

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

502 KAR 30:030. Audit of Criminal History Record Information System.

RELATES TO: KRS 17.150

STATUTORY AUTHORITY: KRS 15A.160, ~~{17.080,}~~ 17.150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.140 ~~requires~~establishes a centralized criminal history record information system to be established in the Justice and Public Safety Cabinet under the direction, control, and supervision of the commissioner of the Department of Kentucky State Police. KRS 15A.160 authorizes the secretary of the Justice and Public Safety Cabinet to adopt administrative regulations to administer the cabinet. KRS 17.150(6) ~~requires the secretary of the Justice and Public Safety Cabinet to~~provides that the Secretary of Justice shall adopt administrative regulations ~~{that are}~~ necessary to carry out the provisions of the centralized criminal history record information system and insure the accuracy of criminal history record information being reported to the ~~{centralized criminal history record information}~~ system. This administrative regulation establishes the requirements for audits of the centralized criminal history record information system and law enforcement and criminal justice agencies ~~that~~which submit or receive criminal history record information to or from the centralized criminal history record information system.

Section 1. The Criminal Identification and Records Branch~~{Records Section}~~ shall annually conduct an in-house audit of a random representative sample of hard copy data contained in the centralized Criminal History Record Information System. The scope of the audit shall include~~{but is not limited to}~~:

- (1) Adherence to federal and state regulations;
- (2) Completeness and accuracy of CHRI;
- (3) CHRI dissemination procedures;
- (4) Security; and
- (5) Compliance with mandated access and review procedures. ~~The~~Said audit shall be conducted in accordance with guidelines set out in 28 C.F.R.; 20.21(e)~~{utilizing the standard audit instrument as prescribed by Records}~~. A report of the audit findings shall be submitted by the administrative head of the Criminal Identification and Records Branch to the commissioner, Department of Kentucky State Police and the secretary of the Justice and Public Safety Cabinet on or before January 10 of each year.

Section 2. The Criminal Identification and Records Branch ~~{Records}~~ shall conduct, on an annual basis, audits of at least four (4) criminal justice agencies, submitting or receiving data from or to the centralized Criminal History Record Information System. The criminal justice~~Said~~ agencies shall be picked at random. The~~Such~~ audits shall be conducted in accordance with guidelines set out in 28 C.F.R.; 20.21(e), utilizing the standard audit instrument. A report of the audit findings shall be submitted to the administrative head of the respective criminal justice agency within thirty (30) working days after the audit has been completed. The scope of the audit shall include~~{but not be limited to}~~:

- (1) Adherence to federal and state regulations;
- (2) Completeness and accuracy of CHRI;
- (3) CHRI dissemination procedures;
- (4) Security; and
- (5) Compliance with mandated access and review procedures.

COL. PHILLIP J. BURNETT, JR., Commissioner

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: January 10, 2022

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This regulation establishes the requirements for audits of the centralized criminal history record information system and relevant agencies which submit or receive criminal history record information from same.

(b) The necessity of this administrative regulation:

This regulation ensures compliance with KRS 17.150, while similarly confirming the agency is operating and complying with the applicable federal and state regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation works to ensure the accuracy of criminal history record information provided to law enforcement and criminal justice agencies that rely upon a system of centralized information.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation provides guidance to the Criminal Identification and Records Branch and to criminal justice agencies regarding the criteria that will be judged in the audit, and similarly sets forth the audit procedure in general terms.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendment clarifies the existing language of the administrative regulation, providing essential guidance to the Criminal Identification and Records Branch and the relevant agencies.

(b) The necessity of the amendment to this administrative regulation:

The administrative regulation description was not clear and replaces an outdated section name with Criminal Identification and Records Branch.

(c) How the amendment conforms to the content of the authorizing statutes:

The authorizing statute requires the secretary of the cabinet to adopt administrative regulations necessary to carry out the provisions of the centralized criminal history record information system and insure the accuracy of criminal history record information being reported to the system.

(d) How the amendment will assist in the effective administration of the statutes:

The clarified language allows for the Criminal Identification and Records Branch to audit criminal history record information.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

The Department of the Kentucky State Police and all law enforcement and criminal justice agencies, which submit or receive criminal history record information to or from the records system.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

The amendment defines the scope of the audit.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

No additional cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The regulated agencies will have more clearly defined guidance on the scope of the audit, and can more effectively ensure compliance with the applicable regulations and procedures.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

No additional cost is anticipated.

(b) On a continuing basis:

No additional cost is anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Funds budgeted to the department and the criminal justice agencies.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase is necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

The administrative regulation does not establish any fees or increase fees directly or indirectly.

(9) TIERING: Is tiering applied?

No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Department of the Kentucky State Police and all law enforcement and criminal justice agencies, which submit or receive criminal history record information to or from the records system.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 15A.160, KRS 17.150

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

The administrative regulation does not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

The administrative regulation does not generate any revenue.

(c) How much will it cost to administer this program for the first year?

No additional cost is anticipated.

(d) How much will it cost to administer this program for subsequent years?

No additional cost is anticipated.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: