

# Criminal History Record Information in Illinois: Access and Review Provisions

Code of Federal Regulations				Illinois Compiled Statutes				Illinois Administrative Code				
Provision No.	FIP Implementation?	Citation	Regulation	Substance of the Regulation	Citation	Statute	Substance of the Statute	Does this Reflect a Policy Choice? What is the policy?	Citation	Regulation	Substance of the Regulation	Does this Reflect a Policy Choice? What is the policy?
<b>A</b>	<b>FIP 6: Individual Participation</b> Agencies should allow individuals access to data about them to review the information, challenge incorrect data, and if successful have the data erased, rectified, completed, or amended with notification to all parties who received the incorrect information.	28 C.F.R. § 20.21(g)(1)	(g) Access and review. Insure the individual's right to access and review of criminal history information for purposes of accuracy and completeness by instituting procedures so that - (1) Any individual shall, upon satisfactory verification of his identity, be entitled to review without undue burden to either the criminal justice agency or the individual, any criminal history record information maintained about the individual and obtain a copy thereof when necessary for the purpose of challenge or correction;	An individual is entitled to review any criminal history record information maintained about that individual once his identity has been verified. This right of review may not unduly burden either the individual or the agency.	20 ILCS 2630/7	§ 7-1. However, if an individual requests the review or correction of any criminal record he might have, the Department shall do so upon determining that the person for whom the record is to be reviewed is actually the person making the request. The Department shall establish reasonable fees and rules to allow an individual to review and correct any criminal history record information the Department may hold concerning that individual upon verification of the identity of the individual. Such information is subject to the provisions of the Illinois Administrative Procedure Act.	Upon verification of the individual's identity, that individual may request that the Department of State Police release information as to the existence or nonexistence of any criminal history record he might have. The Department of State Police is charged with establishing reasonable fees and rules to allow an individual, once his identity is verified, to access any criminal history record information pertaining to him for purposes of review and correction.	<b>No in part; Yes in part.</b> <b>No.</b> The Illinois General Assembly was required by the Department of Justice to ensure to individuals the right to review any criminal history record information maintained regarding him. <b>Yes.</b> Instead of legislating the CHRI access and review procedures themselves, the Illinois General Assembly delegated the responsibility to promulgate reasonable access and review procedures to the Department of State Police. <b>Why:</b> The General Assembly chose to delegate the responsibility to the Illinois State Police because it is the state's central repository for criminal history record information.	Ill. Admin. Code tit. 20 § 1210.20	§ 1210.20 Procedures a) Any individual may approach any Illinois law enforcement or correctional facility during regular business hours for the purpose of obtaining the individual's criminal history transcript. b) In response to a request for a criminal history transcript, the facility shall obtain fingerprints from the individual and other identification information. c) Within 30 days after the request, the facility shall forward to the Department the fingerprints and identifying information. d) Within 60 days after receiving the fingerprints and identifying information, the Department shall provide the facility with the individual's criminal history transcript or, if no criminal history is found, a written statement so stating. e) The facility shall contact the individual and allow the individual to view the criminal history transcript at the facility.	A criminal history transcript is a printed record of CHRI maintained by the repository with respect to a particular individual. a) An individual can access and review his criminal history transcript at any Illinois law enforcement or correctional facility. b) The facility must fingerprint the individual to verify his identity before providing CHRI. c) The facility will then forward the fingerprints to the Illinois State Police within 30 days. d) The Illinois State Police must provide to the facility the individual's criminal history transcript, or alternatively, a statement that no criminal history was found, within 60 days of receiving the fingerprints. e) The facility will contact the individual and allow him to view the criminal history transcript at the facility.	<b>No in part; Yes in part.</b> <b>No.</b> The Illinois State Police were required by the Illinois General Assembly to promulgate reasonable access and review procedures. <b>Yes.</b> The Illinois State Police made several policy choices in the access and review procedures such as: (a) where an individual can go to request access and review of his criminal history transcript; (b) the selection of fingerprints as the means of identity verification; (c) the creation of time frames for responding; and (d) the prohibition on allowing the individual to receive a copy of his criminal history transcript. <b>Why:</b> (a) The Illinois State Police and the Illinois Criminal Justice Information Authority determined that an individual may need assistance interpreting the information contained in his rap sheet; (b) fingerprint identification is the only method of identification (ISP uses) to establish positive identification; (c) time frames were most likely established to ensure that an individual could exercise his rights in a timely manner; and (d) an individual is not provided a copy of his criminal history transcript because of concerns regarding his ability to interpret it.
