

Administrative Procedure #6
Use of the
LAW ENFORCEMENT AGENCIES DATA SYSTEM (LEADS)
August 10, 2018 - P.T. 2018.17

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Section 6.1 Introduction

The purpose of this Administrative Procedure is to provide staff with a protocol for the use of information from the Law Enforcement Agencies Data System, commonly known as LEADS. LEADS is an indispensable tool in the risk assessment decision-making process. It may also be helpful to the Investigation Specialist in assessing risk to him or herself in conducting an investigation, to placing workers when assessing a child's safety in a potential relative home placement, and to child welfare workers when arranging for visits and contact between parents and children and making important case decisions.

Criminal background information may be useful as a starting point for an investigation to pinpoint areas of concern that require further investigation. In assessing the importance of LEADS information, the following guidelines should be used:

- Criminal history record information should be considered in relation to child safety and the caregiver's ability to care for children.
- Arrests are not convictions. Arrests require further investigation to determine their relevancy to the safety of children. Arrest information may be used to assess conflict resolution abilities and stability of the home environment. While the fact of an arrest cannot support a determination that the alleged act occurred, by assessing the underlying documents and conducting interviews, an investigator can determine whether issues are present that affect the child's safety and well-being.
- There is no clearer predictor of future violence than past violence. Thus, workers should pay particular attention to criminal history record information involving interpersonal violence. Criminal history record information may disclose conflict resolution issues beyond the criminal acts that form the basis of the arrest or conviction.
- Gang-related activity may present a danger to children but workers should be sensitive to the fact that minority young adults are disproportionately arrested and charged with "mob action."
- How long ago the individual was convicted and the age of the individual when convicted should be considered. If the individual was incarcerated, the time, which has elapsed since the individual, was released from prison and any subsequent criminal activity since his or her release should be considered in evaluating whether the individual has been rehabilitated. When considered in isolation, the length of time and age of the individual when convicted do not indicate reduced risk the individual may present to the child's safety. All factors of the individual's circumstances (i.e., type of conviction, age of other individuals involved, success of the rehabilitation, etc.) need to be assessed in conjunction with the child's current situation. Assessment of factors should involve the worker's immediate supervisor. Detailed information concerning assessment of criminal convictions and pending criminal charges is located in **Rules 385.60**.

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Note: Department and purchase of service agency (POS) staff must always assess LEADS information to identify its potential impact on child safety. Workers and supervisors must look for and document behavior indicative of risk to child safety.

Some convictions operate as a complete bar to placement. See **Rules 301, Appendix A**, for a complete list of crimes which bar placement with relatives and for information about the waiver process.

If LEADS data appears relevant to child safety, the worker shall access the underlying documents supporting the LEADS information. In an emergency situation when a child is in immediate danger of physical harm or it is likely that the family may flee with the child, the worker shall act immediately to protect the child before accessing the underlying documents supporting LEADS information.

Section 6.2 Definitions

“Adults who frequent the home” means anyone who is a family member or friend of the children’s caretaker that visits the home at least several times per month and has access to the children in the home.

“Criminal History Record Information” refers to information collected on individuals consisting of identifiable descriptions, which include such information as name, sex, race, date of birth, Social Security Number, State Identification Number, Federal Bureau of Identification (FBI) Number, and other information used to determine the subject of the Criminal History Transcript, and notations of arrests, detentions, indictments, information, or other formal criminal charges or proceedings, and disposition arising there from, sentencing, correctional supervision, and release. (from 20 Ill. Adm. Code 1530, Individual’s Right to Access and Review Criminal History Record Information, Section 1530.10 Definitions)

“LEADS” means the Law Enforcement Agencies Data System. LEADS provide summaries of the following information.

- Pending (unresolved) charges.
- Arrests that did not result in charges.
- Charges that did not result in a conviction.
- Convictions.
- Existing orders of protection, including domestic violence orders of protection.
- Closed orders of protection for two years after expiration date.
- Existing warrants issued.
- Driver’s license information.
- Whether the offender was sentenced to imprisonment.
- Whether the individual is a registered sex offender, child sex offender, or child murderer.

“LEADS information” means the verbal or written criminal history information provided to the requesting worker by the LEADS operator.

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“LEADS operator” means designated staff within the State Central Register who have been trained by the Illinois State Police in the access and proper use of LEADS information. A worker shall request a LEADS check by faxing a **CANTS 48, Request for LEADS/CANTS Check**, to the LEADS operator at (217) 524-0359. When there is an urgent need for LEADS information, as described in this Administrative Procedure, the LEADS operator may be contacted by telephoning (217) 785-3202 or (800) 847-2152. LEADS operators may be contacted 24 hours per day, seven days per week.

“Need to know” means knowledge of LEADS information is necessary to the safety of the child or family members, the safety of the service provider, or the effectiveness and appropriateness of the services provided.

“Negative LEADS check” means there is no criminal history record information available via the LEADS system for the name and identifying information given to the LEADS operator.

