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M E M O R A N D U M

DATE: March 23, 2000

TO: Chief Judges; Circuit, District and Probate Courts
cc: Court Administrators, County Clerks

FROM: John D. Ferry, Jr.

SUBJ: Administrative Policy Memorandum 2000-02;
Reporting of Involuntary Hospitalization, Legal Incapacitation, and Not
Guilty By Reason of Insanity Orders

Courts are required by MCL 330.1464a(1) to report orders of involuntary hospitalization to the Michigan State Police for entry to the Law Enforcement Information Network (LEIN), and are required by MCL 700.444a (Effective 04-01-00, refer to MCL 700.5107) to report orders finding persons legally incapacitated to the Michigan State Police for entry to LEIN. Courts are also required by MCL 769.16b to report dispositions of not guilty by reason of insanity to the Michigan State Police for entry to LEIN. The State Police will remove such entries from LEIN only upon receipt of a separate and subsequent court order for that removal.

Procedures for reporting to LEIN were provided to trial courts after the enactment of these sections, and have been incorporated as a part of this Administrative Policy Memorandum in the following pages.

In a recent study the Auditor General sampled court orders from a selected number of courts. The Auditor General concluded that a significant number of the orders were not in LEIN or that the information in LEIN was inaccurate. It is critical that courts fulfill their statutory responsibility to report these orders to the Michigan State Police completely and accurately, in a timely fashion; and to work cooperatively with the Michigan State Police to ensure the reliability of the reporting process. As you know, state law precludes persons subject to these court orders from obtaining a license for a handgun.

A copy of the Auditor General's report is attached. It may also be obtained from their website, at the following address: [HTTP://www.state.mi.us/audgen/comprpt/docs/r5560599.pdf](http://www.state.mi.us/audgen/comprpt/docs/r5560599.pdf)

**Administrative Policy Memorandum 2000-02;
Reporting of Involuntary Hospitalization,
Legal Incapacitation, and Not Guilty By Reason of Insanity Orders**

**Reporting Procedure;
Orders for Involuntary Hospitalization
(MCL 330.1464a; MSA 14.800(464a))**

Courts entering orders directing an individual be involuntarily hospitalized or to involuntarily undergo a program of alternative treatment or a program of combined hospitalization and alternative treatment must report the order to the Michigan State Police for entry into the Law Enforcement Information Network (LEIN) pursuant to MCL 330.1464a, MSA 14.800(464a). Upon entry of the order, a copy must be sent to a designated Michigan State Police Post. The relevant SCAO approved form is:

PCM 214 Order Following Hearing on Petition for Admission/Application

The State Police will remove such an entry from the LEIN only upon receipt of a separate and subsequent court order for that removal; for this purpose, courts should use form MC 239 (Removal of Entry from LEIN).

**Administrative Policy Memorandum 2000-02;
Reporting of Involuntary Hospitalization,
Legal Incapacitation, and Not Guilty By Reason of Insanity Orders**

**Reporting Procedure;
Order Appointing Guardian
(MCL 700.444a; MSA 27.5444(a))**

Courts which find that a person is legally incapacitated for purposes of entering an order to establish a guardianship must report the order to the Michigan State Police for entry into the Law Enforcement Information Network (LEIN) pursuant to MCL 700.444a; MSA 27.5444(a) (effective April 1, 2000, see MCL 700.5107, MSA 27.15107). Upon entry of the order, a copy must be sent to a designated Michigan State Police Post. The relevant SCAO approved form for use **prior** to April 1, 2000 is:

PC 46c Order Appointing Guardian of Legally Incapacitated Person

(AN ELECTRONIC COPY OF THIS FORM IS **NOT** AVAILABLE. IT
CAN BE ACQUIRED FROM YOUR FORMS CONTACT PERSON.)

The relevant SCAO approved form for use **on and after** April 1, 2000 is:

PC 631 Order Appointing Guardian of Incapacitated Individual

Upon entry of the order finding that a person is no longer legally incapacitated, the court must immediately direct, through a separate and subsequent court order, that the State Police remove the person's entry from the LEIN; for this purpose, courts should use form MC 239 (Removal of Entry from LEIN).

