

MISSOURI
PRIVACY AND SECURITY
PLAN

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Prepared with the assistance of
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NCJRS

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ACQUISITIONS

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I. INTRODUCTION

In order to comply with U. S. Department of Justice rules and regulations regarding Criminal Justice Information Systems (Federal Register, May 20, 1975), the State of Missouri is required to develop and implement a Privacy and Security Plan. The Plan must address the intention and capability of the State of Missouri to comply with provisions for:

- o Completeness and Accuracy
- o Dissemination and Use
- o Audit
- o Security
- o Individual Access and Review

Responsibility for development of the Plan was given by the Governor to the Director of Public Safety. Through an agreement between the Governor and the Chief Justice of the Supreme Court, and through subsequent discussions between the office of the State Court Administrator and the Department of Public Safety (DPS), it was determined that DPS would prepare the compliance plan for those involved agencies which are under the jurisdiction of the executive branch of government while the Supreme Court would develop the compliance plan for involved agencies which are under the jurisdiction of the judicial branch of government. Therefore, this Plan, although it does make reference to processes involving court action or personnel, is intended to be binding upon the executive branch and only binding upon the judicial branch to the extent to which it is expressly agreed upon by the Supreme Court in official action. The Plan prepared by the Supreme Court will be submitted directly to LEAA by the court.

The approach of the State of Missouri to the Rules and Regulations involves several underlying concepts in each area covered by the Rules and Regulations. These concepts are described in Section II of the Plan under each coverage area. Section II also describes the procedures the criminal justice agencies of the State of Missouri will follow to comply with each coverage area.

Section III of the Plan outlines the Implementation Plan for the procedures described in Section II.

Section IV is an anticipated cost and schedule of implementation of all procedures and general action steps outlined in Sections II and III. Although specific cost estimates can not be provided at this time, areas of potentially high cost will be identified.

It should be noted that the definitions set forth in the Federal regulations are to be considered consistent with those used in this document unless a contrary intent is specifically stated.

II. MISSOURI PRIVACY AND SECURITY PROCEDURES

This section of the Privacy and Security Plan describes the procedures to be used by criminal justice agencies in Missouri to comply with the rules and regulations in the required areas of:

- o Completeness and Accuracy
- o Dissemination and Use
- o Audit
- o Security
- o Individual Access and Review

For each compliance area, the underlying concepts will be discussed, the procedures will be described; where an interim procedure will be in operation, that will be noted, and steps to be taken to implement the final procedure will be outlined. Where a statute or executive order will be necessary to fully implement a procedure, it will be noted; however, the existing authority provided through Missouri statutes, executive orders and judicial administrative rules is probably sufficient to begin implementation of each procedure outlined.

In the State of Missouri, the regulations apply directly to the Department of Public Safety and the Missouri State Highway Patrol, as the central site. As a practical matter, the Missouri State Highway Patrol must assure the compliance of its users to assure its own compliance.

"Criminal history record information" as defined in the Rules and Regulations is further defined for the purposes of Missouri's procedures. "Criminal history record information" to be stored and/or compiled by the central site shall relate only to those offenses identified as "reportable" under NCIC and FBI guidelines. "Criminal history record information" includes identifiable descriptions and notations of arrest, detentions, indictments, informations, or other formal criminal charges and any disposition arising therefrom, sentencing, correctional supervision, and release. The individual notations of transactions may be utilized within the individual agency, may be reported to the agency responsible for taking the next step in processing the individual, or reported to repository, reported contemporaneously to the public or press, or may be compiled into a criminal offense record on an individual. None of this is considered dissemination. Further, there are three types of criminal offense records which might be compiled:

Type A - Records which note arrests which have resulted in a conviction, and include notations of the conviction and any subsequent transactions attendant to that arrest and conviction.

Type B - Records which include all the information contained in Type A, plus notations of arrests (and any subsequent transactions) in cases under active prosecution (others are closed under "Sunshine Law" provisions).

