

OVERVIEW

The Michigan Department of Health and Human Services (MDHHS) Children's Services Agency (CSA) has requirements for requesting, reviewing and disseminating Criminal History Record Information (CHRI) obtained from the Law Enforcement Information Network (LEIN) system.

See [SRM 701, LEIN Use, System & Security Policy](#), for additional LEIN requirements including: definitions of roles and responsibilities, appropriate use, and safeguarding the system and security of the network.

OFFICIAL USE

The Criminal Justice Information Services (CJIS) Policy Council Act, 1974 PA 163, as amended, MCL 28.211 et. seq., grants MDHHS access to the Michigan Criminal Justice Information Network (MICJIN). Accessing the Law Enforcement Information Network (LEIN) must only occur as authorized by MDHHS in the performance of official duties. Any inappropriate access, use, or disclosure of LEIN information will result in disciplinary action. County directors are responsible for authorizing appropriate staff to access LEIN and for maintaining the security, confidentiality and the appropriate use of LEIN information.

Additional LEIN procedural policies, authorization, and use can be found in [SRM 701, LEIN Use, System & Security Policy](#).

DEFINITIONS

Caseworkers must be familiar with the terms and definitions when implementing the LEIN policy.

LEIN Documents

Printed-paper, photocopy, or electronic LEIN report generated from the LEIN in response to a LEIN request.

LEIN Information

Nonpublic information obtained from the LEIN database that contains criminal justice information (CJI).

Verified Information

Verified information is information obtained from credible public sources, which corroborates information obtained from LEIN. This

information may be the same as the actual LEIN information itself. Police reports that contain information about arrests may also be included. The court may require law enforcement officers to testify, as needed. Consultation with the prosecuting attorney or MDHHS legal representation is encouraged regarding evidential value of the information.

Public sources include:

- Courts.
- Internet Criminal History Tool (ICHAT).
- National and State sex offender registries.
- Offender Tracking Information System (OTIS).
- Police/law enforcement.
- Prosecuting attorney's office.
- Michigan Secretary of State (SOS).
- Self-disclosure.
- VINELINK.

AUTHORIZED LEIN ACCESS

Only authorized users can request, review and/or generate LEIN information; see [SRM 701, LEIN Use, System & Security Policy](#), for definitions of each role. Authorized requesters include services workers assigned to case files in the following units: Adoption, Adult Protective Services (APS), Children's Protective Services (CPS), Child Welfare Licensing, Foster Care (FC), Interstate Compact on the Placement of Children (ICPC), Interstate Compact for Juveniles (ICJ), Juvenile Guardianship and Juvenile Justice (JJ).

Requesters, office supervisors, managers, and directors who review LEIN CHRI must sign the MDHHS-5518, LEIN Notice of Criminal Penalties, and take the LEIN security awareness training within six months of hire and again every two years thereafter.

Appointed operators and terminal agency coordinators (TACs) who directly access LEIN CHRI must submit to a state and national fingerprint clearance, attend operator and/or TAC training, pass the training test with a score of no less than 70 percent, sign MDHHS-5518, LEIN Notice of Criminal Penalties, and MDHHS-5528, LEIN Security Agreement, forms and take the LEIN security awareness training. Completion of the training and tests are required every two years to remain appointed.

LEIN OVERVIEW

All local child welfare offices have access to information on the LEIN through an agreement with the Michigan State Police (MSP), based on supporting statutory allowances. This access can include the following information, based on authorization:

- Michigan criminal history.
- Sex offender registry.
- Missing/wanted persons.
- Gun registration/permits.
- Personal Protection Orders (PPO).
- Officer cautions.
- Michigan SOS.
- National Crime Information Center - wants/warrants from all states.

Canadian and Mexican criminal history information is only available if Canada or Mexico submitted data to the National Law Enforcement Telecommunications System (Nlets). Tribal criminal history information is only available if the tribe submitted data to the Michigan criminal history repository.

STATE AND NATIONAL SEARCHES

34 USC 20961 allows MDHHS/CSA to conduct a national criminal history search only for investigated cases of child abuse, neglect or exploitation.

