

GUIDELINES AND BEST PRACTICES FOR CRIMINAL DATA EXCHANGE IN GEORGIA

I. FINDINGS AND EXPERENTIAL DATA

1. Accurate and complete data relating to criminal proceedings is vital to the operation of the overall criminal justice system in Georgia. This fact, although obvious, has been challenging to achieve in recent decades.
2. The CDX Board has been formed via legislation (O.C.G.A. § 15-5-24.1) to examine the existing system and to make improvements in the manner in which Georgia's Criminal Justice Agencies collect and disseminate data.
 - a. The CDX Board is made up of law enforcement officials, prosecutors, judges, clerks of court, representatives of the Board of Pardons and Paroles, Department of Corrections, Department of Community Supervision, Georgia Bureau of Investigation, Administrative Office of the Courts, Georgia Technology Authority, Office of Planning and Budget, and other individuals involved directly and indirectly with the criminal justice system in Georgia.
 - b. The participation of all of these different agencies and departments has led to an uncommon level of communication and cooperation between the stakeholders in the criminal data collection and reporting process. The CDX Board has been able to understand the difficulties encountered by the different agencies, departments, and courts in accurately collecting and reporting criminal justice data and develop Standards which will lead to a better and more accurate reporting of criminal justice data.
3. Georgia is a large state with hundreds of different law enforcement agencies, departments, and courts. While each jurisdiction remains free to conduct the work of the criminal justice system in the manner in which they determine to be most effective, the reporting of the results of the criminal justice process is relied upon by other jurisdictions, both within and outside of Georgia, to ensure that justice is served. Inaccurate and unreliable data collection and reporting is a significant impediment to ensuring that appropriate decisions are made by law enforcement agencies, prosecutors, and courts.

- a. Individuals who are involved with the criminal justice system also rely upon accurate data being collected and reported. That same data is regularly relied upon in decisions relating to employment, housing, security clearances, weapon carry licenses and in other areas of the lives of Georgia’s citizens. Inaccurate and unreliable data harms individuals who are involved in the criminal justice system.
4. The CDX Board began its work with an examination of the existing manner in which criminal data is collected and disseminated. What became immediately apparent was that the existing criminal data was woefully inaccurate and unreliable. There were occasions where the inaccurate data led to decisions being made in courtrooms across Georgia that were not based upon complete and accurate data.
5. The CDX Board conducted several site visits to jurisdictions where it appeared that data was being captured and reported with accuracy. The site visits included jurisdictions that were in large population centers, small population centers, and those in between the two extremes. From those site visits, the CDX Board learned valuable information that has largely been incorporated into the Standards that have now been adopted by the CDX Board.
 - a. The most significant conclusion that was reached after the site visits was that inter-agency cooperation and coordination was vital to the accurate reporting of criminal justice data. While advances in technology have made the collection and reporting of criminal justice data easier than in prior decades, accuracy of that data ultimately requires human interaction and cooperation between employees of the different agencies, departments, and courts in each jurisdiction.
 - b. Following months of investigation, the CDX Board adopted Uniform Standards for the Creation and Transmission of Electronic Criminal History Data (“Standards”). These Standards are subject to revision by the CDX Board. However, the Standards now prevail over historical local practices that previously led to the largely inaccurate reporting of criminal justice data. The Standards apply to all agencies, departments, or courts who supply criminal justice data throughout Georgia. By Georgia law, GCIC is the repository for the reporting of all criminal justice data in Georgia. The Standards apply to all

Criminal Justice Agencies throughout Georgia, including GCIC. GCIC has been an indispensable partner in the establishment of the Standards and has committed to taking steps to ensure that the process of reporting of criminal justice data is as streamlined as possible.

II. PURPOSE OF THESE GUIDELINES AND BEST PRACTICES DOCUMENT

1. The CDX Board has adopted specific Standards for the collection and reporting of criminal justice data. The Standards reflect the minimum standards that all agencies, departments, and courts must employ when collecting and disseminating criminal justice data in Georgia.
 - a. However, the CDX Board realized that there are details and other instructive advice that should be considered in conjunction with the Standards to ensure that all of the different agencies, departments and courts involved in the collection and reporting of criminal justice data have the benefit of all of the information that the CDX Board has learned.
 - b. To ensure that the Standards contained only the minimum requirements and did not become laden with details that made the fundamental Standards difficult to comprehend, the CDX Board decided to create these Guidelines and Best Practices document to assist agencies, departments, and courts with addressing unique circumstances and situations.
 - c. These Guidelines and Best Practices will continue to be updated and improved as the CDX Board is made aware of issues which will assist all of the different agencies, departments, and courts in the process of accurately collecting and reporting criminal justice data.
 - d. The organization of the Standards was a challenge. The CDX Board wanted to ensure that each agency, department, or court could easily track requirements placed upon them under the Standards. However, repeating the same language in a section dedicated to Superior Court in a section dedicated to State Court seemed a bit cumbersome. Instead, the Standards are generally organized as follows:

- e. Sections 1-5 of the Standards address housekeeping matters – the authority of the CDX Board, the date the Standards were adopted, how to contact the Board, etc.;
 - f. Section 6 of the Standards sets forth definitions. Significant time was dedicated to properly identifying important terms that appear throughout the Standards;
 - g. Section 7 of the Standards address all agencies, departments, and courts;
 - i. Section 7.2 applies to law enforcement agencies;
 - ii. Section 7.3 applies to all courts;
 - iii. Section 7.4 applies to prosecutors;
 - iv. Section 7.5 applies to GCIC;
 - v. Section 7.6 is reserved;
 - vi. Section 7.7 applied to the Department of Community Supervision;
 - vii. Sections 7.8 and 7.9 are reserved;
 - viii. Section 7.10 applies to the State Board of Pardons and Paroles;
 - ix. Section 7.11 applies to the JC/AOC;
 - h. Section 8 establishes the applicability of the Standards and addresses penalties for noncompliance.
 - i. Section 9 addresses training.
2. There are some provisions of the Standards that give direction to two different types of agencies (i.e., both the court and the prosecutor-See Standard 7.3.2). When that occurred, the Board attempted to ensure that cross-references were included to aid each agency, department, or court with easily identifying the obligations placed upon them under the Standards.
3. It would be practically impossible for any set of Standards to completely address every circumstance encountered by agencies, departments, or courts throughout Georgia, particularly in light of the fact that each of our jurisdictions handle different criminal justice events so differently. This document contains information gleaned from the site visits conducted by the CDX Board and attempts to address situations that have come to the attention of the CDX Board during the creation of the Standards.
- a. Nothing contained within this document is intended to provide any legal advice to any agency, department, or court in Georgia. While some unique local practices

- b. have been addressed within this document, all agencies, departments, and courts should satisfy themselves as to whether anything contained within this document suggests that they should alter their existing practices.
- c. All agencies, departments and courts who are governed by the Standards are encouraged to provide the CDX Board with input, suggestions, and comments when they encounter situations that are not clearly and directly addressed by the Standards or within this document.
 - i. Any input, comments or suggestions should be directed to the CDX Board via e-mail at cdx@georgiacourts.gov.

III. ADDRESSING HISTORICAL INNACCURACY OF CRIMINAL JUSTICE DATA

1. When the CDX Board began its work, it learned that there are literally millions of entries in the GCIC database that are inaccurate or incomplete. In a perfect world, all of those entries would be updated and corrected to ensure that the database that is maintained by GCIC is perfectly accurate. However, everyone involved in the criminal justice process recognizes that we do not have the resources to investigate each of those inaccurate or incomplete reports and correct them.
 - a. Some of the individuals whose interaction with the criminal justice system has been inaccurately reported have passed away.
 - b. Some of the inaccurate data is so old that expenditure of the time and effort necessary to correct them would be irrelevant to any agency, department or court accessing the information at the present time.
2. Many of these rejected dispositions are reflected as “time restricted” in the records maintained by GCIC.
3. Rather than demanding that agencies, departments and courts perform an investigation that ultimately proves fruitless, the CDX Board recommends that each agency, department or court presently involved with the reporting of criminal justice data request a report from GCIC for their jurisdiction of rejected reports or time restricted records for the prior *ten-year* period and limit their investigation of those rejected reports to that limited time frame.

- a. It is important to note that, at the present time, the CDX Board is merely recommending that each agency, department, or court undertake the investigation of previously rejected reports.
- b. Rather than tasking an employee of an agency, department, or court with the potentially arduous task of correcting ten years of rejected reports, consider starting with the most recent year and then working backward when the regular workload of the agency, department, or court allows for more research.

IV. GUIDELINES AND BEST PRACTICES – GENERALLY

1. Care should be exercised in the selection, training, and retention of personnel involved in the collection and dissemination of criminal justice data. Through promotions, transfers, retirements, and various other personnel actions, experience in proper criminal history data recording was lost.
 - a. Best effort should be made to ensure processes, procedures, and institutional knowledge surrounding criminal justice data entry and dissemination are recorded and preserved. When new personnel assume this responsibility or position, they should be trained using these materials.
2. Most agencies, departments and courts involved in the collection and reporting of criminal justice data have some form of electronic case management software. Each of those agencies, departments, or courts have contracted with the software provider of their choice. Unfortunately, not all of the different software providers have created their software under the same standards or with fields of information that easily communicates with GCIC.
 - a. The most effective agencies, departments and courts utilize case management software that has been developed or modified to accurately report criminal justice data to GCIC.
 - b. If any agency, department, or court is routinely encountering difficulties with accurate reporting of criminal justice data, it would be prudent for the agency, department, or court to contact their software provider and have the requisite modifications made to their chosen software to ensure that it effectively communicates with the standards established by GCIC.

3. GCIC maintains particular codes for offenses and dispositions which are updated at least annually following sessions of the Georgia legislature. The JC/AOC is willing to work with any software provider to develop a single table of these codes maintained by GCIC to ensure that any software provider who wishes to adopt the standardized code table maintained by GCIC can employ that table within their particular software.
4. All case management software utilized in Georgia should be capable of accurately reporting case disposition information. Georgia's statutes are occasionally inconsistent in the manner that the statute criminalizes particular conduct.
 - a. For example, O.C.G.A. § 16-10-24 is the statute that criminalizes Obstruction of an Officer.
 - b. Subsection (a) of that statute establishes a misdemeanor violation of the statute but subsection (b) of the same statute establishes a felony violation of the statute.
 - c. If the agency, department, or court's software only reports a conviction for a violation of O.C.G.A. § 16-10-24 without including the particular subsection, the resulting report of that disposition to GCIC would be inaccurate.
 - d. If a law enforcement agency encountered an individual and the activities of that individual would potentially be illegal if he/she was previously convicted of a felony as opposed to a misdemeanor, the report received could lead to an inappropriate response by the officer.
 - e. The above example is merely one example of how incomplete reporting of a disposition would lead to inaccurate data being maintained by GCIC. There are myriad Georgia statutes which contain different subsections that enhance or decrease the level of the offense. Merely reflecting that the defendant allegedly violated a particular statute without reflecting the relevant subsection could lead to incomplete data being reported.
 - i. There are a number of Georgia statutes which do not have differing levels of punishment within the subsections of the statute.
 - f. There are countless examples of reports contained in the records of GCIC where a criminal history of a particular individual reports that he/she was previously convicted of "VGCSA" (Violation of the Georgia Controlled Substances Act).

