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**IDAPA 11
TITLE 10
Chapter 01**

**11.10.01 - IDAHO CRIMINAL JUSTICE INFORMATION SYSTEM
RULES GOVERNING THE ILET SYSTEM**

000. LEGAL AUTHORITY.

Title 19, Chapter 52 of the Idaho Code Authorizing Creation of the ILET System. (7-1-93)

01. Section 19-5202, Idaho Code. Establishment of network - Use - Rental charge - Interstate Connection. (7-1-93)

a. Establishment of network. The director of the department of law enforcement of the state of Idaho shall establish a teletypewriter communications network which will interconnect the criminal justice agencies of this state and its political subdivisions and all agencies engaged in the promotion of highway safety into a unified teletypewriter communications system. The director is authorized to lease such transmitting and receiving facilities and equipment as may be necessary to establish and maintain such teletypewriter communications network. (7-1-93)

b. Use of network. The teletypewriter communications network shall be used exclusively for the law enforcement business of the state of Idaho and all political subdivision thereof, including all agencies engaged in the promotion of traffic safety. (7-1-93)

c. Judiciary and traffic safety. Nothing in this act shall prohibit the use of or participation in the teletypewriter communications herein provided by the judicial branch of the state government or by any other department, agency or branch of state or local government engaged in traffic safety. (7-1-93)

d. Rental. The monthly rental to be charged each department or agency participating in the teletypewriter communications network on a terminal or unit basis by the teletypewriter communications board and in setting such rental charge the board shall take into consideration the usage of said network by each participant and of the economic position of each participant. There is hereby created the teletypewriter communications network account. All rental and use fees collected under the provisions of this chapter shall be paid into the account. (7-1-93)

e. Interstate connection. The teletypewriter communications network provided for herein is hereby authorized to connect and participate with teletypewriter communications network systems of other states and provinces of Canada. (1971, ch. 195, 2, p. 884; am. 1974, ch. 27, 10, p. 811; am. 1983, ch. 181, 1, p. 491.) (7-1-93)

02. Section 19-5203, Idaho Code. Teletypewriter communications board - Creation - Composition - Terms - Rules and regulations - Compensation of members. (7-1-93)

a. There is hereby created within the department of law enforcement a teletypewriter communications board which shall be composed of five (5) members appointed by the governor. (7-1-93)

b. The members of the teletypewriter communications board shall be composed of the following: (a) Two (2) incumbent county sheriffs; (b) Two (2) incumbent city chiefs of police; (c) One (1) member of the Idaho department of law enforcement. (7-1-93)

c. The term of office of the first board shall be staggered with one (1) appointment expiring January 1, 1972; one (1) appointment expiring January 1, 1973; one (1) appointment expiring January 1, 1974; one (1) appointment expiring January 1, 1975; and one (1) appointment expiring January 1, 1976. (7-1-93)

d. Thereafter, the term of office of each chief of police, sheriff and member of the Idaho department of law enforcement shall be for a term of five (5) years. (7-1-93)

e. The director of the department of law enforcement shall be a permanent member of the board. (7-1-93)

f. In the event any chief of police, sheriff or member of the Idaho department of law enforcement ceases to be chief of police, sheriff, or member of the Idaho department of law enforcement, his appointment to said

board shall terminate and cease immediately and the governor shall appoint a qualified person in such category to fill the unexpired term of such member. (7-1-93)

g. The board shall, upon their appointment, adopt such rules, regulations, procedures and methods of operation as may be necessary to establish and put into use the most efficient and economical statewide teletypewriter communications network and shall publish and distribute said rules, regulations and procedures to each participating department, agency or office. (7-1-93)

h. The teletypewriter communications board shall have exclusive management control over the entire Idaho law enforcement teletypewriter system (ILETS) which includes all hardware, software, electronic switches, peripheral gear, microwave links, circuitry, and terminal devices which make up the network and any access thereto. The term Idaho law enforcement teletypewriter system (ILETS) shall mean the teletypewriter system established by the director of the department of law enforcement pursuant to Subsection (1) of Section 19-5202, Idaho Code, and shall not apply to any type of voice-oriented transmission whether it be by mobile radio, microwave or telephone. (7-1-93)

i. Salaries and expenses. Members of said board shall be compensated as provided by Section 59-509 (b), Idaho Code, which expenses shall be paid from moneys appropriated for funding of this act. The performance of duties under this act by a member of the board shall be deemed to be in performance of his duties as an employee of his particular branch of government. (7-1-93)

j. Federal funding, gifts, donations. The director is authorized to apply for and accept federal funds granted by the congress of the United State, or by executive order, all of which must be deposited in the teletypewriter communications network account, and which may be expended only after a legislative appropriation. The director may accept gifts and donations from individuals and private organizations or foundations for all or any of the purposes of chapter 52, title 19, Idaho Code. (1971, ch. 194, 3, p.884; am. 1974, ch. 27, 11, p. 811; am. 1980, ch. 247, 4, p.582; am. 1983, ch. 181, 2, p. 491; am. 1989, ch. 131, 1, p.285.) (7-1-93)

001. -- 003. (RESERVED).

