correct inadequate procedures. The MPD may reserve the right to suspend the services of the central repository to any user agency, whether Federally funded or not, which violates any Federal or District regulation respecting the processing of criminal history records.

In addition, unauthorized dissemination of criminal history records are prohibited by the Manual of the Metropolitan Police Department (enacted by the City Council) and Police Department General Orders which govern the actions of police officers. Willful or negligent violations would be subject to personnel or disciplinary action. Only employees acting at the direction of the Director, Identification and Records Division, are authorized to release central history records from the central repository.

As previously noted, unlawful disclosure of juvenile records is punishable by a maximum penalty of \$250.00 and/or 90 days in jail (D.C. Code §16-2335).

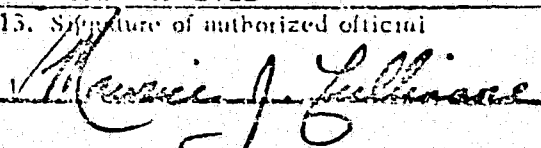
APPENDIX A

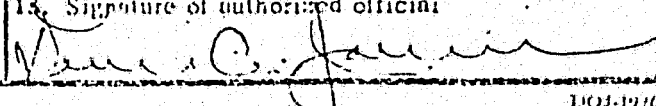
District of Columbia Agencies Covered by Department of Justice Regulations

<u>Grant No.</u>	<u>Agency</u>	<u>Project Title</u>
DF-03-0017	Metropolitan Police Department	Criminal Identification System
DF-03-0013 ED-03-0013	Office of Criminal Justice Plans and Analysis	Statistical Analysis Center (SAC)
DF-03-0025 ED-03-0005	Office of Criminal Justice Plans and Analysis	OBTS/CCH System
A03-0006	Metropolitan Police Department	Computer-Aided Dispatch
A03-0007	Metropolitan Police Department	Moderization of MPD Criminal Records System
A01-0001	D.C. Superior Court	Management Information System Development (PARS)
DF-03-0025 ED-03-0005	Bail Agency	OBTS/CCH System
DF-03-0025 ED-03-0005	Parole Board	OBTS/CCH System
DF-03-0025 ED-03-0005	Department of Corrections	OBTS/CCH System
DF-03-0025 ED-03-0005	Metropolitan Police Department	OBTS/CCH System

APPENDIX

APPENDIX B

U. S. DEPARTMENT OF JUSTICE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION NATIONAL CRIMINAL JUSTICE INFORMATION AND STATISTICS SERVICE WASHINGTON, D. C. 20531		INFORMATION STATEMENT (28 CFR 20.1 - 20.36)		INSTRUCTIONS Please provide the following information, complete the attached certification form and return all parts to the address at the left.	
NAME/ADDRESS OF SUBMITTING AGENCY Metropolitan Police Department 300 Indiana Avenue, N.W. Washington, D.C. 20001		APPLICABLE STATE Washington, D.C.		DATE PREPARED	
		CONTACT NAME Insp. Thomas J. Wolfrey		TEL. NO. (Give Area Code) (202) 626-3301	
1. Does your agency "collect, store, or disseminate criminal history record information processed by either manual or automated operations?" "Criminal history record information" means information collected by criminal justice agencies on individuals which consist of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system. YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>					
2. If the answer above was "Yes," have LEAA funds been made available to the agency subsequent to July 1, 1973 for the collection, storage or dissemination of information? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>					
3. Indicate the type of agency: <input type="checkbox"/> PROSECUTION <input type="checkbox"/> PUBLIC DEFENDER <input checked="" type="checkbox"/> POLICE <input type="checkbox"/> COURTS <input type="checkbox"/> CORRECTIONS					
4. Indicate the type of system: <input type="checkbox"/> SUBJECT IN PROCESS <input checked="" type="checkbox"/> CRIMINAL HISTORY			5. Is the system automated? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> PARTIAL		
6. Does the system(s) exchange information with other systems? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If "Yes," specify which other systems: <input type="checkbox"/> REGIONAL <input type="checkbox"/> CENTRAL STATE REPOSITORY <input type="checkbox"/> NCIC <input checked="" type="checkbox"/> OTHER (specify) <u>D.C. C.J. Agencies</u>					
7. Indicate population of primary geographic jurisdiction being served: <u>750,000</u>			8. Indicate approximate number of subjects included in system: <input type="checkbox"/> 0-5,000 <input type="checkbox"/> 5,000-25,000 <input checked="" type="checkbox"/> 25,000-100,000 <input type="checkbox"/> 100,000-500,000 <input type="checkbox"/> MORE THAN 500,000		
9. Name of authorized agency official Maurice J. Cullinane			10. Title Chief, Metropolitan Police Department		
11. Agency name and address Metropolitan Police Department 300 Indiana Avenue, N.W. Washington, D.C. 20001			12. Tel. No. (Give Area Code) 202-629-2412		
			13. Signature of authorized official 		

