

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2094 Session of
1978

INTRODUCED BY WHITE, BERSON, PRATT AND MILLER, MARCH 13, 1978

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 13, 1978

AN ACT

1 Relating to criminal history record information; protection of
2 individual right to privacy; completeness and accuracy of
3 such information; control of dissemination; establishment of
4 guidelines for security; provision for quality control; the
5 right of individuals to inspect, review and challenge the
6 accuracy of such information; establishment of a council to
7 oversee the administration of this act; and providing
8 penalties for violations of this act.

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29 The General Assembly of the Commonwealth of Pennsylvania

30 hereby enacts as follows:

1 Section 1. Short title.

2 This act shall be known and may be cited as the "Criminal
3 History Record Information Act."

4 Section 2. Definitions.

5 The following words and phrases when used in this act shall
6 have the meanings given to them in this section, unless the
7 context clearly indicates otherwise:

8 "Administration of criminal justice." The activities
9 directly concerned with crime prevention, control or reduction;
10 the apprehension, detention, pretrial release, post-trial
11 release, prosecution, defense, adjudication, correctional
12 supervision or rehabilitation of accused persons or criminal
13 offenders; criminal identification activities; or the
14 collection, storage, dissemination or usage of criminal justice
15 information.

16 "Audit." The process of reviewing compliance with applicable
17 Federal and State laws and regulations related to the privacy
18 and security of criminal history record information.

19 "Automated system." An information system that utilizes
20 electronic computers, central computerized information storage
21 facilities, telecommunications lines, or other automatic data
22 processing equipment used wholly or in part for data
23 dissemination, collection, analysis, or display as distinguished
24 from a system in which such activities are performed manually.

25 "Bail information." The information concerning factors
26 relevant to eligibility for various types of release and similar
27 information compiled in connection with pretrial and post-trial
28 bail and related release determinations.

29 "Caution indicator information." The information concerning
30 a person's potential danger to himself or others including

1 whether or not he or she: is armed, is a self-professed militant
2 or revolutionary, has a history of mental or emotional
3 disturbance, is suicidal, is overly aggressive, is overly
4 passive, has openly expressed racial or ethnic hatred,
5 threatened to assault law enforcement or correctional personnel,
6 or is affiliated with any organized gang or like group, and
7 similar information.

8 "Central repository." The central location for the
9 compilation, maintenance and dissemination of criminal history
10 record information by the Pennsylvania State Police.

11 "Conviction record information." The criminal history record
12 information disclosing that a person has pleaded guilty or nolo
13 contendere to or was convicted of any criminal offense,
14 sentencing and pardon information.

15 "Correctional information." The information concerning a
16 person which is not criminal history or current case and status
17 information and which is compiled by a criminal justice or
18 noncriminal justice agency in connection with correctional
19 treatment, incarceration or supervision including information
20 concerning the physical and mental condition of a person,
21 information concerning the behavior or discipline of persons in
22 correctional institutions, diagnostic information, information
23 on participants in pretrial diversion, community-based and other
24 correctional and rehabilitative programs and information
25 relating to the granting or revocation of parole or discharge.
26 Correctional information does not include presentence
27 investigation reports whose creation, maintenance and disclosure
28 are governed by statute or rule of court.

29 "Criminal history information." The information, other than
30 current case and status information, which arises from the

1 initiation of one or more criminal proceedings, is compiled by
2 one or more criminal justice agencies and consists of
3 identification record information and line-entry form notations
4 of charges, bail releases, detentions, arrests, indictments,
5 complaints, information, and/or other formal initiation of
6 criminal proceedings and/or or any events and outcomes arising
7 from those arrests, releases, detentions, indictments,
8 complaints, informations, or charges, including pleas, trials,
9 sentences, appeals, incarcerations, correctional supervision,
10 paroles and releases from custody. Criminal history information
11 shall not include indices or listing of the case or file numbers
12 of noncurrent criminal proceedings initiated against a person.
13 Criminal history information shall not mean information
14 concerning juveniles unless they have been adjudicated as
15 adults.

16 "Criminal incident information." The information concerning
17 a criminal incident or act including incident and agency
18 identification data, identification data regarding complainants
19 and witnesses, the date, time and place of the incident, the
20 types of criminal offenses allegedly committed, personnel
21 involved in the investigation of the incident or act, and
22 summaries prepared by law enforcement officers of facts
23 regarding the incident or act. It also means information filed
24 by or with a criminal justice agency describing a specific
25 criminal incident or act which is not indexed or accessible by
26 name of suspect or accused person.

27 "Criminal justice agency." Any court with criminal
28 jurisdiction including minor judiciary or any other governmental
29 agency, or subunit thereof, created by statute or State or
30 Federal constitution, specifically authorized to perform as its

1 principal function the administration of criminal justice, and
2 which allocates a substantial portion of its annual budget to
3 such function. Criminal justice agencies include, but are not
4 limited to: organized State and municipal police departments,
5 jails, prisons, detention facilities, correctional agencies,
6 probation agencies, district or prosecuting attorneys, parole
7 boards and pardon boards.

