

# Title 446 WAC

## STATE PATROL

### Chapters

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Washington state identification section.  
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### Chapter 446-16 WAC

#### WASHINGTON STATE IDENTIFICATION SECTION

##### WAC

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**WAC 446-16-010 Definitions.** For the purposes of these rules, the following words and phrases will have the following meanings:

(1) "Criminal history record information" includes, and will be restricted to identifying data and public record information recorded as the result of an arrest or other initiation of criminal proceedings and the consequent proceedings related thereto. "Criminal history record information" will not include intelligence, analytical or investigative reports and files.

(2) "Criminal justice agencies" are those public agencies within or outside the state which perform, as a principal function, activities directly relating to the apprehension, prosecution, adjudication or rehabilitation of criminal offenders.

(3) "Disposition" means that result which is reached at a determination of criminal proceedings against an individual at any stage in the criminal justice system and resulting in the culmination or final disposal of the criminal charge.

(4) "Section" means the identification and criminal history section of the Washington state patrol.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-16-010, filed 12/17/09, effective 1/17/10; 97-05-048, § 446-16-010, filed 2/18/97, effective 3/21/97; Order 1, § 446-16-010, filed 2/11/74.]

**WAC 446-16-020 Scope of the rules.** Criminal offender record information will not be released or inspected except in accordance with RCW 43.43.700 et seq. and these rules.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-16-020, filed 12/17/09, effective 1/17/10; Order 1, § 446-16-020, filed 2/11/74.]

**WAC 446-16-025 Deletion of arrest records.** (1) A person desiring the destruction of his or her fingerprints and/or other identifying data, pursuant to RCW 43.43.730, must make his or her request on a form furnished by the section.

(2) The request must be completed, signed by the person whose record is sought to be deleted and his or her signature

witnessed. It must include the address of the applicant, the printed name and the address of the witness to the applicant's signature and such other information requested on the application as identifies the applicant and the offense for which the request of deletion is made.

(3) The request must include reasonable proof that the person making the request for deletion is the same person whose fingerprints or other identifying data are sought to be deleted. Such proof must include fingerprints of the applicant if requested by the section.

(4) The request must include the information necessary for the section to determine whether the request is consistent with RCW 10.97.060 including all details pertaining to the decision not to prosecute, dismissal, or acquittal of the offense for which the fingerprints or other identifying data were taken.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-16-025, filed 12/17/09, effective 1/17/10; 97-05-048, § 446-16-025, filed 2/18/97, effective 3/21/97. Statutory Authority: RCW 10.97.080 and 10.97.090. 92-15-014, § 446-16-025, filed 7/6/92, effective 8/6/92; Order 1, § 446-16-025, filed 2/11/74.]

**WAC 446-16-030 Inspection by the subject of their record.** (1) Any person desiring to inspect his or her criminal history record information may do so at the central office of the section, during normal business hours, Monday through Friday, except legal holidays.

(2) Any person desiring to inspect his or her criminal history record information must first permit their fingerprints to be taken by the section for identification purposes if requested. The section, in its discretion, may accept other identification in lieu of fingerprints.

(3) A reasonable period of time, not to exceed thirty minutes, will be allowed to each individual to examine his or her criminal history record information.

(4) No person will be allowed to retain or reproduce any criminal history record information except for the purpose of challenging or correcting entries of arrests by submitting law enforcement agencies of the state of Washington. Visual examination only will be permitted of such information unless the individual asserts the belief that their criminal history record information from a submitting law enforcement agency of the state of Washington is inaccurate, incomplete or maintained in violation of the law; and unless they request correction or completion of the information on a form furnished by the section, or requests deletion pursuant to WAC 446-16-025.

(5) If any person who desires to examine his or her own criminal history record information is unable to read or is otherwise unable to examine same because of a physical disability, they may designate another person of their own choice to assist them. The person about whom the information pertains must execute, with their mark, a form provided by the section consenting to the inspection of their criminal history record information by another person for the purpose of it being read or otherwise described to them. Such designated person must then be permitted to read or otherwise describe or translate the criminal history record information to the person about whom it pertains.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-16-030, filed 12/17/09, effective 1/17/10; 01-20-039, § 446-16-030, filed

9/26/01, effective 10/27/01; 97-05-048, § 446-16-030, filed 2/18/97, effective 3/21/97. Statutory Authority: RCW 10.97.080 and 10.97.090. 92-15-014, § 446-16-030, filed 7/6/92, effective 8/6/92; Order 1, § 446-16-030, filed 2/11/74.]

**WAC 446-16-060 Disposition reports—When required.** In every case where a fingerprint record or other report of the arrest of an individual on criminal charges has been submitted to the section, the agency which makes the final determination of such criminal charges or in whose jurisdiction the final determination is made must report the disposition of such charges to the section.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-16-060, filed 12/17/09, effective 1/17/10; Order 1, § 446-16-060, filed 2/11/74.]

**WAC 446-16-070 Report contents—General.** The report of disposition must be made on forms provided by the section or shall be transferred electronically on forms approved by the section. The disposition report must include all arrest details as they appeared on the fingerprint card or arrest record previously forwarded to the section. The state identification number and process control number (PCN) should be indicated on the disposition report if known.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-16-070, filed 12/17/09, effective 1/17/10. Statutory Authority: Chapter 10.98 RCW as amended by SSB 6535, 1998 regular session. 99-07-051, § 446-16-070, filed 3/15/99, effective 4/15/99. Statutory Authority: Chapters 10.97 and 43.43 RCW. 97-05-048, § 446-16-070, filed 2/18/97, effective 3/21/97; Order 1, § 446-16-070, filed 2/11/74.]

**WAC 446-16-080 Report time limitations.** All of the information requested on the disposition report must be completed and the report mailed or electronically transferred to the section, within ten days of the date that a disposition becomes effective.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-16-080, filed 12/17/09, effective 1/17/10. Statutory Authority: Chapter 10.98 RCW as amended by SSB 6535, 1998 regular session. 99-07-051, § 446-16-080, filed 3/15/99, effective 4/15/99. Statutory Authority: Chapters 10.97 and 43.43 RCW. 97-05-048, § 446-16-080, filed 2/18/97, effective 3/21/97. Statutory Authority: RCW 10.97.080 and 10.97.090. 92-15-014, § 446-16-080, filed 7/6/92, effective 8/6/92. Statutory Authority: RCW 10.97.090. 91-22-055 (Order 91-007), § 446-16-080, filed 11/1/91, effective 12/2/91; Order 1, § 446-16-080, filed 2/11/74.]

**WAC 446-16-090 Law enforcement agencies—Reporting responsibilities.** (1) If the disposition of criminal charges is made by the arresting agency, as where the individual is released without charge, the arresting agency shall fill in and complete the disposition report and submit same to the section. If the disposition is known at the time the arrest record or fingerprint card is submitted to the section, this information should be noted thereon. In this case, it will be unnecessary to forward a disposition report.

(2) In all cases where the arresting agency does not make the final disposition, it shall initiate the preparation of a disposition report by recording the name of the individual arrested, the charges on which he was arrested, the name of the contributor of the arrest or fingerprint record, the process control number, the arrest number and any other information that may identify the individual. At this stage the disposition of charges will be left blank, but the agency will note the action that it has taken, e.g., referred to the prosecutor. The

partially completed disposition report must then be included as part of the individual's case file and must be forwarded with other information concerning the charges against the individual to the prosecutor or other agency to which the arresting agency forwards the case.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-16-090, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 92-15-014, § 446-16-090, filed 7/6/92, effective 8/6/92; Order 1, § 446-16-090, filed 2/11/74.]

