

## DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION

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Suppose that you walk into a store one day, and the store owner advises you that he is thinking about hiring John Doe as a clerk, and wondered if you knew anything about him. "Sure, you say, I arrested him last year for spotlighting deer, and it cost him \$500 and a Remington shotgun." You have just violated the law. Virginia's Dissemination of Criminal History Record Information law prohibits divulging information such as this, except through strict guidelines. A Federal Act was passed in 1973 requiring all states to enact such legislation and submit a plan to insure that criminal history record information was collected, stored, and disseminated properly. It is important that we are aware of this law, and what effect it has on our work as conservation officers.

In order to understand the dissemination law, we must first define the terms used in the wording:

- A. Criminal History Record Information System—system including the equipment, facilities, procedures, agreements, and organizations thereof for the collecting, processing, preservation, or dissemination of criminal history record information. In Virginia this system is the Central Criminal Records Exchange, and will hereafter be referred to as CCRE. The Federal repository for this purpose is the National Crime Information Center which is known as NCIC.
- B. Criminal History Record Information—information collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrest, detentions, indictments, informations, or other formal criminal charges, and any disposition including sentencing, correctional supervision, and release. It does not include fingerprint records to the extent that such information does not indicate involvement of the individual with the criminal justice system. In Virginia it also does not include juvenile record information which is controlled by Section 16.1-226 of the Code of Virginia as amended.
- C. Criminal Justice Agency—a court or any governmental agency which as its principal function performs the administration of criminal justice.
- D. Administration of Criminal Justice—the performance of any detection, apprehension, detention, pretrial release, post trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons, or criminal offenders. Administration of criminal justice shall include criminal identification activities, and the collection, storage, and dissemination of criminal history record information.
- E. Disposition—information that criminal proceedings have been concluded, and the final outcome of that conclusion. Disposition must also include any reasons for indefinite postponement or failure to prosecute.
- F. Nonconviction Data—arrest information without disposition if an interval of one year has elapsed from the date of arrest, and no active prosecution of the charge is pending, or that proceedings have been indefinitely postponed, and any acquittals or dismissals.
- G. Conviction Data—information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.
- H. Direct Access—having the authority to access the criminal history record data base, whether by manual or automated means.
- I. Dissemination—any transfer of information, whether orally, or in writing, or by electronic means. The term does not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to the information.

The Federal Act required that the states submit a plan by 16 March 1976 to insure the completeness and accuracy of criminal history record information. The records must be maintained in a central repository and must contain information of any disposition occurring within the state within ninety days after such disposition. The collection,

entry, storage, audit system, and dissemination must minimize the possibility of inaccurate information. In Virginia this information is stored by the Central Criminal Records Exchange, and the national repository is the National Crime Information Center. When a record check is made through the Virginia Criminal Information Network (VCIN), a query is made of the CORE and NCIC to insure that the most up to date information is being used.

Dissemination of criminal history record information is limited to criminal justice agencies for the purpose of the administration of criminal justice, and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants; individuals or agencies authorized by statute, ordinance, executive order, or court order; individuals or agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement. Individuals or agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; agencies of state or federal government which are authorized by state or federal statute or executive order to conduct investigations determining employment suitability or eligibility for security clearances; individuals and agencies of any political subdivision for the conduct of investigation of applicants for public employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration.

Excluded from the limitations of the dissemination act are posters, lists, or announcements for identifying or apprehending fugitives or wanted persons; original records of entry such as police blotters maintained by criminal justice agencies, compiled chronologically; court records of public criminal proceedings, including published court opinions; records of traffic offenses maintained by the Department of Motor Vehicles for the purpose of regulating the issuance, suspension, or renewal of driver's, pilot's, or other operator's licenses; announcements of executive clemency; information related to an offense for which the individual is currently within the criminal justice system; information for the purpose of international travel visa or granting of citizenship.

It is the responsibility of every criminal justice agency maintaining a criminal justice information system to insure the timeliness and accuracy of the information in the system, and any inaccuracies discovered in the information collected should be corrected, and the agency shall notify all agencies and individuals known to have received the information. There shall be no use or dissemination of criminal history record information by a criminal justice agency until it has been determined to be the most accurate and complete information available.

All criminal history record information shall be disseminated directly or indirectly only in accordance with the provisions of the law. A record is required to be kept of all disseminations as to who the receiving agency or individual was, the date of the dissemination, identifying name or record number of the subject the information concerns, and subsequent disseminations shall be guided by the same rules and guidelines. A non-criminal justice agency or individual shall not disseminate any criminal history record information. The record of any dissemination shall be preserved for a period of not less than three years from the date of dissemination. Prior to any dissemination of a criminal history record, a query should be made to the central repository to insure the most up to date data.

An individual or his attorney, upon proper identification, shall have the right to inspect criminal history record information maintained on that individual for the purpose of determining the accuracy and completeness of such information. This access is limited to criminal history record information as defined, and shall not extend to data contained in intelligence, investigatory, and other related files.

The date for state compliance with the Federal Act was amended on 6 December 1977 extending it to 1 March 1978, and further extensions were granted upon showing the necessity for such extensions. Dissemination of criminal history record information may be performed, but only under the rules and regulations governing such dissemination. Remember, no agency or individual shall confirm or deny the existence or non-existence of criminal history record information to any person or agency that would not be eligible to receive the information itself. Any agency or individual violating these rules and regulations is subject to a fine of up to \$10,000.00, and the Law Enforcement Assistance Administration may initiate fund cut off procedures against the offending agency or state.