While many of these records seem to have originated in older periods of time, the report is largely useless to agencies, departments, or courts who are attempting to make decisions based upon the defendant's prior criminal history. Those records do not make it clear whether the defendant was charged/convicted of misdemeanor possession of marijuana or possession of cocaine with intent to distribute.

- i. GCIC reports that in 2007 they "retired" the offense code for "VGCSA" without additional detail which should help alleviate the issue with the record not accurately reflecting exactly which "drug offense" was involved.
 - g. On a regular basis, both GCIC and DDS update or adopt their respective offense codes to match the different criminal statutes. At times, those agencies also expire or retire certain offense codes which no longer track existing criminal statutes.
 - h. The prosecutor should update the OTN to ensure that the appropriate statute or subsection of a statute which is actually being charged matches the offense code established by GCIC or DDS. The prosecutor is in the best position to ensure that the appropriate statute or subsection of a statute is being referenced within the OTN.
5. The CDX Board recognizes that many circuits and courts have long-standing practices which have resulted in accurate reporting of criminal justice data. The Board also recognizes that many agencies, departments, and courts have limited personnel. Therefore, the Standards contain a provision within Standard 7.3.6.1 which allows for Memoranda of Understanding ("MOU") to be entered between the agencies whereby tasks assigned to a particular agency, department, or court under the Standards can be assumed by another agency, department, or court.
- a. Any MOU presupposes that there is an agreement between the agencies, departments, or courts involved for one agency to assume a task assigned to another agency under the Standards. Nothing within the Standards mandates that one agency, department, or court assume the responsibilities of another agency, department, or court. Likewise, no agency, department or court has the authority to unilaterally thrust their responsibilities on another agency, department, or court.

- b. Any MOU entered between different agencies, departments, or courts should be reviewed regularly in the event that there is a change of personnel or circumstances that make the MOU no longer viable or reasonable.

V. GUIDELINES AND BEST PRACTICES – LAW ENFORCEMENT AGENCIES

1. When an individual is booked for a charge which requires an OTN to be created, the arrest data should be transmitted electronically to GCIC.
2. When booking an individual on criminal charges, it is best for the Booking Agency to list the charges being made against that individual with the most serious charge being listed first and the other charges being listed in a descending order of severity.
 - a. Deciding which charge is most serious is a difficult task in many situations. This best practice relates only to those situations where there is an obvious hierarchy of severity of the charges.
 - b. The order that the charges are listed can ultimately lead to a disposition being rejected by GCIC if the charges as indicted/accused are not the same as the charges as initially listed when the OTN was obtained. While prosecutors are ultimately charged with the task of matching the charges in the indictment/accusation to the charges as initially listed when the OTN was obtained, law enforcement agencies can aid in that process if there is a clear hierarchy of severity in the charges initially made.
 - i. It would be advisable for the law enforcement agency to confer with the prosecutor in order to understand, in a general sense, how charges are likely to be listed in the indictment in a general sense. However, all involved must understand and appreciate that many of these charging decisions, in terms of which charge will be listed first, are fact-dependent and cannot always be made at the time that an individual is booked on the charges.
3. The CDX Board learned that there are some long standing practices in particular jurisdictions which are uncommon to the vast majority of jurisdictions across Georgia. While those unique practices may work well in a particular jurisdiction, the Board

learned of circumstances where duplication of arrest data submissions occurred when both the Arresting and Booking Agency submitted fingerprints for an arrest.

- a. Specifically, if an Arresting Agency is not also the Booking Agency, it is important that only one OTN is assigned to a particular set of facts or arrest. If an Arresting Agency fingerprints the arrested individual and obtains an OTN stemming from that arrest, it is important that when the arrested individual is delivered to another jail or facility for pretrial detention, that the Booking Agency not obtain a separate OTN for that same arrest.
- b. This situation can be avoided entirely if the facility charged with pretrial detention is notified that there is an existing OTN for that individual. Once notified, the facility handling pretrial detention can simply modify the existing OTN to add any information that needs to be reported relating to that arrested individual.

Please see Standard 7.2.2.2.

4. The CDX Board has learned that, in some jurisdictions, when a defendant is arrested on an extradition warrant for another state without any additional “local” charges being made against the individual, that there is a requirement that the matter be assigned a “case number” and that a disposition through the clerk of court is required to be entered. While that process is not improper, it is not required. See Standard 7.2.4 and 7.2.4.1.
 - a. When an individual is arrested on an out-of-state warrant without any additional “local” charges being made against that individual, the person should be taken into custody, and an OTN obtained. The information transmitted to GCIC by the Booking Agency should include the identity of the court that issued the out-of-state warrant, to include the city and state of the court.
 - b. As part of the Standards, upon receipt of the information that the individual was arrested solely for the out-of-state warrant, GCIC will assign an OTN and then show the matter as closed. There is no requirement that the OBTS be transmitted to the clerk to have a disposition entered into the GCIC system.
5. If a court orders that fingerprinting be accomplished as a condition of a sentence imposed following a conviction, the Booking Agency should capture the defendant’s fingerprints and obtain an OTN for that offense. (See *Herrera v. State*, 363 Ga. App. 683 (2022) – found it improper for the trial court to demand fingerprinting prior to conviction for the offense of

Driving Without a Valid License).

- a. After obtaining the OTN, the record should be transmitted to the clerk of the court which entered the disposition for the disposition data to be transmitted to GCIC by the clerk.

VI. GUIDELINES AND BEST PRACTICES – PROSECUTORS

1. When the prosecutor's office receives copies of arrest warrants, the prosecutor should compare the charges that appear in the arrest warrant(s) to those that appear in the OTN. If the charge that appear in the arrest warrant(s) does not match the charges that appear in the OTN, the record should be updated by the prosecutor in GCIC.
 2. When a prosecutor makes a final Charging Decision, the OTN created for that defendant should be updated by the prosecutor in GCIC.
 - a. First, when a final Charging Decision is made, the prosecutor should make sure the charges listed on the OTN should match the charges listed in the indictment/accusation filed with the clerk. When a grand jury returns a true bill of indictment, the clerk should use the SC-10 form or an equivalent form submitted by the prosecutor to update the GCIC system.
 - b. If as part of an accusation, a charge is dismissed, changed, re-ordered, upgraded, downgraded, or any other change is made to the charges or their order (from those listed at the time the OTN was created), the prosecutor shall ensure those changes are made on the OTN in GCIC records and submit an SC-10 to the clerk of court.
 - c. If the final Charging Decision results in no indictment/accusation being filed, the prosecutor is under an obligation to promptly update the OTN record for that individual.
 - i. Because no indictment/accusation is filed, there would be no court action closing that OTN record without the prosecutor's update.
 2. Prosecutors have wide discretion in the disposition of charges originated by law enforcement agencies. Nothing within this document is intended to suggest that the wide discretion of the prosecutor is limited in any manner. However, when a person is booked into the jail, he/she is assigned an OTN which lists the charges stemming from

that particular arrest in a particular order.

- a. If the nature of the charge is changed or if the order of the charges is changed from that listed at the time the OTN was created, the final disposition of the charges reported by the clerk of court will likely be inconsistent with the original OTN record, resulting in the record being rejected by GCIC.
3. As noted in Standard 7.4.4, after an indictment is filed with the clerk of court or simultaneously with an accusation being filed with the clerk of court, the form established in SC-10 (or a form substantially the same as SC-10) must be transmitted to the clerk of court. The prosecutor is responsible for creating the form and ensuring it is transmitted to the clerk of court on a timely basis.
 - a. The CDX Board is aware that the Tracker software system that is utilized by many prosecutors in Georgia has a substantially similar form embedded in the software that can be used to satisfy this requirement.
4. The CDX Board has learned that many of the dispositions rejected by GCIC are related to “charge mismatching.” This rejection code is based upon the fact that the charges and the order of those charges originally assigned to the case at the time the OTN was created do not match the charges disposed by the court.
 - a. Utilization of the SC-10 form (or its equivalent) will help alleviate the problem with charge mismatching.
5. The CDX Board has learned that there is a practice in some courts where, if charges are changed, the defendant is ordered to be re-arrested and re-booked on the charges that appear in the indictment/accusation.
 - a. There is no such requirement under Georgia law.
 - b. For clarity, when a defendant is arrested and charged with a crime, a Charging Decision by the prosecutor which differs from that initially made by the arresting officer/agency does not require that the defendant be re-arrested and a new bond be set. The facts may suggest that bond should be reconsidered but there is no requirement that the defendant be re-arrested and booked a second time.
 - c. In fact, that process of re-arrest based upon a Charging Decision can lead to a problem if a new OTN is obtained based upon the Charging Decision made by the prosecutor and the original OTN is not resolved.

6. When a prosecutor makes a Charging Decision that results in the case not being indicted or accused, that information must be transmitted to GCIC.
 - a. If the charging decision that results in the case not being indicted or accused is not transmitted to GCIC, the OTN originally assigned will essentially be “orphaned.”

Once the requisite time expires, the case will result in a “time expired” disposition on the records of GCIC which is one of the incomplete records that are to be avoided. See Standard 7.3.2 and 7.4.2.
 - b. Of course, once a case is indicted or accused, the record is now within the ambit of the clerk of court. If the case is ultimately subject to a *nolle prosequi* order, that disposition will be transmitted by the clerk.
7. A dead docket is not a final disposition of a criminal case. *Seals v. State*, 311 Ga. 739, 746-747 (2021), disapproved on other grounds *Gonzales v. State*, 315 Ga. 661, n. 7 (2023). When a prosecutor obtains an order of the court placing the case on the dead docket, the order should include all of the relevant provisions which are prerequisites to the case not being pursued. Once those prerequisites have been satisfied, the case should be removed from the dead docket and either pursued or have a *nolle prosequi* order entered, thereby creating a final disposition of the case.
8. Under Standard 7.4.1, prosecutors are required to notify the court if no OTN has been created for the offense in question at the time any hearing or trial is conducted in the matter.
 - a. Please note that there are some offenses such as a violation of O.C.G.A. § 40-5-121 (Driving While License Suspended) and O.C.G.A. § 40-5-20 (Driving Without a Valid License) which specifically provide that fingerprints are to be obtained “upon conviction.”
 - b. Under *Herrera v. State*, 363 Ga. App. 683 (2022), it is error for the trial court to require that the defendant be fingerprinted prior to a conviction being obtained.
 - i. These would be the type of cases which would qualify as one of the “rare occasions” identified in Standard 7.3.1 where a court should order that fingerprinting be made a part of the sentence imposed by the court.
9. In many locations around the state, the prosecutor is not a full-time prosecutor for that

class of court. They may not have direct access to update the criminal history record information in GCIC. Their status as a part-time prosecutor does not exempt them from the statutory duties and obligations to maintain accurate criminal history information. In those instances, the best practice would be for the prosecutor to sign a written agreement between the clerk or another agency that has GCIC input authority so that the prosecutor's compliance with the standards developed by the CDX Board are met. [See Appendix 1: Local Compliance Protocol, and Appendix 2: MOU]

VII. GUIDELINES AND BEST PRACTICES – CLERKS OF COURT

1. When the clerk receives an indictment or accusation that reflects the final Charging Decision of the prosecutor, the clerk should compare the charges as they appear on the indictment or accusation with the charges that appear on the OTN. If the charges do not align exactly (both in terms of the nature of the charge(s) and the order that the charges appear on the OTN), the clerk should confer with the prosecutor and arrange to have the GCIC record updated to reflect the content of the indictment or accusation.
2. When a case has been disposed, the clerk should note whether the order of charges as they appear in the indictment/accusation align with the charges on the OTN. If so, go to section 1a. If not, go to section 1b.
 - a. **WHEN CHARGES DO ALIGN** – Transmit the disposition data in an electronic format to GCIC, according to existing practices.
 - b. **WHEN CHARGES DO NOT ALIGN** – CDX standards require that an SC-10 form, or comparable, be transmitted. In the absence of said form, the clerk should contact the prosecutor to determine the appropriate order of charges to avoid rejection by GCIC.
3. A dead docket is not a final disposition of a criminal case. *Seals v. State*, 311 Ga. 739, 746-747 (2021), disapproved on other grounds *Gonzales v. State*, 315 Ga. 661, n. 7 (2023). GCIC has a disposition code for dead docketed cases. However, a dead docket is not a final disposition of the case.
4. Under Standard 7.3.1, clerks are required to notify the court if no OTN has been created for the offense in question at the time any hearing or trial is conducted in the matter.
 - a. Please note that there are some offenses such as a violation of O.C.G.A. § 40-5-

121 (Driving While License Suspended) and O.C.G.A. § 40-5-20 (Driving Without a Valid License) which specifically provide that fingerprints are to be obtained “upon conviction.”

- b. Under *Herrera v. State*, 363 Ga. App. 683 (2022), it is error for the trial court to require that the defendant be fingerprinted prior to a conviction being obtained.
 - i. These would be the type of cases which would qualify as one of the “rare occasions” identified in Standard 7.3.1 where a court should order that fingerprinting be made a part of the sentence imposed by the court.
- c. As noted in the section above relating to law enforcement agencies, the Booking Agency is charged with fingerprinting the individual, obtaining an OTN and then transmitting that information to the clerk of court. The clerk would then transmit the disposition data to GCIC.

VIII. GUIDELINES AND BEST PRACTICES – JUDGES

1. Under Standard 7.4.1, prosecutors are required to notify the court if no OTN has been created for the offense in question at the time any hearing or trial is conducted in the matter. The same obligation exists under Standard 7.3.1 for clerks of court.
 - a. Please note that there are some offenses such as a violation of O.C.G.A. § 40-5-121 (Driving While License Suspended) and O.C.G.A. § 40-5-20 (Driving Without a Valid License) which specifically provide that fingerprints are to be obtained “upon conviction.”
 - b. Under *Herrera v. State*, 363 Ga. App. 683 (2022), it is error for the trial court to require that the defendant be fingerprinted prior to a conviction being obtained.
 - i. These would be the type of cases which would qualify as one of the “rare occasions” identified in Standard 7.3.1 where a court should order that fingerprinting be made a part of the sentence imposed by the court.
2. In many circumstances where the collection and reporting of criminal justice data is rejected by GCIC, the CDX Board has determined that consultation and cooperation between the different agencies, departments and courts involved in the process could resolve any deficiencies.
 - a. Standard 7.3.6 provides that each circuit and county is required to establish a

compliance protocol. That protocol is to be reviewed at least biennially. The duty of ensuring compliance and resolving compliance problems, falls to the Chief Judge of Superior Court for each circuit. See also U.S.C.R. 36.13.

- b. Judges within the circuit will have a better appreciation of any problems with collection and reporting of criminal justice data and can encourage the different entities involved to cooperate and, where necessary, act to cure any deficiencies.
 - c. While the supervisory duty to ensure that a protocol is established and followed falls to the Chief Judge of Superior Court, it should be recognized that problems could emanate from city courts, law enforcement agencies or other entities over which the Chief Judge does not technically have authority over in a general sense.
 - i. An administrative order from the Chief Judge will hopefully prevent the Chief Judge from having to take additional actions to ensure compliance. However, the issuance of such an order would make contempt an available remedy in an extreme circumstance.
3. A dead docket is not a final disposition of a criminal case. *Seals v. State*, 311 Ga. 739, 746-747 (2021), disapproved on other grounds *Gonzales v. State*, 315 Ga. 661, n. 7 (2023).
- a. A dead docket order should include any prerequisites to the case remaining on the dead docket or ultimately being removed from the dead docket and dismissed.
 - b. The judge should be aware of the provisions of O.C.G.A. § 35-3-37(j)(3) which provides that if a case remains on the dead docket for more than 12 months, the individual can petition the court to have that record restricted.

IX. GUIDELINES AND BEST PRACTICES – TRAFFIC COURTS

1. The CDX Board recognizes that traffic courts occasionally have obligations to report dispositions to GCIC and on other occasions have obligations to report dispositions to DDS. The clerk of the traffic court shall promptly report dispositions electronically in a form and format as required by GCIC/DDS.
2. Under Standard 7.3.1, clerks are required to notify the court if no OTN has been created for the offense in question at the time any hearing or trial is conducted in the matter.
 - a. Please note that there are some offenses such as a violation of O.C.G.A. § 40-5-

121 (Driving While License Suspended) and O.C.G.A. § 40-5-20 (Driving Without a Valid License) which specifically provide that fingerprints are to be obtained “upon conviction.”

b. Under *Herrera v. State*, 363 Ga. App. 683 (2022), it is error for the trial court to require that the defendant be fingerprinted prior to a conviction being obtained.

i. These would be the type of cases which would qualify as one of the “rare occasions” identified in Standard 7.3.1 where a court should order that fingerprinting be made a part of the sentence imposed by the court.

3. As noted in the section above relating to law enforcement agencies, the Booking Agency is charged with fingerprinting the individual, obtaining an OTN and then transmitting that information to the clerk of court. The clerk would then transmit the disposition data to GCIC.

X. GUIDELINES AND BEST PRACTICES – DEPARTMENT OF COMMUNITY SUPERVISION

1. The obligations of the Department of Community Supervision are set forth in the CDX standards, section 7.7.

XI. GUIDELINES AND BEST PRACTICES – GCIC

1. One issue that repeatedly came to the attention of the CDX Board is that rejection notices contain numerous lines of code and that only experienced personnel could interpret the rejection notice and understand exactly why the record was being rejected.

a. Under Standard 7.5.5., GCIC shall report rejections in a manner that is clear and concise and that makes the reason for the rejection immediately clear.

b. In order to comply with this Standard, GCIC will be required to modify its software, so that rejection reports are human-readable and concise.

2. It is the goal of the CDX Board that we take all reasonable steps to ensure that case management software employed by agencies, departments, and courts across Georgia work as seamlessly as possible with the system maintained by GCIC. To that end, if GCIC alters any of its data specifications, providing copies of those changes to JC/AOC will allow JC/AOC to make the changes available to case management software vendors across Georgia in anticipation that any related modifications that become necessary

within the different vendors' software can be implemented without undue delay. See Standard 7.5.2.

3. As set forth in section 7.5.6 of the Standards, GCIC shall work with JC/AOC to develop a framework for the transmission of uniform reports indicating the number of accepted, rejected, and uncorrected dispositions per ORI.
 - a. These reports shall be transmitted not less than once per month.

XII. GUIDELINES AND BEST PRACTICES – BOARD OF PARDONS AND PAROLES

1. The obligations of the State Board of Pardons and Paroles are set forth in the Standards, 7.10.

XIII. STANDARDS FOR DATA

1. Reserved for future use.

Appendix 1:

****Local Compliance Protocol for Electronic Criminal History Data****

****Purpose:****

This Local Compliance Protocol is established to ensure effective coordination and adherence to legal standards within the local judicial system. This protocol outlines the responsibilities of key stakeholders including the prosecutor, clerk, court, and local law enforcement agency to uphold the standards of the Criminal Justice Data Exchange Board.

****Understandings:****

- 1. **Legal Compliance:**** All actions undertaken by the prosecutor, clerk, court, and local law enforcement agency must comply with local, state, and federal laws, regulations, and ethical standards.
- 2. **Fairness and Impartiality:**** The protocol emphasizes the principles of fairness and impartiality in all proceedings. Discrimination, bias, or favoritism shall not be tolerated.
- 3. **Timeliness:**** Timely processing of cases is essential to ensure swift justice delivery. Delays should be minimized through efficient case management practices.
- 4. **Confidentiality:**** Confidentiality of case information and sensitive data must be maintained at all times, in accordance with applicable laws and regulations.
- 5. **Communication:**** Open and transparent communication among stakeholders is vital for effective coordination and resolution of cases. Regular updates and information sharing should occur as necessary.
- 6. **Documentation:**** Accurate and comprehensive documentation of all case-related activities, decisions, and communications is imperative for accountability and record-keeping purposes.

****1. General Provisions****

****1.1 Uniform Transmission and Timeliness Standard:**** Criminal Justice Agencies (CJAs) in the State of Georgia must ensure the transmission of electronic criminal history data to the Georgia Crime Information Center (GCIC) within 30 days of the creation or receipt of such information, as mandated by O.C.G.A. §35-3-36.

****1.2 Exceptions:**** CJAs must meet any statutory standard that requires an earlier transmission than the uniform standard outlined in 1.1.