**WAC 446-16-100 Prosecutorial agencies—Reporting responsibilities.** The prosecutor or county clerk must promptly transmit the completed disposition information to the section if the prosecutor determines not to file charges or the case is not otherwise acted upon by a judicial body. In such cases, the prosecutor or county clerk must mail or transfer the completed disposition report to the section within ten days from the date that it is determined no further judicial action will be taken on the charges.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-16-100, filed 12/17/09, effective 1/17/10. Statutory Authority: Chapter 10.98 RCW as amended by SSB 6535, 1998 regular session. 99-07-051, § 446-16-100, filed 3/15/99, effective 4/15/99. Statutory Authority: Chapters 10.97 and 43.43 RCW. 97-05-048, § 446-16-100, filed 2/18/97, effective 3/21/97; Order 1, § 446-16-100, filed 2/11/74.]

**WAC 446-16-110 Courts—Reporting responsibilities.** Where the disposition of criminal charges occurs as a result of action taken by or within the jurisdiction of any court in the state of Washington, the disposition of such charges must be reported to the section pursuant to rules of the supreme court of the state of Washington on forms approved by the supreme court and supplied by the section. However, in a county where the judicial information system or other secure method of electronic transfer of information has been implemented between the court and the section, the court may electronically provide the disposition information to the section.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-16-110, filed 12/17/09, effective 1/17/10. Statutory Authority: Chapter 10.98 RCW as amended by SSB 6535, 1998 regular session. 99-07-051, § 446-16-110, filed 3/15/99, effective 4/15/99. Statutory Authority: Chapters 10.97 and 43.43 RCW. 97-05-048, § 446-16-110, filed 2/18/97, effective 3/21/97; Order 1, § 446-16-110, filed 2/11/74.]

**WAC 446-16-120 Audit of reporting compliance.** The "section" will administer a compliance audit procedure at least once annually to insure that all disposition reports have been received and added to the criminal history record information. The identification and criminal history section will identify criminal history record information for which no disposition report has been received and has been outstanding for one year or longer since the date of arrest. Each open arrest will be researched for a final disposition by section staff or the criminal justice agency will be furnished with a list of outstanding disposition reports for criminal history record information of persons who were arrested or against whom charges were filed by that agency. Each criminal justice agency will provide the section with a current disposition report or status within sixty days of receipt of notification of open arrest.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-16-120, filed 12/17/09, effective 1/17/10; 97-05-048, § 446-16-120, filed 2/18/97, effective 3/21/97; Order 1, § 446-16-120, filed 2/11/74.]

**Chapter 446-20 WAC**

**EMPLOYMENT—CONVICTION RECORDS**

**WAC**

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**WAC 446-20-010 General applicability.** The regulations in this chapter will apply to state and local criminal justice agencies in the state of Washington that collect and maintain or disseminate criminal history record information. The regulations will also apply to criminal justice or other agencies outside the jurisdiction of the state of Washington for the purpose of the dissemination of criminal history record information to other agencies by state of Washington criminal justice agencies. The provisions of chapter 10.97 RCW do not generally apply to the courts and court recordkeeping agencies. The courts and court recordkeeping agencies have the right to request and receive criminal history record information from criminal justice agencies. The regulations are intended to cover all criminal justice records systems that contain criminal history record information, whether the systems are manual or automated. Chapter 10.97 RCW defines

the rights and privileges relating to criminal history record information and should not be interpreted to redefine or amend rights or privileges relevant to any other kinds of records or information.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-010, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-010, filed 7/1/80.]

**WAC 446-20-020 Definitions.** For the purpose of this section the following apply:

- (1) The definitions in RCW 10.97.030 will apply to these regulations.
- (2) The definitions as enumerated in RCW 43.43.830 through 43.43.845, and as amended by chapter 9A.44 RCW, "An act relating to child and adult abuse information," will apply whenever applicable in these regulations.
- (3) "Nonconviction data" has the meaning set forth in RCW 10.97.030(2), but will not include dismissals following a period of probation, or suspension, or deferral of sentence.
- (4) "Section" means the identification and criminal history section of the Washington state patrol.
- (5) "The administration of criminal justice" has the meaning set forth in RCW 10.97.030(6), but does not include crime prevention activities (if that is the sole function of the program or agency) or criminal defense activities.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-020, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.090. 91-24-099 (Order 91-004), § 446-20-020, filed 12/4/91, effective 1/4/92. Statutory Authority: 1990 c 3. 90-20-003 (Order 90-003), § 446-20-020, filed 9/20/90, effective 10/21/90. Statutory Authority: RCW 43.43.838 and 1987 c 486 § 5. 88-07-066 (Order 88-03-A), § 446-20-020, filed 3/17/88. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-020, filed 7/1/80.]

**WAC 446-20-030 Convictions under appeal or review.** A conviction followed by an appeal or other court review may be treated as conviction information or as information pertaining to an incident for which a subject is currently being processed by the criminal justice system until such time as the conviction is reversed, vacated, or otherwise overturned by a court; but, notations of pending appeals or other court review will be included as a part of a person's criminal record if the agency disseminating the record has received written confirmation of such proceedings from the court.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-030, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-030, filed 7/1/80.]

**WAC 446-20-050 Criminal justice agencies.** (1) The following agencies will be considered criminal justice agencies for the purpose of chapter 10.97 RCW and these regulations.

- (a) The Washington state patrol;
- (b) Foreign, federal, state, and local governmental law enforcement agencies;
- (c) State, county, or municipal agencies that have responsibility for the detention, pretrial release, posttrial release, correctional supervision, or rehabilitation of accused persons or criminal offenders;
- (d) Indeterminate sentence review board;

(e) Courts at any level for the administration of criminal justice.

(2) An agency or portion thereof that has been certified as a criminal justice agency pursuant to WAC 446-20-060.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-050, filed 12/17/09, effective 1/17/10; 97-05-048, § 446-20-050, filed 2/18/97, effective 3/21/97. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-050, filed 7/1/80.]

**WAC 446-20-060 Certification of agencies.** (1) An agency or portion of an agency that asserts a right to receive criminal history record information based on its status as a criminal justice agency must show satisfactory evidence of its certification as a criminal justice agency prior to receiving such information. The section will certify such an agency or portion of an agency, based on a showing that the agency or portion of an agency, meets the definition of a criminal justice agency in RCW 10.97.030. Agencies or portions of agencies which assert the right to be certified as a criminal justice agency must submit a written request for certification to the section on the form provided under WAC 446-20-430.

(2) An agency or portion of an agency that asserts a right to receive nonconviction criminal history record information must show satisfactory evidence of certification to receive such information. Certification by the section will be granted based upon statute, ordinance, executive order, or a court rule, decision, or order which expressly refers to nonconviction criminal history record information, and which authorizes or directs that it be available or accessible for a specific purpose.

(3) The application must include documentary evidence which establishes eligibility for access to criminal history record information.

(4) The section will make a determination in writing on the eligibility or noneligibility of the applicant. The written determination, together with reasons for the decisions, will be sent to the applicant.

(5) The section must keep a current list of all agencies that have been certified to receive criminal history record information.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-060, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-060, filed 7/1/80.]

**WAC 446-20-070 Inspection—Individual's right to review record.** Every criminal justice agency must permit an individual who is, or believes he may be, the subject of a criminal record maintained by that agency to come to the central records keeping office of that agency during its normal business hours and request to inspect said criminal history record.

To the extent that criminal history record information (CHRI) exists (which includes and will be limited to identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any dispositions arising therefrom, including sentences, correctional supervision and release) is interfiled with other records of the department the agency may extract the CHRI for review.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-070, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-070, filed 7/1/80.]

**WAC 446-20-080 Inspection—Forms to be made available.** The criminal justice agency must make available a request form to be completed by the person who is, or believes he or she may be, the subject of a criminal record maintained by that agency. The form must be substantially equivalent to that set forth in WAC 446-20-400.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-080, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-080, filed 7/1/80.]

