

CODE OF FEDERAL REGULATIONS
TITLE 28--JUDICIAL ADMINISTRATION
CHAPTER I--DEPARTMENT OF JUSTICE
PART 20--CRIMINAL JUSTICE INFORMATION SYSTEMS
Subpart A--General Provisions

Sec. 20.3 Definitions. As used in these regulations:

(a) Act means the Omnibus Crime Control and Safe Streets Act, 42 U.S.C. 3701, et seq., as amended.

(b) Administration of criminal justice means 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.

(c) Control Terminal Agency means a duly authorized state, foreign, or international criminal justice agency with direct access to the National Crime Information Center telecommunications network providing statewide (or equivalent) service to its criminal justice users with respect to the various systems managed by the FBI CJIS Division.

(d) Criminal history record information means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, 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.

(e) Criminal history record information system means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information.

(f) Criminal history record repository means the state agency designated by the governor or other appropriate executive official or the legislature to perform centralized recordkeeping functions for criminal history records and services in the state.

(g) Criminal justice agency means:

(1) Courts; and

(2) 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. State and federal Inspector General Offices are included.

(h) Direct access means having the authority to access systems managed by the FBI CJIS Division, whether by manual or automated methods, not requiring the assistance of or intervention by any other party or agency.

(i) Disposition means information disclosing that criminal proceedings have been concluded and the nature of the termination, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings; or disclosing that proceedings have been indefinitely postponed and the reason for such postponement. Dispositions shall include, but shall not be limited to, acquittal, acquittal by reason of insanity, acquittal by reason of mental incompetence, case continued without finding, charge dismissed, charge dismissed due to insanity, charge dismissed due to mental incompetency, charge still pending due to insanity, charge still pending due to mental incompetence, guilty plea, nolle prosequi, no paper, nolo contendere plea, convicted, youthful offender determination, deceased, deferred disposition, dismissed-civil action, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial- defendant discharged, executive clemency, placed on probation, paroled, or released from correctional supervision.

(j) Executive order means an order of the President of the United States or the Chief Executive of a state that has the force of law and that is published in a manner permitting regular public access.

(k) Federal Service Coordinator means a non-Control Terminal Agency that has a direct telecommunications line to the National Crime Information Center network.

(l) Fingerprint Identification Records System or ``FIRS'' means the following FBI records: Criminal fingerprints and/or related criminal justice information submitted by authorized agencies having criminal justice responsibilities; civil fingerprints submitted by federal agencies and civil fingerprints submitted by persons desiring to have their fingerprints placed on record for personal identification purposes; identification records, sometimes referred to as ``rap sheets,'' which are compilations of criminal history record information pertaining to individuals who have criminal fingerprints maintained in the FIRS; and a name index pertaining to all individuals whose fingerprints are maintained in the FIRS. See the FIRS Privacy Act System Notice periodically published in the Federal Register for further details.

(m) Interstate Identification Index System or ``III System'' means 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.

(n) National Crime Information Center or ``NCIC'' means 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.

(o) National Fingerprint File or ``NFF'' means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(p) National Identification Index or ``NII'' means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

(q) Nonconviction data means 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; information disclosing that the police have elected not to refer a matter to a prosecutor, that a prosecutor has elected not to commence criminal proceedings, or that proceedings have been indefinitely postponed; and information that there has been an acquittal or a dismissal.

(r) State means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(s) Statute means an Act of Congress or of a state legislature or a provision of the Constitution of the United States or of a state. [Order No. 2258-99, 64 FR 52226, Sept. 28, 1999] [[Page 392]]

CODE OF FEDERAL REGULATIONS
TITLE 28--JUDICIAL ADMINISTRATION
CHAPTER I--DEPARTMENT OF JUSTICE
PART 20--CRIMINAL JUSTICE INFORMATION SYSTEMS
Subpart C--Federal Systems and Exchange of
Criminal History Record Information

Sec. 20.33 Dissemination of criminal history record information.

(a) Criminal history record information contained in the III System and the FIRS may be made available:

- (1) To criminal justice agencies for criminal justice purposes, which purposes include the screening of employees or applicants for employment hired by criminal justice agencies;
- (2) To federal agencies authorized to receive it pursuant to federal statute or Executive order;
- (3) For use in connection with licensing or employment, pursuant to Public Law 92-544, 86 Stat. 1115, or other federal legislation, and for other uses for which dissemination is authorized by federal law. Refer to Sec. 50.12 of this chapter for dissemination guidelines relating to requests processed under this paragraph;
- (4) For issuance of press releases and publicity designed to effect the apprehension of wanted persons in connection with serious or significant offenses;
- (5) To criminal justice agencies for the conduct of background checks under the National Instant Criminal Background Check System (NICS);
- (6) To noncriminal justice governmental agencies performing criminal justice dispatching functions or data processing/ information services for criminal justice agencies; and
- (7) To private contractors pursuant to a specific agreement with an agency identified in paragraphs (a)(1) or (a)(6) of this section and for the purpose of providing services for the administration of criminal justice pursuant to that agreement. The agreement must incorporate a security addendum approved by the Attorney General of the United States, which shall specifically authorize access to criminal history record information, limit the use of the information to the purposes for which it is provided, ensure the security and confidentiality of the information consistent with these regulations, provide for sanctions, and contain such other provisions as the Attorney General may require. The power and authority of the Attorney General hereunder shall be exercised by the FBI Director (or the Director's designee).

(b) The exchange of criminal history record information authorized by paragraph (a) of this section is subject to cancellation if dissemination is made outside the receiving departments, related agencies, or service providers identified in paragraphs (a)(6) and (a)(7) of this section.

(c) Nothing in these regulations prevents a criminal justice agency from disclosing to the public factual information concerning the status of an investigation, the apprehension, arrest, release, or prosecution of an individual, the adjudication of charges, or the correctional status of an individual, which is reasonably contemporaneous with the event to which the information relates.

(d) Criminal history records received from the III System or the FIRS shall be used only for the purpose requested and a current record should be requested when needed for a subsequent authorized use.

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PART 20--CRIMINAL JUSTICE INFORMATION SYSTEMS
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Sec. 20.38 Sanction for noncompliance.

Access to systems managed or maintained by the FBI is subject to cancellation in regard to any agency or entity that fails to comply with the provisions of subpart C of this part.