8 "Criminal justice information." Any information defined in
9 this section, compiled or maintained by or for a criminal
10 justice agency.

11 "Criminal justice intelligence information." The information
12 associated with or identifiable to a named person compiled by a
13 criminal justice agency for the purpose of the administration of
14 criminal justice, the collection of which does not arise
15 directly from a specific criminal incident or the initiation of
16 specific criminal proceedings and which is not arrest record
17 information; criminal history information; nonconviction record
18 information; conviction record information; correctional
19 information; personal, employment, medical or educational
20 history information, bail information, identification record
21 information, wanted persons information, missing persons
22 information, modus operandi information, criminal justice
23 investigative information, criminal incident information,
24 caution indicator, stolen property or motor vehicle information.

25 "Criminal justice investigative information." The
26 information associated with an identifiable individual compiled
27 by a criminal justice agency in the course of conducting a
28 criminal investigation of a specific criminal act, including
29 information pertaining to that criminal act derived from reports
30 of informants and investigators, or from any type of

1 surveillance. The term does not include criminal incident
2 information.

3 "Current case and status information." The information on
4 the current status of pending adult criminal proceedings and the
5 current status and location of adults who are arrested or
6 summoned to appear in court, are under indictment or are being
7 prosecuted for any criminal offense, have pending an appeal from
8 any criminal conviction, are detained or incarcerated in any
9 correctional institution, or are subject to the jurisdiction or
10 supervision of any correctional, parole or probation agency.
11 Disposition information shall be considered current case and
12 status information for a period of 180 days following the final
13 disposition of any criminal proceeding, and removal from
14 jurisdiction of an agency ordered by the court.

15 "Disclosure." The communication of information to any person
16 or agency by any means.

17 "Disposition information." The information indicating that
18 criminal proceedings have been oncluded, including information
19 disclosing that the police have elected not to refer a matter to
20 a prosecuting authority, that a prosecuting authority has
21 elected not to commence criminal proceedings, or that a grand
22 jury has failed to indict and disclosing the nature of the
23 termination of the proceedings; or information disclosing that
24 proceedings have been indefinitely postponed and also disclosing
25 the reason for such postponement. Dispositions for criminal
26 proceedings in Pennsylvania shall include, but not be limited
27 to, acquittal, acquittal by reason of insanity, pretrial
28 probation or diversion, charge dismissed, guilty plea, nolle
29 prosequi, no information filed, nolo contendere plea, convicted,
30 juvenile determination transferred, abatement, discharge under

1 Rule 1100 or 6013 of the Pennsylvania Rules of Criminal
2 Procedure concerning prompt trials, demurrer sustained,
3 pardoned, mistrial-defendant discharged, discharge from
4 probation or parole or correctional supervision, or any other
5 disposition authorized by the General Assembly. Dispositions for
6 criminal proceedings in order jurisdictions shall include, but
7 not be limited to, the above dispositions and acquittal by
8 reason of mental incompetence, case continued without a finding,
9 charge dismissed because of insanity, charge dismissed because
10 of mental incompetence, no paper, youthful offender
11 determination, deceased, dismissed-civil action, found insane,
12 found mentally incompetent, sentence commuted, executive
13 clemency.

14 "Educational history information." The information
15 concerning a person's educational accomplishments, dates of
16 school attendance, and schools attended and similar information.

17 "Employment history information." The information concerning
18 a person's occupation, present and past employment, dates and
19 places of employment, income, union affiliations, and similar
20 information.

21 "Expunge."

22 (1) To remove information from an information system so
23 that there is no trace of information within the system and
24 no indication indication that such information existed; and

25 (2) to eliminate all identifiers which may be used to
26 trace the identity of an individual, allowing remaining data
27 to be used for statistical purposes.

28 "Identification record information." The name, fingerprints,
29 fingerprint classifications, voice prints, photographs,
30 identifying numbers, and other descriptive or identifying data

1 concerning a person, compiled in connection with criminal
2 proceedings, which would assist with his or her identification.

3 "Information system." A system whether automated or manual,
4 operated or leased by Federal, regional, State, or local
5 government or governments, including the equipment, facilities,
6 procedures, agreements, and organizations thereof, for the
7 collection, processing, preservation, or dissemination of
8 information.

9 "Medical history information." The information concerning a
10 person's medical condition, dates and types of medical
11 treatment, the names of treating physicians or other therapists,
12 the results of treatment, drug use or addiction and any
13 treatment for it, psychiatric and psychological evaluations,
14 dates and types of psychiatric and psychological treatment and
15 its results, and similar information.

16 "Missing persons information." The identification record and
17 other information concerning a person who is reported to a
18 criminal justice agency to be missing and who is not a wanted
19 person.

