

10/13/86

1149

OREGON CRIMINAL OFFENDER INFORMATION SYSTEM

COMPUTERIZED CRIMINAL HISTORY (CCH) FILE

AGENCY AGREEMENT

CITY OF NEWBERG
CITY RECORDER INDEX NO. 1149

This agreement is by and between the Oregon State Police, hereinafter referred to as OSP and the Newberg City Attorney, hereinafter referred to as the Agency.

Under the terms of this agreement, the Agency warrants that it is a Criminal Justice Agency as defined by subsection (9) of ORS 181.010.

Under the terms of this agreement, the OSP will disseminate to the Agency all significant criminal offender information, contributed by Criminal Justice Agencies, as is available in the OSP CCH files.

The Agency further agrees:

1. To abide by all published rules, policies, and procedures promulgated by the OSP governing the administration and operation of the Oregon Criminal Offender Information System and/or the Federal Bureau of Investigation, National Crime Information Center, Criminal Offender Record Program.
2. That it is warranted that all personnel have or will be, so screened as to prohibit access to any CCH records by persons so restricted in the following section 3, including any person who has other than restricted or escorted access to such information.
3. That no person who has been convicted of a crime which could have resulted in a sentence to a federal or state penitentiary will be allowed to operate a terminal accessing CCH files or otherwise have access to criminal offender information, and that requests for extraordinary circumstance exceptions to this requirement will be promptly submitted, in writing, to the Superintendent of the OSP.
4. That criminal offender information received from OSP will not be used for any purpose other than that for which it was obtained, will not be disseminated to unauthorized persons or agencies, and will be maintained in secure files until destroyed by burning or shredding.
5. That it will, to the maximum extent feasible, promptly furnish to OSP all Agency information necessary to ensure that all Criminal Offender Information contained in the CCH file is kept as complete and current as possible.

6. That Originating Agency Identification Number (ORI) OR036011A will be used when accessing criminal offender information.
7. That criminal offender information will be furnished to the Agency concerning persons under consideration for, or subject to, criminal prosecution by the Agency.
8. That criminal offender information will only be requested by the Agency when exercising it's criminal prosecutive functions.

All parties mutually agree that:

- A. Violation of any provisions of this agreement, including attachments, executive orders, published rules, policies, or procedures promulgated by the OSP governing the operation of the Oregon Criminal Offender Information System and /or the FBI/NCIC Criminal Offender Record Program, may cause immediate suspension of the Agency's authorization to access such information. Reinstatement will be effected only upon demonstration by the Agency that the cause of such violation has been corrected. Final determination as to the reinstatement of any Agency so suspended will be the responsibility of the OSP.
- B. Any contested action relating to this agreement will be conducted under provisions of the Administrative Procedures Act, ORS Chapter 183.
- C. This agreement will expire thirty (30) days after the Agency official signing below no longer holds the described office. A new CCH Agency Agreement must be executed with the OSP by the new Agency official within the above thirty (30) day period to avoid interruption in accessing CCH information.
- D. This agreement may be cancelled by any party hereto, upon thirty (30) days notice in writing, directed to all parties subscribing hereto:

OREGON STATE POLICE
BUREAU OF CRIMINAL IDENTIFICATION

OFFICIAL John R. Ritter

TITLE Director

SIGNATURE John R. Ritter

DATE 9-25-86

AGENCY

OFFICIAL Terrence D. Mahr

TITLE City Attorney

SIGNATURE _____

DATE _____

OREGON ADMINISTRATIVE RULES
CHAPTER 257, DIVISION 10 — OREGON STATE POLICE

(a) **NCIC Control Terminal Responsibility.** LEDS is the "state control terminal" for the NCIC interface to Oregon and is responsible for assuring that all policies and rules for access to the Oregon or the NCIC-CCH System are adhered to by Oregon user agencies.

(b) **System Development and Operation.** LEDS is responsible for providing the computer hardware and software capabilities necessary to insure that efficient processing and integrity of the information stored in the Oregon CCH System and for interfacing to the NCIC-CCH System.