U. S. DEPARTMENT OF JUSTICE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION NATIONAL CRIMINAL JUSTICE INFORMATION AND STATISTICS SERVICE WASHINGTON, D. C. 20531		INFORMATION STATEMENT (28 CFR 20.1 - 20.38)	INSTRUCTIONS Please provide the following information, complete the attached certification form and return all parts to the address at the left.
NAME/ADDRESS OF SUBMITTING AGENCY D. C. Department of Corrections 614 H Street, NW, Suite 1114 Washington, DC 20001		APPLICABLE STATE District of Columbia CONTACT NAME Mr. James Freeman	DATE PREPARED 4-12-76 TEL. NO. (Give Area Code) (202) 629-3532
1. Does your agency "collect, store, or disseminate criminal history record information processed by either manual or automated operations?" "Criminal history record information" means information collected by criminal justice agencies on individuals which consist of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system.			
YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>			
2. If the answer above was "Yes," have LEAA funds been made available to the agency subsequent to July 1, 1973 for the collection, storage or dissemination of information?			
YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>			
3. Indicate the type of agency:			
<input type="checkbox"/> PROSECUTION <input type="checkbox"/> PUBLIC DEFENDER <input type="checkbox"/> POLICE <input type="checkbox"/> COURTS <input checked="" type="checkbox"/> CORRECTIONS			
4. Indicate the type of system:		5. Is the system automated?	
<input type="checkbox"/> SUBJECT IN PROCESS <input checked="" type="checkbox"/> CRIMINAL HISTORY		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> PARTIAL	
6. Does the system(s) exchange information with other systems? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If "Yes," specify which other systems:			
<input type="checkbox"/> REGIONAL <input checked="" type="checkbox"/> CENTRAL STATE REPOSITORY <input type="checkbox"/> NCIC <input type="checkbox"/> OTHER(specify) _____			
7. Indicate population of primary geographic jurisdiction being served: <u>750,000</u>		8. Indicate approximate number of subjects included in system: <input type="checkbox"/> 0-5,000 <input type="checkbox"/> 5,000-25,000 <input checked="" type="checkbox"/> 25,000-100,000 <input type="checkbox"/> 100,000-500,000 <input type="checkbox"/> MORE THAN 500,000	
9. Name of authorized agency official Mr. Delbert C. Jackson		10. Title Director	
11. Agency name and address D. C. Department of Corrections 614 H Street, NW, Suite 1114 Washington, DC 20001		12. Tel. No. (Give Area Code) (202) 629-3532	
		13. Signature of authorized official 	

U. S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
NATIONAL CRIMINAL JUSTICE INFORMATION AND
STATISTICS SERVICE
WASHINGTON, D. C. 20531

INFORMATION
STATEMENT

(28 CFR 20.1 - 20.38)

INSTRUCTION:

Please provide the following information, complete the attached certification form and return all parts to the address at the left.

NAME/ADDRESS OF SUBMITTING AGENCY D.C. Bail Agency 600 Indiana Avenue, N.W. Washington, D.C.	APPLICABLE STATE Washington, D.C.	DATE PREPARED
	CONTACT NAME Mr. Bruce Beaudin	TEL. NO. (Give Area Code) 727-2911

1. Does your agency "collect, store, or disseminate criminal history record information processed by either manual or automated operations?" "Criminal history record information" means information collected by criminal justice agencies on individuals which consist of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision and release. The term does not include identification information, such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system.

