



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: Francine C. Ecker, Director
Department of Criminal Justice Services

FROM: Charles A. Quagliato
Assistant Attorney General

DATE: November 21, 2014

SUBJECT: Regulations Relating to Criminal History Record Information Use and Security – 6 VAC 20-120-10 *et seq.*

In response to a request from the Department of Criminal Justice Services, I have reviewed the proposed regulations, 6 VAC 20-120-10 *et seq.*, relating to criminal history record information use and security. Virginia Code § 9.1-102(24) requires the Department to adopt regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and court orders. Virginia Code § 9.1-102(1) requires the Department to adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 *et seq.*), for the administration of this chapter. Additionally, Virginia Code § 9.1-131 requires the Criminal Justice Services Board to adopt regulations that are necessary for conducting audits, the retention of records to facilitate such audits, the determination of necessary corrective actions, and the reporting of corrective actions taken. Upon review of the aforesaid regulations, I find the proposed regulations to be constitutional, consistent with the statutory authority granted by Virginia Code §§ 9.1-102(1), 9.1-102(24), and 9.1-131 of the Code of Virginia, and in conformity with existing statutory provisions.

Please note that this memorandum is intended to provide legal interpretations and legal advice, not policy advice. To the extent that this communication may advise you that a certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency and this communication should not be construed as a comment for or against the merits of such action.