

Access to and Use of Information Michigan State Police Law Enforcement Information Network (LEIN)

Background

The Michigan Law Enforcement Information Network (LEIN) is a computerized information system operational twenty-four hours a day, seven days a week and is restricted to authorized criminal justice agencies. The enabling legislation that authorizes LEIN is Act 263 of the Public Acts of 1966. The C.J.I.S. Policy Council Act 163 of the Public Acts of 1974, being 28.211 et seq. of the Michigan Compiled Laws, was established to oversee policy and promulgate rules regarding the operational procedures to be followed by agencies using LEIN, review applications for network access and approve or disapprove the applications, and establish minimum standards for sites and installation. In 1998, Executive Order 1998-1 combined the LEIN and Automated Fingerprint Identification System (AFIS) Policy Councils into the Criminal Justice Information Systems (CJIS) Policy Council. Act 309, effective February 1, 2006, created the CJIS Policy Council. In 2008, Executive Order 2008-17 abolished the CJIS Policy Council transferring all of the authority, powers, duties, functions, records, personnel, and property to the Department of State Police. Criminal Justice Information Systems Proposed rules PA 163 of 1974, MCL 28.214, and Executive Reorganization Order No. 2008-2, MCL 28.162 were published in the Michigan Register on February 15, 2009. A public hearing was held on February 24, 2009. The Rules were filed on June 30, 2009 with the Office of the Great Seal.

LEIN Access

Criminal justice agencies are allowed LEIN access in the performance of criminal justice duties. The LEIN Administrative Rules allow LEIN access to non-governmental agencies, which are statutorily vested with arrest powers and are engaged primarily in the administration of criminal justice. In a limited capacity, LEIN access is also allowed for the following specifically defined functions:

1. **Animal Control Officers-** Allowed access only when employed by a law enforcement agency.
2. **Criminal Justice Agencies**
 - o Correctional institutions
 - o Courts (Criminal Divisions only)
 - o Governmental Law Enforcement Agencies
 - o Pre-Trial Service Agencies
 - o Probation and Parole Agencies
 - o Prosecutors
 - o Attorney General
3. **Friend of the Court-** Allowed access when the Sheriff's Department deputizes the requestor. In addition, the C.J.I.S. Policy Council Act, MCL 28.214, Section 4(1) has been amended to allow access to the Friend of the Court for the enforcement of child support programs, and specifies:

“Ensure access to information provided by the law enforcement information network or the automated fingerprint identification system by a governmental agency engaged in the enforcement of child support laws, child protection laws, or vulnerable adult protection laws.

- 4. Fire Departments-** Pursuant to the C.J.I.S. Policy Council Act, as amended and effective December 22, 1998, access to LEIN is allowed for an organized fire department chief or his or her designee for the purposes of:
- Pre-employment background checks including:
 - Michigan criminal history record convictions only
 - Michigan driving records.
 - Michigan vehicle registration information only for vehicles involved in a fire or hazardous materials incident.

Fire investigators who meet the following amended criteria approved by the C.J.I.S. Policy Council are eligible for indirect access to Michigan LEIN information after applying for an ORI, using purpose code “M” and excluding NCIC information.