YES ☒

NO ☐

2. If the answer above was "Yes," have LEAA funds been made available to the agency subsequent to July 1, 1973 for the collection, storage or dissemination of information?

YES ☒

NO ☐

3. Indicate the type of agency:

☐ PROSECUTION

☐ PUBLIC DEFENDER

☐ POLICE

☒ COURTS

☐ CORRECTIONS

☒ PRETRIAL RELEASE

4. Indicate the type of system:

☐ SUBJECT IN PROCESS ☒ CRIMINAL HISTORY

5. Is the system automated?

☐ YES ☐ NO ☒ PARTIAL

6. Does the system(s) exchange information with other systems? ☒ YES ☐ NO

If "Yes," specify which other systems:

☐ REGIONAL ☒ CENTRAL STATE REPOSITORY ☐ NCIC ☐ OTHER (specify) _____

7. Indicate population of primary geographic jurisdiction being served:

750,000

8. Indicate approximate number of subjects included in system:

☐ 0-5,000 ☐ 5,000-25,000 ☒ 25,000-100,000
☐ 100,000-500,000 ☐ MORE THAN 500,000

9. Name of authorized agency official

Mr. Bruce Beaudin

10. Title

Director, D.C. Bail Agency

11. Agency name and address

600 Indiana Avenue, N.W.
Washington, D.C.

12. Tel. No. (Give Area Code)

202-727-2911

13. Signature of authorized official

Bruce D. Beaudin

U. S. DEPARTMENT OF JUSTICE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION NATIONAL CRIMINAL JUSTICE INFORMATION AND STATISTICS SERVICE WASHINGTON, D. C. 20531		INFORMATION STATEMENT (28 CFR 20.1 - 20.38)	INSTRUCTIONS Please provide the following information, complete the attached certification form and return all parts to the address at the left.
NAME/ADDRESS OF SUBMITTING AGENCY D.C. Board of Parole 614 H Street, N.W. Washington, D.C.		APPLICABLE STATE District of Columbia	DATE PREPARED 4-12-76
		CONTACT NAME Edward J. Keightley	TEL. NO. (Give Area Code) (202) 629-4501
<p>1. Does your agency "collect, store, or disseminate criminal history record information processed by either manual or automated operations?" "Criminal history record information" means information collected by criminal justice agencies on individuals which consist of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system.</p> <p>YES <input checked="" type="checkbox"/> NO <input type="checkbox"/></p>			
<p>2. If the answer above was "Yes," have LEAA funds been made available to the agency subsequent to July 1, 1973 for the collection, storage or dissemination of information?</p> <p>YES <input checked="" type="checkbox"/> NO <input type="checkbox"/></p>			
<p>3. Indicate the type of agency:</p> <p><input type="checkbox"/> PROSECUTION <input type="checkbox"/> PUBLIC DEFENDER <input type="checkbox"/> POLICE <input type="checkbox"/> COURTS <input type="checkbox"/> CORRECTIONS <input checked="" type="checkbox"/> Parole</p>			
<p>4. Indicate the type of system:</p> <p><input type="checkbox"/> SUBJECT IN PROCESS <input checked="" type="checkbox"/> CRIMINAL HISTORY</p>		<p>5. Is the system automated?</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> PARTIAL</p>	
<p>6. Does the system(s) exchange information with other systems? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>If "Yes," specify which other systems:</p> <p><input type="checkbox"/> REGIONAL <input checked="" type="checkbox"/> CENTRAL STATE REPOSITORY <input type="checkbox"/> NCIC <input type="checkbox"/> OTHER (specify) _____</p>			
<p>7. Indicate population of primary geographic jurisdiction being served:</p> <p>750,000</p>		<p>8. Indicate approximate number of subjects included system:</p> <p><input type="checkbox"/> 0-5,000 <input type="checkbox"/> 5,000-25,000 <input checked="" type="checkbox"/> 25,000-100,000 <input type="checkbox"/> 100,000-500,000 <input type="checkbox"/> MORE THAN 500,000</p>	
<p>9. Name of authorized agency official</p> <p>H. Albion Ferrell</p>		<p>10. Title</p> <p>Chairman</p>	
<p>11. Agency name and address</p> <p>D.C. Board of Parole 614 H Street, N.W. Washington, D.C.</p>		<p>12. Tel. No. (Give Area Code)</p> <p>(202) 629-4501</p>	
		<p>13. Signature of authorized official</p> <p><i>H. Albion Ferrell</i></p>	

[illegible]

I certify that to the maximum extent feasible, action has been taken to comply with the procedures set forth in the Privacy and Security Plan of the State.

