



Alexandria Police Department
Directive 3.6A



SECURITY OF ARREST RECORDS

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3.6A.01	POLICY/PURPOSE
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The purpose of this directive is to establish procedures for the maintenance and dissemination of criminal history information. These procedures are implemented in accordance with the rules and regulations of the Criminal Justice Services Board of the Commonwealth of Virginia, which relate to criminal history record information.

3.6A.02	AUTHORITY
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The Criminal Justice Services Board has made rules and regulations covering the security and privacy of criminal history record information. These rules also cover the area where any criminal history record information is collected, stored, processed, or disseminated. The authority of the Board to establish these rules is found in Code of Virginia § 9.1-100 and 9.1-102. Violations of these rules may be considered a class 2 misdemeanor, under Code of Virginia § 9.1-136.

3.6A.03 DEFINITIONS

Board - the Criminal Justice Services Board.

Central Criminal Records Exchange (CCRE) - the repository in this Commonwealth which receives, identifies, maintains and disseminates individual criminal history records, in accordance with Code of Virginia § 19.2-389.

Conviction Data - information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising there from, in any court.

Correctional Status Information - records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

Criminal History Record Information - records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising there from. The term does not include juvenile record information which is controlled by Code of Virginia §16.1-222 criminal justice intelligence information, criminal justice investigative information, or correctional status information.

Criminal History Record Information Area - any location in which criminal history record information is collected, stored, processed or disseminated.

Criminal Justice Agency - a court or any other governmental agency or sub-unit thereof which as its principal function performs the administration of criminal justice and any other agency or sub-unit thereof which performs criminal justice activities.

Comprehensive Justice Information System - a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

Dissemination - any transfer of information, whether orally, in writing, or by electronic means. The term does not include access to the information by employees of a criminal justice agency maintaining the information that have both a need and right to the information.

Expungement - the process of removing arrest information from routine access and physically securing it to prevent inspection.

3.6A.04 APPLICABILITY

- A. These rules and regulations are applicable to original and/or copies, manual or automated criminal history records information which are used, collected, stored or disseminated by a criminal justice agency of the Commonwealth, its political sub-divisions, and the United States or another State or its political sub-divisions which exchange such information with any agency of the Commonwealth or political sub-divisions but only to the extent of that exchange. Further, these rules apply to non-criminal justice agencies or individuals that are eligible under the provisions of law to receive such limited criminal history record information.
- B. The provisions of these rules and regulations do not apply to the original or copied records of entry, such as police blotters maintained by a criminal justice agency on a chronological basis and permitted to be made public, if such records are not indexed or accessible by name; court records of public criminal proceedings, including opinions and published compilations thereof; records of traffic offenses disseminated to or maintained by the Division of Motor Vehicles for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' or other operators' licenses; statistical or analytical records or reports in which individuals are not identified and from which their identities are not ascertainable; announcements of executive clemency; posters, announcements, or lists for identifying or apprehending fugitives or wanted persons; criminal justice intelligence information; or criminal justice investigative information.
- C. Nothing in these rules and regulations will be construed as prohibiting 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 related to the offense for which the individual is currently within the criminal justice system.
- D. Criminal justice agencies may charge a reasonable fee for search and copying time expended when a non-criminal justice agency or individual requests dissemination of criminal history record information. The criminal justice agency will post the schedule of fees to be charged, and will obtain approval from the requester to pay such costs prior to initiating the search.

3.6A.05 DISSEMINATION**[82.1.1]**

- A. All criminal history record information will be disseminated directly or indirectly through an intermediary only in accordance with the provisions of *Code of Virginia* § 19.2-389.

