THE POLICIES AND PROCEDURES INCLUDED IN THIS MANUAL ARE NOT A CONTRACT OF EMPLOYMENT AND SHOULD NOT BE RELIED ON AS SUCH. THESE POLICIES AND PROCEDURES ARE SUBJECT TO AND MAY BE CHANGED AT ANY TIME BY THE DEPARTMENT OF PUBLIC SAFETY, MEDICAL UNIVERSITY OF SOUTH CAROLINA.

A. Policy

"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 there of when necessary for the purpose of challenge or correction". Section 20, 21 (g) (1), Security and Privacy Reg.

If the Records Clerk is unsure as to what to do ....STOP! Ask the Chief or Patrol Commander. If he/she does not know, call SLED. DO NOT give out any Criminal Records unless you are sure you are doing it correctly.

B. Procedure

1. If an individual wishes to review his/her criminal records at this Department, the following steps should be followed:

   STEP 1 Have him/her fill out the top section of the "Individual Request for Criminal Record Review" form. You should date the form and sign it.

   STEP 2 The Requestor must provide one (1) set of fingerprints for identification purposes. The prints will be taken by the Investigations Section.

   STEP 3 Tell the Requestor that his/her identity must be verified by SLED and that you will call or write him/her in $\frac{3}{4}$ to 4 weeks to return to
review his/her records.

**STEP 4** Send the fingerprint card to SLED RECORDS DIVISION with a copy of the request form. File the original request form with a notation of when the fingerprints were sent to SLED.

**STEP 5** When SLED returns the fingerprints with ID numbers, check your files to see if you have a record. If SLED has no file and you do, with a fingerprint card send that information to SLED with both sets of prints.

**STEP 6** When the record has been verified, or you find you have no record, contact the requestor to come in for review. **DO NOT TELL THE REQUESTOR WHETHER OR NOT YOU HAVE A FILE OVER THE PHONE!**

**STEP 7** When the requestor comes in for review, fill out the middle sections of the request form. If there is someone other than his attorney to be present, type up the following statement and have it signed:

"I __________, have been requested by __________ to assist in interpreting their criminal records."

Date

Signature of Assistor

Signature of Requestor

Signature of Records Clerk

**STEP 8** SHOW the requestor his/her record, if any, in a private area. **DO NOT LET THE RECORD LEAVE! SHOW ONLY CRIMINAL HISTORY RECORD (RAP SHEET).**

**STEP 9** If the requestor has no problem with the record, have him/her fill out the bottom section of the request form and return the file. **DO NOT GIVE ANY COPIES OF THE RECORDS!** If the requestor has a challenge to the record, explain the challenge procedures and go to CHALLENGE PROCEDURES, STEP 1.

2. If an individual wishes to challenge his/her criminal record at this Department, the following steps should be followed:

**POLICY AND PROCEDURE # 43**
STEP 1  If the individual wishes to challenge, determine if he/she wants a
copy of that portion of the record to be challenged. If so, give him
a copy of **ONLY THAT PART OF THE RECORD**.

STEP 2  Have the challenger complete the bottom portion of the review
form/attach any copies of the record given out and file.

STEP 3  When a challenger is ready to make the challenge, have him/her
fill out the "Criminal History Record Challenge Form". Tell the
challenger that he/she will be notified when a review has been
made in **7 to 10** days.

STEP 4  The Challenge and the file will be reviewed by the Chief or Patrol
Commander, and a decision will be made. **REMEMBER:** The
Challenger should **PROVE** the error, the Department does not
have to defend its records!

STEP 5  Call in the challenger and inform him/her of the decision. If a
correction is to be made, go to **STEP 13**.

STEP 6  If the challenger wishes to appeal, tell him that the Chief will
review the record and he/she will be notified in **7 to 10** days. Send
the challenge form and the file to the Chief.

STEP 7  Call in the challenger and inform him/her of the decision. If a
correction is to be made, go to **STEP 13**.

STEP 8  If the challenger wishes to appeal the decision, tell him/her that
SLED will review the request and he/she will be notified in **20** to
**30** days. Send all documents to SLED.

STEP 9  Call in the challenger and inform him/her of the decision. If a
correction is to be made, go to **STEP 13**.