“Persons authorized to receive LEADS information” means the Investigation Supervisor and Investigation Specialist investigating a report of child abuse/neglect, the placing worker evaluating the appropriateness of a placement with an unlicensed relative, the child welfare supervisor and child welfare worker assigned to a child welfare case, and the managers in their chains of command. In addition, persons who provide services to any member of the family may receive LEADS information, but not a copy of the actual LEADS report when there is a need to know the information, as “need to know” is defined in this Administrative Procedure.

“Persons subject to LEADS checks” means all members of the household age 13 and older and any person age 13 and older who frequents the home and has access to the children in the home. See **Procedures 301, Appendix E, Subsection II (b) (6)**, for specific information concerning background checks.

“Positive LEADS check” means there is some criminal history record information available via the LEADS system for the name and identifying information given to the LEADS operator. The criminal history record information may consist of arrest only information or may include information about charges and convictions.

“Underlying documents” means police reports, arrest records, certified copies of conviction or other law enforcement or court documents supporting information obtained from LEADS.

Section 6.3 What LEADS Can Do

a) Illinois Information Only

LEADS access through the State Central Register (SCR) will only give Illinois criminal history record information for adult or juvenile felons, and information concerning missing youth for whom the Department is legally responsible. A LEADS check can provide the following information regarding names checked:

- Pending (unresolved) charges.
- Arrests that did not result in charges.

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- Charges that did not result in a conviction.
- Convictions.
- Existing orders of protection, including domestic violence orders of protection.
- Existing warrants issued.
- Driver's license information.
- Whether the offender was sentenced to imprisonment.
- Whether the individual is a registered sex offender, child sex offender, or child murderer.

b) Information from Other States

If there is reason to suspect that the subject has a criminal record outside of Illinois, contact the Office of the Inspector General, Bureau of Investigations by facsimile at 217/557-8843 to request an out-of-state check. Requests for out-of-state LEADS checks must be made by completing a **CANTS 689-1, Out-of-State Criminal History Investigation Request** and faxing it to the number provided on the form. The request must include the:

- SCR or CYCIS ID number;
- Social Security Number, birth date; Name and address of the subject, including any aliases he or she has been known by; and
- Date of the Illinois LEADS check and confirmation number, if received at the time of request.

Upon completion of the out-of-state criminal background check, the OIG shall return the results of the criminal background check by faxing a completed **CANTS 689-2 OIG Out-of-State Criminal History Response Form** to the requester.

c) Caution File Alert

LEADS may provide a "**Caution File Alert.**" A caution file alert provides additional information on LEADS which the Investigation Specialist, child welfare worker, or police officer needs to know for his or her own safety. This information should be used in your risk and placement assessments. This information may include whether the individual is a registered sex offender, some information on gang affiliations, whether there is any history of threats against police officers and officials, and the offender's parole status. LEADS will also provide information on orders of protection currently in effect and closed orders of protection for up to two years after expiration.

Note: Treat this information seriously. It may save your life or the life of a child in your caseload.

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Section 6.4 How LEADS Should Not Be Used

All Department and private agency staff whose job duties require that they access LEADS information must sign the **CFS 853, Acknowledgment of Limits of LEADS Access and Confidentiality of LEADS Information**, before access to LEADS will be granted. Copies of the signed **CFS 853** are to be retained in the employee's personnel file maintained by DCFS or the private agency.

- LEADS **is not** a substitute for a State of Illinois or Federal Bureau of Investigation fingerprint check.
- LEADS **cannot** provide information if the person has provided an alias unknown to law enforcement.
- LEADS **cannot** provide criminal history record information from other states unless the Office of Inspector General is contacted for assistance pursuant to subsection 6.3(b) above.

In addition, because LEADS is dependent upon a voluntary data entry system, the information may be incomplete or even erroneous.

- LEADS **should never** be used for licensing or pre-employment checks.
- LEADS **should never** be used for criminal history checks that are conducted prior to finalization of an adoption, unless court-ordered.
- LEADS **should never** be used as a substitute for CANTS checks. All required CANTS checks must also be completed.
- LEADS **should never** be used to discount the abuse and/or neglect statements of an alleged child victim that is age 13 or older.
- LEADS **should never** be used to qualify an individual for Section 8 (subsidized) housing.

Section 6.5 When to Use LEADS

a) Use of LEADS by the State Central Register

The SCR shall request a LEADS check for *all reports* via SACWIS before they are transmitted to the responsible child protection teams.

LEADS checks shall be conducted on the following persons if they are listed on the report:

- Alleged perpetrators,
- Members of the household 13 years of age and older, and
- Adults who frequent the home as defined in Section 6.2.

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The call floor worker shall indicate in the narrative section of the SACWIS intake report that a LEADS check has been requested. The LEADS operator shall enter the LEADS printout information via the SACWIS criminal tab. A copy of the police arrest record will be mailed to the assigned Investigation Specialist. If the assigned Investigative Specialist has questions about information in the SACWIS criminal tab, he or she shall call the LEADS operator at (217) 785-3202 or (800) 847-2152.