- B. No criminal history record information will be disseminated beyond this Department unless a Criminal Record Request (Form APD-0044) is completed by an individual authorized to receive such information by Code of Virginia § 19.2-389. A copy of the APD-0044 will be filed alphabetically in Information Services Section (ISS) for a period of not less than two (2) years.
- C. If it is determined that an agency or individual to which criminal history record information has been disseminated has further disseminated that information in violation of law, the employee of this Department making the determination will promptly make a report of the alleged violation to the Department of Criminal Justice Services, through official police channels.
- D. Code of Virginia § 9.1-136 states: “Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information to any agency or person in violation of this article or Code of Virginia §19.2-387, shall be guilty of a class 2 misdemeanor.”
- E. Code of Virginia § 9.1-135 provides that any person may initiate civil action whenever a violation of Code of Virginia § 19.2-387 is alleged, for actual damages or to restrain any violation thereof, or both.
- F. Only employees of this Department with a “need to know” will review criminal history record information. Authorized Information Services Section staff may provide criminal history information to sworn police officers of this police Department upon request. All other requests by Department employees for criminal history information must be accompanied by a completed Criminal Record Request (CRR) form, approved by the supervisor of the requesting employee. If approved, the supervisor will place their initials and serial number in the upper right hand corner of the form. Criminal Record Request forms will be processed and maintained in the Information Services Section in accordance with applicable Virginia State Police and Department of Criminal Justice Services rules and regulations.
- G. No employee will confirm or deny the existence of criminal history record information except to criminal justice agencies, or to non-criminal justice agencies authorized by law or executive order.
- H. Prior to any dissemination to private individuals of their own criminal history records, a query will be made in the Alexandria Justice Information System (AJIS). A wanted query only will be made through the Virginia Criminal Information Network/National Crime Information Center (VCIN/NCIC). The employee disseminating the information must ensure that it is the most accurate and complete information available.

- I. No criminal history record information will be disseminated to any non-criminal justice agency not authorized by law or executive order of the president or governor. No criminal history record information will be disseminated *for* non-criminal justice purposes if the arrest occurred more than one (1) year prior to the date of dissemination and the court disposition is not known.
- J. The Department of Social Services is permitted to obtain Criminal History Record Information from the Central Criminal Records Exchange through the VCIN System, from Virginia law enforcement agencies, for the emergency placement of foster children. (Code of Virginia § 63.2-901.1.)
 1. The procedure to be followed in these cases is:
 - a. The officer on the scene will obtain the information on the subject(s) to be checked, from the assigned Social Worker and phone ISS.
 - b. The information can be given to any ISS employee, who will conduct a criminal history check thru VCIN.
 - c. The information obtained will then be released on the Criminal Record Request (Form APD-0044) to the Social Worker handling the emergency placement.
- K. *Police employees shall not disseminate any information concerning cases involving juveniles suspects or arrestees to the public or any public agency or private entity except as outlined below:*
 1. *The Chief of Police or his designee may disclose information to a school principal if the juvenile is 14 years of age or older and a suspect in or charged with a violent juvenile felony, as specified in subsections B and C of Virginia Code §16.1-269.1;*
 2. *By court order;*
 3. *To the officers of public and nongovernmental institutions or agencies to which the juvenile is currently committed and to those responsible for the juveniles' supervision after his release;*
 4. *To juvenile probation or court staff;*
 5. *To local, state or federal law enforcement agencies for current investigation purposes only;*
 6. *The Virginia Workers' Compensation Commission (Virginia Code §16.1-301).*

3.6A.06 EXPUNGEMENT

- A. Records are expunged by court order.
- B. In the event of an expungement order, records of the arrest will be placed in an envelope and sealed. These records include the Arrest Card (APD-1), CCRE Arrest Report, fingerprint cards, photos, LEIS information and other documents that indicate that the arrest took place.

- C. The ISS commander or his/her designee will make a copy of the original offense report (APD-7) and supplement(s). This copy will be reviewed and any references to the individual arrested, to include name, social security number, driver's license information, etc., will be "blacked out." A copy will then be made of this copy and placed back in the files in ISS. The first copy made will be placed in the envelope to be sealed.
- D. The original APD-7 and supplement(s) will be placed in the envelope that is to be sealed.
- E. This envelope will be placed in a locked file in the Information Services Section.
- F. No one will, under any circumstances whatsoever, review or disclose any information from such sealed record without an order from the court that ordered the record expunged. Violation of this provision, Code of Virginia §19.2-392.3, is a class 1 misdemeanor.