**Administrative Policy Memorandum 2000-02;
Reporting of Involuntary Hospitalization,
Legal Incapacitation, and Not Guilty By Reason of Insanity Orders**

**Reporting Procedure;
Not Guilty by Reason of Insanity
(MCL 769.16b; MSA 28.903(2))**

Courts entering dispositions of not guilty by reason of insanity must report the order to the Michigan State Police for entry into the Law Enforcement Information Network (LEIN) pursuant to MCL 769.16b; MSA 28.903(2). Upon entry of the order, a copy must be sent to a designated Michigan State Police Post. This requirement is in addition to reporting the disposition to Michigan State Police - Criminal Justice Information Center for entry into the Criminal History Record. The appropriate form is:

MC 207 Commitment Order, Not Guilty by Reason of Insanity

Should the court determine that the LEIN entry should be removed, the court should complete and forward form MC 239 (Removal of Entry from LEIN).

PERFORMANCE AUDIT
OF THE

LEGAL INCAPACITATION, INVOLUNTARY
HOSPITALIZATION OR TREATMENT, AND
NOT-GUILTY-BY-REASON-OF-INSANITY
COURT ORDER INFORMATION WITHIN THE
LAW ENFORCEMENT INFORMATION NETWORK

March 2000

EXECUTIVE DIGEST

SELECTED COURT ORDER INFORMATION WITHIN THE LAW ENFORCEMENT INFORMATION NETWORK

INTRODUCTION

This report, issued in March 2000, contains the results of our performance audit* of the Legal Incapacitation, Involuntary Hospitalization or Treatment, and Not-Guilty-by-Reason-of-Insanity Court Order Information Within the Law Enforcement Information Network (LEIN).

AUDIT PURPOSE

This performance audit was conducted as part of the constitutional responsibility of the Office of the Auditor General. Performance audits are conducted on a priority basis related to the potential for improving effectiveness* and efficiency* .

BACKGROUND

LEIN is the State criminal justice computer system that provides authorized agencies with a Statewide integrated network of information for the administration of criminal justice. LEIN includes multiple Michigan Department of State Police (MSP) databases containing sensitive criminal and law enforcement information accessible by remote terminals throughout the State. The MSP Criminal Justice Data Center is responsible for access to and management of LEIN.

* See glossary at end of report for definition.

The MSP Criminal Justice Information Center and the MSP Criminal Justice Data Center are responsible for the State's Criminal History Records System and the Injunctive Order* Records System within LEIN. In addition, the Criminal Justice Information Center maintains the State's Automated Pistol* Registration System, which records all pistol licenses reported by local law enforcement agencies* in the State.

The judicial branch, established under Article 6 of the State Constitution, is headed by the Michigan Supreme Court and includes the Michigan Court of Appeals and trial courts* (circuit*, probate* , district, and municipal courts). Several judicial agencies function under the Supreme Court, including the State Court Administrative Office (SCAO). The State Court Administrator is responsible for supervising the administration of the State's trial courts.

Effective April 1, 1996, Sections 700.444a, 330.1464a, and 769.16b of the *Michigan Compiled Laws* require persons with specific court orders to be reported in LEIN. The specific court orders are for persons determined to be legally incapacitated (LIP), persons required to undergo involuntary hospitalization or treatment (IC), and persons adjudged not guilty by reason of insanity (NGRI). LIP and IC court orders are primarily issued by probate courts and NGRI court orders are primarily issued by circuit courts. According to SCAO, LIP, IC, and NGRI court orders represent approximately 2% of court-generated information in the Injunctive Order Records System in LEIN. Concurrently, Sections 28.422(3)(a) and 28.426(1)(a) of the *Michigan Compiled Laws* disqualify persons subject to LIP, IC, and NGRI court orders from

* See glossary at end of report for definition.

obtaining a license to purchase, carry, or transport a pistol, including a concealed pistol. Local law enforcement agencies query LEIN to ensure that an applicant for a pistol license does not have an LIP, IC, or NGRI court order.