<b>B</b>	<b>FIP 6: Individual Participation</b> Agencies should allow individuals access to data about them to review the information, challenge incorrect data, and if successful have the data erased, rectified, completed, or amended with notification to all parties who received the incorrect information.	28 C.F.R. § 20.21(g)(2)	(g) Access and review. Insure the individual's right to access and review of criminal history information for purposes of accuracy and completeness by instituting procedures so that - (2) Administrative review and necessary correction of any claim by the individual to whom the information relates that the information is inaccurate or incomplete is provided;	The agency must have in place administrative review procedures that will hear an individual's claim of inaccuracy and provide necessary correction of the record where appropriate.	20 ILCS 2635/12	§ 12. Error Notification and Correction Procedure. It is the duty and responsibility of the Department to maintain accurate and complete criminal history records and to correct or update such information after determination by audit, individual review and challenge procedures, or other verifiable means, that it is incomplete or inaccurate.	The Department of State Police has the duty to maintain accurate and complete criminal history record information and, as part of that duty, is required to correct or update CHRI after a determination by individual review and challenge procedures that a record is incomplete or inaccurate.	<b>No in part; Yes in part.</b> <b>No.</b> The Department of Justice required the Illinois General Assembly to ensure that the Department of State Police would act upon access and review determinations that CHRI is incorrect by correcting and updating the record. <b>Yes.</b> The General Assembly, instead of legislating the administrative review and challenge procedures, delegated that responsibility to the Department of State Police. <b>Why:</b> The General Assembly chose to delegate the responsibility to the Department of State Police because it is the state's central repository for all criminal history records.	Ill. Admin. Code tit. 20 § 1210.40(a)	§ 1210.40 Challenges a) An individual who believes his or her criminal history transcript is inaccurate may request a challenge by submitting a written explanation to the Department.	An individual can challenge the accuracy or completeness of his criminal history transcript and request a correction by submitting a written explanation to the Illinois State Police.	<b>No in part; Yes in part.</b> <b>No.</b> The Department of State Police were required by the Illinois General Assembly to promulgate administrative review procedures for individuals seeking to review and challenge their criminal history transcripts. <b>Yes.</b> The Illinois Department of State Police's rules regarding an individual's right to challenge the accuracy of his criminal history transcript make doing so relatively simple. <b>Why:</b> Although not requiring a specific form to be filed, the Department of State Police does require an individual seeking to challenge a record to provide specific information in order to research the event and determine the accuracy of the record. Furthermore, the department is interested in providing a timely and accurate response to an individual's challenge of his criminal history transcript.
