

DEPARTMENT OF STATE POLICE

CRIMINAL RECORDS DIVISION

CRIMINAL JUSTICE INFORMATION SYSTEMS

(By authority conferred on the Department of State Police by 1974 PA 163, MCL 28.214, and Executive Reorganization Order No. 2008-2, MCL 28.162.

PART 1. GENERAL PROVISIONS

R 28.5101 Definitions.

Rule 101. As used in these rules:

- (a) "Administration of criminal justice" means the performance of any of the following activities:
 - (i) Detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.
 - (ii) Identification of criminals.
 - (iii) Collection, storage, and dissemination of criminal justice information.
- (b) "AFIS" means the automated fingerprint identification system maintained and operated by the department.
- (c) "CJIS Information Security Officer" (ISO) means the person designated to administer the LEIN and NCIC information security program. The CJIS ISO is an employee of the CSA. The CJIS ISO serves as the internal and external point of contact for all information security matters and ensures that each agency having access to the LEIN and NCIC system has a security point of contact.
- (d) "CJIS System Agency" (CSA) means the criminal justice agency that has overall responsibility for the administration and usage of the NCIC within a district, state, territory or federal agency as designated by the Federal Bureau of Investigation. The CJIS System Agency for this state is the department.
- (e) "CJIS System Officer" (CSO) means a member of the CJIS System Agency, selected by the head of the CSA, having the responsibility for monitoring system use, enforcing system discipline and security, and ensuring that all users follow operating procedures.
- (f) "Criminal justice agency" means a court or other governmental agency, or any subunit thereof, that engages in the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget for the administration of criminal justice.
- (g) "Criminal justice information" means data (electronic or hard copy) collected by criminal justice agencies that is needed for the performance of their functions as authorized or required by law.
- (h) "Criminal justice information systems" (CJIS) means systems provided by a governmental agency or authorized private entity that store and/or disseminate information used for the administration of criminal justice and public safety.
 - (i) "Department" means the Michigan department of state police.
 - (j) "Law Enforcement Information Network" (LEIN) is the communication network that supplies information sharing for Michigan criminal justice agencies, the portal that links to and provides access to various state and national databases and the hot files.
 - (k) "Michigan Criminal Justice Information Network" (MiCJIN) means the web portal that provides a secure infrastructure with data encryption and single user sign-on and authentication to allow access to a variety of applications.
 - (l) "National crime information center" (NCIC) means the nationwide, computerized information system established as a service to all criminal justice agencies operated by the CJIS division of the Federal Bureau of Investigation (FBI).
 - (m) "Nonpublic information" means information to which access, use, or dissemination is restricted by a Law or rule of this state or of the United States.
 - (n) "Other information systems" are applications, other than LEIN or AFIS, which are accessed through the MiCJIN portal.
 - (o) "Public safety" means the protection of the general population from all manners of significant danger, injury, damage, or harm.

(p) "Public safety agency" means any entity that has a mission of, or assists with, protecting the public from harm and includes, but is not limited to, police, fire, courts, prosecutors, search and rescue, emergency services, and 911 centers.

History: 1981 AACS; 2009 AACS.

R 28.5102 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5103 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5104 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5105 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5106 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5107 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5108 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5109 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5110 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5111 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5112 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5113 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5114 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5115 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5116 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5117 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5118 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5119 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5120 Rescinded.

History: 1981 AACS; 2009 AACS.

PART 2. ACCESS, ELIGIBILITY, AND DATA DISSEMINATION PROVISIONS

R 28.5201 CJIS access.

Rule 201. Access to LEIN, AFIS, and other information systems shall be restricted to the following entities and persons:

- (a) A criminal justice agency.
- (b) A nongovernmental agency that is statutorily vested with arrest powers and whose primary function is the administration of criminal justice.