(c) **Physical Security of Computer Installation.** LEDS is responsible for development and implementation of policies and procedures to safeguard the CCH information at the central computer site from accidental or malicious damage or unauthorized access or use.

(d) **Audit and Inspection of the User Agencies.** LEDS is responsible for periodically auditing and inspecting each terminal location accessing CCH or the FBI NCIC-CCH to insure compliance with the published rules, policies, and procedures.

CCH terminal transaction records will be maintained at and by LEDS and will be made available to participating Criminal Justice Agencies.

Stat. Auth.: ORS Ch. 181

Hist: DSP 2, f. 6-14-74, ef. 7-11-74, DSP 4, f. 4-22-76, ef. 4-30-76

Access To and Use of Criminal Offender Information

257-10-025 (1) Access to OSP Criminal Offender information by any means shall be limited to:

(a) **Criminal Justice Agencies,** where the information is to be used for criminal justice purposes or criminal justice agency employment.

(b) **Other state and local agencies upon Executive Order of the Governor,** where the information is required to implement a Federal or State Statute or Executive Order that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct.

(c) **A person or agency not defined as a criminal justice agency has access only through the OSP Bureau pursuant to ORS 181.555.** The request must be submitted in writing and may be hand carried or mailed to the OSP Bureau of Criminal Identification. A fee of \$10 will be charged for each check and must be submitted with the request. Checks are to be made payable to the Oregon State Police. Inquiries are to be addressed to Oregon State Police, 107 Public Service Building, Salem, OR 97310, Attention: Bureau of Criminal Identification.

(d) **The requesting party must furnish OSP with sufficient information to assist identifying and notifying the individual of interest.** If the information is sought for employment purposes the requestor must state on the written request that the individual has been so advised and the manner in which the individual was so advised.

(e) **The individual of record will be advised by letter that he/she is allowed to review his/her criminal history for inaccurate or incomplete information.** They will also be advised that they may become informed of certain rights under Title VII of the Civil Rights Act of 1964 by contacting the Bureau of Labor and Industries.

(f) **If a challenge is received prior to the end of the statutory 14 day waiting period, response to the requestor will be held in abeyance until the challenge is resolved.**

(g) **OSP will respond to all requests and furnish Oregon conviction information and any arrest information less than one year old on which there has been no acquittal or dismissal.** If the compiled information does not meet the above criteria or there is no record of the subject OSP will reply to the requestor that there is no criminal record. A receipt for the fee will be furnished to the requestor along with the response.

(2) **Access to CCH information by means of terminals shall be limited to authorized Criminal Justice Agencies using their agency identification number (ORI).**

(3) **Inquiries for nonofficial purposes or the checking of records for unauthorized persons or agencies outside the Criminal Justice community is prohibited.**

(4) **Criminal Offender information may be furnished only to authorized agency employees and no person who has been convicted of a crime which could have resulted in a sentence to a Federal or State Penitentiary will be allowed to operate a terminal accessing CCH information or have access to Criminal Offender information.**

Exceptions to this rule may be made in extraordinary circumstances upon written application to the Superintendent of the Oregon State Police setting forth such circumstances. The Superintendent of the OSP will maintain a central file where such exception authorization shall be filed.

(5) **Screening of Criminal Justice Agency and Regional Criminal Justice information system employees who have access to CCH or Criminal Offender Information records is the responsibility of the employing agency.**

(6) **Any Criminal Justice Agency obtaining Criminal Offender information or NCIC-CCH information, either directly through that agency's terminals, or through the terminal of another Criminal Justice Agency, must have executed a written agreement with the OSP prior to such access.**

(7) **Security of Terminals.** Any terminal with CCH accessing capability must be physically secure and placed in a location not available to unauthorized persons. Terminals must be so placed that unauthorized persons may not observe the content of messages transmitted or received on such terminal.