- The agency employs a full-time fire marshal or fire investigator who is not the head of the agency.
 - The agency is a full-time, career municipal fire department.
 - Access is requested by the chief officer of the fire department and the head of a law enforcement agency with jurisdiction.
 - The agency’s fire investigator has completed a two-week training course in fire investigation; either the Michigan State Police Fire Investigator’s School or the National Fire Academy’s Fire/Arson Investigation course.
- 5. Michigan Department of Community Health (DCH) Substance Abuse Office-** Allowed access as part of a screening and assessment process, mandated by the Michigan Drunk Driving Law (SB 702,) only if the assessing agency is a criminal justice agency (such as a Court Probation Office).]
- 6. Michigan DNR Law Enforcement Division-** The Law Enforcement Division of the DNR is a criminal justice agency and is allowed full LEIN access.
- 7. Michigan Department of Energy, Labor and Economic Growth, Investigation Section-** The Investigation Section is a criminal justice agency and is allowed full LEIN access. However, all other sections/units of this department are not criminal justice agencies.
- 8. Michigan Department of Human Services (DHS)**
- **Office of Inspector General-** This office is a criminal justice agency and is allowed full LEIN access.
 - **Family Services Administration-** The Governor’s Executive Order 1990-10 authorizes certain individuals with the Family Services Administration to access Michigan-only conviction and non-conviction criminal history record information. These persons include:
 - Authorized persons within the DHS who are responsible for the licensing and regulation of child or adult care homes, facilities or institutions.
 - Authorized persons within the DHS who are responsible for the protection, care of placement of children in the custody of the court or the state.

In addition, the C.J.I.S. Policy Council Act, MCL 28.214, Section 4(1)(a) was amended to allow access to the DHS in the enforcement of the child protection laws, and specifies:

“Ensure access to information provided by the law enforcement information network or the automated fingerprint identification system by a governmental agency engaged in the enforcement of child support laws, child protection laws, or vulnerable adult protection laws.”

9. **Michigan Child Support Enforcement System (MICSES)** - The MICSES accesses LEIN for the entry, validation, and cancellation of child support warrants.
10. **Private Security Police with arrest powers**- Private Security Police agencies meeting the powers of arrest and training requirements of Sections 29, 30, and 31 of PA 330 of 1968, as amended, and upon proper application, may be allowed access to Michigan conviction-only criminal history records.
11. **Public Housing Agencies**- Public Law 104-120, of the Housing Opportunity Program Extension Act of 1996, requires law enforcement agencies to “upon request, provide information to public housing agencies regarding the criminal conviction records of adult applications for, or tenants of, public housing for the purposes of applicant screening, lease enforcement, and eviction.”
12. **Private or Public Schools**- Effective October 25, 2000, MCL 28.214, Section 4 of the C.J.I.S. Policy Council Act was amended to allow limited LEIN access to a private or public school superintendent, principal, or assistant principal to receive vehicle registration information of a vehicle within 1,000 feet of school property, obtained through LEIN by a law enforcement agency.
13. **Drug Court**- Access is permitted for LEIN information for the staff of the Family Dependence Drug Court Program (FDDCP) to receive LEIN information from a DHS caseworker as to whether the parents are non-violent offenders.
14. **Civil Proceedings**- A user agency’s message transactions may be released to another agency under any of the following conditions:
 - o Upon written request from a county, state, or federal prosecuting attorney who shall specify that the information required is for a valid criminal justice purpose.
 - o A search warrant or subpoena authorized by a judge.
 - o Upon approval of the agency which initiated the messages.
 - o The Executive Secretary may release CJIS audit information to facilitate investigations of misuse.A user agency’s message transactions may be released for non-criminal justice purposes under either of the following circumstances:
 - o For employment related administrative hearings involving the misuse of CJIS information.
 - o Pursuant to a court order in a civil proceeding where the misuse or accuracy of CJIS information is at issue.
 - o In either (a) or (b) the person requesting the information must agree to limit dissemination of CJIS information for the purposes of the hearing or civil action.

LEIN Access and Use by Function

LEIN access is allowed for the specific functions listed below.

1. **Administration of Criminal Justice**- Criminal history record checks that fall under the administration of criminal justice are authorized as follows:
 - o **Employees of a criminal justice agency**- Employment in criminal justice agencies and the screening of employees of other agencies over which the criminal justice agency is required to have management control.
 - o **Immigration Laws**- Matters involving a violation of U.S. immigration laws including both criminal matters that can lead to criminal charges and administrative action that can lead to deportation. Background checks such as those leading to eligibility for citizenship or parenting of foreign children are not considered to be within the administration of criminal justice.