- (c) A governmental agency with the administration of criminal justice as its primary function and whose governing board has criminal justice agencies as the majority of its members.
- (d) The department of state.
- (e) An agency authorized by statute.
- (f) An agency, entity, or person approved by the CSA/CSO for public safety purposes.
- (2) To qualify for access and use of LEIN, AFIS, and other information systems, an authorized agency, entity, or person shall do all the following:
 - (a) Complete an application and user agreement as required by the department.
 - (b) Submit a security plan to the ISO as required by the department.
 - (c) Participate in audits as required by the department.
 - (d) Complete a management control agreement as required by the department
 - (e) Agree to comply with state and federal statutes, the administrative rules, the Michigan and Federal CJIS security policies and the procedures outlined in the LEIN operations manual.
- (3) Agencies shall notify the department in writing before any changes affecting access to LEIN, AFIS, or other information systems.

History: 1981 AACS; 2009 AACS.

R 28.5202 NCIC access; authorized agencies.

Rule 202. Access to NCIC shall be restricted to agencies approved by the appropriate federal agency and the CSA/CSO.

History: 1981 AACS; 2009 AACS.

R 28.5203 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5204 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5205 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5206 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5207 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5208 LEIN, AFIS, and other information systems; use and dissemination.

Rule 208. (1) Criminal justice agencies who create, store, or maintain criminal justice information are considered the owners of those records and maintain all the rights and responsibilities of ownership of those records.

(2) Agencies who access LEIN, AFIS, or other information systems shall comply with these rules.

(3) LEIN, AFIS, or other information systems shall only be used for the administration of criminal justice or public safety purposes.

(4) Except as permitted in these rules or if authorized by statute, information from LEIN, AFIS, or other information systems shall not be disseminated to an unauthorized agency, entity, or person.

(5) A person shall not access, use, or disclose information from LEIN, AFIS, or other information systems for personal use or gain.

(6) The CSA/CSO may limit or terminate access to LEIN, AFIS, or other information systems for failure to cooperate with a request for investigation of misuse of LEIN, AFIS, or other information systems.

(7) Nonpublic information may be released for public safety purposes consistent with these rules and applicable laws.

History: 1981 AACS; 2009 AACS.

R 28.5209 Audit information; dissemination

Rule 209. A user agency's message transactions may be released to another agency under any of the following conditions:

(a) Upon written request from a local, county, state, or federal prosecuting attorney who shall specify that the information required is for a valid criminal justice purpose.

(b) A search warrant or subpoena authorized by a judge.

(c) Upon approval of the agency which initiated the messages.

(d) The CSO may release audit information to facilitate investigations of misuse.

(2) A user agency's message transactions may be released for noncriminal justice purposes if either of the following conditions is satisfied:

(a) The records are essential to issues raised in an administrative hearing related to the misuse of LEIN, AFIS, or other information systems.

(b) The records are essential information in a civil action to demonstrate the accuracy of LEIN, AFIS, or other information systems, and the records are sought pursuant to a valid court order.

(c) In either subdivision (a) or (b) of this subrule, the person requesting the information must agree to limit dissemination of information from LEIN, AFIS, or other information systems for the purposes of the hearing or civil action.

History: 1981 AACS; 2009 AACS.

R 28.5210 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5211 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5212 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5213 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5214 Rescinded.

History: 1981 AACS; 2009 AACS.

PART 3. TERMINALS AND EQUIPMENT

R 28.5301 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5302 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5303 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5304 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5305 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5306 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5307 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5308 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5309 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5310 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5311 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5312 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5313 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5314 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5315 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5316 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5317 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5318 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5319 Rescinded.

History: 1981 AACS; 2009 AACS.

PART 4. RECORDS

R 28.5401 Records responsibility.

Rule 401. (1) An agency is responsible for the accuracy and completeness of any record it enters into LEIN, AFIS, NCIC, and other information systems.

Each record in the file shall be identified with the agency that entered the record. Each agency shall validate records as required by Michigan and FBI CJIS policy. Both of the following shall apply:

(a) An agency that fails to comply with the validation and certification requirements within the prescribed time period shall have its records removed from LEIN, NCIC, and other information systems as required by state and federal policy.

(b) An agency that requires more than the specified time to validate its records shall submit a written request to the CSO for a reasonable time extension.

(2) Agencies may execute an agreement to allow an agency to enter records for another agency.