20 "Modus operandi information." The information concerning
21 identifiable individuals which is organized by other than
22 identification record information, including information
23 accessible by offense characteristics or method of criminal
24 operation.

25 "Motor vehicle record information." The records and data
26 maintained for or by the Department of Transportation for the
27 purpose of regulating the issuance, suspension, revocation or
28 renewal of drivers' and other licenses or vehicle registrations
29 or for the purpose of maintaining records of motor vehicle
30 offenses or traffic accidents.

1 "Nonconviction record information." The criminal history
2 record information which is not conviction record information.

3 "Organized criminal activity." Any activity which is of a
4 conspiratorial and organized nature and which:

5 (1) seeks to supply illegal goods and services such as
6 narcotics, prostitution, loansharking, gambling, and other
7 similar goods and services;

8 (2) seeks to conduct through planning and coordination
9 of individual efforts continuing activities, a substantial
10 portion of which are illegal;

11 (3) seeks to corrupt public officials or obstruct the
12 administration of criminal justice; or

13 (4) seeks or intrude into legitimate business activities
14 by use of illegal methods or perpetrate commercial frauds.

15 "Personal history information." The information concerning a
16 person's relationships to or associations with other persons,
17 membership in criminal gangs, summary of income, assets and
18 liabilities, marital and family situation, and similar
19 information.

20 "Secondary dissemination." The transfer of criminal history
21 record information received from a repository or confirmation of
22 the existence or nonexistence of criminal history record
23 information received from a repository.

24 "Statistical information." The information, records or
25 reports in which specific persons arrested or prosecuted for
26 criminal offenses where identification record information is not
27 included.

28 "Stolen property information." The information with respect
29 to identifiable personal property including motor vehicles and
30 license plates which is reported to law enforcement agencies to

1 be stolen.

2 "Wanted persons record information." The information about a
3 person who is an escapee from custody or against whom there is
4 an outstanding arrest warrant. It includes the fact of the
5 warrant and charge for which it was issued, information relevant
6 to the individual's danger to the community, identification
7 record information, and other information that would facilitate
8 the apprehension of the individual.

9 Section 3. Powers of the Attorney General.

10 The Attorney General or his designee shall have the power to
11 collect complete and accurate criminal history record
12 information from all criminal justice agencies within the
13 Commonwealth, for statistical purposes and for use by the
14 Central Repository for the maintenance of complete and accurate
15 criminal history record information and to prescribe the form
16 and content of records which must be kept by such criminal
17 justice agencies in order to ensure the correct reporting of
18 data.

19 Section 4. Duties of criminal justice agencies.

20 (a) It shall be the duty of every criminal justice agency
21 within the Commonwealth to maintain complete and accurate
22 criminal history record information as required by the Attorney
23 General and to report such information to the Attorney General
24 or his designee at such times and in such manner as required by
25 the provisions of this act.

26 (b) All criminal justice agencies, including but not limited
27 to, courts, county and State correctional institutions and
28 parole and probation agencies, must submit to the Attorney
29 General, or his designee, reports of dispositions occurring
30 within their respective agencies for statistical or criminal

1 history purposes within 90 days of the date of such disposition.

2 (c) Upon detection of inaccurate data in a criminal history
3 record, regardless of the manner of discovery, the criminal
4 justice agency which reported the information must, at minimum,
5 comply with the following procedure to effect correction:

6 (1) correct its own records; and

7 (2) notify all recipients, including the Central
8 Repository, of the inaccurate data and the required
9 correction.

10 (d) All criminal justice agencies within the Commonwealth
11 are required to check with the Central Repository before
12 disseminating criminal history record information except when
13 urgency to provide such information does not permit the required
14 check. Those situations requiring waiver of the mandated check
15 shall be determined by the Privacy and Security Council.

16 (e) Any criminal justice agency which disseminates criminal
17 history record information without making the prescribed check
18 with the Central Repository must indicate to the recipient that
19 the information disseminated is only that information contained
20 in its own file and that a more complete record can be obtained
21 from the Central Repository.

22 Section 5. Grounds for expungement.

23 (a) All criminal history information with respect to an
24 accused person concerning a specific criminal proceeding shall
25 be expunged if:

26 (1) a judge of a court of record validly so orders;

27 (2) the defendant has received a full and final pardon
28 for any offenses of which he or she was convicted in such
29 proceeding;

30 (3) a statute or rule of the Supreme Court so requires;

1 (4) a police agency has elected to drop charges prior to
2 the initiation of prosecution;

3 (5) no disposition has been received or, upon request
4 for criminal history record information, no disposition has
5 been recorded in the repository within 18 months after the
6 date of arrest and a review verifies that no disposition is
7 available and no action is pending;

8 (6) all charges in such proceeding have been dismissed
9 or the defendant has been found not guilty by reasons other
10 than insanity;

11 (7) the accused person has no prior convictions for a
12 criminal offense and three years have elapsed from the date
13 of the final disposition and release from confinement or
14 supervision from such criminal proceeding and the accused
15 person has had no other arrests or convictions for a criminal
16 offense;

17 (8) statistical information may be maintained with
18 respect to such proceeding and no other criminal justice
19 information may be expunged unless a court of record validly
20 so orders; or

21 (9) original records of entry maintained chronologically
22 shall not be expunged.