**WAC 446-20-090 Inspection of record by the subject of record.** (1) Any person desiring to inspect his or her criminal history record information may do so at the central records keeping office of any criminal justice agency or at the Washington state patrol identification and criminal history section, during normal business hours, Monday through Friday, excepting legal holidays.

(2) Any person desiring to inspect his or her criminal history record information must first permit his or her fingerprints to be taken by the criminal justice agency for identification purposes, if requested to do so. The criminal justice agency in its discretion may accept other identification in lieu of fingerprints.

(3) A reasonable period of time, not to exceed thirty minutes, will be allowed each individual to examine criminal history record information pertaining to himself or herself.

(4) Visual examination only will be permitted of such information unless the individual asserts the belief that their criminal history record information is inaccurate, or incomplete; and unless the person requests correction or completion of the information on a form furnished by the criminal justice agency, or requests deletion pursuant to RCW 10.97.060. Retention or reproduction of nonconviction data is authorized only when it is the subject of challenge.

(5) If any person who desires to examine his or her criminal history record information is unable to read or is otherwise unable to examine same because of a physical disability, he or she may designate another person of their own choice to assist him or her. The person about whom the information pertains must execute, with his or her mark, a form provided by the criminal justice agency consenting to the inspection of criminal history information pertaining to himself or herself by another person for the purpose of it being read or otherwise described to him or her. Such designated person will then be permitted to read or otherwise describe or translate the criminal history record information to the person about whom it pertains.

(6) Each criminal justice agency will develop procedures to ensure that no individual improperly retains or mechanically reproduces nonconviction data during the process of inspection.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-090, filed 12/17/09, effective 1/17/10; 97-05-048, § 446-20-090, filed 2/18/97, effective 3/21/97. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-090, filed 7/1/80.]

**WAC 446-20-100 Inspection—Timeliness and manner of agency response.** (1) A criminal justice agency not

maintaining criminal history record information of the individual requesting inspection will not be obligated to further processing of inspection request.

(2) A criminal justice agency maintaining criminal history record information of the individual requesting inspection must respond in the manner following and as soon as administratively convenient, but in no event later than ten business days from the date of the receipt of the request.

(a) If the criminal history record information concerns offenses for which fingerprints were not submitted to the section, the agency must respond by disclosing the identifiable descriptions and notations of arrests, charges, and dispositions that are contained in the files of the agency.

(b) If the criminal history record information concerns offenses for which fingerprints were submitted to the section, the agency upon request of the subject of the record, must forward the request to the section for processing.

(c) The section will copy all Washington state criminal history record information in the files of the section relating to the individual requester and forward it to the criminal justice agency submitting the request.

(d) Upon receipt by the criminal justice agency of the requester's criminal history record information, the agency will notify the requester at his or her designated address or telephone number that the requested information is available for inspection. The subject of the criminal history record information must appear at the agency during its normal business hours for purpose of inspecting the record.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-100, filed 12/17/09, effective 1/17/10; 97-05-048, § 446-20-100, filed 2/18/97, effective 3/21/97. Statutory Authority: RCW 10.97.080 and 10.97-090. 80-08-057 (Order 80-2), § 446-20-100, filed 7/1/80.]

**WAC 446-20-120 Challenge—Individual's right to challenge.** A subject seeking to challenge the accuracy or completeness of any part of his or her criminal history record information must do so in writing, clearly identifying that information which he or she asserts to be inaccurate or incomplete. This includes only records generated by Washington state criminal justice agencies.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-120, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-120, filed 7/1/80.]

**WAC 446-20-130 Challenge—Forms to be made available.** Every criminal justice agency which authorizes individuals to use its facilities for the purpose of inspecting their criminal history record information must provide an appropriate challenge form and the address of the agency whose record entry is being challenged. Such forms must be substantially equivalent to that set forth in WAC 446-20-450.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-130, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-130, filed 7/1/80.]

**WAC 446-20-140 Challenge—Agency to make determination.** The agency which initiated the criminal history record information being challenged must:

(1) Not later than ten business days after receiving the written challenge, acknowledge receipt of the challenge in writing; and

(2) Promptly, but in no event later than ten business days after acknowledging receipt of the challenge, either:

(a) Make any correction of any portion of the criminal history record information which the person challenging such information has designated as being inaccurate or incomplete.

(b) Inform the person challenging the criminal history record information, in writing, of the refusal to amend the criminal history record information, the reason for the refusal, and the procedures for review of that refusal.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-140, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-140, filed 7/1/80.]

**WAC 446-20-150 Correction of erroneous information.** (1) The originating agency must send information correcting the previously incorrect information to all agencies and persons to which the previously incorrect information was disseminated by the originating agency. This obligation will be limited to disseminations made within one year of the date on which the challenge was initiated.

(2) Any criminal justice agency maintaining criminal history record information within the state must adopt a procedure which, when significant information in a criminal history record maintained on an individual is determined to be inaccurate, leads to the dissemination of corrected information to every agency and person(s) to which the prior erroneous information was disseminated within the preceding one year.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-150, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-150, filed 7/1/80.]

**WAC 446-20-160 Review of refusal to alter record.** A person who is the subject of a criminal record and who disagrees with the refusal of the agency maintaining or submitting the record to correct, complete, or delete the record, may request a review of the refusal within twenty business days of the date of receipt of such refusal. The request for review must be in writing, and must be made by the completion of a form substantially equivalent to that set forth in WAC 446-20-410. If review is requested in the time allowed, the head of the agency whose record or submission has been challenged must complete the review within thirty days and make a final determination of the challenge. The head of the agency may extend the thirty-day period for an additional period not to exceed thirty business days. If the head of the agency determines that the challenge should not be allowed, he or she must state his or her reasons in a written decision, a copy of which must be provided to the subject of the record. Denial by the agency head will constitute a final decision under RCW 34.04.130.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-160, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-160, filed 7/1/80.]

**WAC 446-20-170 Secondary dissemination.** (1) Criminal justice agencies that receive state criminal history record information from the section may disseminate them further, "but only to the same extent to which the section itself would be authorized to make dissemination in the first instance."

Nonconviction data based on an incident that arose in the jurisdiction of that agency about to make the dissemination is not subject to this restriction, if the agency is otherwise authorized to disseminate such information.

(2) Noncriminal justice agencies authorized to receive criminal history record information from whatever source may use it only for the specific purpose for which the agency is certified and shall not disseminate it further.

(3) Use of criminal history record information contrary to chapter 10.97 RCW or chapter 446-20 WAC may result in suspension or cancellation of authorization.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-170, filed 12/17/09, effective 1/17/10; 97-05-048, § 446-20-170, filed 2/18/97, effective 3/21/97. Statutory Authority: RCW 10.97.080 and 10.97-090. 80-08-057 (Order 80-2), § 446-20-170, filed 7/1/80.]

**WAC 446-20-180 Dissemination pursuant to contract for services.** (1) Criminal history record information which includes nonconviction data may be disseminated pursuant to a contract to provide services, as set forth in RCW 10.97.050(5). The contract must contain provisions giving notice to the individual or agency to which the information is to be disseminated that the use of such information is subject to the provisions of chapter 10.97 RCW and these regulations, and federal statutes and regulations, which must be cited with express reference to the penalties provided for a violation thereof.

(2) When a criminal justice agency uses an information system containing criminal history record information that is controlled and managed by a noncriminal justice agency, the noncriminal justice agency may disseminate criminal history record information only as authorized by the criminal justice agency. Authorization must be established in a contract between the criminal justice agency and the noncriminal justice agency providing the management service or support. Any criminal justice agency entering a contract with a noncriminal justice agency must require that the noncriminal justice agency and personnel, who utilize criminal history record information, meet the same physical security and personnel standards as set forth by the Washington state patrol under RCW 10.97.090.