004. DEFINITIONS.

01. ACT. The Omnibus Crime Control and Safe Street Act, 42 U.S.C. Section 3701, et seq., as amended. (7-1-93)

02. Administration of Criminal Justice. Performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage and dissemination of CHRI. (7-1-93)

03. Disposition. Information disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceeding and also disclosing the nature of the termination in the proceedings; or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such postponement. Dispositions shall include, but not be limited to, acquittal, case continued without finding, charge dismissed, charge still pending due to insanity, charge still pending due to mental incompetence, guilty plea, convicted, youthful offender determination, deceased, deferred disposition, dismissed - civil action, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial - defendant discharged, executive clemency, placed on probation, paroled, or released from correctional supervision. (7-1-93)

04. Criminal History Record Information (CHRI). Information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrest, detentions, indictments, or other formal charges and any disposition arising therefrom, sentencing, correctional supervision, and release. The term does not include identification information such as fingerprint records, to the extent that such information does not indicate involvement of the individual in the criminal justice system. (7-1-93)

05. Criminal History Record Information System. A system including the electronic equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation or dissemination of criminal history record information. (7-1-93)

06. Criminal Justice Agency. Consists of either (1) a government agency or sub-unit thereof which performs the administration of criminal justice pursuant to a statute or executive order, which allocates a substantial part of its annual budget to the administration of criminal justice; or, (2) courts with a criminal or equivalent jurisdiction. (7-1-93)

07. Department of Justice Criminal History Record Information System. The Identification Division and the Computerized Criminal History File Systems operated by the Federal Bureau of Investigation. (7-1-93)

08. Direct Access. Having the authority to access the criminal history record data base, whether by manual or automated methods. (7-1-93)

09. Executive Order. An order of the President of the United State or the Chief Executive of a state which has the force of law and which is published in a manner permitting regular public access thereto. (7-1-93)

10. National Law Enforcement Telecommunication System (NLETS). Criminal history repository of all states and also with access to Interpel. (7-1-93)

11. Non-conviction Data. Arrest information without disposition if an interval of one year has elapsed from the date of arrest and no active prosecution of the charge is pending; or information disclosing that the police have elected not to refer a matter to a prosecutor, or that -a prosecutor has elected not to commence criminal proceedings, or that proceedings have been indefinitely postponed; as well as all acquittals and all dismissals. (7-1-93)

12. State. Any state of the United States, the District of Columbia, the Commonwealth of Puerto Rice, and any territory or possession of the United States. (7-1-93)

13. Statute. An Act of Congress or state legislature of a provision of the Constitution of the United States or of a state. (7-1-93)

005. -- 010. (RESERVED).

011. EXCHANGE OF CRIMINAL HISTORY INFORMATION, USE AND DISSEMINATION POLICY.

01. General. This document provides policy, rules and regulations governing the use and dissemination of criminal history record information (CHRI) accessed via the Idaho Law Enforcement Telecommunications System (ILETS). (7-1-93)

02. ILET. The ILET System recognizes that: (7-1-93)

a. The responsible exchange of complete and accurate CHRI, among authorized criminal justice agencies is necessary and indispensable to effective law enforcement and the application of criminal justice. (7-1-93)

b. Inadequate control of the exchange of CHRI may infringe upon an individual's rights. (7-1-93)

c. Title 28, Chapter 1, Part 20, Code of Federal Regulations (Department of Justice Rules and Regulations) obligates the accuracy, completeness and restrictions on the dissemination of CHRI and identifies the responsibilities of CHRI Systems. (7-1-93)

d. ILETS, by Title 28, Chapter 1, Part 20, Code of Federal Regulations [Department of Justice Rules and Regulations] is defined as a Criminal History Record Information System, governed by a Board which is responsible to formulate policy, rules, and regulations governing the exchange of criminal history data via the ILET System, as authorized under Sections 19-5201 through 19-5204, Idaho Code, and ensure that all ILETS participants follow standard operating procedures as set up by Federal, State and NLETS statutes and/or policies, rules and

regulations, to ensure compatibility of all criminal justice systems. (7-1-93)