23 (b) Criminal history record information may be expunged
24 when:

25 (1) an individual who is the subject of the information
26 reaches 65 years of age and has been free of arrest or
27 prosecution for ten years following final release from
28 confinement or supervision; or

29 (2) an individual who is the subject of the information
30 has been dead for three years.

1 Section 6. Procedures after expungement.

2 (a) Any criminal justice agency which contributes criminal
3 justice information to the Federal Bureau of Investigation
4 shall, if such information is subsequently expunged, notify the
5 Federal Bureau of Investigation's Identification Division and
6 National Crime Information Center of such expungement and
7 request the return and expungement of any information
8 contributed by it.

9 (b) In the event that any information is expunged, all
10 agencies or persons to whom such information has been disclosed
11 shall be promptly notified by an agency which has expunged
12 information of such action and the constraints on maintenance of
13 such information.

14 (c) If there is no information concerning the person with
15 respect to whom an inquiry is made, or if all information with
16 respect to such person has been expunged and may not be
17 disclosed, then the response shall be "no information on file."

18 Section 7. Dissemination of criminal history record
19 information.

20 (a) Prior to the disclosure of any information the
21 appropriate official shall take all reasonable steps to insure
22 that information is current, accurate, complete and, on its
23 face, is not subject to expungement.

24 (b) No secondary dissemination of criminal history record
25 information is permitted except as provided for by this act.

26 (c) No duplication of criminal history record information by
27 any agency or individual receiving criminal history record
28 information is permitted except as provided for in this act.

29 (d) All individuals or agencies receiving information
30 covered under this act must return to the disseminating agency

1 or destroy, in accordance with an agreement with the repository,
2 all such information received upon completion of the specific
3 purpose for which the information was received.

4 (e) All criminal justice agencies disseminating criminal
5 justice information must maintain a chronological listing of all
6 persons and agencies to whom they have disseminated such
7 information. Such listing must be maintained for at least two
8 years from the date of dissemination and must, at minimum,
9 include the date of dissemination the items of information
10 released, the name of the person or agency to whom criminal
11 justice information was disseminated and the purpose for which
12 such information was given.

13 (f) Repositories must enter as a permanent part of an
14 individual's criminal justice information file a listing
15 separate from the record itself of all persons and agencies to
16 whom they have disseminated that particular criminal justice
17 information and the date and purpose for which the information
18 was disseminated.

19 (g) Repositories shall ensure that information covered under
20 this act is disseminated only to agencies or individuals
21 authorized by the provisions of this act to receive such
22 information.

23 (h) No agency or individual shall confirm or deny in any
24 manner the existence or nonexistence of criminal justice
25 information to any person or agency not eligible to receive the
26 information itself.

27 (i) Any noncriminal justice official, agency or organization
28 requesting criminal justice information must sign a contract
29 with the repository from which it is seeking criminal justice
30 information, agreeing to abide by the provisions of this act.

1 Any such noncriminal justice official, agency or organization
2 entering into such a contract with a repository is bound by and
3 subject to the provisions of this act.

4 (j) No criminal justice information acquired from any agency
5 or individual shall be permanently incorporated into the files
6 of the agency which requested such information.

7 Section 8. Permitted disclosure.

8 All information shall be promptly disclosed to any person
9 requesting the same unless such disclosure is otherwise
10 prohibited or conditioned by this act or any other statute.

11 Section 9. Disclosure of certain information.

12 Criminal incident and investigative information shall be
13 disclosed to any person upon request unless the agency having
14 the information affirmatively determines that its disclosure
15 will impede or affect any active or pending criminal
16 investigation or prosecution, will endanger the life, property
17 or physical security of any person.

18 Section 10. Disclosure of personal history, medical history,
19 educational history, employment history, bail,
20 caution indicator and correctional information.

21 (a) Except as otherwise provided by this act, personal
22 history, medical history, educational history, employment
23 history, bail and caution indicator may be disclosed only with
24 the informed consent of the subject of such information.
25 Correctional information may be disclosed without informed
26 consent if authorized by this act or any other statute.

27 (b) The provisions of subsection (a) to the contrary
28 notwithstanding such information may be disclosed without the
29 subject's consent to:

30 (1) judges of competent jurisdiction, correctional

1 agencies, defense counsel and officials and such other
2 governmental agencies and officials in this State and other
3 states and in the Federal Government who require such
4 information for determinations with respect to investigation
5 prosecution, adjudication, sentencing or rehabilitation of
6 such person;

7 (2) public and private agencies, organizations and
8 persons in this State which by formal agreement discharge
9 some portion of a correctional agency's or official's
10 statutory responsibilities with respect to such person; and

11 (3) medical and mental health personnel and facilities
12 for purposes of diagnosis and treatment.