SIGNATURE *(Head of State Agency designated to be responsible for these regulations)*

Chief, Metropolitan Police Dept.

REMARKS

*NOTE: Section on "Security" not required to be completed.

UNITED STATES DEPARTMENT OF JUSTICE
Law Enforcement Assistance Administration
National Criminal Justice Information and
Statistics Service
Washington, D.C. 20531

CERTIFICATION FOR
AGENCY SYSTEMS OTHER THAN
THE CENTRAL STATE REPOSITORY

NAME/ADDRESS OF SUBMITTING AGENCY

D. C. Board of Parole
614 H Street, N. W.
Washington, D. C.

APPLICABLE STATE

District of Columbia

DATE PREPARED

4-12-76

CONTACT NAME

Edward J. Keightley

TELEPHONE NO. (Give area code)

(202) 629-4501

TYPE OF AGENCY

☒ POLICE

☐ PROSECUTOR

☐ COURT

☐ PROBATION

☐ CORRECTIONAL
INSTITUTION

☒ PAROLE

INSTRUCTIONS: Complete the following, as appropriate.

OPERATIONAL PROCEDURES

Completeness and Accuracy

Complete Disposition Reporting from:

- Police
- Prosecutor
- Trial Courts
- Appellate Courts
- Probation
- Correctional Institutions
- Parole

Systematic Audit:

- Delinquent Disposition Monitoring
- Accuracy Verification

Limits on Dissemination

Contractual Agreements, Notices and Sanctions
in Effect for:

- Criminal Justice Agencies
- Non-Criminal Justice Agencies Granted Access
by Law or Executive Order
- Service Agencies Under Contract
- Research Organizations
- Validating Agency Right of Access Restrictions On:
- Juvenile Record Dissemination
- Confirmation of Record Existence
- Secondary Dissemination by Non-Criminal
Justice Agencies
- Dissemination Without Disposition

Audits and Quality Control

Audit Trails:

- Recreating Data Entry
- Primary Dissemination Logs
- Secondary Dissemination Logs

CHECK MARKS

DATES

NOW IMPLEMENTED	REASONS FOR NON-IMPLEMENTATION			ESTIMATED IMPLEMENTATION DATE
	COST	TECHNICAL	LACK OF AUTHORITY	
X				
X				
X				
X				
X				
X				
		X		7-77
		X		7-77
X				
	X	X		7-77
	X	X		7-77

✦ Security

• Criminal Justice Agency

Hardware Design

Dedicated Hardware*

Terminals

Communications Control

Processor

Storage Devices

Criminal Justice Agency Authority:

Computer Operations Policy

Access to Work Areas

Selection and Supervision of Personnel

Assignment of Administrative Responsibility:

Physical Security

Unauthorized Access

Physical Protection Against:

Access to Equipment

Theft, Sabotage

• Fire, Flood, Other Natural Disaster

Employee Training Program

Individual Right of Access

Rules for Access

Point of Review and Mechanism

Challenge by Individual

Administrative Review

Administrative Appeal

Correction/Notification of Error

REMARKS

*NOTE: Section on "Security" not required to be completed.

PRIVACY AND SECURITY PLAN FOR
CRIMINAL HISTORY RECORDS IN THE
DISTRICT OF COLUMBIA

Part II

September 18, 1976

Foreword

This document represents Part II of the District Government's plan for privacy and security safeguards regarding criminal history records.

This part of the plan covers sections of the Federal Regulations entitled, "Limitations on Dissemination" (20.21(b), (c), (d)] and "Security" 20.21 (f).