- **Protective Services to Dignitaries-** Protective services pertaining to the physical protection of authorized persons both foreign and domestic. This principle extends to local officials for whom protection is provided and includes record checks on personnel to be present at the site of dignitary appearances.
- **Security of Prisons-** The security of prison facilities to include for example, record checks necessary to screen visitors, approve mail lists, and authorize vendor's access to facilities.

Routine record checks on personnel and random checks of visitors at non-criminal justice facilities such as airports, shipyards, military installations, and most government buildings are not considered to be within the administration of criminal justice.

2. **Adoption, Custody, and/or Support of Children-** The LEIN Policy Council established a policy at its October 1985 meeting that states:

Any established criminal justice agency that has as part of its responsibilities, matters of adoption, custody and/or support of children, may access LEIN for investigative information that includes Criminal History Record information as a component of carrying out its duties. Said inquiries may not be disseminated beyond the original intent of the inquiry and shall not become part of the court file. Any misuse, personal use, or dissemination would be improper use, and would subject the agency and individuals to established sanctions.

3. **Gaming Background Check-** Michigan-only Criminal History Record inquiries may be made through a tribal or state police agency and the Michigan Gaming Control Board for background checks on gaming employees.
4. **Licensing-** Pursuant to the Governor's Executive Order 1990-10, authorized persons within an administrative agency of state government who are responsible for the enforcement and compliance with state regulated occupational or professional licenses or certificates may have criminal history record information. This provides Michigan-only conviction and non-conviction data. The Policy Council clarified in July 2004 that agencies required by state statute to check good moral character for licensing may continue to use LEIN purpose code "M" to do so. All other licensing requests required by city ordinance must use the Internet Criminal History Access Tool (ICHAT).
5. **Parking Tickets-** Parking Ticket Registration information requests by non-criminal justice agencies (such as the City Treasurer,) which are a follow-up to a criminal justice action, may be considered to be reasonable requests. However, code enforcement employees that do not work for a criminal justice agency are not entitled to LEIN access prior to default on the parking violation. Parking Enforcement Officers working for the police department, have direct access to LEIN/SOS information.
6. **Private Business Status of Record-** A law enforcement agency may inquire into LEIN and NCIC and report the findings as to the status of stolen serialized property to a business or individual known to the agency and administratively approved with a signed agreement. In ascertaining the location of an alleged stolen vehicle, the dissemination of the NIC number obtained from NCIC or the SYSID number to a private third party supporting law enforcement functions is permitted.
7. **Private Person Status of Record-** A private person may receive verbal information as to whether or not a warrant ordering his or her arrest has been issued by a court and entered into either LEIN or NCIC files; if he or she appears in person at a law enforcement user agency and is properly identified.

8. **School Safety-** Effective October 25, 2000, MCL 28.214, Section 4 of the C.J.I.S. Policy Council Act was amended to allow limited LEIN access to schools for vehicle registration information from the Michigan Department of State (SOS). MCL 28.214, Sec. 4 (1)(iv) authorizes a public or private school superintendent, principal, or assistant principal to receive vehicle registration information, of a vehicle within 1,000 feet of school property, obtained through the law enforcement information network by a law enforcement agency. This includes elementary and secondary schools only to identify non-school related people whose presence might threaten the well-being of school children.

LEIN Security

The CJIS Security Policy was updated in December of 2008. It includes the minimum level of information technology security requirements determined acceptable for the transmission, processing, and storage of the Criminal Justice data.

MINIMAL SECURITY MEASURES

The following are minimal security measures that must be adopted by agencies authorized to access LEIN and its interfaced computer systems. It is the responsibility of the individual agencies for confidentiality of criminal justice information. Any departure from these responsibilities warrants the removal of the offending terminal from further system participation in order to protect all other users.