13 (c) Such information may not be maintained in an automated
14 information system.

15 Section 11. Disclosure of statistical and aggregate information.

16 (a) Any statistical information contained in a statistical
17 report or aggregation of information routinely prepared by a
18 criminal justice agency shall be made available for inspection
19 and copying by any person during normal business hours.

20 (b) Nothing in this act shall be construed to prohibit
21 disclosure of the identity of any criminal justice official or
22 employee in any report or aggregation of information.

23 (c) If any statistical information is requested which is not
24 contained in any statistical report or aggregation of
25 information routinely prepared, the person requesting the
26 information shall apply in writing to the appropriate criminal
27 justice agencies. The application shall be granted if the
28 requesting party pays the actual cost of compiling the
29 information, including the cost of any programming, computer
30 time and associated personnel expenditures.

1 (d) An agency holding criminal justice information which is
2 not generally available for disclosure may disclose it for the
3 limited purposes of research, evaluation or statistical analyses
4 to persons not otherwise authorized.

5 (e) No information may be disclosed to such persons except
6 pursuant to a written agreement between the agency holding it
7 and the persons to whom it is to be disclosed. All researchers
8 to which information is disclosed are bound by and subject to
9 the provisions of this act.

10 (f) The agreement shall specify the information to be
11 disclosed, the persons to whom it is to be disclosed, the
12 purposes for which it is to be used, the precautions to be taken
13 to insure the security and confidentiality of the information
14 and the sanctions for improper disclosure or use.

15 (g) Persons to whom information is disclosed under the
16 provisions of this section shall not without the subject's prior
17 written consent disclose or publish such information in such
18 manner that it will reveal the identity of such subject.

19 (h) Any criminal justice agency has the right to withhold
20 information from any researcher whom they feel is not associated
21 with a bona fide research organization or whose interest is to
22 serve an illegal purpose. Decisions of an agency in these
23 matters can be appealed to the Privacy and Security Council.

24 Section 12. Retention of criminal justice intelligence
25 information.

26 (a) Criminal justice intelligence information and criminal
27 justice intelligence information systems shall be maintained
28 separate from other information and information systems. The
29 data shall have appended to it the source and an indication of
30 the reliability of such information.

(b) Criminal justice intelligence information may not be maintained in an automated information system.

(c) All criminal justice intelligence information shall be reviewed by the holding agency at regular intervals and also upon every disclosure outside the agency to determine if it is current and accurate and that grounds continue to exist to maintain it. If such grounds do not exist or the information is inaccurate or incomplete and the deficiency cannot be remedied, then it shall promptly be destroyed.

(d) Such information shall be assigned a security classification and be so marked and may be disclosed only to persons holding the appropriate clearance.

Section 13. Disclosure of intelligence information.

(a) Criminal justice intelligence information may be disclosed only to:

(1) employees of the holding agency having a need and right to know and specifically designated by its executive head; or

(2) State and local police departments and prosecuting authorities in this and other states and similar agencies of the Federal Government:

(i) who are actively investigating the subject of the information and provide to the holding agency specific and articulable facts which taken together with rational inferences from these facts warrant the conclusion that the subject has committed or is about to commit a specific serious crime or engage in a specific organized criminal activity;

(ii) who request confirmation of the reliability of specific criminal justice intelligence information

1 already in their possession; or

2 (iii) who, on behalf of a State or Federal executive
3 or legislative agency, are conducting a background
4 investigation to determine the suitability of the subject
5 for appointment to a judicial or high-ranking executive
6 office or the granting of a top secret or greater
7 security clearance or its equivalent.

8 (b) The executive head of the holding agency or officers
9 specifically designated by him shall prior to any disclosure
10 outside his agency approve the same in writing.

11 (c) Except for disclosures required to achieve the purposes
12 of background investigations described above no criminal justice
13 intelligence information may be redisclosed outside the
14 requesting agency for any purpose and such information may be
15 retained by the recipient no longer than is necessary to achieve
16 the purposes for which it was disclosed at which point all
17 copies and traces of it shall promptly be returned.

18 (d) Information disclosed under the provisions of this
19 section shall be limited to that which is relevant to the
20 specific felony or organized criminal activity described by the
21 requesting party.

22 (e) Nothing in this act shall prevent disclosure of criminal
23 justice intelligence information to any governmental official or
24 employee when necessary to avoid an imminent danger to life,
25 serious damage to valuable property or a grave threat to public
26 order.

27 Section 14. Right to challenge.

28 (a) Each person shall have the right to challenge the
29 accuracy, completeness or maintenance of criminal history record
30 information, pertaining to him or her and request in writing

1 supplementation, modification or elimination of such
2 information. Each person exercising his right of inspection and
3 copying shall be informed of his right to so challenge.