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I. LIMITATIONS ON DISSEMINATION

A. Requirements of the Regulations.

The limitations on dissemination set out in Section 20.21(b), (c) and (d) of the Regulations apply only to "nonconviction data". This term is defined in Section 20.3(k) to include all acquittals and dismissals, instances where the police have elected not to refer a matter for prosecution or where the prosecutor has elected not to commence criminal proceedings, and arrest information with no recorded disposition if a year has elapsed from the date of the arrest and no active prosecution is pending. The Regulations place no restrictions on the dissemination of conviction data and, with the exception of year-old arrest records where no active prosecution is pending, no restrictions are placed on dissemination of data concerning open arrests or pending charges.

The restrictions on nonconviction data become effective on December 31, 1977. After that date, dissemination of such data for noncriminal justice uses, other than for research or contractual criminal justice services under Section 20.21 (b) (3) and (4), must be "authorized by statute, ordinance, executive order, or court rule, decision or order, as construed by appropriate State or local officials or agencies" The existence or nonexistence of nonconviction data to any

person or agency not authorized to receive the data itself [Section 20.21(c)(2)], except that criminal justice agencies may confirm such data upon specific inquiry by a reporter or other person as to whether a named individual was arrested, detained, indicted or otherwise charged on a specific date [Section 20.20(c)].

Finally, the Regulations prohibit the dissemination of juvenile records to noncriminal justice agencies, except for research or contractual criminal justice-related services, unless specifically authorized by statute or by court order, rule, or decision [Section 20.21(d)].

B. Noncriminal Justice Dissemination in the District of Columbia.

1. The Duncan Ordinance

Dissemination of criminal history records in the District of Columbia is governed by a city legislative enactment known as the "Duncan Ordinance" [Commissioners' Memorandum Order No. 77, Series 1967 (December 1, 1967).] This ordinance resulted from recommendations set forth in a 1967 report entitled, "Report of the Committee to Investigate the Effect of Police Arrest Records on Employment Opportunities in the District of Columbia". The report concluded that the then widespread availability of arrest records to employers caused severe and often unfair consequences to job applicants with arrest records, particularly if they had been found not guilty or

if charges against them had been dismissed. The report recommended the adoption of rules regulating the dissemination of criminal records to law enforcement agencies and prohibiting the dissemination of arrest records to non-criminal justice agencies and individuals if the charges had not resulted in a conviction or forfeiture of

collateral. The recommendations were adopted by the D. C. Board of Commissioners, and thus acquired the force of law.

Pursuant to the Duncan Ordinance and policies developed to implement it, all requests for criminal records by non-criminal justice agencies or individuals, from within or outside of the District of Columbia, are directed to the Metropolitan Police Department. P.D. Form 70 is used for all such requests. The form must be signed by the record subject authorizing the release of his record. Pursuant to the Duncan Ordinance, the only record entries routinely released to non-criminal justice applicants are entries relating to offenses which have resulted in convictions or forfeitures of collateral within the past 10 years. 1/ Non-conviction data is released only in the relatively few instances when the requestor is

1/ The 10-year period is extended in cases where the record subject was imprisoned for all or part of that time to include entries in the record subject's criminal history relating to such earlier conviction. Duncan Ordinance, §4.

a criminal justice agency or is specifically authorized to receive such data pursuant to a statute, ordinance, court order or equivalent authority.

An index of applicants with approved authority to receive nonconviction records is maintained in the Identification and Records Division of the Metropolitan Police Department.

Any questions about the authority of a particular applicant to receive nonconviction records is referred to the General Counsel of the MPD. In resolving such questions, this office takes the view that the law or other authority relied upon must be clear and specific to overcome the Duncan Ordinance's restriction on the release of unexpurgated arrest records.

Language such as "good moral character" is regarded as insufficient for this purpose. An applicant relying on such authority would only be entitled to a "Duncan record," with the record subject's permission.

2. Year-Old Open Arrest Records

Since open arrest notations, however long they have been pending, are not disseminated to non-criminal justice recipients unless specifically authorized by statute, ordinance, court order or similar authority, the District of Columbia is in compliance with the requirement in the Regulations that year-old open arrests be treated as non-conviction data, if prosecution is not actively pending. However, as part of the OBTS/CCH System, special procedures

will be developed to flag such arrests to ensure that unauthorized disseminations do not occur inadvertently.