**AUDIT OBJECTIVE
AND CONCLUSION**

Audit Objective: To determine the completeness and accuracy of court order information recorded in LEIN for persons (1) determined to be legally incapacitated, (2) required to undergo involuntary hospitalization or treatment, or (3) adjudged not guilty by reason of insanity.

Conclusion: Of the court orders reviewed for persons determined to be legally incapacitated, required to undergo involuntary hospitalization or treatment, or adjudged not guilty by reason of insanity, a significant percentage either were not in LEIN or were in LEIN but the information was inaccurate. Our audit disclosed one material condition* :

- LEIN information concerning LIP, IC, and NGRI court orders is incomplete and, to some extent, inaccurate (Finding 1).

**AUDIT SCOPE AND
METHODOLOGY**

Our audit scope was to examine information in the Law Enforcement Information Network related to LIP, IC, and NGRI court orders from selected courts. LIP, IC, and NGRI court orders are recorded in the Injunctive Order Records System in LEIN. In addition, NGRI court orders are also recorded in the Criminal History Records System in LEIN, as they are the final disposition in a criminal case. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of

* See glossary at end of report for definition.

the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Our audit procedures included testing pertinent information in LEIN related to court records for LIP, IC, and NGRI court orders for the period April 1, 1996 through September 30, 1999.

Our methodology included interviewing personnel from MSP, SCAO, and the courts included in our site visits. Also, we reviewed applicable State statutes, policies, and procedures to gain an understanding of the process developed to record court orders in LEIN.

We visited the circuit court and probate court for each of nine counties. We selected a sample of LIP, IC, and NGRI court orders at the applicable courts, primarily on a random basis.

The number of courts visited and the number of court orders reviewed were not statistically determined and should not be projected to other courts in the State. For the LIP, IC, and NGRI court orders sampled, we examined the courts' files, determined if the court orders were in LEIN as of September 27, 1999, and compared court order information to recorded data in LEIN.

AGENCY RESPONSES

Our audit report contains one finding and corresponding recommendation. The agency preliminary response indicated that MSP and SCAO concur with the recommendation.

The Honorable Elizabeth A. Weaver
Chief Justice of the Supreme Court
G. Mennen Williams Building
Lansing, Michigan

and

Mr. John D. Ferry, Jr.
State Court Administrator
Michigan Supreme Court
309 N. Washington Square
Lansing, Michigan

Colonel Michael D. Robinson, Director
Michigan Department of State Police
714 South Harrison Road
East Lansing, Michigan

Dear Chief Justice Weaver, Mr. Ferry, and Colonel Robinson:

This is our report on the performance audit of the Legal Incapacitation, Involuntary Hospitalization or Treatment, and Not-Guilty-by-Reason-of-Insanity Court Order Information Within the Law Enforcement Information Network.

This report contains our executive digest; description of practices; audit objective, scope, and methodology and agency responses; comment, finding, recommendation, and agency preliminary response; and a glossary of acronyms and terms.

The agency preliminary response was taken from the agencies' responses subsequent to our audit fieldwork. The *Michigan Compiled Laws* and administrative procedures require that the audited executive branch agency develop a formal response within 60 days after release of the audit report.

We appreciate the courtesy and cooperation extended to us during this audit.

Sincerely,

Thomas H. McTavish, C.P.A.
Auditor General

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Description of Practices

Michigan Department of State Police (MSP) - Law Enforcement Information Network (LEIN)

LEIN is the State criminal justice computer system that provides authorized agencies with a Statewide integrated network of information for the administration of criminal justice. LEIN includes multiple MSP databases containing sensitive criminal and law enforcement information accessible by remote terminals throughout the State. LEIN databases contain a computerized index of documented criminal justice information concerning crimes and criminals of Statewide, as well as national, interest. In addition, LEIN provides access to the National Law Enforcement Telecommunications System, the National Crime Information Center, and various State databases.

The MSP Criminal Justice Data Center is responsible for access to and management of LEIN. The Criminal Justice Data Center manages LEIN in accordance with the regulations imposed by the Criminal Justice Information System Policy Council and the Federal Bureau of Investigation, U.S. Department of Justice.

