



# **Guidelines For Improved Automated Criminal History Record Systems For Effective Screening of Personnel**



## Resolution Supporting Guide for Improved Automated Criminal History Record Systems For Effective Screening of Personnel

WHEREAS, the International Association of Chiefs of Police (IACP) met at its 109<sup>th</sup> Annual Conference in Minneapolis, Minnesota between October 5 and October 9, 2002; and

WHEREAS, the IACP Private Sector Liaison Committee (PSLC) has collaborated with the Department of Defense (DoD) Personnel Security Research Center (PERSEREC) to produce *Guide for Improved Automated Criminal History Record Systems for Effective Screening of Personnel*; and

WHEREAS, incomplete and inaccurate automated criminal history information can jeopardize law enforcement investigations and place police personnel and the public at risk; and

WHEREAS, the DoD, law enforcement, local, state, and federal government agencies, non-profit and for-profit agencies all draw on the same criminal justice agency resources through their shared interest in appropriate and reliable criminal background screening of personnel; and

WHEREAS, incomplete and inaccurate automated criminal history information at state criminal history data repositories increases the need for requestors to also seek criminal information from individual criminal justice agencies which can risk wasting scarce agency resources; and

WHEREAS, the guide has been prepared in a similar manner to earlier joint efforts between the PSLC and PERSEREC entitled *Combating Workplace Violence: Guidelines for Employers and Law Enforcement* and *Guide for Preventing and Responding to School Violence*; and

WHEREAS, representatives of the IACP, PERSEREC, DoD, SEARCH, NASCO, IASIR, FBI's CJIS, state repositories, state licensing agencies, international agencies, and the private sector have reviewed and edited the input from content experts from around the world and from 10 focus groups held across America involving national, state, and local law enforcement, state criminal records repositories, social services, and private industry;

THEREFORE, BE IT RESOLVED that the IACP encourages all criminal justice agencies to submit complete and accurate criminal history information to their state criminal history repositories and recommends the use of this guide as a tool for enabling and supporting appropriate use of centralized, automated criminal history record information to screen personnel for positions of trust.

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This report is provided to you as a service of the IACP's Private Sector Liaison Committee. We encourage our readers to disseminate this report as widely as possible. We have listed our name at the bottom of the page so that agencies that are reprinting this for distribution can put their agency name and address on this page as well.



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# Guidelines For Improved Automated Criminal History Record Systems For Effective Screening of Personnel

The Defense Personnel Security Research Center (PERSEREC) prepared this document for the Private Sector Liaison Committee of the International Association of Chiefs of Police (IACP). The opinions, findings, and conclusions or recommendations expressed in this document do not necessarily represent the official position or policies of the participating organizations.

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This document has not been copyrighted. Complete or partial reproduction is encouraged as long as it: 1) is not done for profit, 2) does not alter the tone or substance of the recommendations, and 3) advances the goal of reducing the risks of criminal activity by persons in positions of trust in a manner consistent with the needs of employers, employees, volunteers, and law enforcement.

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## Forward

The goal of this document is to promote more appropriate availability, quality, and use of state and national automated criminal record check systems to screen personnel for positions of trust. Incomplete, inaccurate, and under-accessed criminal history records can place police and the public in jeopardy everyday. Vulnerable populations, such as children, the elderly, and the ailing, are especially at risk.

The Guide should be used by:

- Law enforcement executives, legislative staff, state and federal executive branch officials, licensing agencies, employers, and volunteer groups to promote optimal use of automated state and national criminal record systems
- Policy makers to identify, communicate, and garner legislative and operational support for the goals and priorities of the many agencies that are working to develop integrated, automated, fingerprint-based criminal records systems across the United States and internationally.
- End-users seeking to make rational and responsible decisions in requesting and using criminal history information.

This Guide is the product of the collaborative efforts of the Private Sector Liaison Committee of the International Association of Chiefs of Police and the Defense Personnel Security Research Center, with support of contributions from representatives of “SEARCH, the National Consortium for Justice Information and Statistics,” the International Association of Security Investigative Regulators (IASIR), the National Association of Security Companies (NASCO), ASIS International, state agencies, criminal justice agencies, screening agencies, leadership of state repositories and state social service agencies, and others. Its purpose is to bring together into one document an overview of the prevailing recommendations pertaining to the collection, management, dissemination, and use of criminal history record information records for screening personnel for positions of trust.

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# I. Introduction

Significant nationwide progress is being made every day to improve, automate, and integrate criminal identification and criminal history record information systems at the state and national levels. Advances are largely due to the efforts of:

- The FBI's Criminal Justice Information Services (CJIS) Division,
- The staff and membership of SEARCH, the National Consortium for Justice Information and Statistics,
- Directors and staff of state central repositories of criminal history record information (CHRI), and
- Personnel in local law enforcement, court, and other criminal justice agencies.

One consequence of developments in criminal history record information (CHRI) systems is an increased burden on both local and state criminal justice agencies to process fingerprints, receive requests, and disseminate criminal history records for screening of persons for positions of trust. A position of trust is any volunteer, employment, occupational, governmental, or professional assignment that allows a person unsupervised access to vulnerable people, sensitive information, or valuable assets.

Likewise, persons or organizations that hire or select applicants for positions of trust have an increased burden to find out about disqualifying CHRI to minimize risk while at the same time respecting the rights and dignity of their applicants. The objective of this document is to bring together prevailing expert recommendations for meeting the burdens of both criminal justice agencies and CHRI end-users efficiently, effectively, and fairly.

Throughout the document, the underlying assumption is that the achievement of a single point of inquiry into reliable state and national automated, integrated, fingerprint-based criminal history record information systems is essential. As a result, a primary onus of responsibility for criminal history reporting is on the agencies making arrests and managing subsequent dispositions to quickly and accurately relay offender fingerprints, and offense, disposition, and detention information for reportable offenses and events to their state repositories. At the same time, state and national leadership must ensure that policies and procedures, standards, infrastructure, funding, information security, and individual privacy protection are in place for optimal information exchange. End-users of CHRI must cooperate in meeting requirements and helping cover costs for the system. They also must be accountable for using CHRI information responsibly.

The following pages briefly review the movement toward automated, integrated criminal justice information sharing and the increasing burden on criminal history record systems to provide information for screening license applicants, employees, and volunteers. Subsequent chapters list recommendations for optimal use of these systems to screen personnel for positions of trust.

## **A. Technological Advances Benefit Retrieval of Criminal History Record Information and Increase Capability for Interstate and Interagency Criminal History Record Information Sharing**

Since the later part of the 20<sup>th</sup> century, criminal record systems at local, state, and federal levels have become increasingly automated. Hardcopy records have been retyped or scanned into electronic databases. Greater numbers of criminal justice agencies receive, access, share, and report criminal history record information via electronic means.

The emergence of automated and integrated criminal history record information systems has produced many benefits, including reduced errors in data entry, reduced inefficiencies from duplication of records, and quicker access to information. One of the biggest advantages has been the reduction of fragmentation in criminal record keeping. Thousands of separate criminal information databases are maintained at the city, township, parish, county, state, and federal levels throughout the United States. Within each of these levels, information can be further dispersed amongst municipal police departments, county sheriff offices, state and federal law enforcement agencies, and many different locations and types of courts and detention centers. In a fragmented system, a thorough criminal background check of an individual who has visited or resided in multiple locations requires a separate record check of every criminal justice agency in every jurisdiction where the person may have possibly committed crimes.