(3) An agency shall maintain complete and accurate files of all active records which are entered into LEIN, NCIC, or both, and shall ensure that the files are readily accessible to any person who is responsible for confirming the validity of records upon inquiry. Both of the following shall apply:

(a) An agency shall establish procedures to ensure that, upon inquiry, all records that are entered into either LEIN or NCIC files can be promptly confirmed as valid.

(b) An agency shall either maintain a 24-hour-a-day, seven-days-a-week operation or shall establish an alternative record verification procedure.

(4) If, following an inquiry, a positive response is received from LEIN or NCIC which indicates that a person is wanted or missing or that property is stolen, the agency shall immediately contact the agency listed on the record as responsible to confirm.

History: 1981 AACS; 2009 AACS.

R 28.5402 Timely entry of records.

Rule 402.

(1) An agency shall immediately enter all records into LEIN, NCIC, AFIS, or other information systems after becoming aware of the need to do so, except in cases where immediate entry may jeopardize a criminal investigation.

(2) All record entries shall be made pursuant to the procedures provided by the department.

(3) Courts may enter records with mutual agreement of all agencies involved.

History: 1981 AACS; 2009 AACS.

R 28.5403 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5404 Record and broadcast message cancellation; record removal.

Rule 404.

(1) An agency shall promptly cancel a record from both LEIN and NCIC files when the record is no longer valid.

(2) An agency that initiates a broadcast message which is disseminated through the LEIN or NCIC and which requests that a person be arrested or that property be recovered shall ensure that the broadcast message is cancelled when it is no longer valid.

(3) A record may be removed from CJIS or NCIC if the CSO has a substantial question concerning the record's validity or accuracy. Immediately upon the removal of any record, the CSO shall notify the entering agency of the action taken.

History: 1981 AACS; 2009 AACS.

Editor's Note: An obvious error in R 28.5404 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in Michigan Register, 2009 MR 12. The memorandum requesting the correction was published in Michigan Register, 2009 MR 13.

R 28.5405 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5406 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5407 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5408 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5409 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5410 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5411 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5412 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5413 Rescinded.

History: 1981 AACS; 2009 AACS.

R 28.5414 Fees for access to LEIN services.

Rule 414

(1) The department shall assess fees annually for access to LEIN services. Each agency or entity having been granted access to LEIN shall pay to the department the fees listed in subrule (2) of this rule. Both of the following apply:

(a) The department shall notify each agency or entity in writing of the fees for which they are responsible. The notification shall be mailed as soon as practical after the beginning of each state fiscal year.

(b) The notification shall identify a deadline by which payment must be made. The deadline shall be not less than 90 days from the date of mailing.

(2) Agencies or entities having LEIN access shall pay each of the following fees, as applicable:

(a) Law Enforcement Per Capita Fee - \$12.00 per officer. This fee shall be determined by officer staffing reported by the agency to the Michigan Incident Crime Reporting (MICR) program. Officer staffing reported to the Michigan commission on law enforcement standards shall be used to determine this fee for agencies not reporting to the MICR.

- (b) Agency Fee - \$800.00. This fee shall be assessed to each agency in the LEIN.
 - (c) Station Fee - \$2,000.00. This fee shall be assessed for each personal computer that receives unsolicited messages, or a mainframe, message switch, or server connected to the LEIN.
 - (d) Federal, Private, or Noncriminal Justice Agency Surcharge - \$2,500.00. This fee shall be assessed for each federal, private, or noncriminal justice agency having access to the LEIN.
 - (e) For-Profit Vendor Fee - \$10,000.00.
- (3) The department may assess fees on a prorated basis to agencies or entities granted LEIN access after the annual fee assessments described in subrule (1) of this rule.
 - (4) Agencies or entities that have not paid the required fees 30 days after the deadline for payment shall be notified by the department in writing of their delinquent status.
 - (5) The department may suspend or reduce LEIN services provided to agencies or entities that have not paid the required fees 90 days after the deadline for payment. Both of the following apply:
 - (a) The decision to suspend or reduce services shall be within the sole discretion of the department.
 - (b) At least 10 business days before suspending or reducing LEIN services, the department shall notify the head of the affected agency or entity in writing.

History: 1981 AACS; 2009 AACS.