The MSP Criminal Justice Information Center and the MSP Criminal Justice Data Center are responsible for the State's Criminal History Records System as required by Section 28.242 of the *Michigan Compiled Laws*. The Criminal History Records System is a database within LEIN that contains Statewide information on arrests, including fingerprints, reported by law enforcement agencies and the disposition of those arrests reported by local courts. The Criminal History Records System provides arrest and disposition information to law enforcement agencies, courts, and other users. The Criminal Justice Information Center and the Criminal Justice Data Center also maintain the Injunctive Order Records System, another database in LEIN, which includes injunctive orders and warrants issued by a court. In addition, the Criminal Justice Information Center maintains the State's Automated Pistol Registration System (APRS), which records all pistol licenses reported by local law enforcement agencies in the State. APRS provides pistol license information to local law enforcement agencies. MSP informed us that, during the period January 1, 1996 through November 11, 1999, there were 399,680 licenses to purchase a pistol reported to APRS.

Judicial Branch

The judicial branch, established under Article 6 of the State Constitution, is headed by the Michigan Supreme Court and includes the Michigan Court of Appeals and trial courts (circuit, probate, district, and municipal courts). Several judicial agencies function under the Supreme Court, including the State Court Administrative Office (SCAO). The State Court Administrator is responsible for supervising the administration of the State's trial courts. Each of the different courts performs a certain role within the judicial branch according to the jurisdiction given to it by the State Constitution and by statute.

Legal Incapacitation, Involuntary Hospitalization or Treatment, and Not-Guilty-by-Reason-of-Insanity Court Orders

Effective April 1, 1996, Sections 700.444a, 330.1464a, and 769.16b of the *Michigan Compiled Laws* require persons with specific court orders to be reported in LEIN. The specific court orders are for persons determined to be legally incapacitated (LIP), persons required to undergo involuntary hospitalization or treatment (IC), and persons adjudged not guilty by reason of insanity (NGRI). Also effective April 1, 1996, the *Michigan Compiled Laws* require conditional bond releases and personal protection court orders to be reported in LEIN. Conditional bond releases and personal protection court orders were not included in the scope of this audit. Concurrently, Sections 28.422(3)(a) and 28.426(1)(a) of the *Michigan Compiled Laws* disqualify persons subject to any of these types of court orders from obtaining a license to purchase, carry, or transport a pistol, including a concealed pistol. The State laws only disqualify persons subject to an LIP, IC, or NGRI court order from purchasing a pistol, not other types of firearms* , such as a rifle or shotgun. However, the federal Brady Handgun Violence Prevention Act requires firearms dealers to determine if a prospective purchaser is prohibited from possessing a firearm based on information in the National Instant Criminal Background Check System (NICS).

LIP and IC court orders are primarily issued by probate courts and NGRI court orders are primarily issued by circuit courts. According to SCAO, LIP, IC, and NGRI court orders represent approximately 2% of court-generated information in the Injunctive Order Records System in LEIN.

* See glossary at end of report for definition.

To implement the requirements in the *Michigan Compiled Laws*, SCAO revised forms to include required information for LEIN reporting and issued instructions to courts for reporting the information to MSP. MSP issued instructions for recording court orders in LEIN and for developing a process with the courts to obtain the court orders. LIP, IC, and NGRI court orders are recorded in the Injunctive Order Records System in LEIN. In addition, NGRI court orders are also recorded in the Criminal History Records System in LEIN, as they are a final disposition in a criminal case.

Local Law Enforcement Agencies

Local law enforcement agencies include city, township, or village police departments and county sheriff's offices. Licenses to purchase, carry, or transport pistols are issued to qualified applicants by local law enforcement agencies. These agencies query LEIN to ensure that an applicant for a pistol license does not have an LIP, IC, or NGRI court order. The LEIN query searches the criminal history records as well as warrants, injunctive orders, personal protection orders, and NICS for potential reasons to deny a person a license to purchase a pistol. In addition, local law enforcement agencies can deny a pistol license if there is probable cause to believe that the applicant would be a threat to himself/herself or to other individuals or would commit an offense with the pistol that would violate a law of this State or another state.