(8) **Security of Criminal Offender Information Records.** Any Criminal Justice Agency obtaining Criminal Offender information shall maintain those records in secure files until they are destroyed by burning or shredding, and shall treat those records in such a manner that the record does not become public information in any later proceeding, except through court order or as otherwise provided by law.

(9) **Radio Transmission.** Any radio transmission of Criminal Offender Information records shall be limited to essential details only, with information identifying individuals and offenses concealed insofar as possible. Plain text transmission of an entire (summary or full CCH) record is prohibited.

Stat. Auth.: ORS Ch. 181

Hist: DSP 2, f. 6-14-74, ef. 7-11-74; DSP 4, f. 4-22-76, ef. 4-30-76; DSP 1-1981, f. & ef. 5-1-81; DSP 3-1981, f. 10-30-81, ef. 11-1-81; DSP 1-1982, f. 3-12-82, ef. 3-15-82

Criminal Justice Research and Evaluation Projects

257-10-030 Criminal Offender information will be made available to qualified persons for research and evaluation related to criminal justice activity, or in exigent circumstances for temporary access, upon written application to the Superintendent of the Oregon State Police but authorization to utilize such information will be conditioned upon:

(1) **The execution of nondisclosure agreements by all participants in the program.**

(2) **When such qualified persons acknowledge a fundamental commitment to respect individual privacy interests with the identification of subjects of such information divorced as fully as possible from the data received, and agree to comply with any additional requirements and conditions found necessary to assure the protection of personal privacy and system security interests.**

(3) **When a specific agreement is executed between such qualified persons and the OSP, the agreement stating the scope**

OREGON ADMINISTRATIVE RULES
CHAPTER 257, DIVISION 10 — OREGON STATE POLICE

DIVISION 10

**OREGON CRIMINAL OFFENDER
INFORMATION SYSTEM**

Scope of System

257-10-010 (1) Rules adopted herein relate solely to the Oregon Criminal Offender Information System as maintained by the Oregon State Police. The rules do not affect in any way other agencies' original records of arrest, arrest logs, or reports of crimes available for inspection under terms of the Oregon Public Records Law (ORS 192.410 to 192.500).

(2) Oregon Criminal Offender Information files contain information, contributed by Criminal Justice Agencies, on a person's record of arrests, the nature and disposition of criminal charges, sentencing, confinement, and release, plus identifying data only relating to fingerprints of applicants submitted under Oregon Law. These files shall not permanently contain information about the political, religious, or social views, associations, or activities of any individual, group, association, corporation, business, or partnership unless such information directly relates to an investigation of past or threatened criminal acts or activities and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal acts or activities.

(3) The Oregon CCH System is a computerization of essentially the same criminal offender information, and is maintained by the OSP under provisions of Oregon Law. Computerization of the manually accessed paper file is designed to provide faster access to criminal offender information for Oregon Criminal Justice Agencies.

Stat. Auth.: ORS Ch. 181

Hist: DSP 2, f. 6-14-74, ef. 7-11-74; DSP 4, f. 4-22-76, ef. 4-30-76

Definitions

257-10-015 As used in these rules:

(1) "Criminal Offender Information" means records and related data, including fingerprints, received, compiled, and disseminated by the Oregon State Police for purposes of identifying criminal offenders and alleged offenders and maintained as to such persons' records of arrest, the nature and disposition of criminal charges, sentencing, confinement and release, and includes the OSP Computerized Criminal History System.

(2) "Computerized Criminal History (CCH) System" means the maintenance in online computer files of significant criminal offender information.

(3) "OSP" means the Oregon State Police and includes the OSP Bureau of Criminal Identification.

(4) "LEDS" means the Oregon Law Enforcement Data System.

(5) "Oregon CCH System" means the Oregon Computerized Criminal History System.

(6) "NCIC-CCH System" means the national computerized criminal history system maintained and operated by the FBI.

(7) "Interstate System" means the NCIC-CCH system and the network of participating states and agencies.