<b>C</b>	<b>FIP 6: Individual Participation</b> Agencies should allow individuals access to data about them to review the information, challenge incorrect data, and if successful have the data erased, rectified, completed, or amended with notification to all parties who received the incorrect information.	28 C.F.R. § 20.21(g)(3)	(g) Access and review. Insure the individual's right to access and review of criminal history information for purposes of accuracy and completeness by instituting procedures so that - (3) The State shall establish and implement procedures for administrative appeal where a criminal justice agency refuses to correct challenged information to the satisfaction of the individual to whom the information relates;	The state must have administrative appeal procedures in place where a criminal justice agency refuses to correct appropriately challenged information.	20 ILCS 3930/7(h)	§ 7. Powers and Duties. The Authority shall have the following powers, duties and responsibilities: ... (h) To act as the sole administrative appeal body in the State of Illinois to conduct hearings and make final determinations concerning individual challenges to the completeness and accuracy of criminal history record information.	The Illinois Criminal Justice Information Authority is the administrative appeal body concerning individual challenges to the completeness and accuracy of CHRI maintained by the Illinois State Police.	<b>No in part; Yes in part.</b> <b>No.</b> The Illinois General Assembly was required by the Department of Justice's regulations to have administrative appeal procedures in place where a criminal justice agency refuses to correct appropriately challenged information. <b>Yes.</b> The General Assembly chose to make the Illinois Criminal Justice Information Authority the sole administrative appeal body in the state for individuals challenging the accuracy of their criminal history transcript. Instead of legislating the administrative appeals process, the General Assembly delegated that responsibility to the Authority. <b>Why:</b> The General Assembly chose the Illinois Criminal Justice Information Authority as the appropriate administrative appeal body because an appeal of the completeness and accuracy of CHRI maintained by the Illinois State Police should be taken to an independent agency to ensure an impartial decision. Furthermore, the General Assembly charged the Authority with developing the appeals process because...	Ill. Admin. Code tit. 20 § 1510.00 et seq.	§ 1510.100 Purpose The Illinois Criminal Justice Information Authority (hereinafter called the "Authority") is the sole administrative appeal body in the State of Illinois to conduct hearings and make final determinations concerning individual challenges to the completeness and accuracy of criminal history record information and is authorized to promulgate such rules, regulations, and procedures as are necessary to the operation of the Authority and to the uniform consideration of appeals (actions omitted). The purpose of public administrative appeal hearings shall be to air the pertinent evidence in cases concerning individual access and review of criminal history record information, while affording due process to all parties. All parties shall have the right to appear with counsel, to be present and to participate. The right to participate shall include the rights to call, examine and cross-examine witnesses, and to introduce evidence into the record. Unless specified otherwise herein, all public administrative appeal hearings of the Authority shall be governed by the Illinois Administrative Procedure Act as in effect as of the date of filing of the rule.	An individual must file his request for an administrative appeal within 56 days of his notification that the Illinois State Police have completed their review of his challenge. Section 1510.300 outlines the required elements of an administrative appeal complaint. The Illinois State Police must forward all the documentation it used to reach its decision. The procedures governing the appeals hearing are laid out in § 1510.400; that section provides for a public proceeding within a reasonable time period and grants the individual the right to counsel, present evidence, and question witnesses. Findings and orders will be issued in accordance with § 1510.500 which requires that they be in writing and issued within 28 days of the hearing.	<b>No in part; Yes in part.</b> <b>No.</b> The Illinois General Assembly charged the Illinois Criminal Justice Information Authority with developing and implementing an appeals process for criminal history transcript challenges. <b>Yes.</b> The Illinois Criminal Justice Information Authority made several policy choices in the administrative appeals procedures such as: (a) providing a reasonable period of time in which to request an appeal hearing; (b) making the administrative appeals hearings open to the public except in limited circumstances; (c) providing hearing notices and speedy hearings; (d) granting the individual the rights to counsel, to present evidence, and to cross-examine witnesses; (e) requiring an accurate record of the proceedings; and (f) requiring findings and orders to be written and provided to the parties. <b>Why:</b> The Authority provided such formal mechanisms in the appeals process because accurate and complete criminal history records impact both the state's interest in ensuring the safety of the public and the individual's interest in his proper standing in the community.
					5 ILCS 100/10 et seq.	§ 10-10. Components of rules. All agency rules establishing procedures for contested cases shall be a minimum comply with the provisions of this Article 10. In addition, agency rules establishing procedures may include, but need not be limited to, the following components: pre-hearing conferences, representation interview or deposition procedures, default procedures, selection of administrative law judges, the form of the final order, the standard of proof used, which agency official makes the final decision, representation of parties, subpoena request procedures, discovery and protective order procedures, and any review or appeal process within the agency.	The Illinois Administrative Procedure Act requires agencies to establish procedures for hearing contested cases.	<b>Yes.</b> The Illinois General Assembly has provided for the judicial review of the final decisions regarding a petitioner's challenge of his criminal history transcript maintained by the Illinois State Police. The Department of Justice's regulations did not require the Illinois General Assembly to provide judicial review of the administrative appeals decision. <b>Why.</b> The General Assembly chose to provide judicial review because the right to appeal to a higher authority is a fundamental principal of American law.	Ill. Admin. Code tit. 20 § 1210.40(b)	§ 1210.40 Challenges b) In the event the Department's response is not satisfactory to the individual, the individual may further pursue the matter using the administrative appeal procedures established by the Illinois Criminal Justice Information Authority.	If the Illinois State Police reject an individual's challenge to his criminal history transcript is inaccurate or incomplete, that individual may appeal to the Illinois Criminal Justice Information Authority.	
