

JUSTICE AND PUBLIC SAFETY CABINET
Department of Kentucky State Police
(Amended After Comments)

502 KAR 30:070. Inspection of criminal history record information by record subject.

RELATES TO: KRS 17.140, 17.150, 61.872, 61.878, 61.884

STATUTORY AUTHORITY: KRS 15A.150, 17.150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.150(6) requires the secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations necessary to implement the criminal history record information system. This administrative regulation establishes procedures by which CHRI may be reviewed and challenged by the individual record subject.

Section 1. Access and Review Procedures.

(1) The record subject of CHRI maintained by the department may review CHRI about the record subject and initiate a challenge to the CHRI through the Criminal Identification and Records Branch.

(2) To review CHRI, the record subject shall provide to the Criminal Identification and Records Branch at 1266 Louisville Road, Frankfort, Kentucky 40601:

(a) A completed Criminal History Information Review Request, KSP 309;

(b) One (1) set of rolled fingerprints to be used to verify the record subject's identity;

and(c) A check or money order made payable to the Kentucky State Treasurer in the amount of twenty (20) dollars.

(3) The Criminal Identification and Records Branch staff shall:

(a) Note the date the request is received on the KSP 309; and

(b) Within five (5) working days of the receipt of the request:

1. Mail the criminal history records to the requestor if requested; or

2. Schedule the record review. If a review is scheduled, the requester shall be notified of the scheduled date and time of review in writing.

Section 2. Record Review Procedures.

(1) To ensure that the subject appearing for a scheduled review of the CHRI is the person from whom the submitted set of fingerprints was obtained, Criminal Identification and Records Branch staff shall check the identity of the person prior to review of the CHRI by visually comparing the person to the picture on a driver's license or other government picture identification.

(2) The record subject, and his attorney, if written authorization is submitted by the record subject, may inspect the copy of the CHRI at the scheduled review.

(3) Criminal Identification and Records Branch staff shall provide reasonable assistance upon request to assist with understanding of the CHRI at the scheduled review.

(4) The Criminal Identification and Records Branch shall inform the record subject in writing that a challenge shall be initiated within thirty (30) working days of the scheduled review or the date the records are mailed to the record subject.

(5) If the record subject does not initiate a challenge at the time of CHRI review, a copy of the individual's record shall be retained by the Criminal Identification and Records Branch and filed with the record subject's KSP 309 form in a manner convenient to the Branch. Information regarding the Request for Review form shall remain at the Criminal Identification and Records Branch not less than thirty (30) working days from the scheduled date of review or mailing of the records. If after thirty (30) working days, a challenge has not been initiated, all documents regarding the review shall be maintained in accordance with the Criminal Identification and Records Branch's retention schedule.

Section 3. Challenge of Record Contents.

(1) If the record subject desires to challenge the contents of the record, the record subject shall deliver or mail within thirty (30) working days of the record review or mailing of the records for review, whichever is later, a completed Criminal History Information Challenge, KSP 310, with supporting documents to the Criminal Identification and Records Branch, 1266 Louisville Road, Frankfort, Kentucky 40601.

(2) The record subject shall state on the KSP 310 if the individual requests a copy of the CHRI for purposes of the challenge.

(3) A copy of the individual's CHRI shall be given to the individual if a challenge is initiated and the individual requests a copy of the CHRI on the KSP 310 for purposes of pursuing a challenge. The copy provided by the Criminal Identification and Records Branch shall be permanently marked or stamped to indicate that the copy is for the purpose of the challenge and that any other use of the CHRI would be in violation of federal and state law.

Section 4. Processing of Challenge.

(1) The Criminal Identification and Records Branch shall conduct a comparison of the information under challenge with the original input documents and information contained in the repository files.

(2) Any errors or omissions discovered in the repository files shall be corrected.

(3) If no error is found, the Criminal Identification and Records Branch shall:

(a) Forward to the agency or agencies which the records indicate as contributing the information under challenge a copy of the:

1. Original challenge form;
2. Record as contained in the files; and
3. Any other relevant information; and

(b) Request examination in an expeditious manner all relevant files to determine the validity of the challenge.

(4) The Criminal Identification and Records Branch shall notify the record subject or his legal counsel in writing of the status of the challenge within thirty (30) working days of the receipt of the challenge. Status of the challenge shall include a notice of clarification of record, expungement of erroneous data, substantiating record, or ongoing research process. The Criminal Identification and Records Branch shall notify the record subject of the results for the examination thirty (30) days after the previous notice if it reported an ongoing research process.

Section 5. Administrative Review.

(1) If the record subject is dissatisfied with the action taken by the Criminal Identification and Records Branch, the individual may request an administrative review.

(2) The administrative review request shall be made in writing and mailed or delivered to the attention of the Criminal Identification and Records Branch Commander, 1266 Louisville Road, Frankfort, Kentucky 40601.

(3) The Commander shall provide the request to the Administrative Review Officer upon receipt of the request.

(4) The Administrative Review Officer shall review the record subject's CHRI in the same manner as performed by the Criminal Identification and Records Branch.

(5) The Administrative Review Officer shall notify the individual, in writing, of the decision on the administrative review. The notice shall be made in writing within thirty (30) days of receipt of the written request for the administrative review by the Commander.

Section 6. Action Taken if Error or Omission Found within Record.

(1) The Criminal Identification and Records Branch shall correct necessary documents maintained in custody and notify all known criminal justice recipients of the erroneous information within the past year.

(2) The Criminal Identification and Records Branch shall furnish the record subject, upon request, a written list of known noncriminal justice recipients of the CHRI within the past year and corrections to be made.

(3) The Criminal Identification and Records Branch shall request in writing that the agency originating the erroneous information notify all known criminal justice recipients within the past year of corrections to be made.

(4) The Criminal Identification and Records Branch shall search for background checks made concerning the record subject within the past year and send a letter stating the correction with a copy of the corrected background check to an entity that was sent the incorrect background check results. A copy of the letter shall be sent to the record subject.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Criminal History Information Review Request", KSP 309, 2011 edition; and

(b) "Criminal History Information Challenge", KSP 310, 2008 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky State Police, Criminal Identification and Records Branch, 1266 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

This material is also available on the agency Web site kentuckystatepolice.org.]]

(11 Ky.R. 1720; eff. 6-4-1985; 48 Ky.R. 1314, 2256; eff. 10-4-2022.)

KERRY B. HARVEY, Secretary

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