3. Criminal History Record Checks

The M.P.D. does have a procedure for making a criminal history record check for individuals who apply in person.

Upon proper identification, payment of a \$1.50 fee, and signing of the release authorization on P.D. Form 70, such individuals are given either a "Duncan record", or a "No Record" certification. Thus, absent specific authorization as described, supra, there is no dissemination or confirmation of arrests that have culminated in convictions or forfeitures of collateral. The M.P.D.'s procedure, therefore, is in complete compliance with Section 20.21(c)(2) of the Regulations which prohibits confirming the existence or non-existence of a record to a requestor who is not authorized to receive the record itself.

4. Sanctions

As detailed more fully on pages 39-40 of the first section of the Plan submitted August 10, 1976, the District of Columbia has in force sanctions designed to deter violations of dissemination policies. The MPD reserves the right to suspend services to any user agency which violates any Federal or District regulation on the use and dissemination of such records. In addition, pursuant to the Manual of the MPD (which has the force of law) and MPD General Orders

governing the actions of police officers, willful or negligent unauthorized disseminations of records are punishable by personnel or disciplinary action.

C. Press Inquiries

The current policy of the MPD concerning press inquiries complies with the Regulations. MPD personnel will confirm a prior non-conviction data entry upon receipt of an inquiry that is specific as to event and date. This policy has been based upon oral instructions and internal memoranda. Prior to December 31, 1977, the policy will be formalized in written instructions or regulations. Willful or negligent violations will be made subject to the sanctions set out in the previous subsection.

D. Juvenile Records

The maintenance, use and dissemination of juvenile records in the District of Columbia is governed by Sections 16-2330 through 16-2333 of the District of Columbia Code. Under these provisions, juvenile records may be disseminated to noncriminal justice agencies, such as supervising agencies designated by the court; or, other agencies that, in the view of the court, have a professional interest in the juvenile's welfare. However, since all such disseminations are pursuant to express statutory authority and since unlawful disclosure of juvenile records is punishable by civil and criminal penalties, the District of Columbia is in full compliance with Section 20.21(d) of the Regulations.

E. Use and Dissemination Agreements

As stated previously in the section on Audits and Quality Control, when the central repository has been fully implemented all user agencies in the District of Columbia will be requested to execute Use and Dissemination Agreements binding them to full compliance with the Regulations and the procedures set out in this plan. ~~Appropriate agreements~~ will also be developed for agencies and individuals who receive criminal records for the purpose of contractual criminal justice services under Section 20.21(b) (3), or research, under Section 20.21(b) (4).

Numerous federal criminal justice agencies are involved in the criminal justice process in the District of Columbia on a day-to-day basis and receive criminal records from agencies of the District of Columbia Government. These federal agencies include the U. S. Attorney's Office, the U. S. District Court, the U. S. Parole Board, the U. S. Bureau of Prisons, and various federal police agencies, such as the U. S. Park Police and the Executive Protective Service. The District of Columbia has no jurisdiction to enforce compliance by those federal agencies with the Regulations or with procedures developed pursuant to them. Moreover, since the federal agencies most actively involved in the criminal justice process in the District are agencies of the Department of Justice, compliance by them with the Regulations is presumed. For these reasons, the District

of Columbia will not require these agencies to execute Use and Dissemination Agreements. Although efforts will be made to secure the cooperation of these agencies in the procedures set out in this plan, the District of Columbia will assume no responsibility for compliance by these agencies with the Regulations or with plan procedures.

F. Criminal Justice Use and Dissemination

As of the writing of this plan, two cases affecting the use and dissemination of criminal records by criminal justice agencies are pending on appeal in the courts of the District of Columbia. Neither case involves issues that will directly affect the District's compliance with the Regulations; however, both should be discussed here since their outcomes may significantly affect the maintenance and dissemination policies of the MPD.