(8) "Criminal Justice Agency" means:

- (a) The Governor
- (b) Courts of Criminal Jurisdiction
- (c) The Attorney General
- (d) District Attorneys
- (e) City Attorneys with criminal prosecutive functions
- (f) Public Defenders
- (g) Law Enforcement Agencies
- (h) The Corrections Division
- (i) The State Board of Parole, and

(j) Any other state or local agency designated by order of the Governor.

(9) "State Control Terminal" means the agency within each state responsible for the NCIC interface to that state.

(10) "Law Enforcement Agency" means county sheriffs, municipal police departments, State Police, other police officers of this and other states, and law enforcement agencies of the federal government.

Stat. Auth.: ORS Ch. 181 & 183

Hist: DSP 2, f. 6-14-74, ef. 7-11-74; DSP 4, f. 4-22-76, ef. 4-30-76; DSP 1-1981, f. & ef. 5-1-81; DSP 3-1981, f. 10-30-81, ef. 11-1-81

System Responsibilities

257-10-020 (1) Oregon State Police:

(a) Maintenance and Dissemination of Criminal Offender Information. The Oregon State Police has statutory and administrative responsibility for the maintenance and dissemination of criminal offender information in Oregon.

(b) Accuracy and Completeness of Information. Information entered into Criminal Offender Information files is based on written documents submitted to the OSP by Criminal Justice Agencies reporting their record of official action, which documents contain fingerprint or other verification as to the identity of the individual to whom the information refers:

(A) OSP is responsible for the accuracy and completeness of information entered into the Oregon Criminal Offender Information System and any information subsequently transmitted for inclusion in the NCIC-CCH System.

(B) This responsibility extends only to information contained in the documents as submitted to OSP.

(c) Removal of Information. OSP is responsible for removal of information from the Oregon Criminal Offender Information and the NCIC-CCH System where required by law or court order. In the event the OSP discovers there has been an erroneous entry in criminal offender information records maintained by it, it shall make a reasonable effort to notify any recipient person or agency known to have received such information within a reasonable period preceding discovery of the error, of the fact of such error and of the correct information. Any such erroneous or inaccurate information shall be purged from the record and replaced by the correct information.

(d) Entry of Information. Only terminals located at OSP or others designated by the Superintendent of the OSP are allowed to enter records into the Oregon system or to change existing records.

(e) Information to Qualified Criminal Justice Agencies. OSP is responsible for providing Criminal Offender information to qualified Criminal Justice Agencies. Such information will be furnished, after proper inquiry, in either computerized form, via LEDS or document form.

(f) Development of Operational Procedures. OSP is responsible for development of operational procedures to be followed by Criminal Justice Agencies having access to Oregon Criminal Offender Information and NCIC-CCH files.

(g) All Criminal Offender information distributed by the OSP shall contain a notice in writing in substantially the following language: "All persons are advised that the information contained in this report can only be considered accurate for a period of six months from the date of this report. For accurate information, new inquiry must be made".

All agencies shall insofar as is feasible, taking into consideration the then existing capability of the OSP to respond, request and obtain a current criminal offender information record when that record is to be disseminated outside that agency.

(2) Law Enforcement Data System — Executive Department:

OREGON ADMINISTRATIVE RULES
CHAPTER 257, DIVISION 10 — OREGON STATE POLICE

of the project, the permissible dissemination of information for any purpose other than that for which it was obtained.

(4) Where temporary access is authorized by the Superintendent of the OSP, he shall report the reasons for such temporary grant to the Governor. No temporary grant of access shall be valid for more than 30 days.

(5) OSP and LEDS will retain the right to monitor and audit any approved criminal justice research and evaluation project and to terminate access to CCH or Criminal Offender information if a violation of this rule is detected.

Stat. Auth.: ORS Ch. 181

Hist: DSP 2, f. 6-14-74, ef. 7-11-74; DSP 4, f. 4-22-76, ef. 4-30-76; DPS 1-1981, f. & ef. 5-1-81

Access by Individuals for Purpose of Review and/or Challenge

257-10-035 (1) Any individual desiring to review information concerning himself maintained in the OSP Criminal Offender Record System, or who believes that the information as maintained is inaccurate, incomplete, or maintained in violation of any State or Federal statute or act, shall be entitled to review such information and obtain a copy thereof for the purpose of challenge or correction. The OSP shall not charge an individual for a reasonable request to provide him with a copy of Criminal Offender information which refers to him.