4 (b) All criminal justice agencies shall have 60 days to
5 conduct a review of any challenge and shall have the burden of
6 proving the accuracy of the record.

7 If the challenge is deemed valid, the appropriate officials
8 must ensure that:

9 (1) The criminal history record information is
10 corrected.

11 (2) A certified and corrected copy is sent to the
12 individual.

13 (3) Prior erroneous criminal history record information
14 disseminated to criminal justice agencies shall be destroyed
15 or returned and replaced with corrected information.

16 (4) The individual is supplied with the names of those
17 noncriminal justice agencies and individuals which have
18 received erroneous criminal history record information.

19 (c) (1) If the challenge is ruled invalid, or if the relief
20 supplied is deemed inadequate, an individual has the right to
21 appeal the decision of the agency to the Privacy and Security
22 Council within 30 days of notification of the decision by the
23 criminal justice agency for the purpose of obtaining
24 administrative relief.

25 (2) The Privacy and Security Council shall have the
26 authority to conduct administrative appeal hearings in
27 accordance with the act of June 4, 1945 (P.L.1388, No.442),
28 known as the "Administrative Agency Law."

29 (3) The decision of the Privacy and Security Council may
30 be further challenged in a court of proper jurisdiction by an

1 aggrieved individual.

2 Section 15. Individual rights on access and review.

3 (a) Any individual exercising his or her right to access and
4 review under the provisions of this chapter, shall be informed
5 when criminal history record information is made available that
6 he or she is under no obligation to divulge such information to
7 any person or agency.

8 (b) If a person exercising his right to inspect and copy
9 information pertaining to him or her is incarcerated, a duly
10 authorized correctional employee shall obtain a copy of such
11 information and deliver it to the subject.

12 (c) Upon written application from the subject of information
13 and adequate verification of his or her identity, the agency
14 possessing such information shall permit inspection by such
15 person's attorney at law or legal guardian, holding a sworn
16 authorization from such person, without personal appearance by
17 the subject of the information.

18 Section 16. Requirements of repositories relating to public
19 notice.

20 Repositories maintaining criminal history record information
21 must annually inform the public of the existence, purpose, use
22 and accessibility of the criminal history record information
23 they maintain by annual publication. The annual publication
24 shall also include the standards maintained by the repository
25 for identification on individual access and review. The cost of
26 this annual publication shall be borne by the respective
27 repositories.

28 Section 17. Inspection of other information.

29 A person shall have the right to inspect and challenge
30 personal history, medical history, educational history,

1 employment history, bail, caution indicator and correctional
2 information about him or her as provided herein. However, the
3 agency maintaining such information may deny a person the
4 opportunity to inspect such information if it affirmatively
5 determines, with reasons in writing and with a copy to the
6 subject of the information, that the potential harm to the
7 subject and/or other persons outweighs the benefits of such
8 inspection. A denial of the right of inspection or challenge
9 shall be appealable as provided herein.

10 Section 18. Protection against loss, damage, harm or
11 unauthorized access.

12 Each criminal justice agency shall take appropriate measures
13 to protect criminal justice information or facilities against
14 accidental loss of injury, intentional harm, or unauthorized
15 access as the Privacy and Security Council shall prescribe by
16 regulation.

17 Section 19. Security measures.

18 Security measures taken shall include, but not be limited to:

19 (1) Physical security, including measures to protect
20 against fire, flood, power failure, sabotage, assault, theft
21 or unauthorized access.

22 (2) Personnel security, including but not limited to
23 investigations as to the character of officers, employees and
24 contractors assigned to criminal justice information systems,
25 security clearances and security training.

26 (3) Select, supervise, educate and train all personnel
27 authorized to have access to criminal history record
28 information.

29 (4) Ensure that, where computerized data processing is
30 employed, the equipment utilized for maintaining criminal

1 history record information is solely dedicated to purposes
2 related to the administration of criminal justice, or, if the
3 equipment is not used solely for the administration of
4 criminal justice, the criminal justice agency shall be
5 accorded equal management participation in computer
6 operations used to maintain the criminal history record
7 information.

8 (5) Provide that criminal history record information
9 maintained in a repository is disseminated upon proper
10 validation only to those individuals and agencies authorized
11 to receive the information by the provisions of this act.

12 Section 20. Security administration and sanctions.

13 (a) Such criminal justice agency shall designate a security
14 officer who may be the head of such agency who shall be
15 responsible for implementation and monitoring of security
16 procedures.

17 (b) The security officer shall:

18 (1) be promptly informed of all suspected security
19 violations;

20 (2) routinely audit all data access and dissemination
21 logs;

22 (3) conduct an active program of affirmative security
23 testing;

24 (4) promptly investigate any security violations or
25 suspected misuse or unauthorized access to information
26 systems;

27 (5) conduct programs of security education; and

28 (6) assist and advise the agency head and the Attorney
29 General with respect to their security responsibilities.