LEADS operators must look for similarities and dissimilarities when an individual on whom they are conducting a LEADS check has two or more state identification numbers. When a precise record cannot be identified for the individual, LEADS operators will only enter one result in the SACWIS investigation or case file. Information concerning the other results will be entered in the narrative section. When this situation occurs it is the responsibility of the assigned Investigation Specialist or caseworker to attempt to obtain a physical description of the individual in question, his or her driver's license information, aliases, Social Security Number, or any other information that will help identify the correct LEADS record. Workers shall use a SACWIS contact note to document all unsuccessful attempts to obtain identifying information.

b) **Insufficient Information to Conduct LEADS Check**

At times, SCR will be unable to conduct the LEADS check because the reporter does not have enough information on the family for a LEADS check to be completed. The notation "Insufficient information for LEADS check" will be included in the SACWIS intake report. When the Investigation Specialist has obtained sufficient information (i.e., first and last names, date of birth, and social security number) for a LEADS check to be completed, he or she must call the LEADS operator at (217) 785-3202 or (800) 785-2152 and request a LEADS check. The LEADS check shall include the alleged perpetrator if age 13 or older, all members of the household age 13 or older, and any adults who frequent the household that have access to the children. A LEADS check may also be requested through the SACWIS investigation. If the SCR does not have sufficient information to request a LEADS check prior to forwarding the SACWIS intake report to the investigation team, the Investigation Specialist must attempt to obtain sufficient information to allow a LEADS check to be completed within seven days of the case assignment.

Note: A request for a LEADS check *must be made within 48 hours* after obtaining sufficient information for a check. If a LEADS check cannot be requested within seven days, the Investigation Specialist must document the reasons for the delay in a SACWIS contact note.

Note: If the child victim is 13 years of age or older and his or her LEADS check is positive, the Investigation Specialist must never use the LEADS information to assess the credibility of the child's statements. The Investigation Specialist shall thoroughly assess all inculpatory and exculpatory evidence as it relates to the allegation.

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c) Use of LEADS by Investigation Specialists

1) Additional Alleged Perpetrators or Other Adults in the Household

The Investigation Specialist shall do the following when additional perpetrators are identified, or there is identification of additional members of the household or adults frequenting the home that are subject to a LEADS check:

- Obtain sufficient information for a LEADS check to be completed (i.e., last name, first name, and birth date and Social Security Number) within seven days after the additional alleged perpetrators or members of the household are identified;
- Request the LEADS check through the SACWIS online investigation; or
- Call the LEADS operator at (217) 785-3202 or (800) 847-2152 to request a LEADS check.

2) Unlicensed Caregivers

When an unlicensed caregiver is the subject of a report or if a safety plan involves initial or continued placement with an unlicensed caregiver the Investigation Specialist must:

- Obtain sufficient information for a LEADS check to be completed (i.e., last name, first name, and birth date and Social Security Number) on the unlicensed caregiver, all persons in the household and adults who frequent the household that are subject to a LEADS check; and
- Call the LEADS operator at (217) 785-3202 or (800) 847-2152 and obtain a LEADS check and secure a placement clearance in accordance with **Procedures 301**, Appendix E, Placement Clearance Process, prior to leaving the children in the care of the unlicensed caregiver; and/or
- Request a LEADS check through SACWIS if the unlicensed caregiver or adults in the household are original subjects of the investigation, or will be added as participants in the SACWIS file.

d) Use of LEADS for Child Protection and Child Welfare Purposes

LEADS checks on *the alleged perpetrator, all persons 13 years of age or older that are members of the household and adults who frequent the home* shall be used in both investigations and follow-up work.

To complete a LEADS check workers must verify an individual's birth date, spelling of their name and Social Security Number through a visual check of that person's driver's license, social security card or other form of legitimate documentation.

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1) LEADS Checks for Biological Families with Intact Family or Placement Cases

LEADS checks shall be requested when:

- The facts suggest violence, drug abuse, or sexual abuse by any adult in the household;
- The composition of adult members of the household changes;
- The worker fears a violent reaction to a child protection or child welfare visit, in order to assess the level of risk and to determine whether another worker or the police should be asked to accompany the worker on the visit; or
- Before making an important case decision when the LEADS information may provide valuable insight into the risk to the child. Important case decisions may include, but are not limited to selecting the permanency goal; sharing a foster parent/relative caregiver's address and phone number for purposes of telephone contact and letters with the biological parents or siblings living with the biological parents; allowing unsupervised or overnight visits; returning a child home; developing a service plan.

2) LEADS Checks for Unlicensed Caregivers

LEADS checks shall be completed for unlicensed caregivers at the following milestones:

- Before making a placement with an unlicensed relative;
- When the composition of adult members of the household changes in an unlicensed relative home;
- When developing a protective plan while an investigation is pending;
- Before each case review involving an unlicensed relative placement.

3) LEADS Checks for Caregivers Who May Be Appointed Guardians of a Department Wards under the Probate Act

LEADS checks shall also be completed for the caregiver and all persons that are 13 years of age or older who are members of the household and adults who frequent the home of an individual that may be appointed an adult guardian under the Probate Act of a child or youth for whom the Department is legally responsible.