In a mobile society, this is a significant problem. Not only must one be concerned with specific jurisdictions (i.e., city, village, county, or parish) where a subject has worked or resided, one needs also to look at a regional scope. While a person may live and work in a specific town or village, he or she may socialize in another locale, 50 or 100 miles from home. An investigation becomes increasingly difficult to scope in areas where driving 50 or 100 miles for social or work activities is routine. People may also be arrested for committing criminal acts while traveling outside the area where they live or work.

With increased reliability of state central repositories of criminal history records, however, the organizational and geographic fragmentation of criminal records can be alleviated. More records are accessible more quickly to multiple users from different locations. Criminal records searches can now conceivably be accomplished through “one-stop shopping,” where with a single inquiry, information may be accessed from all of the following types of sources:

- FBI / National databases
- State central repositories
- Municipal, county, and state law enforcement agencies
- Prosecuting, district, commonwealth, county, or city attorneys
- Magistrates’ courts, municipal courts, county courts, district courts, felony trial courts, intermediate appellate courts, final appellate courts
- Correctional and court supervision agencies.

The ability to electronically record, submit, and search fingerprints has also profoundly impacted the speed and accuracy of associating individuals with criminal histories.

Fingerprint-based checks, as opposed to name-based checks, maximize the likelihood that criminal conduct is associated with the actual person who committed the crimes and that all crimes committed by an individual are identified. (Refer to Text Box 1: Unreliability of Name-Based Searches.) Automated fingerprint-based searches greatly alleviate the resource demands on law enforcement from manually comparing hard-copy fingerprint card impressions against repositories of index cards of fingerprints on file.

Though enormous advances have been made, the full potential of state and national central repositories of criminal history records has yet to be realized. States vary in the extent of automation of information exchange and in the level and consistency of reporting arrest and disposition information. While much work remains to be done, criminal history record information is, nonetheless, more accessible than ever before.

### **Text Box 1: UNRELIABILITY OF NAME-BASED SEARCHES**

Most criminal records are indexed by name. Name information is often not unique to a single individual and can be easily falsified. Name-based searches can only identify possible matches, often identify the wrong person, and may fail to identify possible matches if a person uses aliases or if data entry errors occur. The U.S. Government Accounting Office conducted a study of the effectiveness of name-based systems to identify arrested aliens: 83% of the 383 criminal aliens in their sample used one or more aliases, and 48% (n=184) used two or more birth dates. In each situation, investigators must carry out additional investigations to conclusively determine the presence or absence of criminal backgrounds.

Based on a 1999 study by SEARCH, approximately 11% of non-criminal justice applicants were found to have fingerprint-verified criminal records. Out of this group, about 11.7% would have been incorrectly categorized as not having a criminal record using only a name-based search. Fingerprint-based checks of criminal history records will improve national and civil security by increasing the rate of detection of personnel who based on their past conduct or current efforts to conceal criminal conduct are unsuitable for positions of trust. Fingerprint-based checks may also deter persons applying for positions of trust who might otherwise have less fear of being detected by name-based searches of criminal records.

The FBI's Integrated Automated Fingerprint Identification System (IAFIS) now enables the FBI to receive fingerprints electronically from state repositories and provide results of searches within 24 hours – in most cases in just a couple of hours. The effectiveness of even fingerprint-based searches depends, however, on the extent to which the most current, accurate, and complete records of Federal and State criminal offenses have been transmitted by criminal justice agencies in the field. For more information refer to:

General Accounting Office. (1995, August). *Law Enforcement Support Center: Name-based Systems Limit Ability to Identify Arrested Aliens*. Washington, D.C.: United States General Accounting Office.

SEARCH. (1999, July). *Interstate Identification Index Name Check Efficacy: Report of the National Task Force to the Attorney General*. Sacramento, California: SEARCH, The National Consortium for Justice Information Statistics.

## **B. Increasing Demand for Criminal History Record Checks for Screening Purposes**

The original intent and highest priority for improvements in accessibility of criminal records have been to improve the efficiency and effectiveness of law enforcement and the administration of justice. Law enforcement officers are dependent on timely, complete, and accurate information when dealing with the public. Court officials also need good information to set appropriate terms of release, bail, prosecution, and sentencing.

At the same time, a growing number of organizations are looking to criminal history record information when issuing licenses, selecting volunteers, hiring employees, or investigating applicants for positions of trust. Types of positions for which criminal records checks are currently authorized in one or more states include:

- Law enforcement
- Military personnel
- Private security personnel including investigators, security officers, guards, and alarm installers
- Employees or volunteers working with vulnerable populations such as juvenile, elderly, injured, ailing, or disabled persons
- Realtors
- Liquor salesmen
- Employees of gaming agencies
- Public transportation providers, including cab, bus, and commercial truck drivers
- Persons with fiduciary trust over money
- Airline and airport employees
- Massage therapists
- Persons needing access to sensitive or classified information
- State bar applicants
- Structural pest exterminators
- International travelers and petitioners for citizenship
- Legitimate manufacturers, wholesalers, and retail distributors of controlled substances
- Prospective concessionaires and their affiliates or associates
- Olympic Games volunteers and employees
- Locksmiths
- Repossessors
- Private professional conservators
- Process servers
- Public utilities employees
- State boards of elections
- Insurance agents and brokers
- Driving instructors
- Bingo event organizers or workers
- Regional toll-way authorities
- Computer systems users and administrators
- Firearms license applicants
- Firearms dealers
- Government employees

Criminal history record information is believed to represent, in part, the suitability and character of applicants. It may reveal acts of dishonesty either in the nature of the criminal history or in the failure of an applicant to disclose offenses when requested. Criminal history records may also help reveal a propensity for theft, negligence, violence, predatory sexual perversion, substance abuse, or other anti-social behavior. By screening for suitability of applicants as evidenced in criminal records, organizations reduce the risks of such problems as workplace violence, employee fraud and theft, drugs/alcohol in the workplace, unethical business conduct, and abuse of clients. Problems such as these incur enormous costs from

lawsuits, recovery from damages to business systems, loss of property, and harm to clients, customers, and employees.

### **C. Continuing Barriers to Meeting the Demand**

State legislatures vary substantially in the extent to which they authorize use of criminal records in screening personnel for positions of trust. Differences may be based on concern for the

- Accuracy and completeness of the information,
- Technical capabilities in meeting high numbers of requests,
- Potential for unwarranted discrimination against rehabilitated convicted persons, and
- The privacy rights of citizens.

While law enforcement personnel may have good training or experience in interpreting criminal records, in the importance of maintaining the privacy of records, and in making sound decisions based on information of unknown completeness and accuracy, many non-criminal justice agency personnel may not.

Many restrictions on use of criminal record information to screen personnel are well advised and fair for those who, while having done the crimes, have also done their time, paid their fines, and committed themselves to being productive and lawful citizens. In some cases, more restrictions than are currently in place may be needed to ensure that volunteer, employment, and license applicants are not being disenfranchised by illogical use of criminal records in selection decisions.