All programs, tapes, source documents, listings, and other developmental or related data processing information containing or permitting any person to gain access to criminal history record information, and all personnel involved in the development, maintenance, or operation of an automated information system containing criminal history record information, are subject to the requirements of RCW 10.97.050(5) and these regulations. A statement to this effect must be included in the contract.

The contract for support services must be substantially similar to that set forth in WAC 446-20-440.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-180, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-180, filed 7/1/80.]

**WAC 446-20-190 Dissemination—Research purposes.** Criminal history record information which includes nonconviction data may be disseminated for research purposes according to the provisions of RCW 10.97.050(6). The transfer agreement provided for by that section must be sub-

stantially similar to that set forth in WAC 446-20-420 (model transfer provisions).

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-190, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-190, filed 7/1/80.]

**WAC 446-20-200 Disclosure to assist victim.** A criminal justice agency may, but need not, disclose investigative information to "persons who have suffered physical loss, property damage, or injury compensable through civil action" as contemplated by RCW 10.97.070. Disclosure may be made to the apparent victim; an attorney, parent or guardian acting for the victim or an executor or administrator of an estate of a decedent victim; an authorized agent of the victim; another law enforcement or criminal justice agency making inquiry on behalf of the victim; and/or, upon an appropriate showing, an indemnitor, assignee, insurer, or subrogee of the victim. Written capacity to act on behalf of the victim may be required by the agency. Investigative information which "... may be of assistance to the victim in obtaining civil redress" may include but is not limited to:

(1) The name, address, and other location information about a suspect, witness, and in the event of a juvenile, the suspect's parent or guardian;

(2) Copies of the incident report; and in person review of documents, photographs, statements, and other materials collected in the course of an investigation;

(3) The location of, and identity of receivers and custodians of stolen property and of property recovered as lost and found property;

(4) The progress of proceedings arising from the incident and the disposition of any prosecution or other action.

An agency making a disclosure is not expected to evaluate the merits of a victim's claim for civil relief. Disclosure merely indicates the information has been received and the agency reasonably believes the information may be useful to the recipient in seeking civil redress. Disclosure does not constitute an opinion or comment upon the existence or merits of a claim and it does *not* vouch for the accuracy or completeness of the information.

Disclosures made to victims under the authority of RCW 10.97.070 must be considered in conjunction with chapter 42.56 RCW, chapter 46.52 RCW (Confidentiality of accident reports and statements), civil and criminal court rules governing discovery and other state and federal laws.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-200, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-200, filed 7/1/80.]

**WAC 446-20-210 Protection from accidental loss or injury.** Criminal justice agencies (hereinafter, agency(s)) and noncriminal justice contractors, (hereinafter, contractor(s)) which collect, retrieve, and/or store and disseminate criminal history record information in manual and automated systems, must institute procedures for the protection of criminal history record information from environmental hazards, including fire, flood, power failure, or other natural or man-made disasters, or in accordance with local fire, safety, and building codes.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-210, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-210, filed 7/1/80.]

**WAC 446-20-220 Protection against unauthorized access.** Criminal history record systems, whether dedicated to criminal justice purposes, or shared, will be designed and operated in accordance with procedures which will assure that:

(1) Access to criminal history record information facilities and system operating areas (whether for computerized or manual systems) and the content of data files and systems documentation, will be restricted to authorized personnel. These procedures may include use of guards, keys, badges, passwords, sign-in logs, or similar safeguards.

(2) All facilities which house criminal history record information must be designed and constructed so as to reduce the possibility of physical damage to the information resulting from unauthorized access.

(3) Criminal history record information is stored in such a manner that will prevent modification, destruction, access, change, purging, or overlay of criminal history record information by unauthorized personnel.

(4) Operational programs are used in computerized systems that will prohibit inquiry, record updates, or destruction of records from any terminal other than those authorized to perform criminal history record information functions.

(5) The purging or destruction of records is limited to personnel authorized by the criminal justice agency or through contract with the noncriminal justice agency as required under WAC 446-20-180, and consistent with WAC 446-20-230.

(6) Refuse from the criminal history record information system installations is transferred and destroyed under such reasonably secure conditions as will effectively guard against unauthorized availability.

(7) Operational procedures are used in computerized systems to detect and store unauthorized attempts to penetrate any criminal history record information system, program or file, and that such information is made available only to criminal justice agency employees with responsibility for system security, or as authorized by WAC 446-20-180.

(8) The procedures developed to meet standards of subsections (4) and (7) of this section, are known only to authorized employees responsible for criminal history records information system control.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-220, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-220, filed 7/1/80.]

**WAC 446-20-230 Personnel security.** (1) Agencies and contractors which collect and retrieve, or are authorized to maintain or modify, criminal history record information must: Identify those positions which are of such a sensitive nature that fingerprints of employees will be required and used to conduct a criminal record background investigation. Such background investigations will be the responsibility of the criminal justice agency and may consider the date, the disposition, number, and seriousness of any previous arrests or convictions. Decisions concerning employment will be the responsibility of the employing agency or contractor.

(2) When agency or contractor personnel violate the provisions of chapter 10.97 RCW or other security requirements established through administrative code for the collection, storage and dissemination of such information, agencies or contractors, as defined by subsection (1) of this section, must initiate, or cause to be initiated, action that will ensure the integrity of records containing criminal history record information.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-230, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-230, filed 7/1/80.]

**WAC 446-20-240 Personnel training.** (1) Criminal justice agencies will be required directly, or in cooperation with the criminal justice training commission to familiarize their employees and those of the contractors, with all federal, state, and local legislation, executive orders, rules, and regulations, applicable to such a system.

(2) Training to be provided must include not only initial training, but continuing training, designed to maintain among criminal history record information system personnel current knowledge and operational proficiency with respect to security and privacy law and regulations.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-240, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-240, filed 7/1/80.]

**WAC 446-20-250 Contractor personnel clearances.** (1) No personnel of a noncriminal justice agency will be granted access to criminal history record information without appropriate security clearance by the contracting agency or agencies.

(2) To provide evidence of the person's security clearance, the grantor of such clearance may provide an authenticated card or certificate. Responsibility for control of the issuance, or revocation of such clearances must rest with the grantor.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-250, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-250, filed 7/1/80.]

**WAC 446-20-260 Auditing of criminal history record information systems.** (1) Every criminal justice agency, including contractors authorized to collect, retrieve, maintain, and disseminate criminal history record information pursuant to WAC 446-20-180, must make its records available under RCW 10.97.090(3) to determine the extent of compliance with the following:

(a) Dissemination records as required under RCW 10.97.050(7);

(b) Security procedures as required by RCW 10.97.-090(1); and

(c) Personnel standards as required by RCW 10.97.-090(2).

(2) Personnel engaged in the auditing function will be subject to the same personnel security requirement as required under WAC 446-20-230, 446-20-240, and 446-20-250, as employees who are responsible for the management and operation of criminal history record information systems.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-260, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-260, filed 7/1/80.]

**WAC 446-20-270 Establishment of procedures.**

Every criminal justice agency which collects, retrieves, maintains, and/or disseminates criminal history record information must establish written rules and regulations setting forth security and personnel procedures for authorized access to criminal history record information files or adopt administrative regulations promulgated by the Washington state patrol.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-270, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-270, filed 7/1/80.]

**WAC 446-20-280 Employment—Conviction records.**

(1) A conviction record will be furnished consistent with the provisions of RCW 43.43.815, upon the submission of a written or electronic request of any employer, accompanied by fingerprints and other identifying data of the employee or prospective employee.