Court Order Entry to LEIN

LIP, IC, and NGRI court orders are entered into the Injunctive Order Records System predominantly by MSP post personnel. NGRI court orders are entered into the Criminal History Records System by an electronic data transfer from the courts or manually entered by Criminal Justice Information Center personnel.

Audit Objective, Scope, and Methodology and Agency Responses

Audit Objective

The objective of our performance audit of the Legal Incapacitation, Involuntary Hospitalization or Treatment, and Not-Guilty-by-Reason-of-Insanity Court Order Information Within the Law Enforcement Information Network (LEIN) was to determine the completeness and accuracy of court order information recorded in LEIN for persons (1) determined to be legally incapacitated (LIP), (2) required to undergo involuntary hospitalization or treatment (IC), or (3) adjudged not guilty by reason of insanity (NGRI).

Audit Scope

Our audit scope was to examine information in the Law Enforcement Information Network related to LIP, IC, and NGRI court orders from selected courts. LIP, IC, and NGRI court orders are recorded in the Injunctive Order Records System in LEIN. In addition, NGRI court orders are also recorded in the Criminal History Records System in LEIN, as they are the final disposition in a criminal case. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Audit Methodology

Our audit procedures were performed from August through December 1999 and included testing pertinent information in LEIN related to court records for LIP, IC, and NGRI court orders for the period April 1, 1996 through September 30, 1999.

Our methodology included interviewing personnel from MSP, SCAO, and the courts included in our site visits. Also, we reviewed applicable State statutes, policies, and procedures to gain an understanding of the process developed to record court orders in LEIN.

Michigan has 57 circuit courts and 78 probate courts. We visited the circuit court and probate court for each of the following nine counties: Allegan, Ingham, Jackson, Kent, Luce, Macomb, Mason, Oakland, and Wayne. We selected these counties after initially categorizing each county as high, medium, or low volume based on the number and

type of LIP, IC, and NGRI court orders recorded in LEIN. Ingham, Macomb, Oakland, and Wayne Counties were categorized as high volume; Allegan and Jackson Counties were categorized as medium volume; and Kent, Luce, and Mason Counties were categorized as low volume. We selected a sample of LIP, IC, and NGRI court orders at the applicable courts, primarily on a random basis. Occasionally, court records were not organized in a manner that enabled us to select a random sample so we selected the sample on an arbitrary basis. The number of courts visited and the number of court orders reviewed were not statistically determined and should not be projected to other courts in the State.

For each probate court visited, we selected a sample of 50 LIP and 50 IC court orders or, if the court had less than 50, all of the LIP and IC court orders. Some of the circuit courts maintained an automated system that could identify NGRI court orders issued, while other circuit courts maintained manual systems that could not identify the NGRI court orders issued. For each circuit court visited that could identify the NGRI court orders issued, we reviewed all of the NGRI court orders. For each circuit court visited that could not identify the NGRI court orders issued, we systematically selected a sample of the court's files that had received a not guilty verdict to determine if an NGRI court order had been issued.

For the LIP, IC, and NGRI court orders sampled, we examined the courts' files, determined if the court orders were in LEIN as of September 27, 1999, and compared court order information to recorded data in LEIN.

Agency Responses

Our audit report contains one finding and corresponding recommendation. The agency preliminary response indicated that MSP and SCAO concur with the recommendation.

The agency preliminary response which follows the recommendation in our report was taken from the agencies' written comments and oral discussion subsequent to our audit fieldwork. Section 18.1462 of the *Michigan Compiled Laws* and Department of Management and Budget Administrative Guide procedure 1280.02 require MSP to develop a formal response to our audit finding and recommendation within 60 days after release of the audit report.

COMMENT, FINDING, RECOMMENDATION, AND AGENCY PRELIMINARY RESPONSE

COMPLETENESS AND ACCURACY OF COURT ORDER INFORMATION IN THE LAW ENFORCEMENT INFORMATION NETWORK

COMMENT

Background: Sections 700.444a, 330.1464a, and 769.16b of the *Michigan Compiled Laws* provide for court orders issued for persons who are determined to be legally incapacitated (LIP), persons required to undergo involuntary hospitalization or treatment (IC), and persons adjudged not guilty by reason of insanity (NGRI) to be included in the Law Enforcement Information Network (LEIN).