Type C - Records which contain everything in Type B plus notations of arrests (and subsequent transactions) which are closed records).

The State of Missouri has, through its cover letter to this Plan certified to its compliance, to the maximum extent feasible, with the procedures set forth in this Plan.

1. Completeness and Accuracy

Underlying Concepts

To be accurate, Criminal history record information must contain only those notations which are uniquely identifiable with the subject individual. While it might be difficult to meet this requirement on an historical basis, any procedures developed for future operations should include a means for uniquely matching the information with the subject.

- o Any agency storing criminal history record information is subject to the requirements for accuracy.

To be complete, a criminal offense record (whether Type A, Type B or Type C) must contain the latest available dispositional information for each arrest noted on the record. To assure completeness, there must be a system of reporting transactions to a central repository site within 30 days and the central site must be capable of compiling the complete record.

- o Only those agencies which disseminate COR are subject to the completeness requirements.

The central site must also monitor the processes by which data is collected, entered and stored in order to minimize the possibility of recording and storing erroneous information. In so doing, the central site must obtain from agencies receiving criminal offense records standard user agreements which specify reporting responsibilities and use responsibilities.

Before any criminal justice agency disseminates a criminal offense record outside its own department, an inquiry must be made to the central site to assure the completeness and accuracy of the record to be disseminated, and that the receiving agency or individual is authorized to receive the record. The disseminating agency must, in these instances, perform a logging process in addition to that normally performed by the central site.

Accuracy Procedures

The requirement for accuracy of criminal records is two fold:

- o Each entry to the record must be based upon and must accurately record an official transaction by a criminal justice agency involving an individual.
- o Each entry to the record must pertain uniquely to the subject of the record and both the individual entries and the total record must be uniquely identifiable to a single individual.

In order to meet the requirement for accuracy, each criminal justice agency in the State of Missouri which utilizes the services of the central site will sign an agreement with the central site. The agreement will contain a provision to the effect that after an indicated date, each transaction which is entered into the agency's records and subsequently reported to the central site to become a potential part of a criminal offense record will be supported by at least a right index fingerprint (full set of prints, if appropriate), or some other positive method of identification.

After that date, the central site will only accept transaction reports from, and disseminate criminal offense records to those agencies which have such agreements on file at the central site.

Mandating legislation would assist in assuring uniform compliance with this procedure.

Completeness Procedures

- o Any agency disseminating criminal offense records must be able to complete a record on an individual, i.e., must be able to provide the latest available dispositional information for each arrest noted on the record.

Any Missouri agency wishing to use the services of the central site will sign a user agreement with the central site, a provision of which is that the agency will report transactions within 30 days of their occurrence. The central site will then be capable of compiling a complete record.

Until disposition reporting is operational, the central site will take necessary steps to include post-arrest notations with any notation of an arrest on a criminal offense record which is disseminated.

Legislation mandating reporting of arrests and dispositions will be necessary to fully implement these procedures. Under existing authority, an agreement by the involved agencies will be sufficient to begin implementation.

3. Audit

Audit Procedures

In addition to the procedures instituted by each agency and its administrative state authority to ensure the accuracy and completeness of all data reported to the central site, Section 20.21 (e) of the Federal Rules and Regulations requires that each state provide for an annual audit of participating agencies in order to ensure that the federal regulations regarding collection, use, and dissemination of criminal history records are being adhered to.

The State of Missouri recognizes the necessity of having an operational audit. To assure that criminal justice agencies are in compliance with privacy and security procedures, the following activities will be audited:

- o methods utilized for reporting information to the central site.
- o other procedures established in accordance with these regulations, such as individual record review and appeal procedure, system security, and management control. (Generally, the procedures utilized in conducting an operational audit of this sort should include documentation of the source documents used such as police blotters and request log books, preparation of flow charts which depict how documents relate to one another (audit trail), selection and use of a random sample for each process defined to track information through those processes, and interviews and observations of the processes in actual daily operations.)