At the same time, employers and volunteer coordinators have a legitimate interest in protecting their personnel, clients, and assets. Many do not have the authorization for access to state and national criminal record checks that they need to reduce risk in their hiring decisions.

For example, the private security services industry is concerned that it doesn't have sufficient and timely access to state repository and FBI III<sup>1</sup> criminal records information to screen their personnel. Managers of information systems professionals (such as software developers, systems administrators, network technicians, and database managers) also may need better access. The potential for abuse of systems, data, and software can be substantial, and these workers often have unsupervised access to "the keys to the kingdom." If such persons have a record of computer systems fraud, embezzlement, copyright abuse, hacking, etc., they could be unsuitable for such employment.

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<sup>1</sup> For the last 30 years, the goal of the FBI and state repositories has been to establish and operate an indexed, decentralized system of automated criminal records databases. Criminal records are maintained by each State in a central repository. To facilitate the interstate exchange of criminal history records, the FBI maintains the Interstate Identification Index (III), an "index-pointer" system to records of persons arrested for felonies or serious misdemeanors under State or Federal law. The FBI database contains only federal offenses and a decreasing number of state criminal records not stored and managed by state central repositories. Source: Bureau of Justice Statistics' Use and Management of Criminal History Record Information: A Comprehensive Report, 2001 Update. <http://www.ojp.usdoj.gov/bjs/abstract/umchri01.htm>

Some have asked, “How does one justify the special status of any group of employers who may access state repository criminal records and those who by law may not?” In many states, legislators and policy makers need to address these issues.

Given appropriate authorization, non-criminal justice end users of criminal history record information need efficient and affordable access to complete and accurate records. This requires consistent forwarding of identification, offense and disposition information by local criminal justice agencies to state repositories for inclusion in readily interpretable rap sheets. Currently, states vary widely in how offenses are classified and which offenses require taking of fingerprints for forwarding to the respective state criminal history record information repository.

Additionally, both end-users and criminal justice agency personnel would benefit from more wide spread use of electronic fingerprint stations for taking and forwarding identification information to state repositories. These systems reduce errors, eliminate paperwork, and can substantially speed up processing. Considerable work remains to establish needed infrastructures, policies, and procedures for processing these types of criminal records checks and disseminating the results.

#### **D. Meeting the Demands for Efficient, Effective and Fair Use of Criminal History Records for Applicant Screening**

If there is any doubt about the importance of improving systems and procedures for exchange and use of criminal records in screening personnel for positions of trust, one need only turn to the steady stream of horror stories in the press and in court records to help illustrate the point. Serious problems have occurred for organizations and the clientele they serve as a result of [1] difficulty in accessing criminal records, [2] having accessing to incorrect or incomplete information, [3] failure to access permissible information, [4] irresponsible or misguided decision-making using information, and [5] failure of recipient agencies to secure information from unauthorized use. Throughout this document, case studies highlight some of these cases and their unfortunate consequences for the lives of the individuals or agencies affected.

Automated, integrated criminal history information systems offer several benefits:

- **PREVENTING CRIME AND REDUCING VICTIMIZATION.** Access to CHRI decreases the chance that people prone to engaging in certain types of criminal behavior are placed in positions of trust that provide them opportunities to transgress (e.g., allowing child molesters to have unsupervised contact with children or hiring police officer candidates with histories of violence).
- **IMPROVING EFFICIENCY OF USE OF SCARCE CRIMINAL JUSTICE RESOURCES.** Appropriate authorization to access more comprehensive centralized systems for conducting criminal records checks will greatly reduce the number of labor-consuming, redundant requests for criminal history record information at police

departments and courts that routinely provide the same information to their State repositories.

- **REDUCING THE LIKELIHOOD THAT PEOPLE WILL BE TREATED INAPPROPRIATELY AS A RESULT OF INACCURATE OR IRRELEVANT CHRI.** Criminal history record checks are too often conducted using only personal identifiers as opposed to fingerprints, leading to erroneous matches of applicants to other persons' criminal activity. Frequently, arrest dispositions are missing which may provide information about the appropriateness of using the arrest information in applicant screening decisions. The relationship between prior criminal activity and the potential for future criminal activity, and relevance to the requirements of a position for which persons apply is not always clear. Non-criminal justice agency recipients of applicant criminal records may be making decisions about whether to disqualify applicants based on their criminal histories without adequately considering the relevance of the crimes or the frequency, recency, seriousness, contributing causes, and lifestyle changes that have occurred since the crimes were committed.
- **SPEEDING UP NOTIFICATION OF ARREST FOR PEOPLE IN POSITIONS OF TRUST.** FBI employees have their fingerprints flagged at the FBI criminal identification facility in Clarksburg, West Virginia, so that if they are arrested, the FBI will know about the incident as soon as the fingerprints are processed. Similarly, the State of California provides a notification of arrest service for licensed security personnel and certain other categories of positions of trust. This type of service permits organizations to take prompt action when warranted to either get people in positions of trust in rehabilitative services or to take other administrative actions as appropriate.

## **E. The Role of This Guide in Identifying Factors Affecting Use of Criminal History Record Information Records for Applicant Screening**

This Guide is the product of the joint efforts of the Private Sector Liaison Committee of the International Association of Chiefs of Police and the Defense Personnel Security Research Center, with substantial contributions from representatives of SEARCH, the International Association of Security Investigative Regulators (IASIR), the National Association of Security Companies (NASCO), ASIS International, state criminal justice agencies, state licensing agencies, and others. Its purpose is to bring together into one document an overview of the prevailing recommendations pertaining to the collection, management, dissemination, and use of criminal history record information records for screening personnel for positions of trust.

The first versions of the document were drawn strictly from recommendations found in the dozens of relevant publications listed in Appendix A. The presentation and content of those recommendations were then subjected to expert review. All expert reviewers of the document are listed in Appendix C as Expert Contributors. In addition to expert review, the recommendations were vetted through workshops and focus groups composed of relevant practitioners in the field, including investigators, adjudicators, regulators, employers, records

keepers, law enforcement personnel, recruiters, and other types of persons concerned with decision-making based on criminal history record information.

The utility of any set of recommendations within this Guide will vary according to the needs and spheres of influence of the individuals and organizations that could potentially implement them. Moreover, there should be continuing evaluation of the recommendations and entire process recommended in the guide by the organizations identified in paragraph E of the introduction. Some users of the document may simply benefit educationally from the overview of issues. Others may use items within certain topics as starting points for initiating legislation or programs. Still others may use them as checklists against which to assess their own needs for more effective, efficient, and fair policies and procedures. Any efforts to implement legislation or programs inspired by this Guide should be bolstered by the more detailed information and examples available in the many references listed in the bibliography (Appendix A) and by attention to existing and developing programs across the nation.

## **II. Establishment of the Criminal History Record Information Sharing System**

Recommendations in the first subsection of this chapter are the responsibility of state and national leaders with cooperation of local criminal justice agencies. A system of automated, integrated information sharing requires coordinated efforts from many levels to promote necessary legislation and to coordinate resources, standards, regulations, and procedures according to which national, state, and local agencies operate. Many state and national initiatives have long been under way to improve the systems related to criminal history record information. Section A below provides guidance to state and national leaders on the components of an optimal criminal history record information sharing system.

