



# Oregon

Kate Brown, Governor

## Department of State Police Criminal Justice Information Services

3772 Portland Rd NE  
Salem, OR 97301  
(503) 378-3070  
FAX (503) 378-2121

December 29, 2015

All Oregon LEDS Agencies  
Attn: Agency LEDS Representatives

Re: Results of 2015 NCIC Audit/Local Agency Reviews

During the week of July 10 – 14, 2015, NCIC administered their 2015 Oregon Audit by conducting local agency reviews of the following agencies: Oregon State Police LEDS, Bend Police Department, Gresham Police Department, Hood River County Sheriff's Office, Jefferson County Sheriff's Office/Jefferson County Jail, La Grande Police Department, Multnomah County Sheriff's Office/Multnomah County Sheriff's Office Warrants Section, Umatilla County Sheriff's Office, and the Union County Sheriff's Office. NCIC audited a total of 200 criminal history/III checks, 76 extraditable warrant records, 79 Protection Orders, and 45 missing person case files. The auditors reviewed several other areas as well, including administration/agreements, policies, training certification and security.

Our thanks go out to all of these agencies, their LEDS Representatives and their Administrators, for hosting the NCIC Auditors, and having all of the audit documentation and files ready to audit. For those agencies that did not get to experience a federal audit, NCIC has changed their focus of their audit program, and rather than only scheduling large record volume agencies to audit, they are now including agencies with lower record counts. As an example, they used to always audit at least 200 warrants, but this cycle only audited 76. So you may be asked to participate in future NCIC audits, even with a low record volume.

The purpose of this letter is to identify the areas of non-compliance that were found by the NCIC auditors, and share that information with all agencies so they might learn from it. When looking at these shortcomings, please consider "How does our agency handle these issues, are we doing it correctly?" We will not identify individual agency issues of non-compliance that were noted, rather just share all of the issues.

The areas that were noted as being out of compliance are as follows:

- 1. Ensure validation procedures are followed.** (NOTE: This was a recommendation during the previous two audit cycles, so we want to emphasize this issue for users statewide). The specifics of this area of non-compliance concern agencies not contacting the courts when validating protection orders and warrants. Since the courts are the originators of these orders and warrants (for the most part), just checking to see if your agency still has a valid copy of the record is not validating the record. The court must be provided a list of the orders and warrants to be validated, and they must validate them, or provide your agency with access to their electronic systems so the validity of the order or warrant may be confirmed. If the court

will not cooperate, per the NCIC 2000 Operating Manual, the records will be retired and removed from LEDS NCIC. We are certain that the court Judges and County District Attorneys will work with the Court Administration to ensure record removal does not occur. We ask that the validation lists should be shared/validated with the District Attorneys as well. This will provide them with an opportunity to consider the statute of limitations and any possible changes to the extradition limitations. For your agency, please confirm that there is a record validation policy in place (required by NCIC) and that for those records that originate in the courts, the policy includes a process where the courts assist in the validation of their records.

- 2. Ensure Protection Order File records are cleared or cancelled, as appropriate.** As a result of the 2012 NCIC Audit, we found that LEDS did not make the clear protection order (CPO) transaction available in Oregon. These orders are either non-expiring or are purged on their expiration dates, so several years ago LEDS determined the CPO was unnecessary and would create more work for the agencies. The issue is a protection order that is properly cleared goes into the NCIC Historical Protection Order file, and is available by query, but if they are not cleared, they are not available. LEDS made the change and made the CPO transaction available, but it was not clear that all vendors made the mask available, or if we had the correct terminal security group settings in place to accommodate the transaction. These are primarily Sheriff's Office records, but in those counties where the jail serves the Sheriff's Office full time or part time, there may be an issue. For Sheriff's Offices and Jails, please check to ensure that the CPO transaction is available, and that it works by using the LEDS Training records, if you are not sure. If it does not work, please let us know so we can work with you and your vendor to make sure it is corrected. If there is any assistance we need to provide to ensure everything is in working order, please let us know. We prefer to have this capability working now, rather than identify that it is still not working during your audit.
- 3. Ensure III is used only for authorized purposes.** (NOTE: This was a recommendation during the previous two audit cycles, so we want to emphasize this issue for users statewide) Agencies were found to be running III criminal history checks for city and county employment, for public service volunteers, and for emergency placement of children without an FBI approved statute.

These will be covered in two separate areas.

