

§ 20.37 Responsibility for accuracy, completeness, currency, and integrity.

It shall be the responsibility of each criminal justice agency contributing data to the III System and the FIRS to assure that information on individuals is kept complete, accurate, and current so that all such records shall contain to the maximum extent feasible dispositions for all arrest data included therein. Dispositions should be submitted by criminal justice agencies within 120 days after the disposition has occurred.

§ 20.38 Sanction for noncompliance.

Access to systems managed or maintained by the FBI is subject to cancellation in regard to any agency or entity that fails to comply with the provisions of subpart C of this part.

APPENDIX TO PART 20—COMMENTARY ON
SELECTED SECTIONS OF THE REGULATIONS
ON CRIMINAL HISTORY RECORD
INFORMATION SYSTEMS

Subpart A—§20.3(d). The definition of criminal history record information is intended to include the basic offender-based transaction statistics/III System (OBTS/III) data elements. If notations of an arrest, disposition, or other formal criminal justice transaction occurs in records other than the traditional "rap sheet," such as arrest reports, any criminal history record information contained in such reports comes under the definition of this subsection.

The definition, however, does not extend to other information contained in criminal justice agency reports. Intelligence or investigative information (e.g., suspected criminal activity, associates, hangouts, financial information, and ownership of property and vehicles) is not included in the definition of criminal history information.

§20.3(g). The definitions of criminal justice agency and administration of criminal justice in §20.3(b) of this part must be considered together. Included as criminal justice agencies would be traditional police, courts, and corrections agencies, as well as subunits of noncriminal justice agencies that perform the administration of criminal justice pursuant to a federal or state statute or executive order and allocate a substantial portion of their budgets to the administration of criminal justice. The above subunits of non-criminal justice agencies would include, for example, the Office of Investigation of the Food and Drug Administration, which has as its principal function the detection and ap-

prehension of persons violating criminal provisions of the Federal Food, Drug and Cosmetic Act. Also included under the definition of criminal justice agency are umbrella-type administrative agencies supplying criminal history information services, such as New York's Division of Criminal Justice Services.

§20.3(i). Disposition is a key concept in section 524(b) of the Act and in §§20.21(a)(1) and 20.21(b) of this part. It therefore is defined in some detail. The specific dispositions listed in this subsection are examples only and are not to be construed as excluding other, unspecified transactions concluding criminal proceedings within a particular agency.

§20.3(q). The different kinds of acquittals and dismissals delineated in §20.3(i) are all considered examples of nonconviction data.

Subpart B—§20.20(a). These regulations apply to criminal justice agencies receiving funds under the Omnibus Crime Control and Safe Streets Act for manual or automated systems subsequent to July 1, 1973. In the hearings on the regulations, a number of those testifying challenged LEAA's authority to promulgate regulations for manual systems by contending that section 524(b) of the Act governs criminal history information contained in automated systems.

The intent of section 524(b), however, would be subverted by only regulating automated systems. Any agency that wished to circumvent the regulations would be able to create duplicate manual files for purposes contrary to the letter and spirit of the regulations.

Regulation of manual systems, therefore, is authorized by section 524(b) when coupled with section 501 of the Act which authorizes the Administration to establish rules and regulations "necessary to the exercise of its functions * * *."

The Act clearly applies to all criminal history record information collected, stored, or disseminated with LEAA support subsequent to July 1, 1973.

Limitations as contained in subpart C also apply to information obtained from the FBI Identification Division or the FBI/NCIC System.

§20.20 (b) and (c). Section 20.20 (b) and (c) exempts from regulations certain types of records vital to the apprehension of fugitives, freedom of the press, and the public's right to know. Court records of public judicial proceedings are also exempt from the provisions of the regulations.

Section 20.20(b)(2) attempts to deal with the problem of computerized police blotters. In some local jurisdictions, it is apparently possible for private individuals and/or newsmen upon submission of a specific name to obtain through a computer search of the blotter a history of a person's arrests. Such files create a partial criminal history data