- Before initiating guardianship proceedings under the Probate Act.
- When the composition of adult members in the household changes after a petition for appointment of an adult guardian has been filed in court, but prior to entry of an order appointing an adult guardian.

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Section 6.6 Terms Used in LEADS Reports

a) Terms Describing the Termination of a Case without Findings

- When the police have detained a person, this is an arrest which may or may not result in charges, a conviction, and subsequent fines or incarceration.

Arrest

The police have taken a person into custody. An arrest alone on the LEADS report does not mean that charges were filed in court. Persons are sometimes arrested by police and then released without charges. If the police recommend filing charges and if the State's Attorney files the charges, the LEADS report will show "Direct Filed with Court." Arrest information obtained from LEADS is not public information.

- If charges are filed, a case may be terminated before trial without any findings against the individual. Terms reflecting this kind of termination include the following.

Dismissed

The court ended the case without making any findings or determinations against the defendant.

Dismiss/No Probable Cause

The court found that the state could not produce the minimal amount of evidence required to make a case to a judge or jury.

Dismiss/Want of Prosecution

The court dismissed the case after the state failed to proceed with the case.

Dismiss/Superseded

Charges were replaced by other amended and/or additional charges.

Nolle Pros or Nolle Prosequi

The case was dismissed on motion of the State's Attorney because the State's Attorney has chosen not to prosecute the case. No further action on this charge will occur.

Stricken with Leave to Reinstate

Pending charges dismissed within 120 days for persons in custody; or within 160 days for persons not in custody. If the state does not move to reinstate the charges the dismissal becomes final.

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b) Sentencing Terms

If a person admits to the crime before a judge, enters a plea of guilty or is found guilty after a trial, the court may choose from several sentencing options. Some of the sentencing terms used on a LEADS report include the following.

Guilty

The defendant has acknowledged the commission of the crime by admitting the facts before a judge or the defendant has been found to have committed the crime by a judge or a jury after a trial. This is a conviction and generally stays with the defendant forever.

Probation

Probation is a possible sentencing disposition for misdemeanors and most felonies. It is a conditional and revocable release under the supervision of a probation officer. This is a conviction and generally stays with the defendant forever.

Supervision or Withhold Judgment/Supervision

Supervision can be a sentence after a conviction or it can reflect a disposition in which an individual admits to the crime, but the court does not immediately enter judgment. Instead, the court sentences the individual to a conditional and revocable release similar to probation, but without probationary supervision. The court may impose conditions and reporting requirements. If the defendant successfully completes the term of supervision, the defendant is discharged, a judgment dismissing the charges is entered and, on request of the defendant, the charges are expunged. Supervision successfully completed is not a "conviction."

710 or 1410 Probation

These sentencing alternatives are similar to supervision. Even though the defendant admits his guilt, the court does not enter judgment, and if the defendant successfully completes the term of probation, the charges are dismissed. 710 probation, however, only applies to marijuana charges. 1410 probation applies only to controlled substance cases. Neither 710 nor 1410 probation is considered a conviction.

Note: The LEADS report must say 710 probation or 1410 probation or else the sentence is regular probation and is considered a conviction.

c) Probation and Parole

As an alternative to imprisonment, the court may place a defendant on probation. The terms probation and parole, also called mandatory supervised release, are often confused. A person sentenced to probation does not go to the state penitentiary, although he or she may get some jail time in the county jail. A person on parole or mandatory supervised release has been sent to prison, completed the term of imprisonment, and has been released on parole subject to the supervision of a parole officer.

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Section 6.7 Classes of Crimes

a) General Classifications of Crimes

All crimes are divided into three categories: petty offenses, misdemeanors and felonies. LEADS sometimes show the class to which the crime belongs. The greater classification indicates a more serious the crime. The classification can provide some guidance in determining the risk the conviction represents to the children and to DCFS/POS staff.

- Petty offenses are *fine only* crimes.
- Misdemeanors may have fines and a maximum jail time of 364 days.
- Felony prison terms start at one year and go to life without parole or even death.

Misdemeanors and felonies are further broken into classes. Sentencing ranges for misdemeanors and felonies are set out below. While these sentencing ranges apply for most crimes, the sentence for certain felonies may be even greater or enhanced, if certain aggravating factors, such as multiple offenses of the same or greater class of crime, are present.

b) Misdemeanors:

Class C: up to 30 days

Class B: up to 6 months

Class A: up to 364 days.

For any misdemeanor the court may sentence the defendant to up to two years probation instead of jail.

c) Felonies:

Class 4 felony: 1 to 3 years

Extended term: 3 to 6 years

Probation: up to 30 months

Class 3 felony: 2 to 5 years

Extended term: 5 to 10 years

Probation: up to 30 months

Class 2 felony: 3 to 7 years

Extended term: 7 to 14 years

Probation: up to 4 years

Class 1 felony: 4 to 15 years

Extended term: 15 to 30 years

Probation: up to 4 years

Class X felony: 6 to 30 years

Extended term: 30 to 60 years

Probation: not possible

First Degree Murder: Death, life sentence without parole, 20 to 60 years,

Probation: not possible.