03. Purpose. The establishment of policy, rules and regulations governing the exchange of CHRI via the ILET System shall insure that: (7-1-93)

- a. The exchange of CHRI information shall be in a controlled criminal justice environment. (7-1-93)
- b. All ILETs participants shall comply with existing federal and state statutes, rules and regulations, including NLETs policies and procedures which govern the exchange of CHRI, thus protecting the integrity of the ILET System as well as the files of the agencies who have access to the network. (7-1-93)
- c. The rights of individuals to privacy as relates to CHRI shall be protected. (7-1-93)

012. MANAGEMENT AND CONTROL OF THE ILET SYSTEM.

01. General. All computers, electronic switches, manual terminals, circuitry, microwave links which make up the ILET System and which is interfaced to the NCIC, NLET Systems and BCI files for the exchange of CHRI shall remain under the management control of the ILETs Board appointed pursuant to statute to manage and control, and to represent and serve all users of the system thereof. (7-1-93)

02. Control. Management control is defined as the authority which is to set and enforce: (7-1-93)

- a. Priorities; (7-1-93)
- b. Standards for selection, supervision and termination of personnel. (7-1-93)
- c. Policy governing the operation of computers, circuits, and telecommunications terminals as used to process CHRI insofar as the equipment is used to process, store, or transmit CHRI. Management control includes, but is not limited to, supervision of equipment, system design, programming, terminal placement and operating procedures necessary for the development and implementation of the computerized criminal history programs. (7-1-93)

03. Priority For Criminal Justice Agency. Such management control guarantees the priority service needed by the criminal justice community. The criminal justice agency managing a telecommunications terminal must have a written agreement with the Criminal Identification Bureau, assuring that criminal justice agency has management control as defined in Subsection 012.02. of this rule. (7-1-93)

04. Concepts of Management Control. Although dedication is not required for ILETs CCH participation, the security of the information contained in a criminal record system, and the priority service required by the criminal justice community will be enhanced by compliance with the following concepts: (7-1-93)

- a. Success of law enforcement/criminal justice depends first on its manpower, adequacy and quality, secondly on information properly processed, retrievable when needed and used for decision making. Law enforcement can no more give up control of its information than it can its manpower. (7-1-93)
- b. Computerized information systems are made up of a number of integral parts, namely the users, the operating staff, computers and related hardware, communications and terminal devices. For effectiveness, management control of the entire system cannot be divided. Likewise, the long standing law enforcement fingerprint identification process is a very essential element in the criminal justice system. (7-1-93)
- c. Traditionally, law enforcement/criminal justice has been responsible for the confidentiality of its information. This responsibility cannot be assumed if its data base is in a computer system out of law enforcement/criminal justice control. (7-1-93)
- d. A national/statewide public safety and criminal justice computer/communications system, because of priority scope including system discipline, and information needs, on and off-line requires full service of hardware and operating personnel. (7-1-93)

e. Traditionally, police and criminal justice information has not been intermingled or centrally stored with noncriminal justice social files, such as revenue, welfare, medical, traffic safety, etc. This concept is even more valid with respect to computerized information systems at both national and state levels. (7-1-93)

f. These systems, particularly public safety and criminal justice information systems, must be functional and user oriented if they are to develop effectively. Computer skills are part of the system. Ineffective systems result not only in a possible loss of lives but also in greater dollar loss. (7-1-93)

013. USE AND DISSEMINATION OF CHRI.

01. General. The following paragraphs outline how CHRI is obtained via ILETS, who may access such information, record keeping, and other rules and regulations governing the use and dissemination of CHRI via the ILET System. Procedures for inquiring into the various criminal history files are outlined in the ILETS Operating Manual. (7-1-93)

02. How CHRI Information is Available Through ILETS. ILETS participants may access various criminal history files by means of the ILETS terminal device. The accessible files are: (7-1-93)

a. National Crime Information Center (NCIC). The NCIC criminal history file is an on-line direct inquiry computerized criminal history file (CCH) managed by the Department of Justice, Federal Bureau of Investigation, and is located in Washington, D.C. The system contains CHRI for serious and/or significant offenses as contributed by Federal agencies and participating states. (7-1-93)

b. State Criminal History and RePositories Accessed Via NLETS. The NLETS switching computer in Phoenix, Arizona allows ILETS participants telecommunications access to the criminal history repositories of fifty (50) states as well as files of departments within those states. The NLETS switching computer also allows access to Interpel, which allows transmission of CHRI requests over their system to member foreign nations. Approved NLETS formats must be used. (7-1-93)

c. Bureau of Criminal Identification (BCI). Idaho's BCI maintains criminal files in an off-line computerized mode. The BCI is the central repository for CHRI in Idaho, and the records on file are based upon fingerprint identification. The system is accessible via ILETS using an approved BCI format. (7-1-93)

d. ILETS Participants. ILET's participants routinely exchange CHRI via their terminal devices. This point to point transaction is usually requested by an IQ, FQ or AQ message. All CHRI is a request for criminal history or replies to requests exchanged by means of the ILET System, and are governed by rules and regulations as outlined in this section. (7-1-93)

