



## Michigan Supreme Court

State Court Administrative Office  
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### MEMORANDUM

DATE: May 4, 2021

TO: Circuit, Probate, and District Judges  
Circuit, Probate, and District Court Administrators  
Probate Registers  
District Court Magistrates  
District Court Probation Officers

FROM: Bobbi Morrow, Management Analyst

RE: Amendments to the CJIS Administrative Rules (LEIN)

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The Michigan Department of State Police (MSP) is responsible for Michigan's compliance with the FBI's Criminal Justice Information Systems policies. In 2011, the Michigan Criminal Justice Information Systems Board (CJIS Board) was formed and serves as an advisory board to the Director of the Department of State Police.<sup>1</sup> One of the responsibilities of the CJIS Board is to recommend policies and rules governing the access, use, and disclosure of information in Criminal Justice Information Systems, including the Law Enforcement Information Network (LEIN). Over the last few years, the CJIS Board, in conjunction with MSP, has extensively reviewed the rules and made recommendations for change. On March 19, 2021, amendments to the [CJIS Administrative Rules](#) were adopted based on those recommendations. MSP sent notices regarding these changes to criminal justice agencies and courts through GovDelivery, as well as through the LEIN terminal message system.

One of the main concerns with the previous CJIS Administrative Rules was the expansive definition of "criminal justice information" and the rules that limited dissemination of that information. While there were many changes to the CJIS Administrative Rules, listed below are highlights that courts may find helpful.

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<sup>1</sup> The CJIS Board is made up of many stakeholders, including representatives from: MJA, MDJA, SCAO, PAAM, Sheriff's Association, Chiefs of Police Association, Michigan Communications Directors Association, a Tribal criminal justice agency, AG, SOS, DOC, DHHS, DTMB, MSP, and the Department of Community Health.

- **R 28.5101(n) – Definition of “criminal justice information” (CJI)** – The previous definition of “criminal justice information” was vague and included all data collected by criminal justice agencies. The amended definition makes it clear that "criminal justice information" means “data (electronic or hard copy) obtained from LEIN, AFIS, ALIAS, or SNAP, including, but not limited to, biometric, identity history, person, organization, and property data.” In other words, if the CJI is obtained from a source not listed in the definition, it is not considered CJI. However, if the information was obtained from LEIN and then copied, pasted, retyped, imported, etc. into another system (e.g. the case management system), it is still CJI and subject to the rules. See also the exception in R 28.5208(7) below.
- **R 28.5208(3) – Dissemination** – The previous version of the rule on dissemination provided that CJI must not be disseminated to an unauthorized agency, entity, or person. While this is still generally the case, the new version of the rule provides some exceptions that may be helpful to criminal courts. **Note, although information can be provided under the exceptions listed below, dissemination of the LEIN printout is still prohibited:**
  - **R 28.5208(3)(a) – “Individual” exception** – A criminal justice agency (including a criminal court) may communicate CJI to an individual or his/her attorney regarding the existence of an active warrant, PPO, conditional bond order, or probation order pertaining to that individual, if the individual is identified to the satisfaction of the criminal court.
  - **R 28.5208(3)(b) – “Mental Health Order” exception** – A criminal justice agency (including a criminal court) may communicate CJI to an individual or his/her attorney regarding an active order or disposition entered for involuntary hospitalization or treatment or for legal incapacitation, if the individual or attorney appears in-person and has been identified to the satisfaction of the criminal court.
  - **R 28.5208(3)(c) – “Outstanding Warrant” exception** – Often times a family member or friend will come to the court in order to inquire about an outstanding warrant and bond information related to another individual. Previously, this was considered CJI that could not be disseminated. This exception allows resolution of outstanding warrants by permitting a criminal court to “communicate warrant information, excluding PII, to an individual when a warrant from any jurisdiction is active in either LEIN/NCIC regarding an individual that is under the jurisdiction or supervision of that [criminal court].” In other words, as long as the individual being inquired about is under the jurisdiction of that criminal court, the court can provide outstanding warrant and bond information to the family member or friend.
  - **R 28.5208(5) – “No CJ Purpose” exception** – The last exception applies when there is no criminal justice purpose to access or disseminate criminal justice

information; rather, it is a matter of curiosity. For example, if a person comes into the court to inquire whether their neighbor has any active warrants, this exception would allow the criminal court to “confirm to an individual whether an active warrant, a missing person, or report of stolen property exists in LEIN or NCIC from any jurisdiction,” provided the person or property being queried has been identified to the satisfaction of the criminal court; a LEIN printout is not provided; and a request for information in bulk is not processed. The rule also provides that the criminal court may charge a nominal fee for information provided under this exception only.

- **R 28.5208(7) – “Creation and Maintenance of Court Records” exception** – All information obtained from LEIN is considered criminal justice information. However, criminal courts will often obtain information such as a defendant’s TCN; CTN; OCA; SID; gender, race or ethnicity; scars, marks or tattoos; etc. in order to complete fields on warrant forms. The new exception now clarifies that criminal courts are permitted to “disseminate CJI to the extent necessary for the creation and maintenance of a court record, as defined by MCR 1.109 and 8.119. Any further dissemination of CJI that is, or is part of, a court record must be otherwise authorized by law or these rules.”

MSP also provided a [LEIN Training Bulletin](#) that briefly highlights some of the other changes to the rules.

Questions regarding the revised CJIS Administrative Rules should be directed to the LEIN Field Services Unit at [mspiefss@michigan.gov](mailto:mspiefss@michigan.gov) or 517-241-0667. For all other court-related questions, please feel free to contact us at [CourtServices@courts.mi.gov](mailto:CourtServices@courts.mi.gov).