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Section 6.8 How to Access LEADS

a) **Urgent Need for LEADS Information and/or Clearance for Placement**

To initiate a LEADS check when the information is for a child protection investigation, emergency protective service plan, or for obtaining clearance for placement with an unlicensed caregiver, workers shall call the LEADS operator at (217) 785-3202, or (800) 847-2152, 24 hours per day, seven days per week, and request a LEADS check. The worker must be prepared with the following information on the individual to be checked.

- Last name and first name.
- Other available identifying information (i.e., date of birth, Social Security number).
- SCR number and/or CYCIS file number.

b) **Routine Need for LEADS Information**

*To initiate a LEADS check when the information is needed within a few days, such as prior to an administrative case review involving an unlicensed caregiver, changes in visitation plans, court-ordered adoption background checks, and other non-imminent placement uses, the worker may fax the request for a LEADS check to the LEADS operator at (217) 524-0359 using the attached **CANTS 48**, Request for LEADS/CANTS Check, or request the LEADS check through SACWIS.*

c) **Response from LEADS Operators**

The LEADS operator shall document the results of a LEADS check on a **CANTS 48** and fax the completed **CANTS 48** to the requestor or enter the information via the SACWIS criminal tab. The **CANTS 48** or SACWIS entered response will indicate whether the LEADS check is “positive” (some criminal history record information exists) or “negative” (no criminal history record information). If the response is “positive,” the LEADS operator shall mail the LEADS record to the requestor within 24 hours of completing the LEADS check. *LEADS information is confidential and must be maintained in accordance with Section 6.9.*

Section 6.9 Confidentiality of LEADS Information

a) **Misuse of LEADS Information**

State and federal law protect access to LEADS information. It is a Class A misdemeanor to improperly access LEADS. LEADS checks shall only be initiated in accordance with these procedures. Workers accessing LEADS for unauthorized reasons may:

- Permanently lose access to LEADS, which result in the worker being unable to perform certain jobs;

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- Be subject to progressive disciplinary action, up to an including discharge;
- Be convicted of a Class A misdemeanor, fined up to \$1,000.00 and jailed for up to 364 days. Workers that misuse LEADS are not indemnified; and/or
- If the worker found to misuse LEADS works for a private child welfare agency, the agency may lose access to LEADS and unable to provide many of the contractual services for the Department.

Criminal history information may only be shared to accomplish legitimate purposes of the Department authorized under the Department of Children and Family Services Act, the Abused and Neglected Child Reporting Act, and the Child Care Act of 1969.

Note: When LEADS information is obtained for Department purposes, criminal history information may be shared on a need-to-know basis with other Department, POS staff, service providers and others as authorized by **Rules 431**.

b) Use of LEADS by Private Agency Staff

Private agency staff whose job duties require that they access LEADS information must sign a **CFS 853, Acknowledgment of Limits of LEADS Access and Confidentiality of LEADS Information**. POS staff may only use LEADS information in accordance with Sections 6.5 and 6.9.

c) Access Underlying Documents

LEADS information is confidential and provides only summary information on any criminal behavior. Because LEADS information must be kept confidential, and in order to clarify the information and gain a fuller understanding of the facts, workers shall access the underlying documents pertinent to the LEADS information. Conviction and closed arrest records are public information that may be shared whenever necessary to accomplish a legitimate child protective or treatment goal. Information that forms the basis for an arrest shall not be shared unless it may affect the health or safety of a child, a family member, or a person providing services to the family.

Underlying documents may be requested from the involved law enforcement agency. If the request is denied, Investigation Specialists must immediately consult with their immediate supervisors or Investigation Managers concerning the issuance of an administrative subpoena to obtain the underlying documents.

Note: Child welfare services staff must obtain the written consent of the subject to request his or her criminal history information from law enforcement entities.

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d) Share Criminal Information Appropriately

1) Sharing Information with the Subject of the LEADS Information

LEADS information and the underlying documents may be shared with the involved person to obtain his or her perspective on the incidents described. Investigation, intact and placement workers must always corroborate self-reported information that minimizes the offense.

2) Sharing Information with Others

There is a difference in sharing LEADS information and underlying documents with persons other than the subject of the LEADS information.

Criminal history information but not the LEADS printout may be shared with persons within or outside of DCFS or the private agency only when such persons need to know the information, as defined in Section 6.2 of this Administrative Procedure.

While LEADS information is highly confidential, the underlying documents such as police reports, court reports, and admissions from a subject may be shared within the Department or private agency, court personnel, and members of the treatment team; but only to the extent that such information is relevant to child protection, service, or treatment decisions to be made on behalf of the children or family and is in accordance with **Rules 431, Confidentiality of Personal Information of Persons Served by the Department.**

A worker may need to share information from the underlying documents with family members or other caregivers of the children when knowledge of criminal history information is required to protect or serve the child. The amount of criminal history information shared with family members and caretakers should be strictly limited to information necessary to accomplish the child protection or treatment purpose.

e) Maintenance of Confidential LEADS Printouts

LEADS printouts are to remain in hardcopy investigative files and shall not be copied.