					735 ILCS 5/3-101 et seq.	§ 3-102. Scope of Article. Article III of this Act shall apply to and govern every action to review judicially a final decision of any administrative agency where the Act creating or conferring power on such agency, by express reference, adopts the provisions of Article III of this Act or its predecessor.	Upon a party's exhaustion of administrative remedies, the Administrative Review Law provides for the judicial review of a final decision of an administrative agency.					
<b>D</b>	<b>FIP 6: Individual Participation</b> Agencies should allow individuals access to data about them to review the information, challenge incorrect data, and if successful have the data erased, rectified, completed, or amended with notification to all parties who received the incorrect information.	28 C.F.R. § 20.21(g)(4)	(g) Access and review. Insure the individual's right to access and review of criminal history information for purposes of accuracy and completeness by instituting procedures so that - (4) Upon request, an individual whose record has been corrected shall be given the names of all non-criminal justice agencies to whom the data has been given;	Upon request, an individual whose record has been corrected must be provided with the names of all non-criminal justice agencies to whom the incorrect data had been given.	20 ILCS 2635/12	§ 12. Error Notification and Correction Procedure. Except as may be required for a longer period of time by Illinois law, the Department shall notify the individual if a subsequent disposition of conviction or a subsequent modification of conviction information has been reported to the Department within 30 days of responding to the request.	The Illinois Department of State Police is required to notify any requestor if a subsequent conviction or modification of conviction information is reported within 30 days of the initial response to the request. Essentially, Illinois State Police are only required to notify recent requestors (within 30 days) of the updated information.	<b>No in part; Yes in part.</b> <b>No.</b> The Department of Justice required the Illinois General Assembly to provide some mechanism for notifying entities that they had received incorrect information and to provide corrected CHRI data. <b>Yes.</b> The General Assembly did, however, make several policy choices concerning the notification requirements. The General Assembly chose (a) not to distinguish between criminal justice and non-criminal justice requestors when requiring the Illinois Department of State Police to notify requestors of updated information; (b) to limit the update requirement only to conviction information; (c) to divide the burden of updating information between the Illinois State Police and the requestor (see 20 ILCS 2635/13); and (d) not to draft a provision that provides the individual the right to receive the names of all non-criminal justice recipients of the data upon his request. <b>Why:</b> The General Assembly chose not to distinguish between criminal justice and non-criminal justice requestors because public safety and individuals' privacy rights could be adversely affected in either context. The update requirement was limited only to conviction information most likely because it is the only publicly available information in the criminal history repository. Dividing the burden to notify or acquire updated information because...	Ill. Admin. Code tit. 20 § 1510.600(c)	§ 1510.600 Findings and Orders c) If the criminal history record information in question is found to be incomplete, inaccurate, or not maintained in accordance with the standards of the agency which regularly maintains the records, the Appeals Committee shall request the Authority to order the information to be purged, sealed, modified, or supplemented by explanatory notation, as appropriate. Such order shall be executed by the reviewing agency and state central repository within 24 hours of receipt of the order. The reviewing agency or the state central repository shall disseminate the corrected information to all agencies which have received this information.	If, after the administrative appeal by the Illinois Criminal Justice Information Authority, the criminal history record information at issue is found to be incomplete or inaccurate, the Authority will issue an order to appropriately rectify the grievance. The Illinois State Police must comply with such an order within 24 hours of their receipt thereof and disseminate the corrected information to all agencies that had previously received the incorrect data.	<b>No in part; Yes in part.</b> <b>No.</b> The Illinois Department of State Police are required by the Illinois General Assembly to notify requestors of updated or corrected CHRI data. <b>Yes.</b> The Illinois Criminal Justice Information Authority's error notification requirements broadened the scope of the Illinois State Police's duty to notify requestors of updated or corrected CHRI information. Specifically, the Authority's rules apply to all corrected information and are not limited to conviction information as is the statute. The impact of the Authority's rules is limited, however, because they only apply to successful administrative appeals. <b>Why:</b> It is unclear if there is a difference between a successful administrative appeal at the Authority and a successful challenge at the Illinois State Police significant enough to warrant different treatment concerning the notification of corrected information. However, the Authority provided the broad notification and correction requirements because...