The Michigan Department of State Police (MSP), with input from the State Court Administrative Office (SCAO) and the courts, developed procedures to enter court orders into LEIN. Sections 700.444a and 330.1464a of the *Michigan Compiled Laws* also provide for the removal of court orders from LEIN by a subsequent court order for persons with an LIP or IC court order. Section 769.16b of the *Michigan Compiled Laws* does not provide for removal of NGRI court orders from LEIN.

In 1996, MSP, after consultation with SCAO, decided to enter expiration dates for the initial court order as a basis to remove IC and temporary LIP court orders from LEIN, in lieu of a separate subsequent court order. MSP informed us that dates of expiration were generally calculated from information on the court order and were primarily used for IC court orders. As of May 28, 1999, after an inquiry from the Legislature, MSP discontinued the removal of IC and temporary LIP court orders from LEIN using an expiration date and hence forth, for removal, required the courts to send a subsequent court order authorizing the removal of court orders from LEIN. This change in procedures is the result of MSP's decision to implement the specific wording provided for in Sections 700.444a and 330.1464a of the *Michigan Compiled Laws*.

Audit Objective: To determine the completeness and accuracy of court order information recorded in LEIN for persons (1) determined to be legally incapacitated,

(2) required to undergo involuntary hospitalization or treatment, or (3) adjudged not guilty by reason of insanity.

Conclusion: Of the court orders reviewed for persons determined to be legally incapacitated, required to undergo involuntary hospitalization or treatment, or adjudged not guilty by reason of insanity, a significant percentage either were not in LEIN or were in LEIN but the information was inaccurate. Our audit disclosed one material condition related to court orders in LEIN.

FINDING

1. Court Orders in LEIN

LEIN information concerning LIP, IC, and NGRI court orders is incomplete and, to some extent, inaccurate.

Effective April 1, 1996, the Legislature enacted Sections 700.444a, 330.1464a, and 769.16b of the *Michigan Compiled Laws*, which require the courts issuing LIP, IC, and NGRI court orders to instruct MSP to enter the court orders into LEIN. Concurrently, Sections 28.422(3)(a) and 28.426(1)(a) of the *Michigan Compiled Laws* disqualify persons subject to an LIP, IC, or NGRI court order from obtaining a license to purchase, carry, or transport a pistol, including a concealed pistol.

LEIN provides only current information and does not maintain an audit trail of LIP, IC, or NGRI court orders entered into or removed from LEIN. Therefore, we could determine only if court orders were in LEIN as of September 1999. We could not determine if missing court orders were ever entered into LEIN, if court orders were entered and later removed, or the reason that court orders were removed from LEIN.

Michigan has 57 circuit courts and 78 probate courts. A LEIN summary of court orders showed that 17,919 LIP court orders and 2,267 IC court orders issued by probate courts were recorded in LEIN. However, we noted 3 probate courts that had no court orders in LEIN. These 3 courts informed us that they had not sent to MSP, for recording in LEIN, any of the 158 LIP court orders and 22 IC court orders issued since April 1, 1996.

We visited 9 other probate courts and 9 circuit courts. We examined 800 LIP and IC court orders from the 9 probate courts visited and 63 NGRI court orders from 4 of the 9 circuit courts visited to determine if the court orders were in LEIN. The remaining 5 circuit courts visited had not issued any NGRI court orders for the files we sampled. Our testing of court orders disclosed:

- a. The following number and percentage of LIP and IC court orders were not, but should have been, in LEIN:

	Court Orders Tested	Court Orders Not in LEIN	Percentage of Court Orders Not in LEIN
LIP court orders	440	123	28.0%
IC court orders	360	238	66.1%
Total	<u>800</u>	<u>361</u>	

After May 28, 1999, MSP required a subsequent court order for removal, as required in the *Michigan Compiled Laws*. To determine the effect of MSP discontinuing removal of IC and temporary LIP court orders from LEIN using an expiration date, we segregated LIP and IC court orders issued after May 28, 1999 or that would have expired after May 28, 1999. Our testing disclosed that 48 (32.7%) of the 147 LIP and IC court orders issued or expired after May 28, 1999 were not in LEIN. Therefore, MSP's change in procedures regarding removal of LIP and IC court orders from LEIN did not eliminate the risk that court orders were missing from LEIN.