014. LIMITATIONS ON THE DISSEMINATION OF CHRI.

01. Information. Criminal history record information, including conviction and non-conviction data transmitted by means of the ILET System, may be disseminated only to a criminal justice agency or other persons as outlined in Section 013, and the use of that information shall be limited to the purpose for which it was given. (7-1-93)

02. Restriction. Under no circumstances will CHRI be solicited for, or given to any private person, agency, organization or corporation including any other governmental agencies not meeting criteria for access, as outlined in Section 013. It must be noted that under certain circumstances, noncriminal justice agencies are entitled by law to access CHRI conviction data. Example: various state and local licensing bureaus as set up under statute. That access, however, shall not be provided by direct access to the ILET System. This information shall be made available from the criminal history records of the BCI, which collects and stores such information. Such access will be in accordance with the CHRI System rules and regulations and/or any state or local statutes. (7-1-93)

03. Confirm. No agency or individual entitled to access CHRI via the ILET System shall confirm the existence or nonexistence of CHRI to any person or agency not entitled to receive such information in the mandated responsibilities. (7-1-93)

015. -- 020. (RESERVED).

021. LEVELS OF PARTICIPATION.

01. Access. Each qualified agency, participating in the ILET System utilizing a terminal device has the capability to access CHRI by means of this device, as outlined in Section 012. (7-1-93)

02. Share. Any qualified law enforcement or criminal justice agency, as outlined in Section 013, not having an ILET terminal device, may obtain CHRI from NCIC, BCI, NLETs, and/or other criminal justice agencies via an ILET terminal. Agencies receiving such information are subject to the same rules and regulations, statutes, ordinances, executive order or court rule, decisions or order as construed by the ILETs Board. (7-1-93)

03. Written Agreement. Individuals and agencies not a criminal justice agency may participate but only pursuant to a written agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement. The agreement shall specifically authorize access to data, limit the use of data to purposes for which given, insure the security and confidentiality of the data consistent with these rules, and provide sanctions for violation thereof. (7-1-93)

04. Other. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency. The agreement shall specifically authorize access to data, limit the use of data to research, evaluative or statistical purposes, insure the confidentiality and security of the data consistent with these regulations and with Section 524(a) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 28 USCA, 534, and any regulations implementing Section 524(a), and provide sanctions for the violation thereof. (7-1-93)

05. Inquiries. ILETs participants are limited to "inquiries" only when accessing CHRI. The updating of these files is accomplished by BCI personnel from fingerprint cards received, which are used as source documents. (7-1-93)

06. Other. Any ILETs message that identifies an individual by name and physical description and/or numeric identifiers and contains a request concerning any previous arrest or background information, regardless of the primary purpose of the message, is a request for CHRI and is governed by the rules and regulations set forth in this section. (7-1-93)

022. PURPOSE AND RESTRICTIONS OF INQUIRY.

01. Purposes. There are only three purposes for which CHRI may be obtained via ILETs. (7-1-93)

a. Criminal - applicable to all levels of participation for the purpose of the administration of criminal justice, and for criminal justice employment. (7-1-93)

b. Employment - NCIC does not permit CHRI requests for non-law enforcement employment purposes. BCI will not honor CHRI requests for non-law enforcement employment purposes. NLETs allows switching of employment CHRI requests; however, the individual states may or may not honor that request. Interpel will not relay to foreign countries CHRI requests for employment purposes. ILETs participants alone will determine whether or not CHRI stored in their local files will be released for employment purposes. (7-1-93)

c. Record Review - ILETs participants shall not use the ILET System to secure CHRI from the BCI in response to a direct request from an individual or his legal counsel to review or challenge the contents of his records without the express written approval of the Chief of the BCI. The ILET System shall not be used to assist in the review or challenge of the contents of records located in NCIC, other state or local files of other ILETs participants. Individuals requesting to review or challenge their records should be directed to contact the agency that has collected and stored the information. The individual then must submit to a fingerprint examination so a positive identification can be made. This will insure that the person is in fact the person he/she purports to be and, after positive identification has been made, the criminal history record will be made available to them. (7-1-93)