State statute, policy, regulations, and approvals by the MSP LEIN field service's unit authorize access to LEIN for other investigated cases and placement. For these cases, caseworkers can only request Michigan-based LEIN searches.

Note: Not all states have statutory allowance to share non-public criminal history. In this situation, LEIN will not receive a response from that state; therefore, if a client self-discloses or the reporting source reports of criminal activity in another state, the caseworker should contact the other state's enforcement agency or court to request public information.

**REQUIRED LEIN
REQUEST**

Criminal record clearances can be useful in assessing the potential risk for abuse of a child or adult by their parent and/or other person(s) responsible for the child or adult's health and welfare. Evaluate all information received from the reporting person, client, LEIN clearance, and other collateral sources of information that a caretaker has a history of violent behavior or was arrested for or convicted of a crime.

**Required Request
for Adoption**

Criminal clearance process applies to adoption applicants and all adult household members. Only MDHHS adoption workers for MDHHS directly supervised adoption cases can request a LEIN clearance.

See [ADM 0520, Background Checks, Clearances, Criminal History Checks and Fingerprinting](#), for specific information on requirements and time-frames for background for adoption.

**Required Request
for Adult
Protective
Services (APS)**

APS investigators are to evaluate all information received from the referral source, the client or other collateral sources of information that an adult caretaker and/or alleged perpetrator has a history of violent behavior or was arrested or convicted for a crime. During an investigation in which it is believed a LEIN clearance will provide pertinent information, a LEIN clearance may be requested.

At a minimum, conduct a LEIN clearance when the following is alleged or suspected:

- All alleged perpetrators for all sexual abuse.
- Serious physical abuse.
- Serious neglect.
- Financial exploitation.
- Suspected caretaker substance abuse.
- Cases with domestic violence allegations.

LEIN clearances in the situations listed above may include criminal, arrest, warrants, personal protection order/injunction (PPO), and officer cautions. APS must also conduct a LEIN clearance on other individuals involved in APS cases when there is reason to believe this information is necessary to make a decision regarding client safety.

Home Help Providers

Generated criminal history screens occur during the Community Health Automated Medicaid Processing System Community Health Automated Medicaid Processing System (CHAMPS) enrollment process and **not** by staff at the local office. Adult services staff **must only** utilize LEIN information in the course of an APS investigation. No other adult services program can use LEIN.

Note: Any inappropriate access, use, or disclosure of LEIN information will result in disciplinary action.

Required Request for Absent Without Legal Permission (AWOLP)

The MDHHS Absent Without Legal Permission (AWOLP) analyst must conduct a person query search on a child reported to be missing. This search is to verify that children who have been classified as missing and endangered are posted in LEIN. To conduct a person query, use the person query form in Talon.

See [FOM 722-03A, Absent Without Legal Permission \(AWOLP\)](#), for policy requirements. See [SRM 701, LEIN Use, System & Security Policy](#), for the definition of person query.

Note: Do not use a LEIN criminal history report form.

Required Request for Child Welfare Licensing

MDHHS, Division of Child Welfare Licensing (CWL) staff must conduct a LEIN clearance on all adult household members that reside in or frequent the home on a reoccurring and ongoing basis of an applicant or a licensee for foster care home or proposed adoptive home or placement. For additional information; see [CWL Technical Assistance \(TA\) Manual](#).

**Required Request
for Children's
Protective
Services (CPS)**

Evaluate all information received from the reporting person, the client, a LEIN clearance, and other collateral sources of information that an adult caretaker has a history of violent behavior or was arrested for or convicted of a crime. CPS investigating worker required to obtain LEIN clearances should do so prior to contacting the client or alleged perpetrator. The worker may also conduct a LEIN clearance during any investigation when the worker believes a LEIN clearance will provide pertinent information.

For requirements on running LEIN for preliminary CPS investigations; see [PSM 712-5, CPS Intake Overview](#) and also [PSM 712-6, CPS Intake-Special Cases](#).

CPS Investigations must include the following LEIN clearance.

- On all alleged perpetrators and adults residing in the home of the alleged perpetrator household when there are sexual abuse, physical abuse, and human trafficking allegations.
- On all household members when considering placement with non-custodial parents and relatives; see [PSM 715-2, Removal and Placement of Children](#).

LEIN clearances are not required for voluntary safety arrangements that has not risen to the level of court order placement.

When requesting a LEIN, CPS staff must complete a DHS-269, Criminal History Information Request, form. *See requesting a LEIN record* in this policy for further details.

When documenting a LEIN clearance, the following information must be indicated in the disposition question specific to criminal history (located in the *disposition* tab in MiSACWIS):

- Names of individuals with whom a LEIN clearance was requested.
- Source of secondary verification (such as ICHAT, etc.).
- A description of the verified information as it relates to the investigation or child safety, if applicable.

Note: Unless otherwise outlined in this policy, an investigating worker required to obtain LEIN clearance is encouraged to do so prior to contacting the client or alleged perpetrator. See *evaluation of LEIN information* in this policy when assessing criminal history.

MDHHS may not request LEIN solely for worker safety purposes. Staff should consult with their supervisor and follow their county's office protocols to assure all safety precautions are taken.

Potential Unlicensed Relative Placement

When CPS staff are conducting a LEIN clearance on an individual for assessing a potential placement, the caseworker must link the name of the evaluated person to the child's case. The caseworker must create a provider inquiry and record for all potential unlicensed relative placements. The caseworker **must** complete the DHS-588, Initial Relative Safety Screen, in MiSACWIS. See Job Aid, JA Relative Placement Process, and [FOM 722-03B, Relative Engagement and Placement](#).

Required Request for Foster Care (FC) and Juvenile Justice (JJ)

Evaluate all information from the potential parent/caregiver when assessing placement. LEIN clearances must be conducted:

- On all adult household members when a child will be having parenting time within a parent's home; see [FOM 722-06I, Maintaining Connections Through Visitation and Contact](#).
- On all adult household members, by the next business day, when the court orders placement with a relative prior to the completion of the required home study.
- On all adult household members when considering a return home; see [FOM 722-07B, Permanency Planning-Reunification](#).
- When a child is placed with an unlicensed relative or a home study is being conducted on a relative's home.
- When a child is placed at home and new adults move into the home.

When a household member has a conviction of certain crimes, placement prohibition and/or further assessment is required before

placement can be made; see [FOM 722-03, Placement Selection and Standards](#), and [FOM 722-03B, Relative Engagement and Placement](#).

Foster care and juvenile justice placement LEIN clearances must include criminal convictions, arrest/warrants, officer cautions a concealed pistol license (CPL) registration/permit check and a personal protection order check.

Caseworkers may request a new LEIN clearance on other adult household members when there is reason to believe that this new information is pertinent to making a decision regarding child safety.

Potential Unlicensed Relative Placement

When foster care or juvenile justice staff conduct a LEIN clearance on an individual to assess a potential placement, the caseworker must link the name of the evaluated person to the child's case. The caseworker must create a provider inquiry and record for all potential unlicensed relative placements. The caseworker **must** complete the DHS-588, Initial Relative Safety Screen, in MiSACWIS. See Job Aid, JA Relative Placement Process, and [FOM 722-03B, Relative Engagement and Placement](#).

Required Request for Interstate Compact on the Placement of Children (ICPC)

All household members of a prospective placement for which MDHHS is required to conduct the home study must have a completed criminal history background check.

Required LEIN clearances must only be ran on open, active cases. When MDHHS receives a referral from the Interstate Compact on the Placement of Children (ICPC) to conduct a home study on a prospective placement and there is not an existing case, the worker must open a non-CPS intake.

See [ICM-120, Interstate Adoption](#), and [ICM-130, Interstate Foster Care](#), for additional requirements.

**Required Request
for Interstate
Compact for
Juveniles (ICJ):
Juvenile Referrals**

All adults in the home who are the subject of the ICJ referral must have a completed criminal history background check.

Required LEIN clearances must only be ran on open, active cases/provider record. When MDHHS receives an ICJ referral for transfer of supervision, then a worker must open a non-CPS intake.

When new adults come to live in the home including as the result of a move, criminal history clearances on the new adults are mandatory.