4. Security

Underlying Concepts

To ensure the privacy and confidentiality of criminal history record information, records, whether automated or kept manually, must be secure. Failure to secure the records may result in an unauthorized release of the information, which is just as contrary to the spirit of the regulations as an intentional dissemination to unauthorized parties. Also, records which have been compiled represent a substantial effort and expense by a public agency, and this investment must be protected.

Security Procedures

Security of individual criminal history record information is one of the fundamental concerns of the State of Missouri, and would also appear to have been a major reason for the promulgation of the Federal Rules and Regulations. Security covers a broad spectrum, ranging from installing locks on machines to establishing procedures to guard against misuse of the information in an individual record. At the very least, procedures must be established to ensure the implementation of the following policy guidelines:

- o Criminal history record information should be protected from fires, water and other natural disasters.

- o Criminal history record information should be protected from sabotage, manipulations and other possible abuses arising from unauthorized access to records or inadequate file security procedures.
- o Criminal history record information should be protected from misuse through the adoption of strict dissemination policies and procedures.

The Missouri State Highway Patrol as the central site shall be responsible for the preparing and submitting to the Director of the Department of Public Safety a security plan, which details the cost and time schedule for implementing the optimum security practices in each of the areas described above. This plan will be reviewed with appropriate governmental officials in order to assure that it is in compliance with the substance and the intent of the Rules and Regulations.

As additional agencies are identified by the Department of Public Safety as repositories of criminal history record information, they will be required likewise to prepare and submit plans for implementing security precautions.

5. Individual Access and Review

Underlying Concepts

An individual has a right to assure himself that criminal history record information maintained about him is complete and accurate, and if it is not, to have it corrected. For the purposes of security and privacy procedures, the State of Missouri assumes that the regulations are focusing

their attention on those records which form the criminal offense records and are disseminated to public and private agencies and individuals. To assure that the individual has access to the broadest source of information kept on him, the points of access and review should be identical with the authorized points of dissemination.

This plan does not cover, and is not intended to restrict the operation of any statutory or procedural requirements upon particular agencies to open their records to individuals who are subjects of the records.

At every state of the access and review procedure, the burden of proof that the record entries are accurate (and pertain uniquely to the subject individual) is on the public agency.

Individual Access and Review Procedures

As described previously, the criminal offense records will be maintained and disseminated from one central site. An individual may make a request to view this record, however, at any local criminal justice agency authorized to receive such requests by the central site.

DETAILED PROCEDURES

Federal regulations set out specific guidelines on access of Criminal Offense Records. They prohibit access by the individual on record except for the purpose of review and challenge.. A copy of Missouri's access and review procedure for the central site is enclosed.

III. IMPLEMENTATION PLA

The Privacy and Security compliance procedures described in Section II of the Plan can be implemented in part in the State of Missouri without additional legislative or executive authority. However, in order to fully implement the procedures in each of the compliance areas, there are a number of general action steps and mandating legislation which must be undertaken.

1. Designate the Central Site

Throughout the procedures in each covered area, reference is made to a need for a central site which is capable of compiling criminal offense records and which will have responsibility to promulgate (and enforce through user agreements) rules and/or administrative procedures which relate to criminal offense records and their supporting documentation. It is recognized that the central site will have no superintending authority over the internal operations of contributing and user agencies except insofar as it is responsible for the collection, storage and dissemination of accurate and timely criminal offense records. Any administrative procedures which are instituted by the central site which appear to a contributing or user agency to be arbitrary or unnecessarily cumbersome or costly will be reviewed by the Director of Public Safety or his designee.

The Director of Public Safety has designated the Missouri State Highway Patrol as the central site.

2. Prepare Administrative Procedures and User Agreements

The central site will, with the assistance of local criminal justice agencies, prepare administrative procedures pursuant to this Plan and will execute revised user agreements which include provision for adherence to this Plan and its implementing procedures.