30 (c) Each agency and person authorized access to criminal

1 justice information disclosure which is restricted by this act
2 shall prior to such access enter into an agreement to abide by
3 this act and any security standards promulgated hereunder.

4 Section 21. Reporting of unserved arrest warrants.

5 Any person or agency given an arrest or similar warrant or
6 order to serve shall submit to the Attorney General or his
7 designee detailed descriptions of any warrants and related
8 identifying data which have not been served within 30 days of
9 their issuance. If the warrant is subsequently served or
10 withdrawn the serving person or agency must immediately notify
11 such department and the agency or official which requested such
12 warrant of its service or withdrawal. The Attorney General or
13 his designee must at least every 90 days confirm the validity of
14 each arrest warrant which has not been removed.

15 Section 22. Removal of information.

16 (a) All criminal justice agencies within the State shall, if
17 at any time after making a report as herein required it is
18 determined by the reporting department or agency that a person
19 is no longer wanted due to his apprehension or any other factor
20 or when a stolen vehicle or property is recovered, within 48
21 hours notify the Attorney General or his designee of such
22 status. If the agency making such apprehension or recovery is
23 other than the one which made the original wanted person or
24 stolen property report, then it shall immediately notify the
25 originating agency of the full particulars relating to such
26 apprehension or recovery.

27 (b) The originating agency shall be the only agency entitled
28 to remove information reported by it and shall do so promptly
29 upon verification of the apprehension of a wanted person or
30 recovery of stolen property as the case may be.

1 Section 23. Reporting stolen property.

2 All criminal justice agencies within the Commonwealth shall
3 report to the Attorney General or his designee in a manner
4 prescribed by him all motor vehicle and identifiable personal
5 property stolen within their jurisdictions. The report shall be
6 made as soon as is practical but in no event later than 12 hours
7 after the investigating department or agency ascertains that a
8 motor vehicle or identifiable personal property has been stolen.

9 Section 24. Annual audit of repositories.

10 (a) The Privacy and Security Council must establish an
11 auditing team to conduct annual audits, tests, inspections or
12 examinations, with or without notice, of the Central Repository
13 and of a representative sample of not less than 3% of all
14 repositories within the Commonwealth collecting, storing and
15 disseminating criminal justice information to ensure that the
16 provisions of this act are upheld.

17 (b) Persons conducting the audit shall be provided access to
18 all records, reports and listings required for the conduct of
19 such audit, and all persons with access to criminal justice
20 information or authorized to receive disclosure of such
21 information must cooperate with and provide information
22 requested by the auditing team.

23 (c) The auditing team shall prepare a report of deficiencies
24 and recommendations for the correction of such deficiencies.
25 Upon the completion of every audit, the audited agency must
26 carry out the recommendations unless the audit report is
27 appealed to the Privacy and Security Council and the appeal is
28 upheld.

29 (d) The Privacy and Security Council shall have the power to
30 modify the the corrective measures ordered by the auditing team.

1 (e) The Privacy and Security Council shall have the power to
2 impose administrative sanctions it deems proper upon any agency
3 that does not cooperate with the auditing team or does not fully
4 implement the corrective measures ordered by the auditing team
5 or the council.

6 Section 25. Quality control.

7 Each repository must establish effective procedures, approved
8 by the Privacy and Security Council, for reviewing the
9 completeness and accuracy of criminal history record information
10 maintained within such repository.

11 Section 26. Privacy and Security Council.

12 (a) There shall be a Privacy and Security Council,
13 hereinafter called the council, which shall consist of the
14 Attorney General and eight other persons, to be named as
15 follows: the Governor shall appoint five members, including a
16 private citizen, a representative from the media, one police
17 chief and one district attorney; the Chief Justice of the
18 Commonwealth shall appoint one member, the President pro tempore
19 of the Senate shall appoint one member, and the Speaker of the
20 House shall appoint one member. Of the members initially
21 appointed by the Governor, one shall serve for four years, two
22 shall serve for three years and two shall serve for two years.
23 The member appointed by the Chief Justice shall serve for four
24 years. Thereafter, all members shall serve for four years. Each
25 member shall serve until his successor is appointed and has
26 qualified. The chairman of the council shall be elected by and
27 from within the council to serve for a term of two years.

28 (b) The Privacy and Security Council shall function
29 independently of, but for administrative purposes shall be a
30 departmental administrative board in, the Department of Justice.

1 (c) The Attorney General shall provide such staff, clerical
2 and other assistance as the council may require. The council
3 shall meet at the call of the Governor, its chairman, or any
4 three of its members.

5 (d) Council members shall receive no compensation for their
6 services on the council but shall receive their expenses
7 necessarily incurred in the performance of official duties.