****1.3 Disposition Transmission:**** Dispositions must be transmitted to GCIC within 30 days of their creation, regardless of the agency responsible for creating the disposition. CJAs must diligently process and determine the disposition of charges made prior to the effective date of these Standards. Corrected dispositions must be transmitted within 30 days of necessary corrections being made.

****1.4 Rejection of Disposition Transmittal:**** CJAs must report any rejected disposition transmission to the submitting party. The submitting party must attempt to remedy the rejection and resubmit the corrected submission within 30 days. If the rejection cannot be resolved, the submitting party must comply with provisions outlined in section 7.3.5.

****2. Law Enforcement Agencies****

****2.1 Data Transmission:**** Law Enforcement Agencies (LEAs) must provide fingerprints, descriptions, photographs, and other identifying data to GCIC for specified offenses within the timeframe outlined in 1.1.

****2.2 Transmission to GCIC:**** The Booking Agency must transmit executed arrest warrants or court orders for arrest electronically to GCIC within 30 days of execution.

****2.2.1 Maintenance of Singular OTN:**** Arresting Agencies must not transmit data resulting in the generation of a new OTN. If inadvertently done, the OTN must be updated within 30 days of execution.

****2.2.2 Subsequent Booking Agency:**** When transferring a detainee to another agency, the Booking Agency must advise the Receiving Agency of the existing OTN and enter a disposition type of "Transfer to Other Agency" within 30 days of transfer.

****2.3 Failure to Appear Warrant:**** GCIC will automatically update records upon execution of a failure to appear warrant.

****2.4 Arrest on Out-of-State, Military, Tribal, or Federal Warrant:**** An OTN shall be generated but automatically updated to "disposed" upon receipt by GCIC.

****2.5 Probation Violation Warrant:**** Must be added to the FBI's National Crime Information Center (NCIC) System Wanted Person File.

****2.6 Parole Violation Warrant:**** Must be added to the NCIC System Wanted Person File.

****3. Courts****

****3.1 OTN Creation for GCIC Reportable Offense:**** Courts must ensure OTN creation for reportable offenses and refrain from disposing of charges until an OTN is assigned.

****3.2 Transmittal Obligations:**** Prosecutors report dismissals, modifications, and amendments of charges before filing an indictment or accusation, while Clerks input final disposition information from the court. Prosecutor shall update the SC-10 shortly after.

****3.3 Transmission of Data:**** Clerks must electronically collect all criminal data elements required and transmit them to GCIC in the required format.

****3.4 Disposition of Probation Violation:**** Clerks must transmit disposition of probation violations to GCIC within 30 days.

****3.5 Rejections:**** If a disposition submission is rejected and cannot be resolved, the Clerk may report the situation to the Chief Superior Court Judge and prosecutor for necessary action.

****3.6 Local Compliance Protocol:**** This document shall serve as the Local Compliance Protocol that outlines timely production of criminal data based on state standards. The Chief Judge of Superior Court is responsible for its establishment and maintenance.

****3.7 Magistrate, Superior, State, Probate, Juvenile, Municipal, Recorders, and City Courts:**** Must adhere to the general standards outlined in sections 3.1 to 3.6.

****4. Prosecutors****

****4.1 OTN Creation for GCIC Reportable Offense:**** Prosecutors must ensure OTN creation for reportable offenses and notify the presiding judge if not created.

****4.2 Charging Decision - Indictment/Accusation:**** Prosecutors must update the OTN to reflect all charges pursued or foregone within 30 days of the Charging Decision.

****4.3 Superseding Indictment/Accusation:**** Prosecutors must update records with GCIC to reflect accurate indictment/accusation numbers and charges with SC-10 within 30 days of filing.

****4.4 SC-10 Criminal Case Information Form:**** Prosecutors must use the SC-10 form to transmit data indicating modifications or declinations of charges to the Clerk of Court.

****4.5 Transmittal Obligations:**** Prosecutors report dismissals, modifications, and amendments of charges before filing an indictment or accusation, while Clerks input final disposition information from the court.

****5. Document & Data Flow:****

The following is the agreed upon flow of documents and data in support of this protocol.

[INSERT]

****Conclusion:****

This protocol ensures uniform standards for the creation and transmission of electronic criminal history data among local and state criminal justice agencies in Georgia, promoting accuracy, timeliness, and compliance with legal requirements. Compliance with these standards is essential for maintaining the integrity of the criminal justice system and safeguarding the rights of individuals involved.

Chief Judge, Superior Court Date

District Attorney Date

Clerk of Court, Superior Court Date

Chief Judge, State Court Date

Chief Judge, Magistrate Court Date

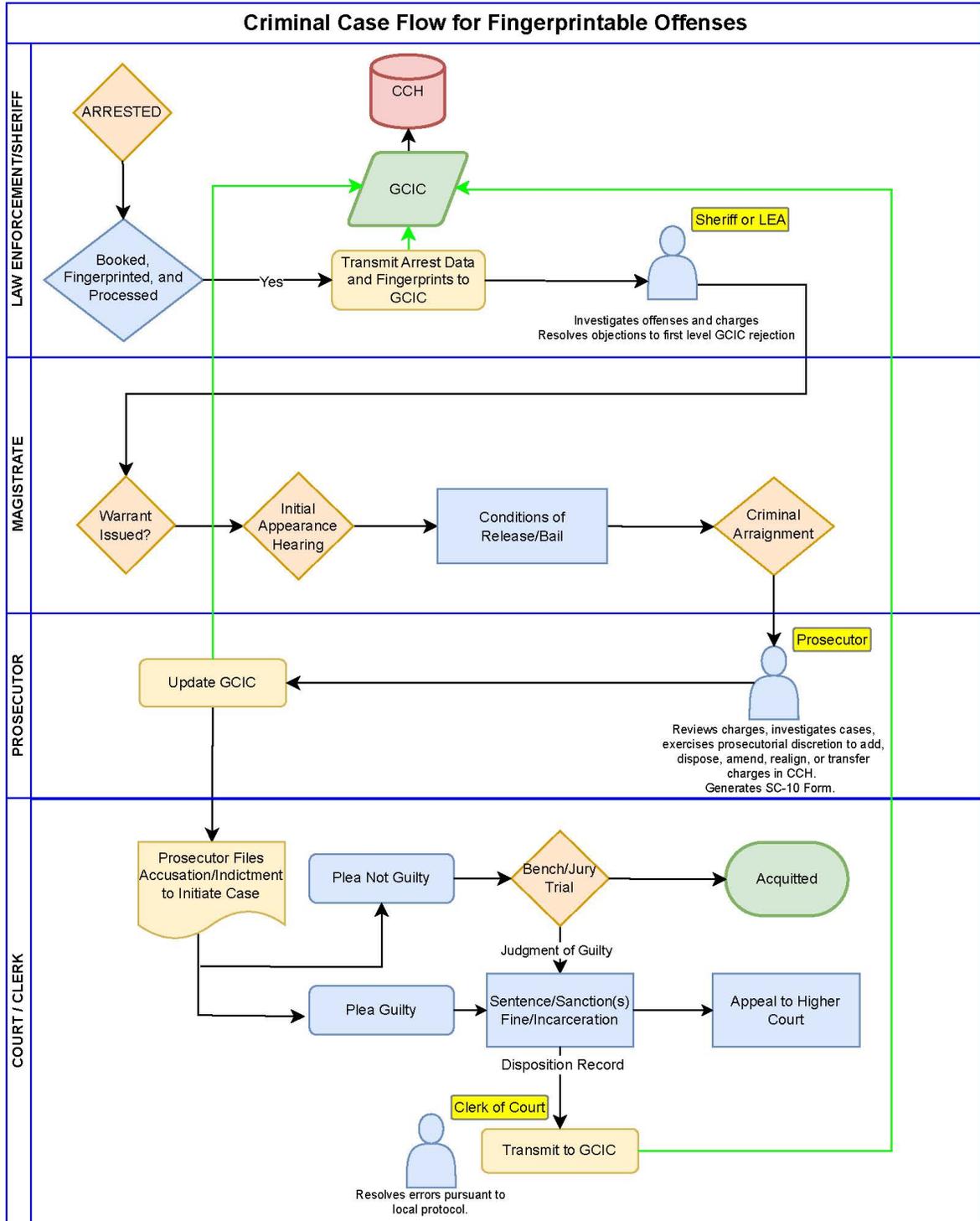
Chief Judge, Probate Court Date

Solicitor Date

Sheriff Date

Police Department Date

Appendix 2:



(b) Standard 7.4.2 Charging Decision Reporting

Update transmittal(s) to provide that all charges that the prosecutor has elected to pursue or forego are correctly reflected. (including the order, amendment of the charges, or use of pre-indictment/accusation diversion)

(c) Standard 7.4.3 Superseding Indictment/Accusation

If an indictment/accusation has been superseded by another indictment/accusation in any case for which an OTN has been assigned, the prosecutor shall update the record with GCIC to provide the accurate indictment/accusation number is reflected in the records of GCIC and that the charges connected with that OTN are correctly identified both in terms of the actual charge being pursued and the order of the charges on the indictment or accusation.

(d) Standard 7.4.5 Transmittal Obligations

Reporting Charging Decisions to include dismissals, modifications, and amendments of charges before filing an indictment or accusation in the case:

When a decision is made to decline prosecution on any charge for which a CTN was assigned. This decision can be to dismiss a criminal arrest warrant, or in the exercise of prosecutorial discretion, that no further action is to be taken in the case;

When an accusation has been filed with the clerk;

When a charge has been amended;

When a defendant has been admitted to a pre-trial intervention program or an accountability court program in a pre-adjudication status;

2. Use by Clerk of Prosecutor ORI

The clerk is authorized to make transmissions to GCIC using the prosecutor’s assigned ORI as the agent of the prosecutor.

3. Provision of Information to Clerk

As applicable to the responsibilities undertaken by the clerk as checked above, the prosecutor shall provide such documentation and data to the clerk as necessary to allow the clerk to make appropriate and timely transmissions to GCIC . Such documentation shall include and provide to the clerk such data and information to allow the accurate indictment or accusation number is reflected in the records of GCIC and that the charges connected with that OTN are correctly identified (both in terms of the actual charge being pursued and the order of the charges on the indictment or accusation).

EFFECTIVE DATE AND TERMINATION

The effective date of this memorandum of understanding is the is the date of the last signature below.

The any of the obligations of the clerk provided for herein may be terminated by either party by giving 30 days written notice of termination to the other party.

Prosecutor

Clerk

DATED: _____

DATED: _____