02. Security and Confidentiality. Access to the criminal history records, via the ILET System is restricted to those ILETS agencies maintaining written agreements with the BCI. ILETS requires that other criminal justice agencies, not participating in the ILET System, enter into an agreement with the ILETS agency initiating inquiries for the non-participant. Each terminal agency is responsible for compliance with all federal and Idaho state statutes, ILETS policies and procedures, NCIC, BCI, and NLETS rules and regulations applying to the use and dissemination of criminal history information. Other nonauthorized agencies utilizing terminals on the ILETS network, supported by the computer operation, will not be able to obtain CHRI via ILETS interface. (7-1-93)

023. CRIMINAL HISTORY LOGS.

01. Log. An automated computer log of every criminal history request will be maintained by the ILET System computer. This log will contain the following information: (7-1-93)
- a. Name of agency making the request. (7-1-93)
 - b. Name of subject being inquired on. (7-1-93)
 - c. Date of inquiry. (7-1-93)
 - d. Time of inquiry. (7-1-93)
 - e. Purpose of inquiry. (7-1-93)
02. Archive. The computer log will be maintained on magnetic tape for five years. (7-1-93)

024. SECURITY, ADMINISTRATION AND PRECEDENCE.

01. Instructions. In order to insure the confidentiality and security of information contained in criminal history files, the provisions applicable to system security, outlined in the ILETS Operating Manual, shall be followed. These instructions include: (7-1-93)
- a. Limiting access to the ILETS terminal to authorized personnel only; (7-1-93)
 - b. Locating the terminal in such a way as to prevent unauthorized persons from reviewing the data received; (7-1-93)
 - c. Proper screening and supervision of personnel having access to an ILETS terminal device; (7-1-93)
 - d. The ILETS terminal shall be secured at all times; (7-1-93)
 - e. Restricted dissemination to qualified recipients. (7-1-93)
02. Administrative. Each terminal agency shall sign a written agreement with the ILETS to conform with system policy before participation in the criminal history program is permitted. This would allow for control over the data and give assurance of system security. (7-1-93)
03. Responsibility. Each state criminal justice control terminal agency is responsible for the security throughout the system being serviced by that agency, including all places where terminal devices are located. (7-1-93)
04. Security. A system security officer shall be designated in each control terminal agency to assure all necessary physical, personnel, computer and communications safeguards prescribed by the NCIC Advisory Policy Board are functioning properly in systems operations. The department head signing the agency agreement with the Idaho Law Enforcement Telecommunications System (ILETS) will be designated the System Security Officer. (7-1-93)
05. Direct Access. The rules and procedures governing direct terminal access to criminal history data

shall apply equally to all participants to the system, including the Federal and state control terminal agencies, and criminal justice agencies having access to the data stored in the system. (7-1-93)

06. Permission. All control terminal agencies and the other criminal justice agencies having direct access to computerized criminal history data from the system shall permit an inspection team appointed by the ILETS Board to conduct appropriate inquiries with regard to any allegations of security violations. All results of the investigation conducted shall be reported to the Board with appropriate recommendations. (7-1-93)

07. Precedence. Any law or regulation that place greater restrictions upon the exchange of CHRI, or which affords to any individual, rights of privacy or protection greater than those set forth in this section, shall take precedence over these policies, rules and regulations. (7-1-93)

025. -- 030. (RESERVED).

031. PENALTIES FOR NON-COMPLIANCE.

01. Non-Compliance. Any non-compliance with system security measures or provisions in these regulations shall be brought to the immediate attention of the ILETS Telecommunications Board and the Chief of the BCI, who will recommend appropriate disciplinary action to the Director of Law Enforcement. (7-1-93)

02. Suspend. The Department of Law Enforcement reserves the right to immediately suspend furnishing criminal history data to an ILETS participant agency whenever the security and privacy, use and dissemination rules and regulations established by federal or Idaho state law, ILETS, BCI, NLETS, or NCIC are violated. The BCI may reinstate the furnishing of CHRI in such instances upon receipt of proof that such violations have been corrected. The BCI or ILETS user agency may, upon thirty (30) days notice in writing, discontinue service. (7-1-93)

03. Violations. Title 28, Chapter 1, Part 20, Code of Federal Regulations, of the Federal Register provides that any agency or individual violating the regulations regarding the use and dissemination of CHRI shall be subject to a fine not to exceed ten thousand dollars (\$10,000). (7-1-93)

032. -- 999. (RESERVED).