The operation of integrated, automated systems for criminal history record information record exchange is only as good as the data that is collected and reported by criminal justice agencies who apprehend and process criminals. As such, the acquisition and reporting of identification, offense, disposition, and detention information by law enforcement, prosecution, judicial, probation, and corrections agencies are the bedrock of the criminal history record information sharing systems. Section B lists some of their responsibilities.

### **A. State and National Leadership**

#### **1. Development of Automated, Integrated Information Sharing**

##### **a. Continue Efforts to Develop Automated Integrated CHRI Sharing Horizontally at Local Levels and Vertically from Local to State and State to National Systems**

- Develop, support, and maintain the national, statewide, and local infrastructures needed to enable agencies to electronically share information according to compatible standards with local, county, state, and national:
  - Law enforcement agencies
  - Courts
  - Parole, probation, and alternative sentencing agencies
  - Corrections facilities
  - DMVs
  - Authorized non-criminal justice end-users

- Promote full participation in the FBI's Interstate Identification Index (III).
- Conduct on-going assessments of how well criminal history record information sharing systems are meeting end-user and decision-making needs.

##### **b. Continue to Increase Reliance on Automated Fingerprint-Based Identification and Criminal History Records Systems**

- Coordinate all efforts in keeping with capabilities, requirements, and standards of states and the FBI.
- Ensure criminal justice agencies have access to electronic fingerprint imaging and transmission resources.
- Allocate funding to provide all criminal justice agencies, regardless of size, with needed electronic fingerprint imaging resources.

- Provide for upkeep of Livescan machines, which can be very expensive to maintain. Grants may cover part of the costs to obtain technology, but maintenance is not often covered.
- Identify annual upkeep costs for Livescan technology. An industry standard = 10% of capital costs (purchase price).
- Explore interim solutions to take ink prints and then scan them into electronic scanner.
- Explore technology applications, such as access control equipment, that may be less expensive and more accessible than traditional Livescan equipment.
- Establish procedures for return, correction, and resubmission of rejected fingerprints in real time, electronically.
- Purchase and install electronic fingerprint arrest/booking workstations in all criminal justice agencies that transmit information to the state.

## 2. Standards for Increased Quality of Reporting Within and Across States

### a. Identify Model Reporting Standards for Reportable Offenses and Events

- Standardize definitions of reportable events within and across states.
- Specify and publish reportable events and those agencies responsible for reporting.
- Establish the relevance of CHRI reporting and access to Homeland Defense. Sharing information between agencies is critical.
- Establish incentive programs to encourage participation by local and state criminal justice agencies in CHRI sharing procedures. Emphasize incentives over penalties in order to foster support and cooperation in setting up ideal CHRI sharing system.
- Evaluate the range of fingerprint-supported offenses to determine the extent to which it meets both criminal justice and non-criminal justice purposes.

#### **Text Box 2: Possible Reportable Events**

- Annulment of arrest or conviction
- Arrests and warrants
- Certification of juvenile tried as adult
- Changed order by a court
- Court bind-over decisions
- Decision to prosecute
- Dismissal/quashing of information
- Expungement or sealing of criminal information
- Grand jury action
- Initial appearance, including setting bail
- Trial court disposition
- Modifications to sentences
- Pardons, executive clemency, reprieves
- Plea negotiations
- Prosecutor's charging/review decision
- Release from detention or confinement
- Acquittal following trial
- Arraignment
- Booking and setting of bail
- Changes in sentencing
- Commitment to a correctional facility
- Conviction following trial
- Fugitives from justice
- Hiring for criminal justice positions
- Sentencing, including alternative sentencing
- Law enforcement patrol activities
- Post-conviction procedures
- Granting/revocation of parole and probation
- Pretrial release decisions
- Release after arrest without filing charges
- Release of warrant for arrest
- Reversal of a lower court decision

- Consider retention of information on non-fingerprint supported offenses at the state level for both criminal justice and authorized non-criminal justice purposes.

#### **b. Establish Model Procedures for Reporting Criminal Records to the Repository**

- Reinforce procedures for electronic reporting.
- Require electronic reporting whenever feasible, including fingerprints, arrest information, and dispositions.
- Standardize forms used to make reports.
- Standardize requirements for when records are to be submitted.
- Standardize reporting in disposition fields.
  - List both offenses for which persons are arrested or given notice to appear and offenses for which they are sentenced. Providing that information would be useful in cases where charges were reduced to acquire either a guilty plea or information or testimony from the offender.
  - Standardize abbreviations.
- Establish procedures for waiving reporting requirements as needed by contributing agencies.
- Establish electronic reporting criteria to which vendors must adhere in order for their software to be placed on an “approved vendor list.”
- Establish and require systems of unique arrest and offender tracking numbers, or other means of linking dispositions with arrests, such as fingerprints.
- Correct the potential problem of two people having the same state identification number,

i.e. not having the systems or resources to resolve problem immediately.

- Build quality control into the CHRI system.
- Establish a policy to reconcile information between charging agencies and courts. For example, arresting charges that are dismissed by prosecutor (i.e. never charged), or arresting agency files arrest under one offense and/or level, and the court submits disposition to plead down offense. State repositories may not be able to reconcile the offense, such as an aggravated assault arrest that leads to a conviction as a simple assault.

#### **c. Evaluate Appropriate Reporting of and Access to Juvenile Records**

- Review current standards to ensure that criminal and non-criminal justice purposes are adequately served. For example, consider making records of selected offenses available for screening purposes. Positions for which certain types of juvenile records may be essential could include:
  - Private security employment,
  - Carrying a weapon,
  - Transporting hazardous materials,
  - Unsupervised care of vulnerable populations,
  - National security clearances.

#### **d. Establish Incentives to Promote Compliance with Reporting Requirements**

- Assign oversight authority to an entity responsible for assessing compliance with requirements.
- Encourage agencies to develop internal policies that promote collection and forwarding of criminal records.

### e. Forward All Disposition Information To Criminal Records Repositories

- Utilize automated systems that transmit disposition information to criminal history repositories on-line, in real time, rather than having to wait for cases to be finished and paperwork completed.
- Establish procedures for maintaining dispositions at the state level for which fingerprints have not been submitted.

#### **Text Box 3: Importance of Forwarding Offense Information from the Field to Repositories**

Officials of a Nevada children's home thought they did everything right in running a criminal background check on a job applicant who ended up pleading guilty to seven sex offenses against children. He was sentenced to five life sentences. They hired him, unfortunately, because his 1996 conviction in Georgia for felony cruelty to children did not show up in an FBI III record check. In fact, it had never been entered into the national crime database. The check also did not find evidence that a warrant was out for his arrest for violating the terms of his probation in Georgia. His record only came to light when a detective who was preparing for the man's sentencing found a document describing his Georgia arrest.

Source: Associated Press. (2000, February 5). Authorities irate that they were never notified of molester's background. *The Associated Press State & Local Wire*.

- Automate processes for producing court forms.
- Obtain field staff as needed to conduct searches to locate missing dispositions.

- Obtain field staff as needed to conduct searches to locate missing arrests for disposition information that has been forwarded.
- Consider developing procedures under which disposition data located for authorized non-criminal justice purposes can be forwarded for inclusion in state and the III criminal record repositories.

