

N E B R A S K A

JAIL BULLETIN

Number 97

MAY, 1993

The Jail Bulletin is a monthly feature of the Crime Commission Update. The Bulletin may be used as a supplement to your jail inservice training program if officers study the material and complete the attached "open book" quiz. The Bulletin and quiz may be reproduced for use by your staff. We welcome any jail training material you would like to contribute to the Bulletin.

THE NEBRASKA SECURITY, PRIVACY AND DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION ACT

The Nebraska Security, Privacy and Dissemination of Criminal History Record Information Act became effective in April of 1979. The law was passed primarily to control and coordinate criminal history record keeping and the promote greater efficiency and uniformity in criminal history records. The act also provided for more effective administration and protection of the right to privacy for those individuals who are the subjects of these records. The act conversely assured the preservation of the public's right to information generated by the official actions of the various components of the criminal justice system. And finally, as a monitoring function, the Act instituted procedures for conducting random audits of criminal justice agencies responsible for the storage and dissemination of criminal history records to ensure compliance with the requirements of the Act.

By statutory authority (Nebraska Revised Statute 81-1423(13), the Nebraska Crime Commission has the responsibility for promulgating the necessary rules and regulations for the storage and dissemination of criminal history records. The Commission also has the authority to conduct audits of criminal justice agencies for compliance with the Act. The Commission's Data Processing Committee has been established as the Review Board to hear challenges made by individuals regarding the inaccuracy or incompleteness of criminal history records maintained by a criminal justice agency.

This issue of the "Jail Bulletin" highlights some of the requirements of the Act that are important for jail staff to know. This includes the regulations for determining what are public and non-public records, the procedures for the dissemination or release of records and the security regulations for the proper storage and maintenance of records. If you want a complete set of Rules and Regulations on criminal history records, please contact the Crime Commission.

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PUBLIC RECORDS

Criminal history record information that is considered "public" for the purposes of release include the following:

- (1) Complete criminal history record information which includes records of arrests, detentions, indictments, charges by information, other formal criminal charges and any disposition arising from arrests, charges, sentencing, correctional supervision and release. Complete records are considered those showing an arrest and subsequent disposition;
- (2) Poster, announcement and lists for identifying or apprehending fugitives or wanted persons and photographs taken in conjunction with an arrest for purposes of identification;
- (3) Original records of entry such as police blotters, offense reports and incident reports;
- (4) Court records of any judicial proceeding; and
- (5) Records of traffic offenses from the Department of Motor Vehicles for the purpose of regulating the issuance, suspension, revocation or renewal of driver's licenses.

NON-PUBLIC RECORDS

The following records are not considered "public" for the purposes of release and may be withheld:

- (1) Investigative or intelligence information;
- (2) Citizen complaints or inquiries;
- (3) Informant's identity;
- (4) Medical records;
- (5) Arrest records without subsequent disposition after one (1) year, and for which active prosecution is not completed nor pending, may not be released to persons other than criminal justice agencies unless one of the following conditions are met:
 - (a) The subject is currently under prosecution or correctional control as a result of separate arrest;
 - (b) The subject is currently an announced candidate or holder of public office;
 - (c) The subject has made a notarized request for the release of the information to a specific person;
or
 - (d) The subject is kept unidentified and the record is used for purposes of research.

JUVENILE RECORDS

These records and the regulations for dissemination are specifically covered by Nebraska statutes. You should refer requests for information contained in juvenile records to your county attorney.

FEDERAL ARREST RECORDS

Information on arrests made by federal officers should be released to the public or press only after following applicable federal regulations. You should refer the person requesting the information back to the appropriate federal agency due to the differences that exist in regulations for release of criminal history record information.

The act states that information on arrests made by federal officers may be released only under the following circumstances:

- (1) When it is released to other criminal justice agencies;
- (2) When it is released to federal agencies authorized to receive the information;
- (3) For use in licensing or local/state employment or when authorized by federal or state statutes and approved by the United States Attorney General; or
- (4) For the issuance of press releases and publicity designed to aid in the apprehension of wanted persons (federal wanted posters).

