

specific information identified in § 19.5 concerning implementation and participation in the program.

PART 20—CRIMINAL JUSTICE INFORMATION SYSTEMS

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APPENDIX TO PART 20—COMMENTARY ON SELECTED SECTIONS OF THE REGULATIONS ON CRIMINAL HISTORY RECORD INFORMATION SYSTEMS

AUTHORITY: 28 U.S.C. 534; Public Law 92-544, 86 Stat. 1115; 42 U.S.C. 3711, et seq.; Public Law 99-169, 99 Stat. 1002, 1008-1011, as amended by Public Law 99-569, 100 Stat. 3190, 3196.

SOURCE: Order No. 601-75, 40 FR 22114, May 20, 1975, unless otherwise noted.

Subpart A—General Provisions

SOURCE: 41 FR 11714, Mar. 19, 1976, unless otherwise noted.

§ 20.1 Purpose.

It is the purpose of these regulations to assure that criminal history record information wherever it appears is collected, stored, and disseminated in a manner to insure the completeness, integrity, accuracy and security of such information and to protect individual privacy.

§ 20.2 Authority.

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

§ 20.3 Definitions.

As used in these regulations:

(a) *Criminal history record information system* means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation or dissemination of criminal history record information.

(b) *Criminal history record information* means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, 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. State and Federal Inspector General Offices are included.

(c) *Criminal justice agency* means:

(1) Courts;

(2) A government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.

(d) The *administration of criminal justice* means performance of any of the following activities: Detection, apprehension, detention, pretrial release,

post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information. State and Federal Inspector General Offices are included.

(e) *Disposition* means information disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings and also disclosing the nature of the termination in the proceedings; or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such postponement. Dispositions shall include, but not be limited to, acquittal, acquittal by reason of insanity, acquittal by reason of mental incompetence, case continued without finding, charge dismissed, charge dismissed due to insanity, charge dismissed due to mental incompetency, charge still pending due to insanity, charge still pending due to mental incompetence, guilty plea, nolle prosequi, no paper, nolo contendere plea, convicted, youthful offender determination, deceased, deferred disposition, dismissed—civil action, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial—defendant discharged, executive clemency, placed on probation, paroled, or released from correctional supervision.

(f) *Statute* means an Act of Congress or State legislature of a provision of the Constitution of the United States or of a State.

(g) *State* means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(h) An *executive order* means an order of the President of the United States or the Chief Executive of a State which has the force of law and which is published in a manner permitting regular public access thereto.

(i) *Act* means the Omnibus Crime Control and Safe Streets Act, 42 U.S.C. 3701, *et seq.*, as amended.

(j) *Department of Justice criminal history record information system* means the Identification Division and the Computerized Criminal History File systems operated by the Federal Bureau of Investigation.

(k) *Nonconviction data* means arrest information without disposition if an interval of one year has elapsed from the date of arrest and no active prosecution of the charge is pending; or information disclosing that the police have elected not to refer a matter to a prosecutor, or that a prosecutor has elected not to commence criminal proceedings, or that proceedings have been indefinitely postponed, as well as all acquittals and all dismissals.

(l) *Direct access* means having the authority to access the criminal history record data base, whether by manual or automated methods.

[41 FR 11714, Mar. 19, 1976, as amended at 45 FR 40114, June 13, 1980; Order No. 960-81, 46 FR 52357, Oct. 27, 1981]

Subpart B—State and Local Criminal History Record Information Systems

SOURCE: 41 FR 11715, Mar. 19, 1976, unless otherwise noted.

§ 20.20 Applicability.

(a) The regulations in this subpart apply to all State and local agencies and individuals collecting, storing, or disseminating criminal history record information processed by manual or automated operations where such collection, storage, or dissemination has been funded in whole or in part with funds made available by the Law Enforcement Assistance Administration subsequent to July 1, 1973, pursuant to title I of the Act. Use of information obtained from the FBI Identification Division or the FBI/NCIC system shall also be subject to limitations contained in subpart C.

(b) The regulations in this subpart shall not apply to criminal history record information contained in: