



## Office of the Attorney General

Washington, D. C. 20530

September 19, 2024

MEMORANDUM FOR HEADS OF FEDERAL LAW ENFORCEMENT AGENCIES

FROM: THE ATTORNEY GENERAL *A. Merrick Garland*

SUBJECT: PROCEDURES FOR FEDERAL LAW ENFORCEMENT AGENCIES' USE OF THE NATIONAL LAW ENFORCEMENT ACCOUNTABILITY DATABASE ("NLEAD")

In Executive Order 14074 of May 25, 2022, *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety* ("EO"), the President recognized the importance of "mak[ing] policing safer and more effective by strengthening trust between law enforcement officers and the communities they serve." EO 14074, § 1. One of the many ways to advance that interest is to "commit to new practices in law enforcement recruitment, hiring, promotion, and retention, as well as training, oversight, and accountability." EO 14074, § 1.

In furtherance of these goals, the EO directed the Attorney General to "establish the National Law Enforcement Accountability Database [the NLEAD] as a centralized repository of official records documenting instances of law enforcement officer misconduct as well as commendations and awards," and to ensure the NLEAD is consistent with "the Privacy Act of 1974 and all other applicable laws, and respects appropriate due process protections for law enforcement officers included in the [NLEAD]." EO 14074, § 5(a).

Additionally, the EO directed the development of procedures for use of the NLEAD by a Federal law enforcement agency ("Federal LEA"), which the EO defined as "an organizational unit or subunit of the executive branch that employs officers who are authorized to make arrests and carry firearms, and that is responsible for the prevention, detection, and investigation of crime or the apprehension of alleged offenders." EO 14074, § 21(a). Specifically, the EO stated, "[t]he Attorney General shall establish procedures for the submission of employment-related inquiries" of the NLEAD by Federal LEAs. EO 14074, § 5(f). The EO further directed that procedures be established "for the provision . . . of relevant information to the requestor as appropriate." EO 14074, § 5(f).

Consistent with the EO's direction and following the required "consultation with the heads of other agencies," EO 14074, § 5(b), the Justice Department launched the NLEAD in December 2023. Federal LEAs may now query the NLEAD through the database available at [NLEAD.gov](https://www.nlead.gov).

Following a query and positive result in the NLEAD, the record-owning Federal LEA should, upon request, provide relevant information to the requesting Federal LEA. When providing relevant information to a requesting Federal LEA, the record-owning Federal LEA should be mindful of the following three principles:

1. Improve accountability in law enforcement hiring, promotion, and assignment;
2. Share relevant information with the requesting Federal LEA in a timely and efficient manner; and
3. Be cognizant of the privacy and due process interests of the law enforcement officer and other parties.

The attachment to this memorandum contains procedures that Federal LEAs should follow when querying the NLEAD, requesting information from other Federal LEAs after a positive result in the NLEAD, and responding to other Federal LEAs' requests for information after a positive result in the NLEAD.

The attached procedures currently apply only to Federal LEAs' use of the NLEAD. Over time, as additional information on Federal agencies' use of the NLEAD is gathered and as State, local, Tribal, and territorial law enforcement agencies are able to access the NLEAD, the Justice Department will issue updates to the procedures attached to this memorandum. The operative procedures will be available on [NLEAD.gov](http://NLEAD.gov).

Attachment

# PROCEDURES FOR FEDERAL LAW ENFORCEMENT AGENCIES’ USE OF THE NLEAD

The Justice Department issues these Procedures pursuant to section 5(f) of Executive Order 14074, which requires the establishment of “procedures for the submission of employment-related inquiries” by Federal law enforcement agencies (“Federal LEAs”)<sup>1</sup> and “for the provision, upon such a query, of relevant information to the requestor as appropriate.”

These Procedures apply to Federal LEAs’ use of the National Law Enforcement Accountability Database (“NLEAD”) “in the hiring, job assignment, and promotion of law enforcement officers.” EO 14074, § 5(e).

## 1. DEFINITIONS

- 1.1. “Federal law enforcement agency” or “Federal LEA” is defined as it is in subsection 21(a) of EO 14074 to mean “an organizational unit or subunit of the executive branch that employs officers who are authorized to make arrests and carry firearms, and that is responsible for the prevention, detection, and investigation of crime or the apprehension of alleged offenders.”
- 1.2. “Law enforcement officer” or “LEO” means an officer who is authorized to make arrests and carry firearms and is employed by a governmental unit or subunit that is responsible for the prevention, detection, and investigation of crime or the apprehension of alleged offenders.
- 1.3. “Hiring” means the appointment or selection of an individual to a position classified as a LEO position (including but not limited to the competitive service, excepted service, and foreign service).
- 1.4. “Promotion” means taking action to advance a LEO to a supervisory position or a position that is classified at a higher grade and/or pay scale, excluding advancement within the “career ladder” for a position.
- 1.5. “Job assignment” means: (1) an employee competitively applying for and being selected for a position, while serving continuously within the same agency, without a promotion or demotion, or (2) participation as a regular (not ad hoc) duty on another agency’s task force.<sup>2</sup> “Job assignment” does not include transferring from one duty location or assignment to a new duty location or assignment.

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<sup>1</sup> These Procedures apply only to Federal LEAs’ use of the NLEAD. The Justice Department will later issue procedures and establish technical processes for State, local, Tribal, and territorial law enforcement agencies to access the NLEAD.

<sup>2</sup> In the case of a LEO’s regular participation in another agency’s task force, the agency leading the task force is considered the relevant agency for the purposes of these Procedures.

## 2. REQUESTS FOR INFORMATION

### 2.1. NLEAD Inquiries

- 2.1.1. EO 14074 directs that Federal LEAs query the NLEAD for potential flags before making a decision related to the hiring, promotion, or job assignment of Federal LEOs and when screening State, local, Tribal, and territorial (“SLTT”) LEOs who participate in programs or activities over which Federal LEAs exercise control, such as joint task forces or international training and technical assistance programs.<sup>3</sup> EO 14074, § 5(e).
- 2.1.2. Federal LEAs should designate appropriate personnel to conduct these checks of the NLEAD.<sup>4</sup>
- 2.1.3. The NLEAD is a “pointer” system wherein flags indicate potentially derogatory and commendatory information, along with identification of the agencies that have relevant information corresponding to those flags and how those agencies may be contacted. Pursuant to section 5(b)(ii) of EO 14074, NLEAD flags<sup>5</sup> include:
  - (1) Criminal convictions;
  - (2) Suspension of a law enforcement officer’s enforcement authorities, such as a decertification;
  - (3) Terminations;
  - (4) Civil judgments, including amounts (if publicly available), related to official duties;
  - (5) Resignations or retirements while under investigation for serious misconduct;
  - (6) Sustained complaints or records of disciplinary action based on findings of serious misconduct; and
  - (7) Commendations and awards.

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<sup>3</sup> As a best practice, agencies should similarly require a check of the [National Decertification Index](#) in connection with the hiring of Federal LEOs who have prior experience as a SLTT LEO, and when screening SLTT LEOs for programs like joint task forces or international training and technical assistance programs.

<sup>4</sup> Agencies may conduct the NLEAD check themselves or request their personnel vetting investigative service provider (“ISP”) run the check, either separate from or as part of any required background investigation, in accordance with requirements established by the ISP.

<sup>5</sup> For categories (1)-(4) and (6), only final and adjudicated matters will be reported to the NLEAD. For category (5), incidents will be reported when a LEO elects to leave a position after being formally notified of an investigation. A LEO’s commendation/award information will only be included when the LEO is identified in the NLEAD as having potentially derogatory information of a type listed in categories (1)-(6).