<b>E</b>	<b>FIP 6: Individual Participation</b> Agencies should allow individuals access to data about them to review the information, challenge incorrect data, and if successful have the data erased, rectified, completed, or amended with notification to all parties who received the incorrect information.	28 C.F.R. § 20.21(g)(5)	(g) Access and review. Insure the individual's right to access and review of criminal history information for purposes of accuracy and completeness by instituting procedures so that - (5) The correcting agency shall notify all criminal justice recipients of corrected information;	The correcting agency must notify all criminal justice recipients of the incorrect data with the corrected information.								
<b>F</b>	<b>FIP 6: Individual Participation</b> Agencies should allow individuals access to data about them to review the information, challenge incorrect data, and if successful have the data erased, rectified, completed, or amended with notification to all parties who received the incorrect information.	28 C.F.R. § 20.21(g)(6)	(g) Access and review. Insure the individual's right to access and review of criminal history information for purposes of accuracy and completeness by instituting procedures so that - (6) The individual's right to access and review of criminal history record information shall not extend to data contained in intelligence, investigatory, or other related files; and shall not be construed to include any other information than that defined in § 20.30(d)(4);	An individual does not have a right to access and review intelligence, investigatory, or other related files; the individual's right to access is limited to criminal history record information as defined in § 20.30(d).	20 ILCS 2630/7	§ 7. No file or record of the Department hereby created shall be made public, except as provided in the Illinois Uniform Conviction Information Act or other Illinois law or as may be necessary in the identification of persons suspected or accused of crime, and in their trial for offenses committed after having been imprisoned for a prior offense; and no information of any character relating to its records shall be given or furnished by said Department to any person, bureau or institution other than as provided in the Act or other State law, or when a governmental unit is required by state or federal law to consider such information in the performance of its duties. Violation of this Section shall constitute a Class A misdemeanor.	The Criminal Identification Act provides that no file or record can be made public except as provided in the Illinois Uniform Conviction Information Act or other Illinois laws or as may be necessary to identify suspected offenders. Conviction information is the only criminal history record information considered publicly available. Furthermore, the Illinois Uniform Conviction Information Act expressly excludes statistical records and reports in which individual are not identified and from which their identities are not ascertainable, and information that is for criminal investigative or intelligence purposes from the definition of criminal history record information.	<b>No.</b> The Illinois Uniform Conviction Information Act and the Criminal Identification Act both comply with the Code of Federal Regulations emphasis that the individual's right to access and review extends only to criminal history record information and does not include other information such as intelligence data. For the most part, the Illinois General Assembly expressly defined criminal history record information and the principle of <i>expressio unius est exclusio alterius</i> ("Inclusion of one thing indicates the exclusion of the other") would operate to exclude all other information such as intelligence or investigatory data.	Ill. Admin. Code tit. 20 § 1210.10	§ 1210.10 Definitions Criminal History Record Information means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, information, pretrial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court of correctional supervision, rehabilitation and release. Criminal History Transcript means a printed record of criminal history record information maintained by the Department with respect to a particular individual.	An individual's right to access and review his criminal history record information as defined by the Illinois State Police's regulations. That definition provides that criminal history record information is limited to descriptions or notations of formal events such as: a) Arrests, b) Detentions, c) Indictments, d) Informations, e) Pretrial proceedings, f) Trials, g) Criminal charges themselves, h) The Nature of the disposition, and i) The sentence. A criminal history transcript is merely a printed record of the criminal history record information maintained by the Illinois State Police for a particular individual.	<b>No.</b> The Illinois Department of State Police's regulations concerning an individual's right to access and review his criminal history record information are consistent with the federal and state laws and regulations. Even though the regulations do not expressly exclude intelligence, investigatory, or related data from the definition of criminal history record information, the exclusion is implied.