



LAW ENFORCEMENT INFORMATION NETWORK TRAINING BULLETIN

At the request of the Criminal Justice Information Services (CJIS) Board, the Michigan State Police (MSP) convened a committee to discuss information sharing issues with county concealed weapons licensing boards and to research potential solutions. This Law Enforcement Information Network (LEIN) Training Bulletin is being disseminated to educate LEIN user agencies and county concealed weapons licensing board members of the committee's findings.

Concealed Weapon Licensing Board

Michigan Compiled Law (MCL) 28.425a requires each county to have a concealed weapon licensing board. The Board is composed of the county sheriff (or designee), the Director of the MSP (or designee), and the county prosecutor. The prosecutor is offered the opportunity to opt out of being a member of the board, which then requires the county commission to appoint a replacement member who is a qualified firearms instructor. The Board's function is to issue, deny, revoke, or suspend licenses to carry a concealed pistol and gas ejecting devices, as well as to reinstate revoked and suspended concealed carry or gas ejecting device rights.

MCL 28.425b requires the county sheriff to verify an applicant's qualifications in LEIN and report his or her findings to the Board. This verification consists of running the applicant's name in LEIN, checking for warrants, personal protection orders, conditional bond orders, mental health orders, and criminal history. The same query also checks the National Crime Information Center (NCIC) for out of state records, including criminal history, and the National Instant Criminal Background Check System (NICS), as required by MCL 28.426. MCL 28.425b also requires a first-time applicant to be fingerprinted, with a copy of the results provided to the agency that submitted the fingerprints and to the county clerk.

Information Sharing Issues

The question of proper information sharing stems from the fact that while the Board is comprised of members of criminal justice agencies (except in the case of a prosecutor opt out), the Board itself is not a criminal justice agency and is not a part of any criminal justice agency, and the Board does not perform a criminal justice function (as defined by federal statute). As such, the committee reached out to the MSP's Legislative and Legal Resources Section and to the Federal Bureau of Investigation (FBI) CJIS Division for clarification. The following conclusions were reached:

Michigan only (name-based query): The sheriff, upon running the applicant in LEIN, may provide detailed verbal information to the Board regarding the Michigan-based LEIN response, but may not provide the actual printout.

NCIC/NICS (name-based query): The FBI CJIS Division has provided that, due to the fact that the Board is not a criminal justice agency and does not perform a criminal justice function, the Board is not authorized access to information from NCIC or NICS obtained via a name-based query.

NCIC (fingerprint-based query): The FBI CJIS Division has also provided that a fingerprint-based response containing criminal history information may be shared with the county concealed licensing board, however, discussing an individual's criminal history record in a public forum would not be permissible. Therefore, when discussing an individual's criminal history record, county concealed weapon licensing boards are advised to utilize the following exception to the Open Meetings Act (MCL 15.628), which states, in part, "*A public body may meet in a closed session only for the following purposes: (h) To consider material exempt from discussion or disclosure by state or federal statute.*"

Resolution

The LEIN Field Services Unit offers the following guidance to county concealed weapon licensing boards:

- The sheriff should run the applicant in LEIN using the proper query to check LEIN, NCIC, and NICS.
- The sheriff should verify the applicant's qualifications against the LEIN, NCIC, and NICS responses obtained through LEIN.
- If there is no disqualifying record found on the LEIN, NCIC, or NICS responses, the sheriff should provide verbal affirmation that the applicant qualifies for a concealed pistol license.
- If a disqualifying record is found on the Michigan LEIN response, the sheriff may provide detailed verbal information to the board about the disqualifying record. The sheriff may not provide the actual printout to the board.
- If a disqualifying record is found on the NCIC and/or NICS response, the sheriff may provide to the board only a verbal "no," or "disqualified." The sheriff should obtain the source documentation for any NCIC or NICS disqualifier. Source documentation that is public information may be presented to the board without issue.
- If discussion is required regarding a disqualifying record found on the fingerprint-based response, the board may close the meeting to discuss.

Questions regarding the sharing of LEIN/NCIC/NICS information with county concealed weapon licensing boards may be directed to Ms. Liz Canfield at (517) 241-0639 or canfielde@michigan.gov.