

Subpart K. CRIMINAL INFORMATION

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195.	CRIMINAL RECORDS	195.1

Source

The provisions of this Subpart K adopted July 6, 1979, effective July 7, 1979, 9 Pa.B. 2260; amended July 27, 1979, effective July 28, 1979, 9 Pa.B. 2449, unless otherwise noted.

CHAPTER 195. CRIMINAL RECORDS

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Authority

The provisions of this Chapter 195 issued under the Criminal History Record Information Act, 18 Pa.C.S. §§ 9102, 9104(d)—(f), 9106, 9112(b), 9121, 9123(a), 9124(b), 9125(b) and 9182, unless otherwise noted.

Source

The provisions of this Chapter 195 adopted January 4, 1980, effective January 5, 1980, 10 Pa.B. 41, unless otherwise noted.

§ 195.1. Definitions.

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

Act—18 Pa.C.S. §§ 9101—9183 (relating to criminal history record information).

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

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

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

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

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

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

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

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

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

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

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

Secondary dissemination—[Reserved].

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

Source

The provisions of this § 195.1 amended January 4, 1980, effective January 5, 1980, 10 Pa.B. 216.

§ 195.2. Completeness and accuracy.

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

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

- (1) The full name and any aliases of the individual charged.
- (2) An accurate statement of the crime charged, including: the title of the offense; and the statutory citation; and for charges filed after January 1, 1980, the Offense Tracking Number (OTN)—with appropriate prefixes and suffixes—whenever an OTN has been assigned.
- (3) The final or latest disposition of the charge.
- (4) The sentence imposed for a conviction of the charge.

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

Source

The provisions of this § 195.2 amended January 16, 1981, effective January 17, 1981, 11 Pa.B. 354. Immediately preceding text appears at serial page (49347).

§ 195.3. Uniform schedule of fees.

Individuals and noncriminal justice agencies requesting criminal history record information, whether for individual access and review or for other purposes, shall pay a nonrefundable fee not to exceed \$10 for each request made; however, no fee shall be charged to recruiting offices of the armed forces of the United States, the Pennsylvania Civil Service Commission, or the Governor's Office of Budget

and Administration. The fee shall be paid by check or money order and shall be made payable to the responding repository.

Source

The provisions of this § 195.3 amended through January 16, 1981, effective January 17, 1981, 11 Pa.B. 354. Immediately preceding text appears at serial page (52576).

§ 195.4. Access and review.

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

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

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

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

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

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

§ 195.5. Challenge.

(a) Enclosed along with the copy of the criminal history record information shall be a postage paid form—the Challenge Form—which is to be completed and returned within 30 days of the date the form is received by the subject of the criminal history record information and which states that the subject has reviewed the criminal history record information and that he understands that those portions of the record not challenged shall be presumed by law to be accurate. The challenge form shall state in bold letters:

**“YOU HAVE 30 DAYS FROM THE DATE OF THIS NOTICE TO
CHALLENGE THE ACCURACY OF THE INFORMATION
CONTAINED HEREIN.”**

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

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

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

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

(1) The record is corrected.

(2) A certified and corrected copy of the record is provided to the individual.

(3) Errors in criminal history record information previously disseminated to criminal justice agencies are eliminated and replaced with corrected information.

(4) The individual is supplied with the names and addresses of those non-criminal justice agencies and individuals which have received erroneous criminal history record information.

(5) Every reasonable effort is made to notify those individuals and non-criminal justice agencies to whom the erroneous information was disseminated; the notification shall include a certified and corrected copy of the record.

§ 195.6. Security.

A criminal justice agency which collects, compiles, maintains or disseminates criminal history record information shall develop and implement a plan to insure the security of the information contained in its repositories. The plan shall conform to the requirements of 18 Pa.C.S. § 9131 (relating to security requirements for repositories) and a copy of the plan shall be submitted to the Attorney Gen-

eral by March 5, 1980. The Attorney General may approve or disapprove the plan or portions thereof and may require that different procedures be implemented to insure security.

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