At a minimum the agreements should cover:

- o Verifying identity with fingerprint, or other positive identification.
- o Reporting transactions.
- o Restrictions against historical storage of criminal offense records obtained from the central site.
- o Cooperation with an operational audit.
- o Security guidelines.

3. Training

The key to assuring compliance of the State of Missouri with the Federal Rules and Regulations lies with the state and local criminal justice agencies which collect, store, and report criminal history record information. Realistically, most agencies will have to make substantial changes in current operating procedures in order to comply. Therefore, it is very important that uniform instruction be provided to current and potential user agencies, to acquaint them with the new procedures and secure agreement for compliance.

The Director of Public Safety, in coordination with the central site and the Missouri Council on Criminal Justice, will develop and present a series of workshops with a standard format and materials to explain the rules and regulations, the Missouri Procedures and each agency's responsibilities with regard to them.

IV. IMPLEMENTATION COST AND SCHEDULE

The implementation schedule in this section provides an estimate of completion dates for each compliance procedure and identifies the agency or agencies responsible for implementation.

Estimates of cost for implementing each procedure are not included with the Plan at this time. By July, 1977, a full assessment of cost of compliance will be completed. (Action step #22) and the information will be submitted at that time. As is apparent, the greatest additional burden will be on the central site at each step of implementation. This will likely necessitate addition of personnel to handle the increased work load caused by:

- o Developing procedures and systems
- o Increased reporting by state and local agencies
- o Completing the record
- o Handling individual access and review process
- o Auditing own and user compliance
- o Improving security
- o Training and orienting users

The greatest cost to individual criminal justice agencies will be in the areas of fingerprinting, reporting and processing requests for individual access and review.

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COMPLETENESS AND ACCURACY

	<u>COMPLETION DATE</u>	<u>RESPONSIBILITY</u>
1. Enlarge central identification bureau staff to handle increased workloads.	MAR 76	MSHP
2. Add staff to Central Repository staff to handle data control on CHRI records and dispositions submitted by other criminal justice agencies.	MAY 76	MSHP
3. Determine non-central repositories for CHRI transaction records.	SEP 76	MSHP
4. Draft mandatory legislation for collecting necessary records and dispositions to complete CHRI records.	OCT 76	DPS
5. Develop standards for determining which felony and misdemeanor records to compile at central repository.	FEB 77	MSHP
6. Require positive identification for CHRI transaction records.	JUL 77	MSHP
7. Implement quality control and systematic audit standards in non-central repositories.	SEP 77	MSHP
8. Non-central repositories begin to process CHRI transactions to facilitate reporting to central repository.	DEC 77	MSHP
9. Develop computerized systems support for central repository.	DEC 77	MSHP
10. Collect all necessary CHRI transaction records at central repository within 90 days.	DEC 77	MSHP

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LIMITS ON DISSEMINATION

	<u>COMPLETION DATE</u>	<u>RESPONSIBILITY</u>
1. Prepare guidelines for servicing inquiries for CHRI records via the MULES Network.	DEC 76	MSHP
2. Execute new users agreements between MSHP and those criminal justice agencies requesting services from Central Repository.	JAN 77	MSHP
3. Establish internal procedure for completing CHRI record.	APR 77	MSHP
4. Establish MULES Network standards for disseminating automated records.	JUL 77	MSHP
5. Establish Central ID Bureau standards for disseminating manual records.	JUL 77	MSHP

ANNUAL AUDIT

	<u>COMPLETION DATE</u>	<u>RESPONSIBLE</u>
1. Develop CHRI Audit Program providing for annual audits of police, prosecutor, and custody agencies.	JUL 77	MSHP
2. Create an Audit Team at Central Repository.	SEP 77	MSHP
3. Train Audit Team	OCT 77	MSHP
4. Begin audit program.	DEC 77	MSHP

