

PART VIII. AUTOMATED CRIMINAL JUSTICE INFORMATION SYSTEMS

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CHAPTER 601. AUTOMATED CRIMINAL JUSTICE INFORMATION SYSTEMS—STATEMENT OF POLICY

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Source

The provisions of this Chapter 601 adopted April 5, 1991, effective April 6, 1991, 21 Pa.B. 1440, unless otherwise noted.

§ 601.1. Background.

(a) Amendments to the act permit criminal justice agencies to place intelligence, investigative and treatment information in their automated data processing systems subject to certain restrictions and requirements.

(b) The Office of Attorney General has the duty to adopt and issue guidelines for criminal justice agencies to follow in implementing the amendments. This chapter shall be in effect until regulations are promulgated under the act.

§ 601.2. Scope.

This chapter is applicable to criminal justice agencies, as defined at 18 Pa.C.S. § 9102 (relating to definitions), which establish and operate an automated criminal justice information system and collect protected information in or disseminate protected information from that system.

§ 601.3. Definitions.

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

Act—The Criminal History Record Information Act, 18 Pa.C.S. §§ 9101—9183.

Automated system—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 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, dates and notations of arrests, indictments, informations or other formal criminal charges and dispositions arising therefrom. The term does not include intelligence information, investigative information or treatment information, including medical and psychological information, or information and records specified in 18 Pa.C.S. § 9104 (relating to scope).

Criminal justice agency—A court, including the minor judiciary, with criminal jurisdiction or another 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 that function. The term includes organized State and municipal police departments; local detention facilities; county, regional and State correctional facilities; probation agencies; district or prosecuting attorneys; parole boards; pardon boards and agencies or subunits thereof, as are declared by the Attorney General to be criminal justice agencies as determined by a review of applicable statutes and the State and Federal constitutions, or both.

Intelligence information—Information concerning the habits, practices, characteristics, possessions, associations or financial status of an individual compiled in an effort to anticipate, prevent, monitor, investigate or prosecute criminal activity. Notwithstanding the definition of “treatment information” the term may include information on prescribing, dispensing, selling, obtaining or using a controlled substance as defined in The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144).

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

Protected information—Intelligence, investigative or treatment information.

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

Treatment information—Information concerning medical, psychiatric, psychological or other rehabilitative treatment provided, suggested or prescribed for an individual charged with or convicted of a crime.

§ 601.4. Duties of criminal justice agencies.

A criminal justice agency may place intelligence information in and disseminate intelligence information from an automated system only if:

- (1) The agency has adopted policies and procedures consistent with this chapter and the act.
- (2) The head of the agency or a designee has designated an intelligence officer to act for the agency as set forth in this chapter.

§ 601.5. Collection of protected information in automated systems.

(a) *Intelligence information.* A criminal justice agency may collect intelligence information in an automated system only if the following conditions are met:

- (1) The intelligence information concerns an individual or group which the criminal justice agency reasonably suspects of criminal activity.
- (2) The intelligence information is related to criminal activity that would give rise to prosecution for a State offense graded a misdemeanor or felony or for a Federal offense for which the penalty is imprisonment for more than 1 year.
- (3) The intelligence information is categorized based upon subject matter.
- (4) The intelligence information does not concern participation in a political, religious or social organization, or in the organization or support of a non-violent demonstration, assembly, protest, rally or similar form of public speech, unless there is a reasonable suspicion that the participation by the subject of the information is related to criminal activity or prison rule violation.
- (5) The intelligence information is not collected in violation of State law.

(b) *Investigative and treatment information.* Investigative information and treatment information may be placed within an automated or electronic criminal justice information system.

(c) *Central repository.* Protected information may not be collected in the central repository.

§ 601.6. Security.

(a) *Security requirements.* Every criminal justice agency collecting, storing or disseminating intelligence information, investigative information or treatment information shall insure the confidentiality and security of the information by providing that, wherever the information is maintained, the criminal justice agency shall:

- (1) Institute procedures to reasonably protect a repository from theft, fire, sabotage, flood, wind or other natural or manmade disasters.

(2) Select, supervise and train personnel authorized to have access to intelligence information, investigative information or treatment information.