STEP 10 If the challenger wishes to appeal the decision, tell him/her that a
review will be made by the Criminal Justice Information and
Communication Policy Advisory Board and he/she will be notified in **4** to **6** weeks.

STEP 11 Call in the challenger and inform him/her of the decision. If a
correction is to be made, go to **STEP 13**.

STEP 12 If the challenger wishes to appeal the decision, tell him/her that all
administrative remedies have been exhausted and that he/she should now appeal through the COURTS.

**STEP 13** If any correction is made:

1) Notify all agencies to whom you have sent the incorrect information (check your Dissemination Log).

2) Notify SLED.

3. Security and Privacy of Criminal History Records *(CALEA 82.1.7)*

   a. Title 28, Chapter I, Section 20.21 (f) (3) (A) (VII) of the Code of Federal Regulations charges the Chief of Public Safety/Chief of Police with the responsibility "to protect any central repository of Criminal History Information from unauthorized access, theft, sabotage, fire, flood, wind or other natural or man-made disaster". Non-compliance will result in loss of LEAA funds, and willful and knowing violations could result in a $10,000 fine against the Chief of Public Safety or any other employee of the Department. Therefore, the following procedures for release and protection of Criminal History files will apply for the MUSC Department of Public Safety.

   b. Criminal History files within the Public Safety Department means information collected by criminal justice agencies and individuals consisting of identifiable descriptions and notations of arrest, detention, indictments, information, or other formal charges, and any disposition arising therefrom, sentencing, correctional supervision and release. The term does not include the Public Safety Docket maintained for public information available to the public from any employee in the Department. In addition, the term does not include identification information such as fingerprint records to the extent that the information does not indicate involvement of the individual in the criminal justice system.

   c. **Public records, files and copies of the UCR’s, which may not be released under any circumstances, are investigative files maintained by the Investigative/ Records Division. Only by subpoena or court order** will such files and/or records be released (General Order for Release of Police Information to News Media - GO #35).

   d. It is the policy of this Department to release Criminal History Information only to other law enforcement agencies upon request.

   e. Any individual may, upon satisfactory verification of his/her identity,
review, without undue burden to either this department 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. Verification of such individual's identity may **ONLY** be effected through submission of his/her name, date of birth, and a set of rolled fingerprints - which will be submitted to the State Law Enforcement Division (SLED). After return of such verification to this department, a review of his/her record may be made in the RECORDS OFFICE, MUSC, Monday through Friday from 10:00 to 15:00, excluding holidays. This service may be obtained without charge at the present time. However, this is subject to review, and if deemed necessary, a "reasonable" fee may be charged to cover actual costs. Review must be made in person or by counsel, provided the counsel has a fingerprint card and authorization of the person requesting the review. The identity of the counsel may be made by other than rolled fingerprints, if known, and verified by a member of this Department. **COPIES** of the individual's record shall be made available to the individual or his/her counsel **ONLY** for the purpose of initiating a challenge to the record and only that portion of the individual's criminal record (RAP Sheet) under challenge will be furnished.

f. Any individual, requesting to review his/her criminal record, will be referred to the Records Clerk in the Administrative Division where Section I of the "Individual's Request for Criminal Review Form" will be completed by the person(s) making the request. The Records Clerk will then refer the individual to the Investigator, who will roll a set of fingerprints of the individual requesting access. Fingerprints FORM FD-258 (Rev. 4-25-72)(Applicant Card) will be completed as usual, except the furnishing of the individual's social security number will be voluntary. On the fingerprint record card, the "CHARGE" block will indicate "RECORD FOR CHALLENGE". The individual will then be informed that to process and assure his/her positive identification, the review will take 60-90 days, and he/she will be advised immediately upon its return from SLED. The fingerprint record will then be mailed to SLED.

g. Upon receipt of positive identification and the "RAP Sheet" from SLED, the Records Clerk will immediately notify the individual by telephone or mail, that he/she may now come to the Department to review his/her criminal history record (CHR-RAP SHEET).

h. When the individual returns to the Public Safety Department to review his/her CHR, allow them to review the record in the presence of the Records Clerk or a law enforcement officer, and return it before he/she leaves. The individual will not be allowed to take or make a copy of any
part of the CHR, unless he/she chooses to challenge the record (see Paragraph 12).