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SECURITY

COMPLETION
DATE

RESPONSIBILITY

- | | | |
|--|--------|------|
| 1. Prepare detailed security analysis and improvement plan including cost estimates and MULES Network requirements | DEC 76 | MSHP |
| 2. Hire and train security staff at Central Repository. | JAN 77 | MSHP |
| 3. Implement security provisions at Central Repository Facilities. | FEB 77 | MSHP |
| 4. Implement MULES Network Security Procedures. | JUL 77 | MSHP |
| 5. Provide training in security for criminal justice agencies. | SEP 77 | MSHP |
| 6. Publish Central Repository Security Manual for automated and manual recordkeeping systems. | DEC 77 | MSHP |
| 7. Review security provisions at non-central repositories | DEC 77 | MSHP |

INDIVIDUAL ACCESS AND REVIEW

	<u>COMPLETION</u> <u>DATE</u>	<u>RESPONSIB</u>
1. Establish individual access and review procedures at central repository.	MAR 76	MSHP
2. Prepare and publish procedure to handle challenges.	APR 76	MSHP
3. Prepare appeal procedure.	MAY 76	MSHP
4. Review and certify access and review procedures at non-central repositories.	DEC 76	MSHP

GENERAL

COMPLETION

DATE

RESPONSIBILITY

1. Designate Central Repository MAR 76 DPS
2. Prepare budgetary needs for Central Repository to introduce to Legislature for funding commencing July 1, 1977. SEP 76 MSHP
3. Provide training and orientation for all affected criminal justice agencies. SEP 76 MSHP
4. Prepare and recommend to the Legislature appropriate bills to support the State's security and privacy program. OCT 76 DPS

EXECUTIVE OFFICE
STATE OF MISSOURI
JEFFERSON CITY

CHRISTOPHER S. BOND
GOVERNOR

EXECUTIVE ORDER

WHEREAS, there is need to reduce crime and to improve the state's criminal justice system to guarantee a higher level of personal and public safety for Missouri citizens, and

WHEREAS, to accomplish these goals better information is needed with regard to criminal offenders, crime events and the operation of Missouri's criminal justice system, and

WHEREAS, the Omnibus State Reorganization Act of 1974 has given the Missouri Department of Public Safety the responsibility to provide overall coordination in the state's public safety and law enforcement program, to provide channels of coordination with local and federal agencies in regard to public safety, law enforcement and with all correctional and judicial agencies in regard to matters pertaining to its responsibilities as they may inter-relate with the other agencies or offices of state, local or federal government.

NOW, THEREFORE, I, CHRISTOPHER S. BOND, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and the laws of the State of Missouri, do hereby order as follows:

1. That the Missouri Department of Public Safety organize and establish a crime information system to collect and maintain crime occurrence data, computerized criminal histories, statistics on the flow of offenders through Missouri's criminal justice system, and such other information as may be necessary to reduce crime and to improve the administration of justice.
2. That the Missouri Department of Public Safety establish adequate security and privacy controls to protect the rights of the individual and to

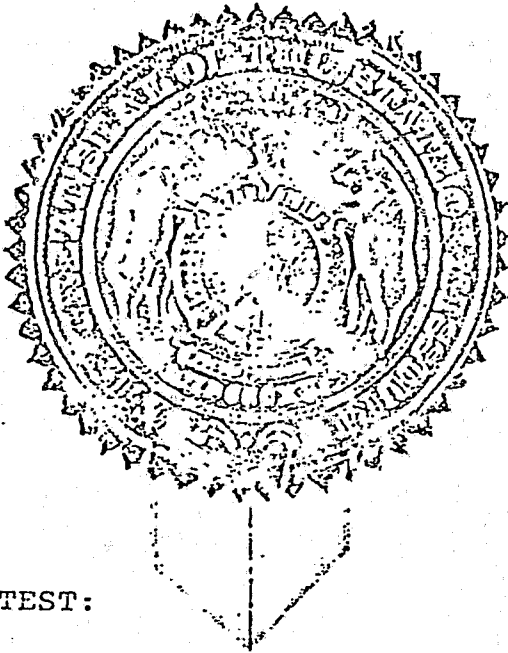
EXECUTIVE ORDER

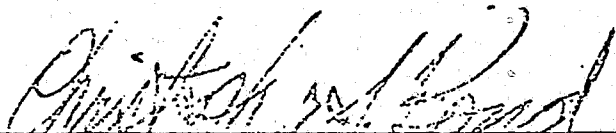
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insure the integrity of the state's criminal information system in a manner consistent with state and federal laws and regulations.