Upon receipt of the LEADS printout workers may:

- Discuss the LEADS information with his or her supervisor to determine if the criminal history information creates a potential risk or threat to the safety of the children; and
- Summarize the LEADS printout information on a SACWIS case note for the online investigative or case file.

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Workers are to place the LEADS printout in an envelope, seal and write on the envelope “Confidential – Enclosed document may not be copied.” The envelope is to remain with the hardcopy investigative file and **may not be copied** with other hardcopy file documents transferred to a follow-up team when a case is opened. This is also true for cases opened for intact services that result in placement services. In both situations, the SACWIS contact note containing the summarized LEADS information shall be used for the purpose of sharing that information.

Investigation Specialists and Child Welfare Specialists may share criminal history information on a need-to-know basis with other persons providing services when it is relevant to child protection or service decisions to be made on behalf of the child or family.

All disclosures of LEADS information to persons outside of DCFS or the private agency shall be in writing, and shall be accompanied by a **CFS 854**, Disclosure of LEADS Information. The worker shall document on the **CFS 854** to whom LEADS information will be shared and the reason for sharing LEADS information. The supervisor shall review the completed **CFS 854** for compliance with these procedures. If the supervisor agrees that information should be disclosed to the person designated on the **CFS 854**, the worker and supervisor shall sign the **CFS 854** and attach it as a cover letter to the document containing the LEADS information to be disclosed. A copy of the signed **CFS 854** shall be placed in the case record.

f) **Summarization of LEADS Printout and Criminal History Record Information**

Workers are to summarize criminal history information in a SACWIS contact note for each person for whom criminal history information was received. The LEADS printout may not be copied in lieu of case note summarizing the information. The summary will include the following information:

- LEADS confirmation number;
- Date criminal background check was conducted;
- Name, age, date of birth, sex age, race height and weight of the subject;
- Type of criminal check (i.e., LEADS, out-of-state, other);
- Whether the background check was “positive” or “negative;”
- Purpose of the criminal background check (i.e., assessment of the child’s safety; assessment of a potential relative home placement; arranging visits for the child; for making important case decisions, reunification, or other reasons which must be listed);

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- Any numerical identifiers associated with the subject of the criminal background check. This should include the State Identification Number (SID), the Identification Record Number (IR) for Chicago arrests, and any other identifying numbers for other municipalities;
- List all pending arrests and all arrests that may be indicative of conflict resolution problems and patterns (e.g., domestic violence, crimes against a person, and other related crimes). If arrests are listed as “pending,” workers are expected to contact the office of the county clerk of jurisdiction and/or check court proceeding screens (Cook County) to determine and document the disposition of any unresolved arrests;
- List all convictions;
- List all aliases;
- Document if there is a “Caution Alert File” associated with the LEADS information;
- List all outstanding warrants;
- List all orders of protection.

At the end of the summary include the identifying information of the subject of the background check that has matched the identifying information on the criminal background check. If the name, age, date-of-birth, and address are the same, there is a high probability that the subject is the same as the background check. There is a low probability that the subject is the same as the background check if only the name and age are the same. Additional work would be required to connect the two. The only absolute way to determine if the subject is the same as the background check is to conduct a fingerprint check.

Note: In situations where an individual has a common name and multiple records exist, workers must err on the side of caution, i.e., use the records with the most serious offenses, until more detailed information is obtained that will identify the criminal history of the subject of the investigation.

g) LEADS Information May Not Be Released In Response to a Subpoena

LEADS information shall not be released in response to a subpoena or request for information without a court order signed by the judge, except as permitted by this Administrative Procedure. Workers shall release LEADS information pursuant to an impoundment of records by the Office of Inspector General in accordance with **Rule 431.130, Impoundment of Records by the Office of Inspector General**.

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Section 6.10 Applying LEADS Information for Placements

One of the uses for LEADS is to determine whether a child for whom DCFS is legally responsible may be placed in the home of an unlicensed relative. If the caregiver, another member of the household 13 years of age or older, or an adult who frequents the home and has access to children in the home that has been convicted of certain crimes, the child may not be placed in the home unless a waiver is granted. See Rules 301, Appendix A for a complete list of crimes that bar placement with relatives unless the criminal history record information is waived, and for information about the waiver procedure. Also see **Procedures 301, Appendix E, Subsection II (b) (5) (A)** for information concerning youth 13 years of age and older.

The caseworker must assess all convictions, arrests, and probation and supervision orders to determine whether safety concerns or risk factors exist, whether or not based upon a crime that constitutes a bar to placement.

Orders of supervision are not *convictions* and therefore do not require a waiver by the Director or the Director's designee. However, before being placed on supervision, the defendant must admit in open court that he or she committed the offense for which supervision is granted. So, even though no waiver is required, the caseworker must still assess the conduct that led to the supervision order and judge the suitability of the home in accordance with the requirements in **Rules and Procedures 301.80, Relative Home Placement**.