3.6A.07 PHYSICAL SECURITY**[82.1.1]**

- A. Access to any area in which criminal history record information is collected, stored, processed or disseminated will be limited to authorized employees. Only those employees assigned to duty in the affected unit, supervisors, those authorized in writing by the police chief or those escorted by employees assigned to the unit, will access the files in areas where criminal history records are stored:
 - 1. Information Services Section;
 - 2. Crime Scene Investigations Section;
 - 3. Criminal Investigations Sections ;
 - 4. Vice/Narcotics Section;
 - 5. Personnel and Training;
 - 6. Hack Inspector's Office;
 - 7. Department of Emergency Communications (DEC); and
 - 8. Any other location where such information may be stored.
- B. Whenever any of the areas mentioned in 3.6A.07 (A), above are left unattended, all doors and windows will be locked. There can be no exceptions to this rule, regardless of the brevity of the unattended period.

- C. Whenever a VCIN terminal with CCH capability in ISS or DEC is to be left unattended, even for a short period of time, a message must be sent to State Police headquarters requesting that the terminal be rendered inoperative for that period of time.

3.6A.08 REVIEW AND CHALLENGE**A. Review**

1. Individuals or their attorneys, upon proper identification, may inspect any criminal history record information maintained on them by this Department. All such requests will be handled by the Information Services Section.
2. Prior to any such inspection, the Information Services supervisor may request a verification of the individual's identity through the furnishing by the individual of a set of inked fingerprints.
3. At a minimum, for inspection of a record maintained by this Department, verification of identity will be of the type(s) designated by the Virginia Department of Criminal Justice Services (DCJS).

B. Challenge

1. All requests to challenge a criminal history record will be referred to Information Services.
2. In the event an error is detected, all known copies of the record will be corrected. The Information Services Commander will notify, in writing, all agencies and individuals that have received the record, of the correction. The Commander will also, upon request, give the individual or his or her attorney, a list of all non-criminal justice agencies to whom data has been furnished.
3. Upon request, as in 3.6A.05.A above, an individual will be given a copy of any conviction data.
4. Criminal histories will be provided, for a fee, to individuals who live, have lived, or are seeking housing in Alexandria, who have been arrested in Alexandria, who are currently employed or who are seeking employment in Alexandria.

3.6A.09 DISSEMINATION OF CONVICTION DATA TO EMPLOYERS

- A. With the exception of criminal justice agencies, requests for criminal history record information by prospective employers, except those specifically authorized by law or executive order, may be honored by Information Services subject to the following conditions:

1. The subject lives (or lived) in the city of Alexandria, or seeks employment or housing in Alexandria, or has been arrested in Alexandria.
2. The prospective employer must furnish Information Services with a signed, notarized statement from the individual concerned, authorizing the employer to receive the records.
3. For records of offenses outside the city of Alexandria, the request will be referred to the appropriate jurisdiction or to CCRE, without confirming or denying the existence of a record.
4. Appropriate fees will be assessed.

3.6A.10 RESPONSIBILITIES

- A. All personnel dealing with criminal history record information will be responsible for ensuring that a Criminal Record Request (Form APD-0044) is completed whenever any such information is disseminated beyond this Department.
- B. All supervisors will ensure that adequate safeguards are established and maintained to provide maximum security of criminal history record information. They will not permit unauthorized persons to enter the areas where such information is stored, collected, or processed.
- C. The ISS Commander will ensure that CCH inquiries are processed in accordance with State regulations. The Commander will maintain files of the Criminal Record Request (APD-044) forms as required.

By Authority Of:

**Earl L. Cook
Chief of Police**