Following the initial criminal history check, completion of subsequent criminal history clearances can occur if determined necessary by the worker.

The ICJ Form VIII, Home Evaluation Report, requires a criminal history check and must include the following:

- Full name of the subject of the check.
- Subject's date of birth.
- Subject's gender and race.
- Subject's relationship to the juvenile.
- Date of the check.

The home evaluation report must also include the date the juvenile arrived in the home.

Document subsequent clearances conducted independently of a home evaluation on the ICJ Form IX Progress Report.

See [ICM150, Interstate Probation/Parole Supervision](#), for additional information on ICJ requirements.

**Required Request
for Juvenile
Guardianship**

Before the court may appoint a guardian, the department must complete a LEIN clearance, along with other criminal history and central registry clearances for the prospective guardian and all

other adults living in the household per foster care policy; see [GDM 600, Juvenile Guardianship](#).

Note: In some cases, the court will request a home study on a potential guardian for which MDHHS does not have jurisdiction or an open case. In these situations, do not use LEIN for criminal history clearances. Contact the county court to request they run the LEIN clearance or use public sources (such as ICHAT).

REQUESTING A LEIN RECORD

Required LEIN clearances must only be ran on open, active cases. Only MDHHS requesters assigned to the active case may request CJI from LEIN for purposes outlined in this policy. The person being checked must be affiliated with the case. CPS staff must list the names of the individuals with whom the LEIN clearance is requested in disposition question specific to criminal history (located in the disposition tab in MiSACWIS), see *required requests for CPS* in this item. Ensure that the person's name is in the case file and matches the name as written on the DHS-268, LEIN Clearance Log, or DHS-268A-Secondary Dissemination Clearance Log, and DHS-269, Criminal History Information Request, form. These forms must include the associated case number, investigative, intake ID number, or provider ID.

Maintain the original DHS-269, Criminal History Request, form in the case file. Case files in MiSACWIS must include an upload of the DHS-269 into the document section. The DHS-268, LEIN Clearance Log, and/or DHS-268A, Secondary Dissemination Clearance Log, must retain a copy of the DHS-269. **Do not write anything associated with a LEIN result on the DHS-269, Criminal History Request, form.**

After the request, the operator must complete the DHS-268, LEIN Clearance Log, and/or DHS-268A, Secondary Dissemination Clearance Log, and the authorized user signs it upon picking up the LEIN CHRI.

EVALUATION OF LEIN INFORMATION

Evaluate information received from a parent, relative or others, a LEIN clearance, public sources, or other collateral sources of information of an adult caretaker's criminal history.

The existence or nonexistence of an arrest or criminal record does not necessarily indicate risk.

Only verified information should be used for decision-making with consideration of when (how long ago) the offense occurred and whether treatment intervention was provided.

LEIN REQUEST TRACKING

Local offices must document all LEIN clearances by completing the DHS-268, LEIN Clearance Log, and/or DHS-268A Secondary Dissemination Clearance Log. Complete this form as part of the audit process and must be maintained in a secure file at the local office.

For record retention requirements; see *LEIN document disposal and retention*, in this item.

DISSEMINATION OF LEIN INFORMATION

Disseminate LEIN information and/or documents via phone, fax, electronic mail (email), or printed only in accordance to the requirements outlined within this policy. It is the responsibility of the local county director or appointed local agency security officer (LASO) to ensure compliance. Requesters electronically receiving and reviewing the CHRI must follow the physical access requirements outlined in [SRM 701, LEIN Use, System & Security Policy](#).

The CJIS Policy Council Act, MCL 28.214(5) et seq., granting MDHHS enhanced LEIN access, states, "A person shall not disclose information governed under this act in a manner that is not authorized by law or rule". Although not an exhaustive list, MDHHS may not share LEIN information, directly or indirectly, with the following categories of people:

- Private child placing agencies.
- Placement agency foster care providers.
- Contractors.
- Individuals, agencies and entities external to MDHHS.
- Lawyer-Guardian Ad Litem.
- Guardians/conservators.
- Licensing facilities.