OUT-OF-STATE RECORDS

When criminal history record information is obtained from out-of-state sources, release of such information must be in accordance with the laws and regulations of the state where the information originated. Due to the differences in state regulations and the possible liability involved in the information contained in the record is inaccurate, you should refer the person requesting the information back to the out-of-state agency for release of that record. You do have the responsibility to inform the person requesting the information as to where a copy of the record can be obtained, if you know where.

DISSEMINATION

All criminal justice agencies shall ensure that criminal history record information is open for inspection and copying by any person during normal business hours and at other times as may be established by the agency. (Note: News media representatives have the same rights of access to criminal history record information as any other citizen).

Documenting the Release of Records

All criminal justice agencies shall ensure that criminal history record information that has been classified as public records:

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- (1) Maintain a listing of individuals or agencies (in-state and out-of-state) to whom the criminal history information was released;
- (2) Include a description of the information released; and
- (3) Record the dates of release.

The exception to this requirement is that criminal history records may be released without following the above procedures if the information requested is directly related to an offense for which the subject is currently involved in the criminal justice system.

Fees

Criminal justice agencies may assess reasonable fees, not to exceed the actual cost for search, retrieval and copying. The agency may also waive fees at their own discretion.

Unavailable Records

If the information requested is not in the possession of the criminal justice agency, the agency shall immediately notify the person requesting the information of this fact. Notification shall be in writing and indicate what agency does have possession of the record, if known.

If the information requested is in the possession of the criminal justice agency but not available at the time of the request, the person requesting the information shall be notified and a date and time (within three working days) arranged for inspection of the requested record.

SECURITY REGULATIONS

Direct access to criminal history record information shall be restricted to authorized personnel of the agency maintain the record.

Personnel working in the area where records are maintained are held responsible for the physical security of the records and the protection of the records from unauthorized access, disclosure and release.

Protection of records. Criminal justice agencies must establish procedures to protect the records from unauthorized access, theft, sabotage, fire, flood, wind or any natural or man-made disaster.

Familiarity with the Criminal History Record Information Act. Criminal justice agencies must provide personnel with a copy of the Rules and Regulations (available from the Crime Commission) and ensure that personnel working with these records are familiar with the Nebraska Security, Privacy and Dissemination of Criminal History Record Information Act of 1978.

UNAUTHORIZED ACCESS OR DISSEMINATION

Any person may be charged with a Class IV Misdemeanor who is found guilty of the following:

- (1) Permits unauthorized direct access to criminal history record information;
- (2) Knowingly fails to release or make public criminal history record information, or;
- (3) Knowingly releases non-disclosable criminal history record information.

Action to Compel Compliance

Whenever any officer or criminal justice agency fails to comply with the requirements of these regulations, any person aggrieved may bring action to compel compliance in the District Court of that district in which the record is located or in the District Court of Lancaster County.

This issue of Jail Bulletin was prepared by Dan Evans, Acting Senior Field Representative, Jail Standards Division, Nebraska Crime Commission.

QUIZ

Nebraska Jail Standards require that jail staff receive eighteen (18) hours of inservice training each year. The Jail Bulletin may be used to supplement inservice training if an officer studies the bulletin, completes the quiz, and this process is documented by the jail administrator for review during annual jail inspections.

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**SUBJECT: CRIMINAL HISTORY
INFORMATION**

NAME _____

DATE _____

1. What state agency has the responsibility for rules and regulations covering criminal history record information?

2. Which of the following can be considered non-public records?
(Circle your answers)
 - A. Citizen complaints
 - B. Records of traffic offenses
 - C. Investigative reports
 - D. Wanted posters
 - E. Medical records

3. What three forms of documentation should you maintain for release of public criminal history records?
 - 1.
 - 2.
 - 3.

4. News media reporters have no more rights to access to criminal history information than the general public?
True False

5. Which of the following can be considered public records? (Circle your answer)
 - A. Complete criminal history information
 - B. Court records
 - C. Citizen complaint information
 - D. Investigative reports
 - E. Original records of entry

CREDIT: 1/2 hour credit for Jail Inservice Training requirement

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3. What three forms of documentation should you maintain for release of public criminal history records?
 1. A LISTING OF INDIVIDUALS OR AGENCIES TO WHOM THE INFORMATION WAS RELEASED
 2. RETAIN A DESCRIPTION OF THE INFORMATION RELEASED
 3. RECORD THE DATE OF RELEASE

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