The first case is Utz v. Cullinane, 520 F.2d 467 (D.C. Circuit 1975), decided by the United States Court of Appeals for the District of Columbia on October 3, 1975. In its decision, the Court ruled that the MPD's policy of routinely submitting arrest records (with fingerprint cards and charge notations) to the FBI violated the Duncan Ordinance. The Duncan Ordinance provides that adult arrest records may be released to law enforcement agents upon request and representation that the records are to be used for law enforcement purposes. The term "law enforcement

agent" is defined to include any person "having cognizance of criminal investigations or of criminal proceedings directly involving the individuals to whom the requested records relate." The Court of Appeals ruled that this language requires a specific request and does not authorize the routine transfer of arrest records to the FBI to be stored in its master rap sheet file.

However, as noted earlier in the first section of the plan (p. 13), the MPD does forward arrest information to the U. S. Attorney's Office in those cases in which charges are filed by that office, and the U. S. Attorney forwards this information to the FBI. This is done in response to a letter from the U. S. Attorney, dated October 8, 1975, requesting arrest records in all such cases and representing that the records will be used for a law enforcement purpose. The U. S. Attorney forwards the records to the FBI to determine whether or not the defendant has a record in another jurisdiction and to add the record to the FBI's master rap sheet file. The Corporation Counsel of the District of Columbia has issued an opinion stating that this practice is consistent with both the Duncan Ordinance and the decision and final order in Utz. The D. C. Public Defender Service has challenged the procedure, however. On January 16, 1976, the U. S. District Court for the District of Columbia held that the above-described procedure does not violate the Duncan Ordinance or the Court of

Appeals decision in Utz. The District Court's judgment has been appealed to the U. S. Court of Appeals for the District of Columbia Circuit and is presently pending.

As noted, the outcome of this case will not affect the compliance of the MPD with the dissemination limits set out in the Regulations. The Regulations expressly permit the dissemination of all types of criminal history records to criminal justice agencies for criminal justice activities including: criminal identification activities, and the collection, storage, and dissemination of criminal history record information" [Section 20.3(d)]. Thus, the Regulations would permit the original practice of the MPD which was found by the Court of Appeals to violate the Duncan Ordinance, and it would also permit the present practice of forwarding arrest records to the prosecutor's office to be transmitted to the FBI as a necessary part of the prosecution of cases by that office. The Regulations would seem to encourage the practice, since a check of the FBI's files is an important element of the District of Columbia's efforts to ensure that its records are complete and accurate and that only complete and accurate records are used in the prosecution of cases. Moreover, participation by the U. S. Attorney for the District of Columbia in the FBI's master rap sheet file system is an important benefit to criminal justice agencies in other jurisdictions which otherwise

might receive incomplete and inaccurate records on defendants with past or pending offenses in the District of Columbia.

The second case is United States v. Hudson [103 Wash.L.Rep. 377 (1975)], in which the D. C. Superior Court, the local trial court, ruled that arrest records of persons found to be innocent in certain circumstances must be expunged from the MPD's central criminal files. In previous opinions, the D. C. Court of Appeals has held that acquittal or other disposition records may be maintained and disseminated for law enforcement purposes and limited non-law enforcement purposes as permitted by the Duncan Ordinance. The case has been argued on appeal before the D. C. Court of Appeals and is awaiting a decision by that court. While not likely, it is possible that the Court of Appeals decision might alter the current record-keeping and dissemination practices described in this plan.

II. SECURITY

Federal Regulations establish comprehensive security standards to protect criminal history records from unauthorized access, loss, or physical damage. All repositories of such records are required to devise procedures which will meet the federal standards and all such procedures must be fully operational not later than December 31, 1977. This Section of the plan details

the ways in which the District Government has met or will meet the federal standards at the central repository.

A. Access and Physical Security

The Central Record Repository (criminal document storage area) has been designated a restricted area by the Director, Identification and Records Division. Large red and black signs have been posted at all entrances to the document storage area, restricting entry to authorized personnel only.

Access to the criminal document storage area is controlled 24 hours a day, seven days a week by a police official and document storage area supervisors, whose responsibility it is to assure authorized access by document storage area employees or special authorized agents only. Authorized visitors are personally escorted by a police official or area supervisor for the entire duration of the visit. Visitors are not permitted to take photographs, nor make or receive copies of criminal history data housed within the document storage area. Hours for official visits are restricted to 0800 - 1600 hours, Monday through Friday, excluding holidays.

Access to the Central Computer Repository will be controlled by a security officer 24 hours a day. This officer will be supplied with a current roster of individuals with authorized access into the site.