Similarly, a pattern of arrests may alert a caseworker to safety issues that should be explored with the family. See Section 6.11 for detailed information.

Section 6.11 Applying LEADS Information When Assessing Risk

Criminal history record information should always be assessed in terms of its relevancy to child safety. Of particular concern is criminal history record information that indicates issues of violence, drug abuse, or pedophilia. Whenever LEADS information appears relevant to child safety, the worker shall access the underlying documents supporting the LEADS information. Once the underlying documents are retrieved, the worker and his or her supervisor shall assess the relevancy of the information to child safety. The worker shall conduct any interviews necessary to understand or learn more about the events described in the underlying documents to resolve discrepancies between statements made by the subject and the LEADS information. If the information is relevant to child safety, the worker shall assess the information using the criteria listed below. Assessing criminal history record information can be difficult.

Note: Department and POS staff must always assess LEADS information for its potential impact on child safety. Supervisors and workers must always look for patterns of behavior that are indicative of threats to child safety.

Workers should consult with their supervisors and legal counsel, as necessary, to obtain and understand LEADS information.

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a) Convictions, Orders of Supervision, and Orders for 710 or 1410 Probation

Convictions, orders of supervision, and orders for 710 or 1410 probation are proof that the person committed the underlying act. The person was either found guilty of the offense beyond a reasonable doubt, or the person admitted to committing the crime. In assessing risk to a person or assessing a home environment, use the following assessment criteria as listed in **Rules 385.60(d)**:

- 1) The seriousness and nature of the crime for which the individual was convicted or admitted including a determination of whether the crime is among those:
 - A) Listed in **Appendix A of 89 Ill. Adm. Code 385, Background Check**, that serve as a bar to licensure or employment in a position that allows access to children, or
 - B) Listed in **Appendix A of 89 Ill. Adm. Code 301, Placement and Visitation Services**, that serves as a bar to placements with relatives unless the criminal history record information is waived pursuant to the waiver procedure;
- 2) The relationship of the crime to the capacity to safely care for children or to have access to children;
- 3) The circumstances surrounding the commission of the crime, including the age of the individual that would demonstrate a low likelihood of repetition;
- 4) The period of time that has elapsed since the crime was committed or since release from incarceration;
- 5) The number of crimes for which the individual was convicted or to which he or she admitted;
- 6) Evidence of rehabilitation such as successful participation in therapy since conviction or admission;
- 7) Commutation of the sentence by the Governor or granting of a pardon;
- 8) Overturn of the conviction upon appeal;
- 9) Character references.

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b) Pending Charges

Although a person is presumed to be innocent until proven guilty beyond a reasonable doubt, if the charges are for a felony and the case is pending in court, then a judge or a grand jury has found “probable cause” that a crime was committed and this person committed it. Treat pending criminal charges, especially felony charges, very seriously. Assess pending criminal charges by using the following criteria:

- 1) The seriousness and nature of the charges, which are pending including a determination of whether, the charges are among those:
 - A) Listed in **Appendix A of 89 Ill. Adm. Code 385, Background Check**, that serve as a bar to licensure or employment in a position that allows access to children; or
 - B) Listed in **Appendix A of 89 Ill. Adm. Code 301, Placement and Visitation Services**, that serve as a bar to placements with relatives unless the criminal history record information is waived pursuant to the waiver procedure.
- 2) The relationship of the charges to the ability to safely care for children or to have access to children;
- 3) The circumstances surrounding the incident that led to the criminal charge;
- 4) Whether the individual has ever been convicted of or charged with crimes of a similar nature; and
- 5) Character references and other information submitted by or on behalf of the individual, especially about the suitability of the individual to care for children.

c) Cases that are Dismissed, Nolle Prossed, or Stricken with Leave to Reinstate

If a case has been dismissed, nolle prossed, or stricken with leave to reinstate, the court, the State’s Attorney or the police terminated the prosecution. LEADS may provide some information explaining why the case was terminated. For example, if a charge was “Dismissed/no probable cause”, this strongly suggests that there is no evidence that the individual committed a crime and should not be considered when evaluating the caregiver’s suitability. Generally, however, one cannot glean much information from LEADS regarding these actions. If possible, ask the person about each of these arrests and dismissals. The person’s explanations of the events surrounding the arrest and court proceedings will often include admissions of guilt or anti-social conduct that may give rise to safety and risk concerns, even though the individual was never convicted. The person’s explanations may also appear unbelievable suggesting the need to gather additional information.

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d) **Arrest Only Information**

Arrest only information should be weighed carefully. Always remember that LEADS is a voluntary data entry system and the lack of conviction information in the LEADS system cannot be interpreted conclusively to mean that none of the arrests led to convictions. It is possible that the individual was convicted of the crime, but that the conviction has not been data entered on the system.

While arrest only information, if valid, does not support a determination that the subject committed the underlying act, it may frequently alert the worker to intra-familial issues relevant to assessing child safety. The worker should access the arrest/police reports to determine the facts supporting the arrest at the time.