(2) Fingerprints must be submitted on cards of the type specified by the section, and must contain a certification by the employer that the information is being disseminated to and will be available only to persons involved in the hiring, background investigation, or job assignment of the person whose record is disseminated, that the record will be used only as necessary for the purposes enumerated in this section, and that the request for conviction data is for one of the following purposes:

- (a) Securing a bond required for any employment;
- (b) Conducting preemployment and postemployment evaluations of employees and prospective employees who, in the course of employment, may have access to information affecting national security, trade secrets, confidential or proprietary business information, money, or items of value; or
- (c) Assisting an investigation of suspected employee misconduct where such misconduct may also constitute a penal offense under the laws of the United States or any state.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-280, filed 12/17/09, effective 1/17/10; 97-05-048, § 446-20-280, filed 2/18/97, effective 3/21/97. Statutory Authority: RCW 10.97.090. 91-24-099 (Order 91-004), § 446-20-280, filed 12/4/91, effective 1/4/92. Statutory Authority: 1982 c 202 § 1(7). 82-22-006 (Order 82-5), § 446-20-280, filed 10/22/82.]

**WAC 446-20-285 Employment—Conviction records—Child and adult abuse information.**

After January 1, 1988, certain child and adult abuse conviction information will be furnished by the state patrol upon written or electronic request of any applicant, business or organization, the state board of education, or the department of social and health services. This information will consist of the following:

- (1) Convictions of crimes against children or other persons as defined in RCW 43.43.830(6), and as amended by chapter 9A.44 RCW;
- (2) Department of health disciplinary authority final decisions of specific findings of physical or sexual abuse or exploitation of a child and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary

authority final decision for the businesses and professions defined in chapter 9A.44 RCW; and

(3) Criminal history information will be furnished from the section, consistent with the provisions of RCW 43.43.830 through 43.43.840, upon receipt of a written or electronic request.

School districts, the superintendent of public instruction, educational service districts and their contractors will also receive conviction information under RCW 10.97.030 and 10.97.050 pursuant to chapter 159, Laws of 1992.

The section will also furnish any similar records maintained by the Federal Bureau of Investigation or records in custody of the National Crime Information Center, if available, subject to their policies and procedures regarding such dissemination.

(a) The business or organization making such request will not make an inquiry to the Washington state patrol or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who has been offered a position as an employee or volunteer that an inquiry may be made.

(b) For positive identification, the request for criminal history information form may be accompanied by fingerprint cards of a type specified by the section, and must contain a certification by the business or organization; the state board of education; or the department of social and health services, that the information is being requested and will be used only for the purposes as enumerated in RCW 43.43.830 through 43.43.845.

(c) In the absence of fingerprint cards, the applicant may provide a right thumb fingerprint impression in the area provided on the request for criminal history information form. In the event of a possible match to the applicant's name and date of birth, the right thumb fingerprint impression will be used for identification verification purposes only.

(d) After processing a properly completed request for criminal history information form, if the conviction record, disciplinary authority final decision, or equivalent response from a federal law enforcement agency shows no evidence of crimes against persons, an identification declaring the showing of no evidence will be issued to the business or organization by the section within fourteen working days of receipt of the request. Possession of such identification will satisfy future record check requirements for the applicant for a two-year period.

(e) The business or organization must notify the applicant of the state patrol's response within ten calendar days after receipt by the business or organization. The employer must provide a copy of the response to the applicant and must notify the applicant of such availability.

(f) The business or organization will be immune from civil liability for failure to request background information on a prospective employee or volunteer unless the failure to do so constitutes gross negligence.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-285, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.030 and 43.830-845 [43.43.830-43.43.845]. 03-05-007, § 446-20-285, filed 2/7/03, effective 3/10/03. Statutory Authority: Chapters 10.97 and 43.43 RCW. 97-05-048, § 446-20-285, filed 2/18/97, effective 3/21/97. Statutory Authority: RCW 43.43.760, 43.43.815 and 43.43.838. 92-15-015, § 446-20-285, filed 7/6/92, effective 8/6/92. Statutory Authority: RCW 10.97.090. 91-24-099 (Order 91-004), § 446-20-285, filed 12/4/91, effective 1/4/92. Statu-

tory Authority: 1990 c 3. 90-20-003 (Order 90-003), § 446-20-285, filed 9/20/90, effective 10/21/90. Statutory Authority: RCW 43.43.838. 89-23-017, § 446-20-285, filed 11/6/89, effective 12/7/89. Statutory Authority: RCW 43.43.838 and 1987 c 486 § 5. 88-07-066 (Order 88-03-A), § 446-20-285, filed 3/17/88.]

**WAC 446-20-300 Privacy—Security.** (1) All employers or prospective employers receiving conviction records pursuant to RCW 43.43.815, must comply with the provisions of WAC 446-20-210 through 446-20-250 relating to privacy and security of the records.

(2) Businesses or organizations, the state board of education, and the department of social and health services receiving conviction records of crimes against persons or disciplinary board final decision information must comply with the provisions of WAC 446-20-220 (1) and (3) relating to privacy and security of the records.

(a) The business or organization must use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited. A business or organization violating this prohibition is subject to a civil action for damages.

(b) No employee of the state, employee of a business or organization, or the organization is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information under RCW 43.43.830 through 43.43.840 or 43.43.760.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-300, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 43.43.760, 43.43.815 and 43.43.838. 92-15-015, § 446-20-300, filed 7/6/92, effective 8/6/92. Statutory Authority: RCW 43.43.838 and 1987 c 486 § 5. 88-07-066 (Order 88-03-A), § 446-20-300, filed 3/17/88. Statutory Authority: 1982 c 202 § 1(7). 82-22-006 (Order 82-5), § 446-20-300, filed 10/22/82.]

**WAC 446-20-310 Audits.** (1) All employers or prospective employers receiving conviction records pursuant to RCW 43.43.815 must comply with the provisions of WAC 446-20-260 through 446-20-270 relating to audit of the recordkeeping system.

(2) Businesses or organizations, the state board of education and the department of social and health services receiving conviction records of crimes against persons or disciplinary board final decision information may be subject to periodic audits by Washington state patrol personnel to determine compliance with the provisions of WAC 446-20-300(2).

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-310, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.090. 91-24-099 (Order 91-004), § 446-20-310, filed 12/4/91, effective 1/4/92. Statutory Authority: RCW 43.43.838 and 1987 c 486 § 5. 88-07-066 (Order 88-03-A), § 446-20-310, filed 3/17/88. Statutory Authority: 1982 c 202 § 1(7). 82-22-006 (Order 82-5), § 446-20-310, filed 10/22/82.]

**WAC 446-20-400 Form of request to inspect record.**

INSPECTION OF RECORD REQUEST  
(RCW 10.97.080/WAC 446-20-070)

Agency .....  
Agency No .....  
Date .....  
Time .....

I, ....., request to inspect my criminal history record information maintained in the files of the above named agency.

I was born (Date of Birth), in (Place of Birth), and to ensure positive identification as the person in question, I am willing to submit my fingerprints in the space provided below, if required or requested.

(Fill in and check applicable box)

Because I am unable to read ; I do not understand English ; otherwise need assistance in reviewing my record ; I designate and consent that (Print Name), whose address is ....., assist me in examining the criminal history record information concerning myself.

Prints of right four fingers taken simultaneously (Signature or mark of Applicant)

(Address)

(Signature of Designee)

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-400, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-400, filed 7/1/80.]

**WAC 446-20-410 Form of request to review refusal to modify record.**

REQUEST FOR REVIEW OF REFUSAL TO MODIFY RECORD  
(RCW 10.97.080/WAC 446-20-160)

Date .....

I, (Print Name), request the head of (Agency Name), to review and make a final determination of my challenge to the accuracy or completeness of my criminal history record information maintained by (Agency Name).