When a person requests access, the officer will verify ~~their identity by checking a color-coded badge issued~~ by the Metropolitan Police Department (MPD). Once the person is granted access, the officer will direct that person to the authorized level of access. This will be determined by the color of the badge. Each level of access will be identified by a specific color. This badge will be worn by all employees and visitors at the site. Visitors will be required to sign a log prior to the issuance of a badge and then will be escorted by a security officer. Upon completion of a visit, visitors will be escorted to the area in which they signed in, where they will sign out and return their visitors' badges. Official visits will be restricted to the hours from 0900 through 1700 on weekdays only. Rules and procedures regarding access to the central repository will be disseminated to MPD personnel, and appropriate signs indicating a restricted area will be posted at key locations.

The following methods of ensuring additional site/data security will be investigated:

Prohibiting cameras on site.

Cryptography to encipher door entry codes.

Locking of all junction boxes controlling any type of input (water electrical, phone, etc.).

Installation of a burglar alarm, to include fire and smoke alarms.

Uninterruptable power system.

Site terminals and all visual type displays faced away from any area where unauthorized observers might compromise security of information.

Enforcing of a desk policy to prevent data documents being casually picked up or copied.

Shredding of all documents and listings used by or generated by programmers working on site.

Privileged data listings being signed for and returned prior to issuance of a new listing (currently implemented).

Destruction of all computer typewriter ribbons.

Regular scheduled and non-scheduled surveys of premises security.

Closed circuit television surveillance of entrance and areas secured upon completion of the duty day.

Programmers will not be allowed to operate the computer system.

The day to day enforcement of security regulations concerning all personnel authorized to have direct access to such information on site will be delegated to the manager of the Central Records or Computer

Repository. Authorization of access to any individual shall be consistent with the security policies and guidelines to be developed by the MPD. Deviations from these policies and guidelines will only be authorized by the Chief of the Metropolitan Police Department. The Metropolitan Police Department training academy will be used to provide all personnel authorized on the site with training concerning the physical security of their terminal site along with the most current security and privacy regulations. This training will not be used for casual visitors.

All communications lines/channels being used to transmit criminal history information will be solely dedicated to criminal justice use, i.e., there will be no terminals belonging to agencies outside the Criminal Justice System sharing these line/channels. Avenues of protecting lines/channels against clandestine devices used to intercept or inject system traffic will be explored.

B. TERMINAL DEVICES HAVING ACCESS TO CRIMINAL JUSTICE INFORMATION:

All agencies or units having terminals on the system will be required to place their terminals physically in secure locations within the authorized agency.

~~Visitors to these locations, and technical and~~ maintenance personnel, will be accompanied at all times and will not be permitted access to criminal justice data. The agencies and units having terminals with access to criminal justice data will be required to have terminal operators screened and to restrict access to the terminal to a minimum number of authorized employees.

Copies of criminal history data obtained from terminal devices will be afforded security to prevent any unauthorized access to, or use of, that data. When these copies of criminal history data are no longer required for use or file they will be destroyed in a manner, such as shredding, to further prevent unauthorized access to data.

Terminal agencies making inquiries of the criminal history file will maintain a hard copy file of each inquiry made for a period of 180 days, including those inquiries to which the response indicates that there

is no record in file. These agencies will further maintain a permanent log of all inquiries against this file, including the following information as a minimum for each inquiry:

Date and time the inquiry was made.

The name of the authorized terminal operator who made the inquiry.

The name of the authorized criminal justice representative who requested the inquiry.

The name of the criminal justice agency represented if different from that of the terminal agency.

The complete name inquired upon.

The reason the person above requested the inquiry.

An automated record of all transactions related to criminal history update information is currently maintained at the Central Computer Repository. Under security controls currently available within the operating system, special preassigned color codes are necessary in order to access criminal history files.

It is anticipated that security applications software development and use of the latest operating system techniques will proceed to allow rapid detection and to display on a security control terminal attempts by

unauthorized users, or terminals to enter the system. Regulations will be established which will require the automatic cutoff of terminals used in violation of security requirements, or which indicate activity or other abnormal characteristics.

END