### 3. Systems for Auditing the Accuracy and Completeness of CHRI Databases

- Identify appropriate audit methodologies to assess accuracy, completeness, and timeliness of reporting.
- Encourage high-ranking officials in each State to contact reporting agencies about the importance of cooperating with audit efforts.
- Present and publish audit findings.
- Identify and recommend remedies for deficiencies.
- Schedule on-site training sessions as deemed necessary based on audit results.
- Identify and address needs and sources for funding audits to establish high quality criminal information sharing systems.

#### **Text Box 4: Audits**

For more detailed recommendations pertaining to audits of criminal history record systems, see *Audit Guide for Assessing Completeness and Accuracy of Criminal History Records Systems*:

<http://www.search.org/publications/pdffiles/auditguide.pdf>

#### **4. Procedures to Ensure Corrections for Unintended Exchanges of Information**

- Establish policies and procedures for agencies to return erroneously disseminated criminal history record information.
- Implement effective follow-up procedures when recipients of criminal records receive incomplete or inaccurate reports.
- Upon erroneous dissemination of CHRI, investigate sources of the error and identify procedures needed to ensure it does not happen again.

#### **5. Training Programs**

- Develop training materials and conduct training courses for all law enforcement agencies, prosecutors, court personnel, detention facilities, other criminal justice officials, and contractors providing criminal justice support services in the state.
- Provide overviews of the criminal history reporting system so that personnel at these agencies understand the connection between their actions and the information printed on an offender's rap sheet. Provide training in the following areas:
  - How information flows through the criminal justice system
  - How the central repository processes arrest and disposition reports
  - How fingerprint cards should be filled out
  - How disposition reports should be filled out and who is responsible for submitting them
  - How unusual arrest scenarios, such as an arrest on a failure-to-appear warrant, should be handled
  - How the fingerprints they take have implications for the effectiveness of other agencies

- Regard training as an ongoing initiative rather than as a one-time effort.
- Conduct statewide booking training with law enforcement agencies in order to instill standards for how arrest information is gathered and fingerprints taken for an arrest record.
- Include training on protecting the security of information and the privacy rights of individuals.

#### **6. Funding to Foster Continued Quality**

- Commit funds for the improvement of automated criminal history record systems.
- Appropriate funds in a way that places a strong emphasis on the completeness of criminal history records.
- Make funding improvements in disposition reporting a high priority.

#### **7. Long-Term System Maintenance Plans**

- Establish a strategy for the long-term maintenance of integrated information sharing systems. Incorporate strategies for incremental and frequent change.
- Secure adequate and stable year-to-year budget appropriations.
- Coordinate changes with interagency involvement.
- Ensure changes are compatible with required information system design and capabilities.
- Ensure continued quality and security of information.

- Include staffing needs in planning.
- Work towards getting legislative support and funding.
- Do not link system development and maintenance strategies to specific technologies. Emphasis should be data-centric, not machine or product-centric. Also emphasize industry standard open architectures.

## **B. Local, State, and Federal Arresting, Prosecuting, Court, and Detention Agencies**

### **1. Arresting Agencies**

- Promote compliance with all state CHRI reporting requirements.
- Promote procedures that allow forwarding of fingerprint-based arrest records and fingerprints to repositories even where state law does not require it.
- Comply with state statutes and regulations in the interagency and interstate exchange of fingerprint and other personal identification information.
- Obtain and include fingerprints as required or authorized with every report of arrest.
- Establish means by which fingerprints are gathered if subjects, without arrest,
  - Are summoned to court to answer for a criminal charge
  - Voluntarily surrender to law enforcement officials
- Comply with requirements for clearly linking fingerprints, other personal identification information, arrest information and all subsequent records

including dispositions pertaining to the arrest.

- Verify identity of arrested person against any fingerprints on file.

### **2. Prosecuting Attorneys**

- Send all dispositions to the state repository in the prescribed manner and form.
- Report the decision whether or not to begin criminal prosecution through court action.
- Provide standardized prosecutor data as prescribed by the centralized reporting system.

### **3. Court Officials**

- Complete criminal history records by documenting the final disposition of all docketed cases.
- Send all dispositions to the state repository in the prescribed manner and form.
- Include misdemeanors in automated reporting of dispositions, as permitted by law.
- Obtain and submit fingerprints if subjects are not booked prior to the decision to file their cases for reportable offenses.
- Locate and process disposition reports not submitted to the repository.
- Provide standardized court data including as prescribed by the centralized reporting system.

### **4. Detention Agencies**

- Comply with all state CHRI reporting requirements.

- Notify the repository of detained persons' release and the dates of their release.
- Provide corrections data for each custody or supervision event (probation, jail, parole, work release, recommitment, etc.) in the prescribed manner and form.
- Record the following information if court information is not provided to the corrections agency:
  - Committing court name and ORI
  - Committing court case number
  - Conviction offense(s)
  - Commitment term
- Submit fingerprints with reports in the prescribed or recommended manner and form.

## **5. Probation and Parole Agencies**

- Notify repository of delinquent parolees or persons in violation of probation.
- Notify repository of satisfactory completion of terms of probation or parole.

## **6. Governors and Presidents**

- Report any pardon, reprieve or executive commutation of sentence to all relevant repositories of criminal history record information.

### **III. Procedures for Requesting Criminal History Record Checks**

Items in this section pertain to requests for CHRI for regulation, licensing, employment, and volunteer purposes. High priority needs to be given to having clearly structured, highly accessible, and trusted programs for managing the exchange of fingerprints and personal information between applicants for positions of trust, the entities who administer their clearances or qualifications, and the agencies that process the criminal records requests. This is the responsibility of state leadership in a coordinated effort with representatives of end-users of criminal history record information.

In addition to advocating the need for convenient and affordable systems for submitting prints for authorized non-criminal justice background checks, this chapter outlines several different strategies that have been implemented to facilitate access to and requests for criminal records checks. The appropriateness of any of the options would have to be considered relative to the particular industry being considered for criminal background check screening.

#### **A. Establishing Systems for Submitting Fingerprint-Based Requests**

##### **1. Convenience of Systems for Applicants to Provide Fingerprints and Other Identification Information**

- Purchase and install electronic fingerprint recording stations at strategic non-criminal justice agency locations throughout the state. Ensure that fingerprinting stations are readily accessible for authorized non-criminal justice purposes and establish requirements for who is certified to take fingerprints and verify identification information.
- Promote strategies for obtaining fingerprints that minimize error, e.g., illegibility, out of sequence.
- Ensure methods for acquiring fingerprints are cost-effective for local and state licensing and hiring agencies and applicants.
- Provide guidelines on who is authorized to take fingerprints of applicants.

- Provide a way for authorized non-criminal justice agencies to be certified to take prints on forms or electronically. Secure and monitor these environments to ensure that individuals are not abusing the system.
- Address screening requirements of electronic fingerprint machine operators.
- Establish appropriate penalties for fraudulent use of electronic fingerprint machines.
- Allow the private sector to provide criminal justice agencies with the resources for terminals and compensation of criminal justice personnel to take fingerprints and conduct criminal record checks.
- Consider the value of using magnetic strip readers to extract biographical information from State automobile driver's licenses instead of key entry of that data. Encourage the originating agency to verify the accuracy of the demographics recorded in the magnetic strip.

##### **2. Procedures for Requesting CHRI Checks**

- Provide clear information on what CHRI is available to whom and for what purposes.