- Tribal representatives.
- Unauthorized MDHHS staff or authorized staff for unauthorized purposes.

The law also specifies criminal penalties for non-compliance with the confidentiality provisions of the law.

Note: In situations where a placement agency foster care (PAFC) needs a LEIN clearance to determine appropriate placement or visitation, MDHHS cannot share LEIN results; instead, the following should occur:

- PAFC must notify the MDHHS monitoring worker and provide the monitoring worker all household members' information.
- The MDHHS monitoring worker must complete a DHS-269, Criminal History Request, form within five business days upon receipt; see [FOM 914, MDHHS Responsibilities for PAFC Managed Cases](#).
- The MDHHS monitoring worker must corroborate any criminal history record information (CHRI) using public sources; see *verified information*, in this item.
- The MDHHS monitoring worker can only report to the PAFC the corroborated verified information.
- File the DHS-269, Criminal History Request, form.

This outlined process is not for licensing foster care and adoption homes. Please see Division of Child Welfare Licensing (DCWL) policies.

Phone Dissemination

Criminal history record information (CHRI) can only be released via phone from a MDHHS authorized operator/TAC to a MDHHS authorized requester. The requester must be associated to the open/active case and provide the operator with a two-step verification process by confirming:

1. Intake ID number.
2. Worker ID (as associated to the open/active case).

Upon verification of authorization and case association, the operator/TAC can then share CHRI via phone.

Fax Dissemination

Criminal history record information (CHRI) can only be released via fax from a MDHHS authorized operator/TAC to a MDHHS authorized requester who is associated to the open/active case:

- Only fax to another MDHHS office fax machine.
- The requester is standing at the fax machine awaiting receipt.
- The requester must send an email confirming receipt of the report to the sender.

Requester must meet the physical security requirement when reviewing CHRI via fax.

Email Dissemination

Criminal history record information (CHRI) can be released via email only from a MDHHS authorized operator/TAC to a MDHHS authorized requester associated to the open/active case. The email must be encrypted (FIPS 140-2) end-to-end. The MDHHS Outlook meets this encryption requirement.

- Requester must connect either via VPN or directly to the state of Michigan network when receiving CHRI via email.
- Password protect the document being emailed.
- Only email to a MDHHS authorized user.

Requester must meet the physical access authorization requirements when reviewing CHRI via email; see [SRM 701, LEIN Use, System & Security Policy](#), for documentation requirements.

Note: If the requester who is receiving CHRI via phone, fax, email or printed copy is getting the report because s/he is assisting another county-assigned caseworker, assigned as the county of responsibility, documentation of the dissemination must be on a DHS-268A, Secondary Dissemination Log.

Do not store CHRI on a network drive unless it is restricted, monitored and tracked by a local county TAC for appropriate authorized access.

Printed Dissemination

Criminal history record information (CHRI) can be release via printed hard copy only from a MDHHS authorized operator/TAC to a MDHHS authorized requester associated to the open/active case.

Authorized requester release signatures on the DHS-268, LEIN Clearance Log, can be hand written or electronic.

**Secondary
Dissemination**

Secondary dissemination is distributed criminal history information obtained from LEIN that is beyond the original requesting agency.

Sharing information outside MDHHS requires the receiving agency to have an originating agency identifier (ORI). The MDHHS only allows for secondary dissemination within local MDHHS county offices. Requests from other agencies refer the requesting agency to law enforcement agency to request the information directly.

Secondary dissemination can only occur between authorized MDHHS county offices when a worker from one county is assisting with another county's assigned case investigation. The primary worker assigned to the case can share the CHRI with the assisting worker from the other county. Report the sharing of this information on the DHS-268A, Secondary Dissemination Log.

Dissemination is for authorized purpose consistent with the policies outlined within this policy. Local county offices can choose to implement or decline requests for secondary dissemination.

Secondary dissemination log documentation must include the following information:

- Date and time requested.
- Authorized requester name and county number.
- Receiving county ORI.
- Case/Investigative/Intake number associated with an active MDHHS case.
- Name of the person being LEIN evaluated.
- Case investigation type.

- Date and time of dissemination.