My challenge, a copy of which is attached, was made on (Date of Challenge), and was refused on (Date of Refusal). I request that my challenge be allowed and my record be modified in accordance with such challenge.

(Signature of Applicant)

(Address of Applicant)

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-410, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-410, filed 7/1/80.]

**WAC 446-20-420 Model agreement for research, evaluative or statistical purposes.**

AGREEMENT made this . . . . day of . . . . , 20\_., between . . . . , (hereinafter referred to as "RESEARCHER") and . . . . , (hereinafter referred to as "CRIMINAL JUSTICE AGENCY")\*

WHEREAS the RESEARCHER had made a written request to the CRIMINAL JUSTICE AGENCY dated. . . . , a copy of which is annexed hereto and made a part hereof, and

WHEREAS the CRIMINAL JUSTICE AGENCY has reviewed said written request and determined that it clearly specifies (1) the criminal history record information sought, and (2) the research, evaluative or statistical purpose for which the said information is sought,\*\* and

WHEREAS the RESEARCHER represents that (he) (she) (it) is in receipt of, and is familiar with, the provisions of chapter 10.97 RCW, 28 CFR Part 22, including provisions for sanctions at Parts 22.24(c) and 22.29 thereof,

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. The CRIMINAL JUSTICE AGENCY will supply the following items of information to the RESEARCHER:

(Describe in detail)\*\*\*

.....  
.....  
.....

2. The RESEARCHER will:

- (a) Use the said information only for the research, evaluative, or statistical purposes described in the above mentioned written request dated. . . . ., and for no other purpose;
- (b) Limit access to said information to the RESEARCHER and those of the RESEARCHER'S employees whose responsibilities cannot be accomplished without such access, and who have been advised of, and agreed to comply with, the provisions of this agreement, and of 28 CFR Part 22;\*\*\*\*
- (c) Store all said information received pursuant to this agreement in secure, locked containers;
- (d) So far as possible, replace the name and address of any record subject with an alpha-numeric or other appropriate code;
- (e) Immediately notify the CRIMINAL JUSTICE AGENCY in writing of any proposed material changes in the purposes or objectives of its research, or in the manner in which said information will be used.

3. The RESEARCHER will not:

- (a) Disclose any of the said information in a form which is identifiable to an individual, in any project report or in any manner whatsoever, except pursuant to 28 CFR Part 22.24 (b)(1)(2).
- (b) Make copies of any of the said information, except as clearly necessary for use by employees or contractors to accomplish the purposes of the research. (To the extent reasonably possible, copies will not be made of criminal history record information, but information derived therefrom which is not identifiable to specific individuals must be used for research tasks. Where this is not possible, every reasonable effort must be made to utilize coded identification data as an alternative to names when producing copies of criminal history record information for working purposes.)
- (c) Utilize any of the said information for purposes or objectives or in a manner subject to the requirement for notice set forth in 2.(e) until specific written authorization therefor is received from the CRIMINAL JUSTICE AGENCY.

4. In the event the RESEARCHER deems it necessary, for the purposes of the research, to disclose said information to any subcontractor, (he) (she) (it) must secure the written agreement of said subcontractor to comply with all the terms of this agreement as if (he) (she) (it) were the RESEARCHER named herein.\*\*\*\*

5. The RESEARCHER further agrees that:

- (a) The CRIMINAL JUSTICE AGENCY shall have the right, at any time, to monitor, audit, and review the activities and policies of the RESEARCHER or its subcontractors in implementing this agreement in order to assure compliance therewith; and
- (b) Upon completion, termination or suspension of the researcher, it will return all said information, and any copies thereof made by the RESEARCHER, to the CRIMINAL JUSTICE AGENCY, unless the CRIMINAL JUSTICE AGENCY gives its written consent to destruction, obliteration or other alternative disposition.

6. In the event the RESEARCHER fails to comply with any term of this Agreement the CRIMINAL JUSTICE AGENCY will have the right to take such action as it deems appropriate, including termination of this Agreement. If the CRIMINAL JUSTICE AGENCY so terminates this Agreement, the RESEARCHER and any subcontractors must forthwith return all the said information, and all copies made thereof, to the CRIMINAL JUSTICE AGENCY or make such alternative disposition thereof, as is directed by the CRIMINAL JUSTICE AGENCY. The exercise of remedies pursuant to this paragraph will be in addition to all sanctions provided by law, and to legal remedies available to parties injured by disclosures.

7. INDEMNIFICATION. The RESEARCHER agrees to indemnify and hold harmless (CRIMINAL JUSTICE AGENCY) and its officers, agents and employees from and against any and all loss, damages, injury, liability suits and proceedings however caused, arising directly or indirectly out of any action or conduct of the (RESEARCHER) in the exercise or enjoyment of this agreement. Such indemnification will include all costs of defending any such suit, including attorney fees.

IN WITNESS WHEREOF the parties have signed their names hereto this . . . . day of . . . . ., 20. . . .

..... (CRIMINAL JUSTICE AGENCY)  
by: .....  
(Name)

Title: .....  
..... (RESEARCHERS)  
by: .....  
(Name)

Title: .....

COMPLIANCE AGREEMENT of employee, consultant or subcontractor.

(I) (We), employee(s) of, consultant to, (and) (or) subcontractor of the RESEARCHER, acknowledge familiarity with the terms and conditions of the foregoing agreement between the CRIMINAL JUSTICE AGENCY and RESEARCHER, and agree to comply with the terms and conditions thereof in (my) (our) use and protection of the criminal history record information obtained pursuant to the foregoing agreement.

..... (date) ..... (signature)
..... (date) ..... (signature)

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-420, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 43.43.760, 43.43.815 and 43.43.838. 92-15-015, § 446-20-420, filed 7/6/92, effective 8/6/92. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-420, filed 7/1/80.]

WAC 446-20-440 Contract for support services model agreement under WAC 446-20-180. (Some provisions may not be applicable in all cases and are noted accordingly.)

I. General Provisions

- A. Parties: This agreement is made and entered into this. . . . day of . . . . , 20\_\_\_\_, by and between ( (head of agency) ), Administrator of ( (criminal justice agency) ) and ( (head of agency) ) of (Support Services Agency of "User").
B. Purpose of Agreement: This agreement authorizes (user) to collect, retrieve, maintain and/or disseminate criminal history record information (hereinafter, CHRI) pursuant to RCW 10.97.050(5), WAC 446-20-180, and the terms of this contract. In addition, it provides for the security and privacy of information in that dissemination to criminal justice agencies must be limited for the purposes of the administration of justice and criminal justice agency employment. Dissemination to other individuals and agencies must be limited to those individuals and agencies authorized by either the Washington state patrol, under chapter 10.97 RCW or local ordinance, as specified by the terms of this contract, and must be limited to the purposes for which it was given and may not be disseminated further.

II. Duties of Criminal Justice Agency

- A. In accordance with federal and state regulations, (criminal justice agency) agrees to furnish complete and accurate criminal history information to user, pursuant to RCW 10.97.040.
B. (Criminal justice agency) must specify and approve those individuals or agencies authorized to obtain CHRI, which includes nonconviction data, pursuant to RCW 10.97.050(4) or by local ordinance.

III. Duties of User

- A. (User) will collect, retrieve, maintain and/or disseminate all information covered by the terms of this agreement in strict compliance with all present

and future federal and state laws and regulations. In addition, all programs, tapes, source documents, listings, and other developmental or related data processing information containing or permitting any person to gain access to CHRI and all personnel involved in the development, maintenance, or operation of an automated information system containing CHRI are subject to the requirements of RCW 10.97.050(5) and WAC 446-20-180.