- Establish procedures to authenticate the identity of the person who is being fingerprinted.
- Prescribe, and make available on-line, forms and procedures for submitting requests for CHRI checks. For examples of different strategies, effective through December of 2002, refer to Appendix B.
- Identify information that must be submitted in order to access criminal records
  - Require a signed release from the applicant
  - Require fingerprints
  - Require full name
  - Require birth date
  - Require place of birth
  - Require gender, as is permissible by state and federal law
  - Require race and ethnicity, as is permissible by state and federal law
  - Require social security number, when available
  - Consider the feasibility of using a recent photograph of the applicant as a means of verifying subject identity. Federal law permits this only after the person has been hired.
- Encourage state legislatures to enact rules about keeping applicant fingerprint cards or impressions. These should include notification of applicant of identification information retention policies and all the ways the fingerprints will be used, i.e., informed consent. Informed consent should address all who will retain the information as well as why it is retained, and how it will be used.

## **B. Possible Strategies for Authorizing Repository Criminal Record Checks**

### **1. National Licensing and Clearances**

- Establish an interstate association with legislative authorization to issue an interstate or national license for a given industry or service sector. For an example, refer to Text Box 5.
- Enact federal legislation that authorizes the association to accept fingerprints and apply for and receive results of CHRI checks directly from the FBI's III and from repositories of relevant participating states.

#### **Text Box 5: Obtaining CHRI as Part of a National Licensing Process**

National or state licensing may eliminate the need for each employer to conduct criminal history checks on their licensed employees, contractors, and vendors. Instead, the licensing organization can perform that function, eliminating the need for licensing agencies to perform work for another organization. For a model of how to establish a national license, refer to the successful efforts of the Association of Racing Commissioners International (RCI). Congress approved the National Racing Compact, a multi-state intergovernmental entity that has been recognized and authorized by the FBI to handle criminal history reports. The National Racing Compact implements national standards and licensing while still preserving states' rights. For more information refer to the RCI National Licensing Project for Horse Racing's Legislative Guide

<http://www.arci.com/LegislativeGuide.html>,

For samples of on-line applications, see: <http://www.arci.com/license.html>

Other industries where national licensing would be constructive are liquor sales, food services, armored car services, and private security.

## 2. Applicant Clearance Programs through Centralized State Regulatory Agencies

- Establish centralized agencies through which an appropriate industry's (e.g., teacher credentialing, private security licensing) applicants' criminal background checks are processed for licensing, employment, housing, or volunteer screening purposes.
- Obtain technology and implement procedures to enable obtaining and filing electronic consent.
- Assign each of these agencies an ORI agency identifier and authorize them to request and receive criminal history record information from state repositories and the FBI III on behalf of the populations they serve.
- Require participating, approved agencies to complete training. Consider certification for successful completion.
- Require participating agencies to document their screening processes according to a standardized, prescribed process.
- Require participating agencies to document their applicant acceptance criteria.
- Establish an office of complaints with a toll-free number to receive and investigate complaints and recommend disciplinary actions for violations of criminal background screening standards.
- Consider policies and procedures needed to address liability risk to government agencies that approve license or security clearance applications; previously negligent hiring was mainly the concern of the employers themselves.

## 3. Reciprocity of Clearances Between Appropriate Agencies and States

- Enact legislation that authorizes appropriate reciprocity of licenses or clearances between jurisdictions to reduce repetitive background checks. Reciprocity should be based on fingerprint-supported criminal records checks.
- Ensure the quality and integrity of initial screening processes to enable confidence in reciprocity agreements.

### **Text Box 6: The Need for Quality Standards in Reciprocity Agreements**

The indictment of 31 people in an Illinois commercial truck-licensing scheme highlights a potential risk in reciprocity agreements. Commercial truckers licensed in Illinois, whether properly or fraudulently, can easily obtain commercial driver's permits in other states without being retested, simply by presenting their Illinois licenses. Similar reciprocity agreements exist throughout the country. The licenses of half of the 165 Illinois truckers involved in accidents between May 1, 1999 and May 1, 2000, however, are of questionable validity due to uncertainties about whether criminal checks were done on some drivers and whether others had withheld information about previous drunken-driving convictions. The quality and integrity of screening processes are essential to successful reciprocity agreements.

Source: Held, Tom. (2000, June 7). Sheriff questions validity of Illinois truckers' licenses; Baldwin, Doyle speak to federal panel reviewing bribery scandal. *Milwaukee Journal Sentinel*, p. 01B

#### 4. Fingerprint Clearance Cards

- Authorize and establish a system for issuing fingerprint clearance cards for employment, licensing, and volunteers. For an example, see Text Box 7.
- Require fingerprint clearance card applicants to list the agency, agencies, or agency divisions where the person will work or volunteer.
- Incorporate reliable authentication measures to prevent unauthorized use of cards.
- Limit the period time during which the fingerprint clearance card is valid based on the sensitivity of the positions authorized by receipt of the clearance card.
- Establish a mechanism for suspending fingerprint clearance cards pending further investigation of an arrest or conviction for a potentially disqualifying offense.
- Establish procedures for verifying the continuing validity of the card.

#### 5. Automatic Notification Upon Subsequent Arrest or Conviction

- Establish automated systems and policies whereby appropriate end-users of CHRI are notified, as permitted by law, whenever one of their employees, volunteers, or licensees is arrested or convicted.
- Establish policy to address which records and personnel should be flagged for automatic notification.
- If automated flagging systems are not in place, have record custodians conduct weekly, monthly, or quarterly checks of names of cleared personnel against recent arrests and notify appropriate entities if new arrests are found.

- Require agencies to notify the repository when the subject is no longer associated with the organization.

#### **Text Box 7: Arizona Fingerprint Clearance Cards**

“Legislation passed in 1998 created a new division within the ARIZONA Department of Public Safety to screen applicants for fingerprint clearance cards. An interagency task force worked for several years to consolidate and streamline the fingerprinting process for several state agencies. The agencies are: ■ The Administrative Office of the Courts (AOC)-Juvenile Probation ■ ARIZONA Department of Economic Security (DBS) ■ ARIZONA Department of Education (ADE) ■ ARIZONA Department of Health Services (DHS) ■ ARIZONA Department of Juvenile Corrections (DJC)

These agencies license people to work with children and developmentally disabled adults and children.

The DPS *Applicant Clearance Card Team (ACCT)* was created to fulfill legislative requirements and screen applicants for fingerprint clearance cards. A two-tiered system of clearance cards for agency employees was established:

***Class One Fingerprint Clearance Card (FCC)*** - A class 1 fingerprint clearance card allows direct contact with all participating agency client populations (including all children and DES developmentally disabled clients).

***Class Two Fingerprint Clearance Card (FCC)*** - A class 2 fingerprint clearance card allows direct services to children but not to developmentally disabled clients.

The issuance of a class one or class two clearance card is dependent on a person's criminal history and requires subsequent background checks every three years.”

Source: Arizona Department of Public Safety  
<http://www.dps.state.az.us/cjsd/fingerprintdbureau/acct.htm>

- Require organizations to request periodic re-checks of all personnel needing clearances to ensure that persons are removed from the flagging system when appropriate.
- Enable the flagging system to notify appropriate entities in cases where subject is employed by more than one agency.