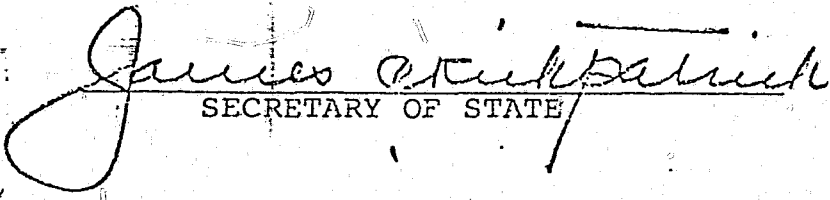
IN WITNESS WHEREOF:

I have hereunto set my hand and caused to be affixed the great seal of the State of Missouri in the City of Jefferson on this 6th day of May, 1975.




GOVERNOR

ATTEST:


SECRETARY OF STATE

MEMORANDUM OF AGREEMENT

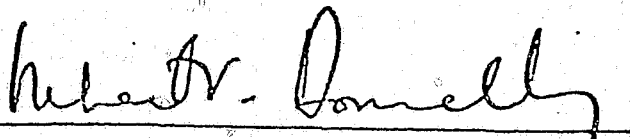
WHEREAS, The Judicial Department of Missouri is in the process of developing an automated data processing system to provide more efficient court administration and management, and to provide disposition data for a statewide comprehensive criminal justice data system; and

WHEREAS, the Department of Public Safety within the Executive Department of Missouri is in the process of developing a comprehensive data system for the purpose of providing timely and accurate information about the criminal justice system of this state; and

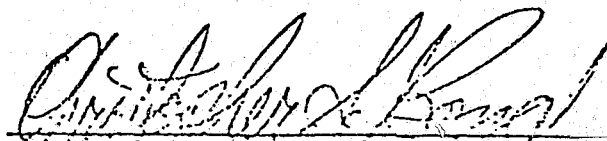
WHEREAS, it is desirable that the Judicial and Executive Departments cooperate with each other in the development of their respective data systems to promote efficiency and economy.

NOW THEREFORE BE IT RESOLVED AND AGREED THAT:

1. The Judicial and Executive Departments will cooperate with each other in the development of their respective data systems in compliance with all state and federal laws.
2. The Judicial and Executive Departments shall cooperate in seeking continued financial support and technical assistance for the development and operation of their respective data systems.
3. The State Courts Administrator and the Director of the Department of Public Safety are hereby designated to work with each other in carrying out the intent of this resolution.



Robert T. Donnelly
Chief Justice
Missouri Supreme Court



Christopher S. Bond
Governor
State of Missouri

NONCRIMINAL JUSTICE AGENCIES
ELIGIBLE TO RECEIVE
CRIMINAL OFFENSE RECORDS

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

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

MISSOURI
PRIVACY AND SECURITY PROCEDURES

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PURPOSE OF PROCEDURES

The purpose of the Privacy and Security Procedures is to (1) assure that the State of Missouri can comply with federal rules and regulations and (2) provide guidelines to assist agencies and individuals in ensuring individual rights to privacy and avoiding penalties set forth in the federal rules and regulations.

APPLICABILITY

The procedures apply to all state and local agencies and their individual employees which process persons suspected, arrested, or convicted of a crime and to other governmental and nongovernmental agencies or individuals eligible to receive criminal offense records (as defined herein) where such agencies wish to use the services of MULES, ALERT II, and/or REJIS.

Type B criminal offense records may be obtained and used only by authorized criminal justice agencies currently processing the subject of the record.

Type C criminal offense records may be obtained and used only by the subject of the record.

END