- B. (User) will obtain the assistance of the (criminal justice agency) to familiarize its personnel with and fully adhere to section 524(b) of the Crime Control Act 1973 (42 USC 3771(b)), 28 CFR Part 20, chapter 10.97 RCW and chapter 446-20 WAC, promulgated by the Washington state patrol.
C. (User) will disseminate CHRI only as authorized by chapter 10.97 RCW and as specified by (criminal justice agency) in this agreement.
D. (User) agrees to fully comply with all rules and regulations promulgated by the Washington state patrol, pursuant to RCW 10.97.090(2), regarding standards for the physical security, protection against unauthorized access and personnel procedures and safeguards.
E. (User) agrees to permit access to its records system for the purposes of an audit, as specified under RCW 10.97.090(3).

IV. Suspension of Service

(Criminal justice agency) reserves the right to immediately suspend furnishing information covered by the terms of this agreement to (User), when any terms of this agreement are violated. (Criminal justice agency) will resume furnishing information upon receipt of satisfactory assurances that such violations have been fully corrected or eliminated.

V. Cancellation

Either (criminal justice agency) or (user) may cancel this agreement upon thirty days notice to the other party.

VI. Indemnification

User hereby agrees to indemnify and hold harmless (criminal justice agency) and its officers, agents and employees from and against any and all loss, damages, injury, liability suits and proceedings however caused, arising directly or indirectly out of any action or conduct of the (user) in the exercise or enjoyment of this agreement. Such indemnification will include all costs of defending any suit, including attorney fees.

VII. Construction

This agreement will be liberally construed to apply to both manual and automated information systems wherever and whenever possible.

(CRIMINAL JUSTICE AGENCY) (USER)
By: ..... By: .....
Title: ..... Title: .....
Date: ..... Date: .....

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-440, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 43.43.760, 43.43.815 and 43.43.838. 92-15-015, § 446-20-440, filed 7/6/92, effective

8/6/92. Statutory Authority: RCW 10.97.080 and 10.97.090. 80-08-057 (Order 80-2), § 446-20-440, filed 7/1/80.]

**WAC 446-20-500 Sex offender and kidnapping offender registration.** RCW 9A.44.130 requires any adult or juvenile residing in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense to register with the county sheriff for the county of that person's residence. The sheriff is required to forward the registration information to the section within five working days. The Washington state patrol is mandated to maintain a central registry of sex offenders and kidnapping offenders consistent with chapters 10.97, 10.98, and 43.43 RCW.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-500, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 4.24.550, 9A.44.130, [9A.44.]140, 10.02.200, 43.43.540 and 70.48.470. 98-01-021, § 446-20-500, filed 12/8/97, effective 1/8/98. Statutory Authority: Chapters 10.97 and 43.43 RCW. 97-05-048, § 446-20-500, filed 2/18/97, effective 3/21/97. Statutory Authority: 1991 c 274. 91-20-045 (Order 91-005), § 446-20-500, filed 9/24/91, effective 10/25/91. Statutory Authority: 1990 c 3. 90-20-003 (Order 90-003), § 446-20-500, filed 9/20/90, effective 10/21/90.]

**WAC 446-20-510 History retention.** Sex and kidnapping offender registration information will be maintained in the offender's criminal history file according to retention periods outlined in RCW 9A.44.140. Once an offender is registered, a notation of "registered sex offender" or "registered kidnapping offender" will be printed on the transcript of record for that individual.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-510, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 4.24.550, 9A.44.130, [9A.44.]140, 10.02.200, 43.43.540 and 70.48.470. 98-01-021, § 446-20-510, filed 12/8/97, effective 1/8/98. Statutory Authority: Chapters 10.97 and 43.43 RCW. 97-05-048, § 446-20-510, filed 2/18/97, effective 3/21/97. Statutory Authority: 1991 c 274. 91-20-045 (Order 91-005), § 446-20-510, filed 9/24/91, effective 10/25/91. Statutory Authority: 1990 c 3. 90-20-003 (Order 90-003), § 446-20-510, filed 9/20/90, effective 10/21/90.]

**WAC 446-20-515 Photograph/fingerprint requirement.** Registration requires the offender be fingerprinted and photographed and also provide the sheriff with the following information which must be forwarded to the Washington state patrol identification and criminal history section within five working days:

- Name;
- Address;
- Date of birth;
- Place of birth;
- Social Security number;
- Institution of higher education enrolled, attending;
- Place of employment;
- Crime for which convicted;
- Date/place of conviction; and
- Aliases used.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-515, filed 12/17/09, effective 1/17/10. Statutory Authority: 1991 c 274. 91-20-045 (Order 91-005), § 446-20-515, filed 9/24/91, effective 10/25/91. Statutory Authority: 1990 c 3. 90-20-003 (Order 90-003), § 446-20-515, filed 9/20/90, effective 10/21/90.]

**WAC 446-20-520 Photographs.** Photographs must be in color. These are not to be file photographs. A new photograph is required.

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For paper submissions, write full name, date of birth, and state identification number (SID). Paperclip (no staples please) the photograph to the fingerprint card with the registration information completed and forward to Washington state patrol, identification and criminal history section. For electronic submissions, color photographs may be electronically mailed to a designated e-mail address at the section. Identifying information (full name, date of birth, and SID) must accompany the photograph.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-520, filed 12/17/09, effective 1/17/10; 97-05-048, § 446-20-520, filed 2/18/97, effective 3/21/97. Statutory Authority: RCW 43.43.760, 43.43.815 and 43.43.838. 92-15-015, § 446-20-520, filed 7/6/92, effective 8/6/92. Statutory Authority: 1990 c 3. 90-20-003 (Order 90-003), § 446-20-520, filed 9/20/90, effective 10/21/90.]

**WAC 446-20-525 Change of address form.** Registered sex and kidnapping offenders who change residence within the same county are required to submit change of address information to the county sheriff at least fourteen days before moving.

Registered sex and kidnapping offenders who change residence from one county to another are required to send written notice fourteen days before moving to the county sheriff in the new county residence and must register with that county sheriff within twenty-four hours of moving. The offender must send "change of address" information within ten days of moving in the new county to the county sheriff with whom the offender last registered.

Registered sex and kidnapping offenders who move to another state or county must submit "change of address" information ten days before moving to the new state or county to the county sheriff with whom the offender last registered in Washington state.

County sheriffs must forward "change of address" information to the Washington state patrol identification and criminal history section within five working days upon receipt.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-525, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 4.24.550, 9A.44.130, [9A.44.]140, 10.02.200, 43.43.540 and 70.48.470. 98-01-021, § 446-20-525, filed 12/8/97, effective 1/8/98. Statutory Authority: 1990 c 3. 90-20-003 (Order 90-003), § 446-20-525, filed 9/20/90, effective 10/21/90.]

**WAC 446-20-530 Refundable fee.** The section will reimburse sheriffs' offices for the actual registration cost, not to exceed thirty-two dollars for each registration, which must include photographs and fingerprints submitted pursuant to RCW 9A.44.130. This fee will further ensure that direct and indirect costs at the county level associated with the provisions of this chapter are refunded by the section on a monthly basis based upon the number of registrations submitted.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-530, filed 12/17/09, effective 1/17/10; 97-05-048, § 446-20-530, filed 2/18/97, effective 3/21/97. Statutory Authority: RCW 10.97.090. 91-24-099 (Order 91-004), § 446-20-530, filed 12/4/91, effective 1/4/92. Statutory Authority: 1990 c 3. 90-20-003 (Order 90-003), § 446-20-530, filed 9/20/90, effective 10/21/90.]

**WAC 446-20-600 Fees.** (1) A nonrefundable fee must accompany each request for conviction records submitted for a name and date of birth background check or a background check requested by fingerprint search at the state level pursuant to RCW 43.43.830 through 43.43.845, and chapter 10.97

RCW unless through prior arrangement, an account is authorized and established.