**Text Box 8: Model Resources for  
Subsequent Arrest Notification Services**

From a Model Contract for Subsequent Arrest Notification Service, see the California Department of Justice website at:

[http://caag.state.ca.us/fingerprints/forms/subar\\_r.pdf](http://caag.state.ca.us/fingerprints/forms/subar_r.pdf)

## **IV. Processing Requests and Disseminating Criminal Record Information**

Systems for processing requests and returning results of criminal records checks entail procedures for receipt of requests, means for covering the costs of conducting searches and disseminating results, and procedures for transmitting only authorized information to authorized entities.

### **A. Processing Requests for Criminal History Record Information Records**

- Continue to develop efficient fingerprint-based checks of criminal files for reliable association of criminal records with applicants.
- Ensure processing of applicant fingerprints is compatible with and does not adversely affect current IAFIS and state AFIS performance and capabilities.
- Allow end-users to opt out of having state repositories automatically submit records check requests to the FBI, as proscribed in some state laws. End-users risk being charged multiple times if they request checks through more than one state repository that automatically forwards fingerprints to the FBI.
- Consider developing and implementing automated programs for CHRI checks for authorized non-criminal justice purposes:
  - Establish authorization codes for different job sectors/job positions
  - Automate association of disqualifying offense codes with disqualifying offenses
  - Require evidence that applicant has verified that search will be based on proper job sector authorization code
  - Restrict queries from authorized job sectors to offenses matching disqualifying codes
  - Disseminate a response of “qualified” or “disqualified”

- If disqualified, require verification of association of offense with applicant

### **B. Speed in Processing Requests**

- Ensure processing time for return of results of fingerprint-based check is as soon as possible.
- Establish a short time frame within which record checks must be completed and transmitted.
- Work towards developing systems that achieve at least a 24- to 48-hour turn-around.

### **C. Policies and Procedures for Assessment of Fees**

- Identify appropriate fees for criminal background checks for purposes of license, employment, or volunteer screening. The fee structure should:
  - Be affordable
  - Offer appropriate waivers
  - Be proportional to the costs of doing the check
- Ensure fee structure addresses system maintenance and enhancements as well as labor to actually conduct checks.
- Establish the appropriate balance between the ability of not-for-profit groups to pay for record checks and the needs of the

repository to be compensated for its services.

### **Text Box 9: The National Child Protection Act**

The National Child Protection Act of 1993, (amended as the Volunteers for Children Act, October, 1998) establishes policies and procedures for requesting national and state fingerprint-based criminal history records checks for persons or agencies who will work with or care for children. For more information, refer to <http://www.childsexualabuse.org/act.htm> or the Wisconsin Department of Justice information at <http://www.doj.state.wi.us/dles/cib/forms/cib/VCAExplanation.pdf>.

## **D. Policies and Procedures for Dissemination of Results of Searches for CHRI**

### **1. Promote Beneficial Legislation**

- Work towards and support legislation and regulations that promote optimal sharing of criminal history record information for authorized purposes.
- Establish and implement policies for dissemination of non-conviction and conviction information that are consistent with legislative mandates and regulations.

### **2. Determine Appropriate Restrictions on Dissemination of CHRI**

- For applicant screening purposes, prohibit dissemination of CHRI by anyone other than the state CHRI repository or its designee.

- Require evidence of signed, informed consent of subject of CHRI to release of information before disseminating CHRI for background screening purposes. Consent should include:
    - Agreement as to type of information that may be released (e.g., felonies v. misdemeanors, types of offenses, conviction v. non-conviction).
    - Agreement as to duration of time within which consent is valid.
  - Prohibit dissemination of CHRI except in accordance with applicable federal and state law and regulations.
  - Evaluate whether applicable federal and state law and regulations pertaining to dissemination of CHRI for authorized non-criminal justice purposes meet the increasing need for comprehensive background checks.
  - Prohibit agencies or persons from confirming existence or nonexistence of criminal records to any entity not eligible to receive CHRI itself.
  - Limit use of CHRI requested for employment to purposes for which it was given.
  - Require notification in writing to recipients of CHRI for non-CJ purposes of
    - Requirements for protecting confidentiality of CHRI,
    - Restrictions on using CHRI only for authorized purposes, and of
    - Penalties for violations.
  - Do not restrict rights of subjects of CHRI to disseminate their own CHRI.
- ### **4. Maintain a Log of Disseminated CHRI**
- Develop and maintain an electronic log of any disseminated CHRI that includes at least the recipient, purpose, and date of dissemination.

- Maintain the log for an appropriate period of time.
- Make the log available for audit to protect against unauthorized dissemination of criminal records.

#### **5. Recognize Authorized Recipients of CHRI**

- Recognize federal statutes authorizing dissemination of non-conviction and conviction CHRI to individuals and agencies required to provide a security clearance for matters of national security
- Establish procedures for resolving questions about whether recipients are authorized to receive conviction or non-conviction CHRI.

#### **6. Other**

- Empower head of repository to establish priorities for dissemination of CHRI and policies for dissemination based on available resources.
- Ensure rules for dissemination of conviction and non-conviction CHRI is consistent for state repository and local criminal justice agencies.
- Ensure that information that should not be reported (alternative sentencing, expunction) is excluded from disseminated CHRI.

## **V. Protecting Security of Information and Individual Privacy and Rights**

Whenever individuals are involved in the collection, access, use, or dissemination of sensitive information such as criminal history records, they should be concerned with protecting the privacy of the subjects of the information and the security of the system holding the information. Recommendations in this section apply to all persons responsible for criminal history record information databases, whether at the local, state, or federal levels.

### **A. Protecting the Rights of Subjects of CHRI**

access, or release of criminal history record information.

#### **1. Conduct a Privacy Impact Assessment**

- Develop a map of information flow to determine information decision points and privacy vulnerabilities.
- Analyze within the information flow whether there is technical and ethical compliance with privacy principles and requirements.
- Assess whether privacy policies and procedures are adequate.
- Conduct Privacy Impact Assessments as soon as possible and incorporate them into ongoing system upgrades and maintenance schedules.

#### **2. Identify Risks Associated with Inappropriate Use, Access, or Release of Information**

- Identify the risk to individuals from inappropriate use of criminal history record information.
- Identify risks to the perceived validity of using criminal history record information in background checks if information is used, accessed, or released inappropriately.
- Identify risks of liability to the organization and individuals for inappropriate use,

#### **3. Promote Legislation to Require Informed Consent of Applicants**

- Promote or maintain legislation that requires informing applicants of purposes for accessing criminal history records.
- Promote legislation that requires notifying applicants whether and when they can be automatically disqualified for presence of final convictions.
- Promote legislation that clarifies whether and when applicants may be asked to provide information concerning arrests that did not result in convictions.

#### **4. Train Staff in Requirements and Ethics for Protecting Individual Privacy**

- Inform staff of privacy requirements.
- Inform staff of policies and consequences for breeches of privacy requirements.

#### **5. Ensure Right of Inspection of Repository Records by Subject of CHRI**

- Consider baseline policy for inspection of CHRI by subject of record similar to that which applies to credit bureaus.