For instance, a series of arrests for domestic violence or other violent acts indicates a violence or dispute-resolution problem within the family that requires further exploration and possible treatment. Similarly, a series of prostitution, drug-related offenses and petty theft arrests may alert the worker to a possible drug problem in the home.

e) **Revocation of Probation**

If a defendant does not comply with the terms of probation, the state may revoke probation. Probation revocation which is often for the commission of another crime or violation of an order of protection is proof that the defendant did not comply with a court order.

f) **Outstanding Warrants**

An outstanding warrant means that the person has been charged with a crime but has been physically unavailable for prosecution. The individual has not been convicted and, in some cases, may not even know of the outstanding warrant.

Whether the outstanding warrant involves or does not involve the subject of an investigation, potential placement resource or the member of a family with an open service case; the investigative, intact or placement specialist should review the charges underlying the outstanding warrant. Law enforcement should be notified of the location of the person with the possible outstanding warrant when the charges suggest risk of harm to children. Always apply outstanding warrant information when assessing risk of harm.

If the person with the outstanding warrant is a client, be cognizant of the fact that the warrant may jeopardize the ability of the client to comply with services (e.g., substance abuse programs that accept federal funds will not accept a client with an outstanding warrant). Investigative, intact and placement specialist should work proactively with the client to encourage the client to contact the appropriate State's Attorney to address the warrant. When the client refuses to address the warrant, the Department or POS worker must consult with their supervisor to determine whether to notify the State's Attorney of the location of the client. The decision should take into consideration the affect on the children and the family's changes for reunification or case closure.

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Section 6.12 Questions on LEADS

It may be difficult to interpret LEADS information properly. If a worker receives LEADS information and is unsure what the information means or the seriousness of the charges and convictions identified in the LEADS report, DCFS staff may consult with the appropriate Department regional legal counsel. Private agency staff may consult with the legal counsel used by the private agency or DCFS legal counsel.

Section 6.13 Glossary of Words in Criminal Law

“Arrest” means the police have taken a person into custody. An arrest alone on the LEADS report does not mean that charges were filed in court. Persons are sometimes arrested by police and then released without charges. If the police recommend filing charges and if the State’s Attorney files the charges, the LEADS report will show “Direct Filed with Court.” Arrest information obtained from LEADS is not public information.

“Caution File Alert” means there is critical safety information on the LEADS system that may affect the safety of a person investigating or providing services to the family.

“Dismissed” means the court ends the case without making any findings or determinations against the defendant. Sometimes LEADS references particular types of dismissal including:

- Dismiss/No probable cause - The court found that the State could not produce the minimal amount of evidence required to make a case to a judge or jury.
- Dismiss/Want of prosecution - The court dismissed the case after the State failed to proceed with the case.
- Dismiss/Superseded - These particular charges were replaced by other amended and/or additional charges.

“Felony” means a crime for which the prison terms start at one year and may go to life without parole or even death.

“Guilty” means the defendant has acknowledged the commission of the crime by admitting the facts before a judge or the defendant has been found to have committed the crime by a judge or a jury after a trial. This is a conviction and generally stays with the defendant forever.

“Mandatory supervised release” means parole.

“Misdemeanors” means a crime for which the maximum fine is \$1,000 and a maximum jail time of 364 days.

“Nolle Pros or Nolle Prosequi” means the charges were dismissed on motion of the State’s Attorney because the State’s Attorney has chosen not to prosecute the case. No further action on this charge will occur.

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“No probable cause” means the court found that the State could not produce the minimal amount of evidence required to make a case to a judge or jury and dismissed the case.

“Parole/mandatory supervised release” means that a person on parole or mandatory supervised release has been sent to prison, and completed the term of imprisonment, and has been released subject to the supervision of a parole officer.

“Petty offenses” means fine only crimes.

“Probation” means a possible sentence for misdemeanors and most felonies. It is a conditional and revocable release under the supervision of a probation officer. This is a conviction and generally stays with the defendant forever.

- 710 or 1410 Probation - These sentencing alternatives are similar to supervision. Even though the defendant admits his guilt, the court does not enter judgment, and if the defendant successfully completes the term of probation, the charges are dismissed. 710 probation, however, only applies to marijuana charges. 1410 probation applies only to controlled substance cases. Neither 710 nor 1410 probation is considered a “conviction.”

Note: the LEADS report must say “710 probation” or “1410 probation” or else the sentence is regular probation and is considered a conviction.

“Stricken with leave to reinstate” means the state moves to dismiss pending charges with the right to reinstate the charges within 120 days if the person is in custody or 160 days if the person is not in custody. If the state does not move to reinstate the dismissal becomes final.

“Supervision or Withhold Judgment/Supervision” means a sentencing disposition in which an individual admits to the crime, but the court does not immediately enter judgment. Instead, the court sentences the individual to a conditional and revocable release similar to probation, but without probationary supervision. The court may impose conditions and reporting requirements. If the defendant successfully completes the term of supervision, the defendant is discharged and a judgment dismissing the charges is entered and, on request of the defendant, the charges are expunged. Supervision is not a “conviction.”