1. **Communication Lines-** Communication lines and channels used to transmit or receive LEIN data shall be dedicated solely to criminal justice use. There shall be no non-criminal justice terminals sharing these lines or channels.
2. **Computer Interfaced Systems-** Each computer interfaced agency shall establish an information security structure that provides for a Local Agency Security Officer (LASO). Computer systems interfaced to LEIN must have appropriate computer programming instructions written and other built-in controls to prevent LEIN data from being accessible to any terminal other than authorized criminal justice terminals. Systems linked to LEIN shall assume responsibility for system security with regard to agencies which they service. Interfaced systems having access to LEIN must maintain a record of all LEIN and NCIC transactions.
3. **Copies-** Copies of criminal history record information received from LEIN or NCIC shall be afforded security to prevent unauthorized access to or use of that data. Second copies of LEIN printouts or unneeded LEIN printouts must be disposed of in such a manner as to assure confidentiality.
4. **Facsimile Use-** The LEIN Policy Council at their January 1990 meeting established guidelines for the sending of LEIN obtained information via a facsimile (FAX) machine. Careless dialing or the sending of information to un-staffed receivers could result in improper dissemination of LEIN records. The council's guidelines are as follows:
 - o The receiving agency must be notified by the sender prior to transmission.
 - o Information should only be sent to a staffed receiver.
 - o A recognition of receipt is to be returned to the sender.
 - o The sender is ultimately responsible for the security of the facsimiled information.
5. **Personnel-** Personnel authorized to operate terminals or any other equipment which accesses LEIN shall be thoroughly screened and trained. Such screening shall also apply to non-criminal justice maintenance or technical personnel which have access to such equipment.
6. **Policy Contract-** Each LEIN user agency is required to sign a written contract with the Michigan State Police agreeing to conform to system policies and Rules.

7. **Terminal Agency/Interface Agency-** A LEIN terminal agency or a satellite computer system interfaced to LEIN shall establish adequate physical security measures to protect against any unauthorized personnel gaining access to LEIN data. To insure that LEIN and NCIC data is properly used and/or disseminated and to facilitate audit and investigative functions, LEIN rules require that the terminal operators name and the name of the requester and the identity of his/her agency be included on all LEIN and NCIC inquiries.
8. **Terminal Agency Coordinator (TAC) -** Each terminal agency administrator shall designate one or more individual(s) to function as a Terminal Agency Coordinator (TAC) who shall be responsible for ensuring compliance with LEIN and NCIC policy and regulations including validation requirements. The TAC shall also insure that the necessary physical, personnel, computer, and communications safeguards prescribed by the Michigan CJIS Security Policy are functioning properly.
9. **Terminals-** Terminals and any other equipment which is authorized access to LEIN/NCIC shall be placed in physically secure locations within the authorized agency.
9. **Visitors-** All visitors who have access to the LEIN or LEIN information shall be accompanied by appropriate staff personnel at all times.

Responsibilities and Compliance

It is the responsibility of the individual agencies for confidentiality of criminal justice information. All data associated with CJIS records shall be securely stored and/or disposed of to prevent access by unauthorized personnel. Any departure from these responsibilities warrants the removal of the offending agency from further system participation in order to protect all other users.

Michigan must adhere to the provisions of the NCIC Security Policy, NCIC procedures and policies, and Title 28 of the Code of Federal Regulations, which relates to the “collecting, storing, or disseminating” of computerized criminal history information.

Executive Order No. 2002-2 transferred all information technology responsibilities from the Department of State Police to the Department of Information Technology (DIT). This included the transfer of the LEIN files and system from the Department of State Police to DIT. LEIN servers are housed by DIT in a secure facility. DIT is responsible to provide physical security and safeguards for LEIN data.

The Michigan State Police requires agencies to investigate all allegations of LEIN violations and reviews the actions taken by the agencies. The LEIN Field Services Section is responsible for auditing all direct access LEIN agencies triennially for compliance to LEIN rules and policies as well as the NCIC policies.