(2) Verification of such individual's identity may only be effected through submission, in writing, of name, date of birth, and a set of rolled ink fingerprints to the Oregon State Police. The request for review may be made at the General Headquarters of the Oregon State Police, Salem, Oregon, or through any Oregon Criminal Justice Agency. The OSP may prescribe reasonable hours and places of inspection.

If the request is made at other than the General Headquarters of the Oregon State Police and, after positive identification by the OSP of the fingerprints submitted, copy of the record, along with the fingerprints submitted for that purpose, will be forwarded to the Criminal Justice Agency to whom the request was made.

(3) Upon receipt of such record that agency shall furnish same to the individual named in the record and at the same time return to that individual the fingerprints submitted for positive identification.

(4) All data included in the Criminal Offender information record is obtained from contributing Criminal Justice Agencies. If after review of the information concerning himself as maintained in such record, the individual believes that it is incomplete or incorrect in any respect and wishes changes, corrections, or updating of the alleged deficiency, he must make application directly to the contributor of the questioned information, requesting the appropriate agency to correct it in accordance with its respective administrative rules and procedures. Upon receipt of an official communication directly from the agency which contributed the original information, the OSP will make any changes necessary in accordance with the information supplied by the agency.

(5) Any individual whose record is not removed, modified, or corrected as he may request, following refusal by the agency originally contributing such information, may proceed under the provisions of Rules 30.00 to 30.80 of the Attorney General's Model Rules of Practice and Procedures under the Administrative Procedure Act, relating to contested cases and judicial review.

After conclusion of such procedure or review, any information found to be inaccurate, incomplete, or improperly maintained, shall be removed from the individual's record and the originating agency so notified with copy of the record as corrected being furnished to the challenging individual.

(6) Any Criminal Justice Agency receiving a record after such notice of contested case has been filed and prior to final determination, shall be notified by the OSP that the record is being challenged.

Stat. Auth.: ORS Ch. 181

Hist: DSP 2, f. 6-14-74, ef. 7-11-74; DSP 4, f. 4-22-76, ef. 4-30-76

Annual Audits

257-10-040 At least once annually, the Governor shall cause to be conducted a random audit of the practices and procedures of the OSP and LEDS concerning information collected and disseminated pursuant to Executive Orders 74-6 and 75-23 and these rules to insure compliance with the requirements and restrictions set forth.

Stat. Auth.: ORS Ch. 181

Hist: DSP 2, f. 6-14-74, ef. 7-11-74; DSP 4, f. 4-22-76, ef. 4-30-76

Violation of Rules

257-10-045 (1) Willful violation of published rules relating to Criminal Offender Information record by any authorized agency or employee may result in immediate termination of such agency's right to receive such information from the Oregon System and/or the NCIC-CCH System.

(2) Reinstatement will be effected only upon demonstration by the Agency that the cause of such violation has been corrected. Final determination as to the reinstatement of any agency so terminated will be the responsibility of the OSP.

Stat. Auth.: ORS Ch. 181

Hist: DSP 2, f. 6-14-74, ef. 7-11-74; DSP 4, f. 4-22-76, ef. 4-30-76

Rights of Appeal

257-10-050 A Criminal Justice Agency or employee desiring to appeal any action, order, or administrative ruling by the OSP or LEDS may proceed under the provisions of Rules 30.00 to 30.80 of the Attorney General's Model Rules of Practice and Procedures under the Administrative Procedure Act relating to contested cases and judicial review.

Stat. Auth.: ORS Ch. 181

Hist: DSP 2, f. 6-14-74, ef. 7-11-74; DSP 4, f. 4-22-76, ef. 4-30-76