- 2.1.4. If no flags are identified in the NLEAD, the Federal LEA may proceed with its personnel action, subject to the applicable procedures and requirements for such action.
- 2.1.5. If a flag is identified in the NLEAD, the Federal LEA should contact the record-owning agency and request additional information relevant to the flag. The Federal LEA may not make a personnel decision based solely on the existence of a flag.
- 2.1.6. The Federal requesting LEA, in making the request of the Federal record-owning LEA, should (1) submit the request from an official Federal government email address via a secure method such as encrypted email, and (2) submit the specific alphanumeric identifier generated by the NLEAD system for that request (the QUERY ID code).
- 2.1.7. After receiving from the record-owning agency the relevant information necessary to inform the hiring agency of the rationale for the inclusion of the LEO into the NLEAD, the Federal requesting LEA may then make an appropriate decision, consistent with applicable law and agency procedures and requirements, with respect to the LEO's hiring, promotion, or job assignment.<sup>6</sup>

### **3. RESPONSES TO NLEAD REQUESTS FOR INFORMATION**

- 3.1. Email box. Federal LEAs should establish a centralized NLEAD email box to which authorized entities will submit requests for NLEAD information that clearly and specifically state the purpose of the inquiry and identify the specific NLEAD flags.
- 3.2. Point of contact. Federal LEAs should identify a central point of contact(s) ("POCs") to monitor the NLEAD email box for incoming requests. The POCs should disseminate or distribute the requests to all relevant offices that may have responsive information.
- 3.3. Principles. When providing responsive information, Federal LEAs should take into account the following principles:
  - 3.3.1. Improve accountability in law enforcement hiring, promotion, and assignment;
  - 3.3.2. Share relevant information with the requesting Federal LEA in a timely and efficient manner; and

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<sup>6</sup> These Procedures do not supersede the agency's requirements or other considerations for making these determinations. As applicable for the situation, agencies may wish to consider the effect, if any, of the information on the individual's qualifications, suitability, fitness, or eligibility to hold a personal identity verification credential or sensitive position.

3.3.3. Be cognizant of the privacy and due process interests of the LEO and other parties.

3.4. Procedure. Federal LEAs should take the following steps when requested to provide information responsive to NLEAD database checks:

3.4.1. Verification. Verify that the request for information is from an authorized entity.

3.4.1.1. Authorized entities are Federal agencies responsible for assessing the loyalty, trustworthiness, suitability, or eligibility of an individual for hiring, job assignment, or promotion as a LEO, including Federal LEAs; Federal agencies that employ LEOs; and Federal ISPs or other Federal agencies authorized by statute or delegation by the Office of Personnel Management or the Office of the Director of National Intelligence to conduct personnel vetting investigations, including the Defense Counterintelligence and Security Agency.

3.4.1.2. To ensure the authenticity of the requester, the request must come from an official Federal government email address via a secure method such as encrypted email.

3.4.1.3. The requester should submit the specific alphanumeric identifier generated by the NLEAD system for that request (the QUERY ID code).

3.4.2. Relevance. Ensure the response includes relevant information necessary to inform the hiring agency of the rationale for inclusion of the LEO in the NLEAD and sufficient to inform the hiring agency's decision.

3.4.3. Timeliness. Provide information described in section 3.4.2. of these Procedures within three business days of receipt of the request. The POC is responsible for receiving approval for release of responsive information. Agencies should designate an official or unit within their organizations with appropriate release authority.

3.4.4. Format. Provide information described in section 3.4.2. of these Procedures in a mutually agreeable format and in unredacted form, where possible. If other considerations apply (e.g., classified materials), the agencies should mutually agree on other options (e.g., redactions or summarized narratives). Nothing in this section is intended to limit dialogue between the agencies regarding a mutually agreeable format.

3.4.5. Protection of information. Provide responsive information via secure means in accordance with applicable laws, regulations, standards, and policies relating to the sensitivity and classification levels of such information.

3.4.6. Documentation. Document all requests for information and productions. On a periodic basis, each agency will be requested to timely report the number of inquiries received and, for each, the time from receipt of request to production.

3.5. Law. Federal LEAs should ensure that all provision of information pursuant to these Procedures is in accordance with applicable law, including the Privacy Act of 1974, 5 U.S.C. § 552a.<sup>7</sup>

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<sup>7</sup> Agencies may wish to consider updating existing Privacy Act system-of-records notices to the extent legally available to further authorize disclosures to requesting agencies.