



Criminal History Record Information

.01 Policy

In every instance except those involving criminal investigations or routine field inquiries, the Department will obtain advance written consent from the subject of a criminal history check.

.02 Terms

Criminal history record information: Information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, formations, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, and release. The term does not include identification information such as fingerprint records if such information does not indicate the individual's involvement with the criminal justice system.

Interstate Identification Index System or "III (Triple I) Index": The cooperative federal-state system for the exchange of criminal history records, and includes the National Identification Index, the National Fingerprint File, and, to the extent of their participation in such system, the criminal history record repositories of the states and the FBI.

National Crime Information Center or "NCIC": The computerized information system, which includes telecommunications lines and any message switching facilities that are authorized by law, regulation, or policy approved by the Attorney General of the United States to link local, state, tribal, federal, foreign, and international criminal justice agencies for the purpose of exchanging NCIC related information. The NCIC includes, but is not limited to, information in the III System. See the NCIC Privacy Act System Notice periodically published in the Federal Register for further details.

Criminal justice agency: State or federal courts, and a governmental agency or any subunit thereof that performs the administration of criminal justice pursuant to a statute or executive order, and that allocates a substantial part of its annual budget to the administration of criminal justice.

Administration of criminal justice: 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.

.03 Governing Legislation and Reference

Governing Legislation:

Title 28, Part 20, CFR.

Maryland Criminal Procedures Article, Title 10.

Forms:

Criminal History Dissemination Log (Form 609).

Criminal History Release Authorization.

.04 Procedure

The acquisition of criminal history information, both a simple computer "name check" and a full background investigation including interviews with friends and neighbors plus a credit check, is within the authority of police.

A. A written release will be obtained and a partial/full criminal check as appropriate will be performed with respect to:

- Any applicant for police department employment, paid or volunteer, civilian or sworn (full background investigation); or,
- Any applicant wishing to participate in the Ride-Along Program (record check only). The application to ride along is approved or disapproved at the discretion of the Chief of Police, who normally will disapprove only the application of a person whose record shows a history of violent behavior, or a pattern of dangerous criminal conduct. Participation by elected or appointed town officials or members of law enforcement will not require an application form or a record check.

B. A written release will not be obtained in connection with any criminal investigation,

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and/or routine field inquiry. In either case, the police department may legally acquire criminal history information.

Examples of use of CHRI in criminal investigations:

- In compiling suspect lists based on prior criminal patterns, or in eliminating suspects who can be determined to have been in jail at the time of the crime;
- In obtaining a search warrant or establishing criminal knowledge or motive; or,
- In determining a suspect's status as an escapee or their failure to comply with conditions of probation, parole or bail.

C. Obtaining and Disseminating Criminal History by Police

Dissemination of criminal history is strictly controlled. Dissemination to an unauthorized recipient subjects a police employee to a Federal fine of \$10,000 for each infraction plus possible additional State sanctions. Federal law provides, in part:

"A criminal justice agency may request criminal history information from the repository or another criminal justice agency only if it has a need for the information:

- In the performance of its function as a criminal justice agency, or,
- For the purpose of hiring or retaining its own employees and agents."

Radio communications will not be used for the transmission of criminal history beyond that information necessary to effect an immediate identification or to ensure adequate safety of officers and the general public.

Facsimile or e-mail dissemination of criminal history record information is prohibited.

D. Access to Criminal History Within the Police Department:

Police dispatchers and sworn officers have access to the computer terminal for criminal history. They receive initial certification training from the State of Maryland and after training, must be re-certified every two years in order to retain their passwords. If criminal history information is requested by a password holder on behalf of another employee, that information is noted in the computer.

Training of employees who have log-on (password) access consists of two consecutive eight-hour training sessions conducted by Maryland Department of Public Safety. A four hour retraining session is required at the time of certification (every two years).

The Terminal Agency Coordinator for the Department works with Maryland State Police auditors to ensure the proper training for and use of criminal history.

The Department must be prepared to justify its use of criminal history in every instance, and Quality Control staff from Maryland State Police periodically audit records which have been requested through computer terminals.

E. Access to Criminal History outside the Police Department:

Terminal operators may make criminal history inquiries for outside criminal justice agency only when there is a secondary user agreement on file. A list of secondary user agreements is maintained in communications.

Terminal operators shall enter the ORI of the requesting agency and the full name of recipient in the appropriate screen.

F. Logging

The Criminal History Dissemination Log will be completed by the terminal operator when criminal history is requested. The log entry shall contain the name and organization of the requesting officer, case number related to the request, and specific reason for the request.

G. Secondary Dissemination

A Criminal History Dissemination Log entry shall be made for all secondary disseminations to authorized criminal justice recipients.

H. Retention of Records

Paper records resulting from the criminal history checks will be retained according to law, in locked files under the supervision of the Operations Commander or a designee and the Criminal Investigations Section.

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HISTORY: Adopted October 16, 2009

This General Order supersedes all other orders and memoranda in conflict therewith.

Authority:

A handwritten signature in black ink, appearing to read "Charles L. Owens". The signature is written in a cursive style with large, flowing letters.

Charles L. Owens
Chief of Police