(2) A nonrefundable FBI fee will be charged for fingerprint cards submitted for federal searches. It will be the responsibility of the section to collect all fees due and forward fingerprint cards and fees to the FBI.

(3) A nonrefundable fee will be charged for taking fingerprint impressions by the section. Fees are to be deposited in the Washington state patrol fingerprint identification account.

(4) All fees are to be made payable to the Washington state patrol and are to be remitted by cash, cashier's check, money order or check written on a business account. Credit cards may be used only for payment of electronic requests and for any other fingerprint or conviction record services the state patrol has implemented credit card payment procedures. The section must adjust the fee schedule as may be practicable to ensure that direct and indirect costs associated with the provisions of these chapters are recovered.

(5) Pursuant to the provisions of RCW 43.43.838 and chapter 28A.410 RCW, no fees will be charged to a nonprofit organization, or volunteers in school districts and educational service districts for background checks.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-600, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 10.97.100, 43.43.742. 05-03-034, § 446-20-600, filed 1/10/05, effective 2/10/05. Statutory Authority: RCW 43.43.742 through 43.43.845 and chapter 10.97 RCW. 99-07-050, § 446-20-600, filed 3/15/99, effective 4/15/99. Statutory Authority: RCW 43.43.830 - [43.43.]845, chapters 10.97, 28A.400 and 74.15 RCW. 96-18-017, § 446-20-600, filed 8/26/96, effective 9/26/96.]

**WAC 446-20-610 Superintendent of public instruction—Prospective educational employees—Fees.** (1) In addition to the state search, an FBI search is required for requests submitted under chapter 28A.410 RCW. One fingerprint card is required to be submitted to the Washington state patrol identification and criminal history section.

(2) Appropriate nonrefundable fees are to be charged and made payable to the Washington state patrol for searches conducted under chapter 28A.410 RCW.

(3) Prospective employees hired by the superintendent of public instruction, educational service districts, school districts and/or their contractors must pay the appropriate fees for state and federal fingerprint checks conducted under chapter 28A.410 RCW.

(4) Fees are to be deposited in the Washington state patrol fingerprint identification account.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-610, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 43.43.830 - 43.43.845. 05-07-141, § 446-20-610, filed 3/23/05, effective 4/23/05. Statutory Authority: RCW 43.43.830 - [43.43.]845 and 1998 c 346. 98-19-039, § 446-20-610, filed 9/11/98, effective 10/12/98. Statutory Authority: RCW 43.43.830 - [43.43.]845, chapters 10.97, 28A.400 and 74.15 RCW. 96-18-017, § 446-20-610, filed 8/26/96, effective 9/26/96.]

**WAC 446-20-630 Department of social and health services—Child care licensing—Fees.** (1) In addition to the state search, an FBI search is required for requests submitted under chapter 74.15 RCW. One fingerprint card is required to be submitted to the Washington state patrol identification and criminal history section.

(2) Department of social and health services (DSHS) will process fingerprint background checks under chapter 74.15 RCW, RCW 43.43.837 and 43.20A.710.

(3) All nonrefundable fees collected will be deposited into the Washington state patrol fingerprint identification account.

(4) A nonrefundable state and FBI fee will be charged on fingerprint cards clearly designated as "volunteer" pursuant to the provisions under Section 3e of the National Child Care Protection Act of 1993 as amended by the Crime Control Act of 1994.

"RCW 43.43.837" and "volunteer" must be entered in the "reason fingerprinted" box on both the state and FBI fingerprint cards submitted. Failure to indicate "volunteer" and the RCW citation on fingerprint cards will result in full fees being charged.

[Statutory Authority: Chapters 10.97 and 43.43 RCW. 10-01-109, § 446-20-630, filed 12/17/09, effective 1/17/10. Statutory Authority: RCW 43.43.830 - 43.43.845. 05-07-157, § 446-20-630, filed 3/23/05, effective 4/23/05. Statutory Authority: RCW 43.43.830 - [43.43.]845, chapters 10.97, 28A.400 and 74.15 RCW. 96-18-017, § 446-20-630, filed 8/26/96, effective 9/26/96.]

## Chapter 446-65 WAC

### COMMERCIAL MOTOR VEHICLE REGULATIONS

#### WAC

446-65-040

Compliance review hearing process.

**WAC 446-65-040 Compliance review hearing process.** (1) A carrier that receives a written notice of penalty from the state patrol has twenty business days from receipt of notice to:

- (a) Pay the penalty as stated in the notice; or
- (b) Submit a written application for mitigation of the penalty; or
- (c) Submit a written request for an administrative hearing.

(2) **Mitigation.** A carrier may submit a request for mitigation of a penalty, except as provided in RCW 46.32.100.

(a) A carrier's request for mitigation must:

- (i) Be in writing;
- (ii) Contain a statement explaining what the steps the carrier has taken to come into compliance, or what steps the carrier proposes to take in the future to come into compliance;
- (iii) Contain a notarized signature of the requestor; and
- (iv) Be received by the state patrol within twenty business days of the receipt of notice.

(b) Upon timely receipt of a written request for mitigation of a penalty, the state patrol will:

- (i) Review the materials submitted by the requestor; and
- (ii) Notify the carrier in writing of the disposition of the request for mitigation.

(3) **Administrative hearing.** A carrier may request an administrative hearing to contest the violation or penalty, or both.

(a) A carrier's request for an administrative hearing must:

- (i) Be in writing; and

(ii) Be received by the state patrol within twenty business days after receipt of the notice of penalty or receipt of the disposition of a request for mitigation.

(b) A carrier may request an administrative hearing without first requesting mitigation of the penalty.

(c) An administrative hearing will be conducted under chapter 34.05 RCW (Washington Administrative Procedure Act).

(d) The following process applies to administrative hearings under this chapter:

(i) The state patrol will notify the assistant attorney general of the carrier's request for an administrative hearing.

(ii) The assistant attorney general will draft an administrative complaint and send it to the carrier and to the office of administrative hearings.

(iii) The office of administrative hearings will schedule a hearing date, and will notify the carrier, assistant attorney general, and patrol in writing of the hearing date, time, and location.

(iv) The hearing will be conducted by an administrative law judge assigned by the office of administrative hearings.

(v) At the hearing, the assistant attorney general will present witnesses and other evidence on behalf of the WSP.

(vi) At the hearing, the carrier may be represented by an attorney or may choose to represent himself or herself. The carrier or his/her attorney will be allowed to present witnesses and other evidence.

(e) Nothing in this section will prevent the parties from resolving the administrative matter by settlement agreement prior to conclusion of the administrative hearing.

(4) **Initial and final order.** At the conclusion of the hearing, the administrative law judge will prepare an initial order and send it to the carrier and the assistant attorney general.

(a) Either the carrier or the assistant attorney general, or both, may file a petition for review of the initial order with the patrol within twenty days of the date of service of the initial order. A petition for review must:

(i) Specify the portions of the initial order to which exception is taken;

(ii) Refer to the evidence of record which is relied upon to support the petition; and

(iii) Be filed with the patrol within twenty days of the date of service of the initial order.

(b) A party on whom a petition for review has been served may, within ten days of the date of service, file a reply to the petition. Copies of the reply must be mailed to all other parties or their representatives at the time the reply is filed.

(c) The administrative record, the initial order, and any exceptions filed by the parties will be submitted to the chief or his/her designee for review. Following this review, the chief or his/her designee will enter a final order that is appealable under the provisions of chapter 34.05 RCW.

[Statutory Authority: RCW 46.30.020 and Title 49 Code of Federal Regulations (C.F.R.). 10-01-129, § 446-65-040, filed 12/21/09, effective 1/21/10.]