(3) Insure that the equipment used for maintaining intelligence information, investigative information or treatment information is dedicated solely to purposes related to the administration of criminal justice. If the equipment is not used solely for the administration of criminal justice, the criminal justice agency is accorded equal management participation in computer operations used to maintain the intelligence information, investigative information or treatment information.

(4) Adopt administrative, technical and physical safeguards, including audit trails, to insure against unauthorized access and against intentional or unintentional damages.

(5) Label information to indicate levels of sensitivity and levels of confidence in the information.

(b) *Special requirement for protected information.* Access to the intelligence, investigative or treatment information contained in an automated criminal justice system is restricted to the authorized employes of the criminal justice agency and may not be accessed by other individuals inside or outside of the agency except by the process of dissemination.

§ 601.7. Dissemination of information.

(a) *Intelligence information.* A criminal justice agency may disseminate intelligence information only if the following conditions are met:

(1) An authorized intelligence officer determines that the information to be disseminated is reliable.

(2) The information is requested in connection with the duties of the criminal justice agency requesting the information, and the request for information is based upon a name, fingerprints, modus operandi, genetic typing, voice print or other identifying characteristic.

(3) The criminal justice agency requesting the information certifies to the disseminating agency that it has adopted policies and procedures consistent with this chapter and the act.

(b) *Corrections to information.* If an intelligence officer of a disseminating agency is notified that intelligence information which has been previously disseminated to another criminal justice agency is materially misleading, obsolete or otherwise unreliable, the information shall be corrected and the recipient agency notified of the change within a reasonable period of time.

(c) *Investigative or treatment information.* A criminal justice agency may disseminate investigative or treatment information only to a criminal justice agency which requests the information in connection with its duties, and the request is based upon a name, fingerprints, modus operandi, genetic typing, voice print or other identifying characteristics.

(d) *Notations on the record.* Criminal justice agencies maintaining intelligence information, investigative information or treatment information shall enter, as a permanent part of an individual's information file, a listing of the persons and agencies to whom they have disseminated that particular information, the date of the dissemination, and the purpose for which the information was disseminated. This listing shall be maintained separate from the record itself.

(e) *Secondary dissemination prohibited.* A criminal justice agency which possesses protected information, but which is itself not the source of the information, may not disseminate or disclose the information to another criminal justice agency but shall refer the requesting agency to the agency which was the source of the information. This prohibition does not apply if the agency receiving the information is investigating or prosecuting a criminal incident in conjunction with the agency possessing the information. Agencies receiving protected information assume the same level of responsibility for the security of the information as the agency which was the source of the information.

§ 601.8. Retention of records.

Criminal justice agencies shall establish retention schedules for intelligence information. Intelligence information shall be purged under the following conditions:

- (1) The data is no longer relevant or necessary to the goals and objectives of the criminal justice agency.
- (2) The data has become obsolete, making it unreliable for present purposes, and the utility of updating the data would be worthless.
- (3) The data cannot be used for strategic or tactical intelligence studies.

§ 601.9. Review and audit.

(a) *Review of policies and procedures.* The Office of Attorney General will conduct reviews of State criminal justice agencies' automated policies and procedures established under this chapter to ensure that this chapter is upheld.

(b) *Municipal police audits.* The State Police shall conduct an annual audit of at least 5% of municipal police department plans, policies or procedures which are implemented under 18 Pa.C.S. § 9106(c) (relating to prohibited information), to ensure that this chapter is upheld. The first audit shall be conducted by February 18, 1992. A copy of the audit shall be submitted to the Office of Attorney General.

§ 601.10. Plan approval.

(a) Before a municipal police department requests dissemination of protected information from another criminal justice agency, the police department shall file a copy of its procedures with the State Police for approval. The plan shall be reviewed within 60 days.

(b) Before a district attorney requests dissemination of protected information from another criminal justice agency, the district attorney shall file a copy of its procedures with the Office of Attorney General for approval. The plan will be reviewed within 60 days.

(c) Before a State criminal justice agency requests dissemination of protected information from another criminal justice agency, the agency shall file a copy of its procedures with the Office of Attorney General.

§ 601.11. Penalties.

A person, including an agency or organization, who violates this chapter or the plans approved under this chapter shall be subject to the administrative penalties provided in 18 Pa.C.S. § 9181 (relating to general administrative sanctions) and the civil penalties provided in 18 Pa.C.S. § 9183 (relating to civil actions) in addition to other civil or criminal penalties provided by law.

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