8 Section 27. Powers and duties.

9 (a) The Privacy and Security Council shall have the power
10 and authority to:

11 (1) Establish rules and regulations for the collection,
12 storage and use of information covered under this act with
13 respect to security, completeness, accuracy, individual
14 access and review, quality control and audits of
15 repositories.

16 (2) Establish a uniform schedule of reasonable fees for
17 the costs of reproducing criminal justice information for
18 individual access and review and for research or statistical
19 purposes.

20 (3) Conduct hearings to further the purposes of this
21 act.

22 (4) Make investigations concerning all matters touching
23 the administration and enforcement of this act and the rules
24 and regulations promulgated thereunder.

25 (5) Issue subpoenas over the signature of the chairman,
26 to require the attendance of witnesses and the production of
27 records and papers pertaining to any investigation or inquiry
28 concerning matters relating to this act. The fees for such
29 witnesses for travel and attendance shall be the same as for
30 witnesses appearing in the courts and shall be paid from

1 appropriations for the incidental expenses of the council.

2 (6) Institute, through the Office of the Attorney
3 General, civil and criminal proceedings for violations of
4 this act and the rules and regulations adopted thereunder.

5 (7) Conduct annual audits of the Central Repository and
6 of a representative sample of not less than 3% of all
7 repositories within the Commonwealth collecting, storing and
8 disseminating criminal history record information.

9 (8) Appoint such employees and agents as it may deem
10 necessary.

11 (9) Carry out all other powers and duties given to it by
12 this act.

13 (b) The council shall make an annual report to the Governor
14 and file a copy thereof with the Secretary of the Commonwealth
15 and the Chief Clerk of the House of Representatives and the
16 Secretary of the Senate. It may make such additional reports and
17 recommendations as it deems appropriate to carry out its duties.
18 The council shall appoint one or more of its members to serve
19 upon any similar council or committee connected with any
20 interstate system for the exchange of criminal justice
21 information, and may participate as it deems appropriate in the
22 activity of any such system.

23 Section 28. Penalties for violations.

24 Any person, including any agency or organization who violates
25 the provisions of this act or any regulations or rules
26 promulgated under it shall:

27 (1) Be denied access to specified record information for
28 such period of time as a court or the Privacy and Security
29 Council deems appropriate.

30 (2) Be subject to civil or criminal penalties or other

1 remedies as provided for in this act.

2 (3) In the case of any employee of any agency be
3 administratively disciplined by suspension, discharge,
4 reduction in grade, transfer or such other administrative
5 sanctions as the agency deems appropriate, such violation
6 constituting good and sufficient grounds for such action.

7 Section 29. Civil actions.

8 (a) Any person, including the council through the Attorney
9 General may institute a civil action in the court of proper
10 jurisdiction against any person, agency or organization to
11 enjoin any criminal justice agency, noncriminal justice agency,
12 organization or individual violating the provisions of this act
13 or to compel such agency, organization or person to comply with
14 the provisions of this act or regulation or rule promulgated
15 under it.

16 (b) (1) Any person aggrieved by a violation of the
17 provisions of this act or of the rules and regulations
18 adopted thereunder, shall have the substantive right to bring
19 an action for damages by reason of such violation in a court
20 of competent jurisdiction.

21 (2) A person found, by the court, to have been aggrieved
22 by a violation of this act or the rules or regulations
23 adopted thereunder, shall be entitled to actual and real
24 damages of \$100 for each violation and to reasonable costs of
25 litigation and attorney's fees. Exemplary and punitive
26 damages of not less than \$1,000 nor more than \$10,000 shall
27 be imposed for any violation of this act, or the rules or
28 regulations adopted thereunder, found to be willful.

29 (c) In addition to any other civil or criminal penalty or
30 remedy, when a court, in proceedings instituted pursuant to this

1 act, finds that any of the provisions of this act have been
2 violated, any person shall have the substantive right to bring
3 an action against any employee who shall have willfully violated
4 the provisions of this act. If the court shall conclude that
5 such employee has in fact willfully violated the provisions of
6 this act, the court shall order the dismissal of said employee.
7 Section 30. Criminal penalties.

8 It shall be a summary offense punishable by a fine not less
9 than \$500 nor exceeding \$1,000 for:

10 (1) any person to request, obtain or seek to obtain
11 criminal history record information in violation of this act;
12 or

13 (2) any person to disseminate, maintain or use criminal
14 history record information knowing such dissemination,
15 maintenance or use to be in violation of this act.

16 Section 31. Waiver of immunity.

17 Any provision of the laws of this Commonwealth
18 notwithstanding, the Commonwealth of Pennsylvania, its agencies,
19 political subdivisions, boards, commission, councils or any
20 officers, agents or employees thereof, may be sued and held
21 liable for any violations of this act or the rules and
22 regulations adopted thereunder.

23 Section 32. Repealer.

24 All acts and parts of acts are repealed insofar as they are
25 inconsistent herewith.

26 Section 33. Effective date.

27 This act shall take effect in 90 days.