The local county office must retain a copy of the DHS-269, Criminal History Log, along with the DHS-268A, Secondary Dissemination Log. For record retention policy; see *LEIN document disposal and retention*, in this item.

Note: Do not generate CHRI for an authorized requester associated to another county's ORI unless they are associated to the case for which the generating county is responsible.

Do not allow an unauthorized individual to view, hear, or otherwise access information obtained from LEIN/NCIC contained in a case file.

Documenting in Reports/Files/ Narratives

No information solely from LEIN is to be included in department reports or case files (including hard copy or electronic- such as MiSACWIS, BITS, Bridges, ASCAP, etc.). Workers must not disclose any accessing of criminal history information from LEIN, nor disclose that any unverified criminal history information to the individual on which the LEIN clearance was completed.

Case files and documents or court reports may include corroborated verified information when the information is required, or the information is the basis for case decision-making.

Case or court reports, petitions, or narratives of other reports may include DHS-154, Investigation Report, DHS-152, Updated Services Plans, Placement agency foster care providers DHS-3130-A, Children's Foster Care Initial Relative Placement Home Study, DHS-588, Initial Relative Safety Screen, safety plans and/or petitions. Only verified information from LEIN should be in these reports when information is a source of evidence of child abuse/neglect. Do not attach or submit a LEIN report to a petition.

Note: When petitions, ISPs, USPs, home studies, court reports, etc., written prior to June 1, 2007 are shared with the court, private child placing agencies, treatment providers, foster parents and all other entities external to the department, the fact that a LEIN clearance was done and the specific information obtained from LEIN must be redacted and removed from the report. Do not attach or submit LEIN documents with petitions.

See the definition of *verified information*, in this item to obtain public sources to corroborate.

Court Orders, Subpoenas and FOIA request

LEIN information is not subject to FOIA requests and can only be released through a court order or subpoena issued by the circuit court, including the family division. Forward all court orders and subpoenas for LEIN information to the Michigan State Police LEIN field services for processing.

The law also specifies criminal penalties for noncompliance with the confidentiality provisions of the law; see [CJIS Security Policy](#).

Penalty for Improper Release of LEIN Information

CJIS Policy Council Act, MCL 28.214(6)(a) explains penalties to a person who intentionally uses or discloses nonpublic information in a manner that is not authorized by law or rule; see [SRM 701, LEIN Use, System & Security Policy](#), Violations and Breaches.

All suspected violations of LEIN policy pertaining to unauthorized access, use or disclosure are to be immediately forwarded to the local office LEIN coordinator in central office; see [SRM 701, LEIN Use, System & Security Policy](#), Incident Response.

REBUTTAL PROCESS

Sharing of CHRI directly from LEIN is not allowed. Only share corroborated verified information. Do not share information as being a source from LEIN. If a person challenges the accuracy of a criminal history check, refer the person to the nearest law enforcement agency to follow that law enforcement agency's process for challenging the criminal record. Inform the individual that once they obtain a response from law enforcement to his/her challenge to provide a copy to MDHHS.

LEIN DOCUMENT DISPOSAL AND RETENTION

See [Record Retention and Disposal Schedule, 49/BCWF, Child Welfare Policy and Programs](#), for record retention policy requirements for each LEIN report and document.

Do not file LEIN documents in the case record. This does not include the DHS-269, Criminal History Request; see *requesting a LEIN clearance* in this item.

When immediately disposing of LEIN criminal history information (CHRI) or at the conclusion of the record retention periods, crosscut, shred, or incinerate the documents. Delete CHRI after reviewing it electronically. Do not save CHRI in any case files (electronic or hard copy). If it is necessary to obtain a historical-based CHRI, send a request to the Central Office TAC. If it is necessary to request another CHRI on the same person/people as previously ran, then with a new request follow the process for requesting LEIN.

Note: Do not dispose LEIN clearances in a confidential recycling bin that a company shreds outside the building.

VIOLATIONS AND BREACHES

LEIN use is specific to statutory authority, any breach in the use of LEIN is a violation; see [SRM 701, LEIN Use, System & Security Policy](#), for more information and to learn how to report suspected violations or breaches.