

Federal and State Laws Impacting Data Sharing

Criminal Justice

Federal

44 U.S.C. §§3541 et seq.

42 U.S.C. §3789g

28 CFR Part 22

Law enforcement requires timely and secure access to services that provide data wherever and whenever for stopping and reducing crime. In response to these needs, in 1998, the Advisory Policy Board recommended to the Federal Bureau of Investigation (FBI) that the Criminal Justice Information Services (CJIS) Division authorize the expansion of the existing security management structure. Administered through a shared information management philosophy, the CJIS Security Policy contains information security requirements, guidelines, and agreements reflecting the will of law enforcement and criminal justice agencies for protecting the sources, transmission, storage, and general of criminal justice information. The Federal Information Security Management Act of 2002¹ provides further legal basis for the approved management, operational, and technical security requirements mandated to protect criminal justice information and by extension the hardware, software and infrastructure required to enable the services provided by the criminal justice community.

The essential premise of the CJIS Security Policy is to provide appropriate controls to protect the full lifecycle of criminal justice information, whether at rest or in transit. The CJIS Security Policy integrates presidential directives, federal laws, FBI directives and the criminal justice community's Advisory Policy Board's decisions along with nationally recognized guidance from the National Institute of Standards and Technology (NIST).

For research purposes, the National Institute of Justice (NIJ) provides for the protection of the privacy and well-being of individuals who are participants in NIJ research studies through statutory and regulatory protection provided to private information.² The regulations:

1. Protect the privacy of individuals by limiting the use of private, identifiable information for research or statistical purposes.
2. Protect private information provided by individuals from use in any judicial, legal, or administrative process without the individual's prior consent.
3. Improve the scientific quality of NIJ research programs by minimizing the subject's concerns over the use of the data.
4. Clarify for researchers the limitations on the use of privately identifiable information for only research or statistical purposes.
5. Ensure that the understanding and knowledge of the broad criminal justice system will continue to advance by providing individual privacy protections.

¹ 44 U.S.C. §§3541 et seq.

² 42 U.S.C. §3789g; 28 CFR Part 22

Additionally, the regulations provide specific requirements on data access and security, limitations on the transfer of the data, and specifications for final disposition of the information.

State

C.G.S. § 18-87k

C.G.S. § 54-300

C.G.S. § 17a-513-516

C.G.S. § 4d-43

There are a number of state laws dealing with the exceptions to the confidentiality rules regarding offender information and data and permitting sharing of such information and data between systems for different purposes:

- The Criminal Justice Policy Advisory Commission uses data and information to develop policies, procedures, and research regarding many issues, including the impact of efforts to prevent prison overcrowding, developing reentry strategy, and identifying institution-based and community-based programs and services that effectively address offender needs including health care, transitional health care, family support, substance abuse, domestic violence, and sexual offender programs and services.³
- There is established a Criminal Justice Policy and Planning Division within the Office of Policy and Management. At the request of this Division, the Department of Correction, the Board of Pardons and Paroles, the Department of Mental Health and Addiction Services, the Department of Emergency Services and Public Protection, the Chief Court Administrator, the executive director of the Court Support Services Division of the Judicial Branch, the Chief State's Attorney and the Chief Public Defender shall provide the division with information and data needed to perform its division. The Division shall have access to individualized records maintained by the Judicial Branch and the other listed agencies that are necessary for research purposes. All data and information that is shared shall be pursuant to developed protocols to protect the privacy of the individualized records consistent with state and federal law and shall remain confidential while in the custody of the Division and shall not be disclosed. Additionally, individualized records shall be used for statistical analyses only and not in any other manner that would disclose the identity of individuals to whom the records pertain.
- Connecticut Sentencing Commission shall perform a number of statutory functions, including but not limited to, facilitating the development and maintenance of a statewide sentencing database in collaboration with state and local agencies, using existing state databases or resources, conducting sentencing trends analyses and studies and preparing offender profiles, and identifying potential areas of sentencing disparity related to racial, ethnic, gender and socioeconomic status. The Commission may request any office, department, board, commission or other agency of the state or any political subdivision of

³ C.G.S. § 18-87k

the state to supply records, information and assistance as may be necessary or appropriate in order for the commission to carry out its duties. Any records or information supplied to the Commission that is confidential shall remain confidential and not be disclosed.⁴

- The Office of the Governor, Lieutenant Governor, Treasurer, Attorney General, Secretary of State or Comptroller and the Commissioner of Corrections may, by interagency agreement, provide for such office (1) to receive information system and telecommunication system facilities, equipment and services pursuant to contracts, subcontracts or amendments to contracts or subcontracts, and (2) to interconnect with other state agency information systems and telecommunication systems.⁵
- Sharing of data and information regarding persons in the custody of the Commissioner of Correction with a psychiatric disorder either upon entry into the corrections system or while incarcerated in prison,⁶ and questions regarding the competency of a defendant to stand trial.⁷

⁴ C.G.S. § 54-300

⁵ C.G.S. § 4d-43

⁶ C.G.S. § 17a-513-516

⁷ C.G.S. § 54-56d