MSP, SCAO, and the courts informed us of several possible causes for missing LIP and IC court orders in LEIN. These possible causes include: MSP removed IC and temporary LIP court orders from LEIN based on expiration dates; courts did not always forward IC continuation orders to MSP when continued treatment was subsequently ordered; courts did not always forward court orders to MSP because of staffing and location changes; court orders were misplaced; and an MSP post did not enter an IC court order if an LIP court order existed on LEIN for the same person.

- b. The following number and percentage of NGRI court orders, which should have been in LEIN, were neither in LEIN's Criminal History Records System nor in LEIN's Injunctive Order Records System:

	Court Orders Tested	Court Orders Not in LEIN	Percentage of Court Orders Not in LEIN
NGRI court orders	63	29	46.0%

Three (75%) of the 4 circuit courts that issued NGRI court orders informed us they were not forwarding NGRI court orders both to the MSP Criminal Justice Information Center for entry into LEIN's Criminal History Records System and to MSP posts for entry into LEIN's Injunctive Order Records System. In addition, the NGRI court order, developed by SCAO, contains two separate directions for the court to send a copy of the court order to MSP. One direction is for a copy of the court order to be sent to the MSP Criminal Justice Information Center, pursuant to Section 769.16a of the *Michigan Compiled Laws*. The other directs the court to send a copy of the court order to MSP for entry into LEIN. The latter direction was added to the form in 1996 to comply with newly enacted Section 769.16b of the *Michigan Compiled Laws*. It is possible that some courts consider the forwarding of a single copy of a court order to MSP as compliance with both directions.

Effective June 1, 1987, Section 769.16a of the *Michigan Compiled Laws* requires court orders for dispositions of felonies and misdemeanors, punishable by imprisonment for more than 92 days (which include most NGRI court orders), to be recorded in LEIN's Criminal History Records System. If the NGRI court order is recorded in either the LEIN Criminal History Records System or the Injunctive Order Records System, the court order will be identified in a LEIN query. However, only NGRI court orders identified in LEIN's Criminal History Records System are included in the federal index of participating states' criminal history records. Because this index is queried by a firearms dealer when a person is purchasing a firearm, such as a rifle or

shotgun, the NGRI court orders missing from the LEIN Criminal History Records System would not be identified.

- c. Critical information (including name, sex, and date of birth) was inaccurate in the following instances:

	Tested Court Orders in LEIN	Inaccurate Critical Information	Percentage of Inaccurate Critical Information in LEIN
LIP court orders	288	16	5.6%
IC court orders	83	4	4.8%
NGRI court orders	15	0	
Total	<u>386</u>	<u>20</u>	

MSP informed us that local law enforcement agencies use critical data to query LEIN for a person requesting a pistol license. If the critical data in LEIN is not accurate, a query for a pistol license may not identify that an LIP, IC, or NGRI court order existed to disqualify a person from obtaining a pistol license.

In addition, we noted 170 instances of noncritical inaccurate information in LEIN, including race, court order number, court identification code, the type of court order, and the date of the court order. MSP informed us that this data is not critical in determining if an LIP, IC, or NGRI court order existed in LEIN during a query by a local law enforcement agency. However, any inaccurate information in LEIN, even though it may be noncritical, may cause the local law enforcement agency to incorrectly interpret whether the court order identified in the LEIN query is for the applicant.

MSP, SCAO, and the courts informed us of several possible causes for inaccurate court order data in LEIN. These causes include: courts did not always follow up on errors or missing information on the court orders referred to the courts by MSP; courts or other persons used outdated court order forms that did not include all the required data for entry to LEIN; LEIN input controls allowed MSP to enter new court orders using the information from the previously processed record; and MSP incorrectly entered data.