i. If the individual's counsel is present to review his/her client's record, he will be allowed to do so **ONLY** if counsel has in his/her possession a written and signed authorization of the client. Only after surrender of the signed authorization by the counsel, will the Records Clerk allow the counsel to view the record. The attorney may be identified by sight, if known by the Clerk or a law enforcement officer of the Department. If counsel is present, he/she must complete section II (b) of the "Individual Request for Criminal Record Review" Form (Enclosure 1). Upon completion of the review, the client or requesting individual must complete section III of Enclosure 1. A copy of the completed "Individual Request for Criminal Review" Form must be made and given to the counsel or the client. In the event the individual is satisfied with the CHR on file, the fingerprint record card, used for identification, will be returned to the individual at this time. In the event of challenge, the fingerprint record card will be retained until the challenge is resolved.

j. The individual has the right to review a copy of his/her CHR, but does not have the right to keep or retain any part thereof, unless it is being challenged, and then **ONLY** that portion under challenge may be furnished for his/her retention.

k. In the event the individual feels an incorrect or wrong entry is contained on the CHR, he/she has the right to challenge any part(s) of the record.

l. In the event the CHR is challenged, the following procedures will be used:

1) Require the individual making the challenge to complete the "Criminal History Challenge Form" (Enclosure 2) and sign it.

2) The Records Clerk will then make a copy of the entry on the CHR, which contains the entry being challenged, as described in Section II of the form. On this copy of the entry, stamp or write the words, "For Review and Challenge Only", and then initial the copy for identification. The copy of the entry being challenged may then be given to the individual.

3) The Records Clerk will then inform the individual, issuing the challenge, that he/she will be notified within two weeks concerning the disposition of the entry being challenged.

4) In the meantime, the Records Clerk will check our records, court
dockets and files for correctness and accuracy of the entry. If the MUSC Public Safety Department records, or the records from SLED, agree with the challenge, make the change immediately. Also notify SLED and all other agencies, where criminal information on this person has been previously disseminated, so they may likewise correct their records.

5) If disagreement still exists concerning the issued challenge, for example: If our record, or records from SLED, appear to be correct and proper, the individual will be referred to the Patrol Commander of Public Safety for resolution.

6) Always remember - the burden of proof required to change a CHR rests solely with the challenger.

m. A copy of the public notice, announcing the policy for release of information contained in the Criminal History Files of the MUSC Department of Public Safety, will be conspicuously placed in at least two (2) permanent places in the Headquarters - each location to be in plain view of the Public.

n. A copy of the news release and certification of compliance will be filed with the original of this order, and will remain in the permanent files of this Department.

o. This order is effective May 1, 1986.

p. Any violation of the Department regulation will be considered as serious, and subject the violator to removal for the first offense.

4. Security of CHR

Title 28, Chapter 1, Section 20.21 (f) (3) (A) (VII) of the Code of Federal Regulations states that procedures will be instituted "to protect any central repository of criminal history record information from unauthorized access, theft, sabotage, fire, flood, wind, or other natural or man-made disasters". If at any time you are unsure as to what to do - STOP! ASK!

a. Make sure your AUTHORIZED PERSONNEL access list is posted in the Records area. Any personnel not on the Access List should not be allowed in the Records area. Report any violations immediately to the Records Supervisor or Chief.

b. Keep all Criminal History Information (CHRI) away from public view
and/or access.

c. Make sure all locking devices are locked (windows, file cabinets, doors, etc...), when the Records area is unattended.

d. No cathode ray tubes (CRT) terminals or printers will be in a position to enable access or viewing by the public or unauthorized personnel.

e. All CRT's, terminals or printers should be turned off and locked, if possible, when not in use. No code numbers or CHRI should be left on such devices that could be read when not in use.

5. To Protect Against: Fire, Flood, Wind or Other Natural or Man-Made Disasters

a. Fire extinguisher must be in plain view and easily accessible. They must be charged at all times.

b. All personnel must be knowledgeable in the use of the fire extinguisher.

c. Exits shall be clearly marked.

d. Any potential fire or water hazard should be reported.

e. A review of these procedures should take place periodically for the purpose of updating and/or modifications.

f. In case of any violation or emergency in any of the above areas, notify the Director/Records Supervisor ASAP!