Criminal history checks on non-criminal justice agency city and county employment applicants, and public service volunteers (who are not volunteering with the criminal justice agency) may only be run in accordance with an approved city or county ordinance or code using purpose code E for non-criminal justice agency employment. The results of the check may not be shared with the city or county human resources, beyond confirming or denying that the subject of the check does or does not have an Oregon criminal history. If the city or county needs the criminal history record, they may elect to request this information through the OSP "Open Records" process; or the applicant may request a copy of their own Oregon record through the OSP "Copy of Own Record" process. As this is a continuing area of non-compliance over three audit cycles, we ask agency LEDS Representatives to visit and provide training to all terminal operators who run criminal history records to ensure they clearly understand when they may access III and when they may not. We will also include this as a regular topic of instruction in our regional and statewide training events.

NOTE: Agencies are cautioned about running Oregon only criminal histories with an appropriate Purpose Code, but when they get a hit, their application may offer a button to run the SID number. When the button is used the application may enter Purpose Code C as a default. If that is the case the agency must enter the RR transaction separately and ensure the proper Purpose Code is used.

The only agencies that are authorized to run criminal history checks for the emergency placement of children are social services agencies (Child Welfare) charged with that responsibility which have been issued an ORI ending in "T" by NCIC. When the agency with the NCIC assigned ORI runs a criminal history for emergency placement or exigent circumstances, they must use purpose code X. Law enforcement agencies may run checks for these agencies only if they use the ORI ending in T and purpose code X. There are no ORIs issued in Oregon that end in T. Within five days of the subject being properly run under purpose code X, Child Welfare must follow up with a fingerprint based background check on the subject. DHS Child Welfare does not have the fingerprint infrastructure in place to satisfy this requirement. When a law enforcement agency inappropriately runs these checks for Child Welfare, they are run under the identification information (name and date of birth?) provided, and the law enforcement agency accepts certain liability by confirming that the subject of the check "is OK". To be clear – there is currently no legal basis that authorizes any Oregon law enforcement agency to run emergency placement checks in III for DHS Child Welfare. OSP will continue to work with agencies and the FBI regarding this particular Purpose Code and the authority to use it. We will send out update notifications, as needed, should authorization be obtained

4. **Ensure purpose codes are correctly used for III transactions.** Agencies were to found to be using purpose code incorrectly as follows:
  1. C for D for domestic violence hearings at the court.
  2. C for F when releasing/returning a firearm.
  3. J for C for ride-along and citizen academy program applicants.
  4. C for J for reserve police applicants, criminal justice agency employment checks, and IT personnel with access to CJIS systems.

A review of the Criminal History Chapter of the LEADS Manual, Chapter 19, Criminal History Files, and specifically the Purpose Code Table found under Section 19.5.2 provides information on all of these instances, which are discussed below.

Purpose Code D is used by civil or criminal courts in domestic violence or stalking cases. Only ORIs ending in D, A, I, OR J are authorized to use purpose code D. Law enforcement agencies providing an III record to criminal or civil court for a domestic violence hearing must use the court ORI and purpose code D. Purpose code C is not authorized for these checks.

Purpose Code F is used when the III transaction involves weapons-related background checks authorized by state law or regulation, including when criminal justice agencies issue firearms or explosives related permits, and when releasing firearms that have come into law enforcement possession. Agencies are asked to take a hard look at their applications, especially those where after you have run a criminal history in a mask with the proper purpose code, like F, your application may

offer a button to actually pull the criminal history (RR by SID or FBI#), and they may be set to default on purpose code C. It may take a little more time, but if the system automatically defaults to C, you must open the RR mask and enter the information including the proper purpose code.

Number 3 above concerns persons at the criminal justice agency (CJA) who are NOT involved with the actual administration of criminal justice at the CJA, e.g. participants in community ride-along programs, volunteers at a confinement facility who are providing social or community services rather than rehabilitative services, citizen's academy program applicants, etc. In these instances, per the manual, purpose code C is appropriate.

Purpose code J is used when the III transaction involves employment, including reserves, with a CJA or the screening of employees of other agencies over which the CJA maintains management control. If the IT personnel with access to CJIS systems are employed by the criminal justice agency, then J is the proper code. If they are employed by the city or county and they have access to CJIS systems at the CJA, then a management control agreement must be executed between the CJA and the IT Office. Then, purpose code J checks will also be appropriate.

Please share this information with any LEADS user at your agency that you think might benefit from it. Providing this information to all LEADS agencies is part of the remediation response we are sharing with NCIC. We will also post it onto our website, under the Latest News link, with the title 2015 NCIC Audit Letter, and we will be sharing this information at any regional training we may offer, and the statewide event.

Please contact me at 503 934-0301 or e-mail [dan.malin@state.or.us](mailto:dan.malin@state.or.us) if you have any questions.



Dan Malin, LEADS Auditor  
OSP CJIS Division