Local law enforcement agencies query LEIN before issuing a pistol license to ensure that the applicant does not have an LIP, IC, or NGRI court order, which disqualifies the applicant from obtaining a pistol license. Missing and inaccurate LIP, IC, and NGRI court orders in LEIN increase the risk that a person determined to be legally incapacitated or with a mental health deficiency may not be identified in a LEIN query and could receive a license to purchase, carry, or transport a pistol, including a concealed pistol.

RECOMMENDATION

We recommend that MSP and SCAO ensure that LEIN information concerning LIP, IC, and NGRI court orders is complete and accurate.

AGENCY PRELIMINARY RESPONSE

To ensure the timeliness, accuracy, and completeness of required court orders in LEIN, it is critical to establish a Statewide communications network infrastructure, including a complete judicial information network, for the electronic exchange of data among justice system agencies. It is only with such an integrated criminal justice network that timeliness, accuracy, and efficiency in multi-agency records processing, as well as the public safety which is dependent upon it, can be ensured. As in the past, MSP and SCAO will continue to work toward this crucial development. Pending the implementation of a communications network, MSP and SCAO will explore the development of a system allowing for the electronic reporting by local court systems of court order information to LEIN.

As an immediate response to the need for ensuring the accuracy and completeness of LIP, IC, and NGRI court orders in LEIN, MSP and SCAO will undertake an effort to restore past orders to LEIN. MSP will endeavor to reenter and restore those orders taken off LEIN but statutorily required to be on LEIN. Once MSP has developed updated court order lists, SCAO will work with trial courts to review the updated records and supply to MSP any additional records to be added to LEIN.

Glossary of Acronyms and Terms

APRS	Automated Pistol Registration System.
circuit court	The court that has original jurisdiction in all civil cases involving more than \$25,000 (increased from \$10,000 effective January 1, 1998); in all felony criminal cases; in certain serious misdemeanors; and in all family-related cases (including divorce, paternity, child support, juvenile delinquency, abuse/neglect, and adoption). Circuit courts also hear cases appealed from lower courts.
effectiveness	Program success in achieving mission and goals.
efficiency	Achieving the most outputs and outcomes practical for the amount of resources applied or minimizing the amount of resources required to attain a certain level of outputs or outcomes.
firearm	A weapon from which a dangerous projectile may be propelled by an explosive or by gas or air. A "firearm" does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BB's not exceeding .177 caliber.
IC	Persons required to undergo involuntary hospitalization or treatment or a program of combined hospitalization and treatment.
injunctive order	A court order prohibiting someone from doing some specified act or commanding someone to undo some wrong or injury.
law enforcement agency	A city, township, or village police department, a county sheriff's office, or a federal or State policing organization.

LEIN	Law Enforcement Information Network.
LIP	Persons determined to be legally incapacitated.
material condition	A serious reportable condition which could impair the ability of management to operate a program in an effective and efficient manner and/or could adversely affect the opinion of an interested person concerning the effectiveness and efficiency of the program.
MSP	Michigan Department of State Police.
NICS	National Instant Criminal Background Check System.
NGRI	Persons adjudged not guilty by reason of insanity.
performance audit	An economy and efficiency audit or a program audit that is designed to provide an independent assessment of the performance of a governmental entity, program, activity, or function to improve public accountability and to facilitate decision making by parties responsible for overseeing or initiating corrective action.
pistol	A loaded or unloaded firearm that is 30 inches or less in length or a loaded or unloaded firearm that by its construction and appearance conceals it as a firearm.
probate court	A court that hears cases pertaining to guardianships, conservatorships, the commitment for hospital care of the mentally ill, and administration of estates and trusts for minors and adults. As of January 1, 1998, the family divisions of circuit courts were created and jurisdiction for juvenile delinquency, abuse and neglect, adoptions, and other family matter cases were moved from the probate court to the circuit court.

reportable condition A matter coming to the auditor's attention that, in his/her judgment, should be communicated because it represents either an opportunity for improvement or a significant deficiency in management's ability to operate a program in an effective and efficient manner.

SCAO State Court Administrative Office.

trial court A court with jurisdiction over cases where evidence is first received and considered. Trial courts in Michigan include circuit, probate, district, and municipal courts.