- Ensure subject of CHRI or his attorney or other designee has the right to inspect the subject's CHRI.
- Ensure repositories of CHRI have adequate procedures for right of inspection by subject of CHRI.
- Have requests for copy of CHRI maintained in FBI III for purposes of inspection and challenge be addressed to the FBI.
- Prescribe reasonable hours and locations for inspection of CHRI by subject of record.
- Prohibit employers from requiring applicants to obtain reports of their own CHRI in order to qualify for selection if the employer is not otherwise authorized to have this information.
- Establish a reasonable time frame within which criminal justice agencies must correct successfully challenged CHRI.
- Establish procedures for notifying subject within a reasonable timeframe of result of challenge of content of CHRI.
- Require notification of subject of denial of challenge of CHRI which includes specifying grounds for denial.
- Provide right to and procedures for administrative appeal of refusal to correct challenged CHRI. Ensure that the responsibility for the administrative hearing is on the custodian of the challenged CHRI and not on the hiring agency.
- Establish a reasonable time frame within which subject must file appeal of unsuccessful challenge of CHRI by subject.
- Assign responsibility for costs of appeal of unsuccessful challenge of CHRI by subject.

## **6. Ensure Comprehensive Rights of Challenge and Demand for Correction of CHRI by Subject of Record**

- Ensure subject of CHRI has right to challenge the validity, accuracy, and completeness of CHRI.
- Develop and publish clear procedures for challenging accuracy of CHRI. Include these procedures with all signed consent forms and applications for criminal background checks.
- Establish and document clear grounds for approving or denying challenges to CHRI.
- Upon challenge, require criminal justice agencies to review challenges and audit content of CHRI within a reasonable time frame.
- Establish and document clear procedures for correction of CHRI upon successful challenge by subject.

### **Text Box 10: Rights of Subjects of Criminal Records**

For examples of federal and state statutes pertaining to challenges of criminal record information, refer to the following:

- Federal Title 28 CFR, Section 16.34:  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_02/28cfr16\\_02.html](http://www.access.gpo.gov/nara/cfr/waisidx_02/28cfr16_02.html)
- Rights Concerning One's Criminal Record in Massachusetts:  
<http://www.lawlib.state.ma.us/crimrecord.html>
- Arizona Department of Public Safety  
<http://www.dps.state.az.us/cjcd/criminalinfosvc/faqs.htm> - 17
- Washington's "A Guide on When and How to Challenge, Seal, Vacate or Expunge"  
<http://www.courts.wa.gov/brochure/criminal/crimhist.pdf>

- Provide subject with right of judicial review in court if challenge of CHRI is denied in administrative appeal.
- Upon successful challenge by a subject of CHRI, require repository and other criminal justice agencies that maintain relevant CHRI to immediately notify entities that have received incorrect information and provide them with corrected CHRI. Consider the appropriate limits on how far back in time the notification requirement should apply.
- Establish a system of password- or biometric-based security to ensure that individuals can only enter and retrieve data as appropriate to their position.
- Use properly configured access control measures to prevent unauthorized access.

## **B. Security of Information**

### **1. Conduct Background Checks on All Personnel with Direct Access to Criminal Records Systems.**

### **2. Train Staff in Requirements and Ethics for Protecting Information Security**

- Inform staff of security requirements.
- Inform staff of policies and consequences for breeches of security requirements.

### **3. Acquire Resources Needed for Effective Security of Information**

- Establish adequate security staffing to address legal and technical issues.
- Budget for security costs in all phases of system design and maintenance.
- Maintain optimum configuration management and timely updates, including patches for known vulnerabilities.

### **4. Protect Networks and Databases From Unauthorized Access and Use**

- Allow access rights only to authorized entities for purposes permitted by law.

#### **Text Box 11: Importance of Having Systems In Place to Easily and Regularly Monitor Dissemination of CHRI**

Four Brooklyn court employees were charged with selling criminal record checks to research companies in return for more than \$1 million in payments. The employees conducted unauthorized background checks and provided more than 30,000 criminal histories to private companies and a private investigator for over a year before being charged with counts including grand larceny, receiving bribes, unlawful duplication of computer-related material, and official misconduct. The scheme cost the courts approximately \$1.25 million a year. One court worker had been stealing from the state for at least three years, he said.

The policy of the State Office of Court Administration was to sell records to the public for \$16 each, but the workers were selling them for as little as \$4 and pocketing the money. State officials only became aware of the problem after being notified by a private investigator that the records were being sold by a private company below cost.

Charges were also filed against a New York City detective, and three private investigation companies. Officials from one of the companies pleaded guilty to a misdemeanor charge and paid more than \$320,000 in fees to the court.

This case shows the importance of having systems that easily and regularly monitor dissemination of criminal history record information.

Source: Day, Sherri. (2001, March 2). Four Charged With Theft Of Court Data. *The New York Times*, Section B; Page 3; Column 1. New York: The New York Times Company.

## **5. Be Able to Identify Person Requesting or Transmitting Information Within Automated Criminal History Record Information Systems**

- Have all users fill out applications and provide identification information.
- Use strong authentication techniques that combine “something you know” with “something you have” identification.
- Require users to sign on to each resource within the CHRI system separately.
- Ensure that the system logs every access attempt to each device.
- Require use of most advanced password standards, e.g., regularly change passwords, and require passwords to meet minimum character length standards and consist of numbers, upper and lower case letters, and symbols.
- Use authentication such as digital certificates, digital signatures, cryptography or other appropriate techniques to verify identities of individuals and/or computer systems with authorized access to records.
- Configure system to correlate records dissemination with fees collected, to facilitate audits.

## **6. Enable Constant Monitoring for Unauthorized Intrusion**

- Install a real-time intrusion detection device/system that provides the highest level of protection against attacks. It should:
  - Dynamically detect suspicious network activity
  - Instantly prevent unauthorized access
  - Recognize network traffic patterns that indicate hostile activity or misuse of network resources, including network attacks

- Immediately alert system administrators of any suspicious activity
- Immediately log sessions containing suspicious activity
- Immediately terminate connections in the event of suspicious activity.
- Dynamically reconfigure security measures to protect against hostile activity

- Closely monitor the intrusion detection device/system in order to recognize attack signatures.

## **7. Enable Constant Evaluation of Network Security**

- Use a current, comprehensive, and dynamic database of attacker methods and vulnerability tests to assess weaknesses in network devices.
- Contract with outside consulting expertise to conduct security analyses.

## **8. Protect Data Transmissions within the Network**

- Use encryption technology for transmitting information.
- Use technology that automatically intercepts transmission requests, identifies whether the destination is within the network, and if so, challenges user for required authentication.
- Use directory access protocols that separately store user/group data from the central server.
  - Facilitates efficient addition of new users without having to add access through multiple servers
  - Multiple users can access CHRI data through the shared central directory
  - Administrators can quickly revoke access when appropriate from the central console rather than having to revoke access from multiple servers

- Maintain information on each user, including
  - User's full name
  - Login name
  - Email address
  - Authentication server
  - Authorized sources
  - Authorized destinations
  - Time restrictions
  - Encryption key negotiation scheme
  - Encryption algorithm
  - Data integrity method
  - Group membership

### **9. Ensure Accessibility in Case of Emergencies**

- Constantly monitor, analyze, and fix vulnerabilities.
- Establish a cold site for a backup system that would enable rapid disaster recovery in the event the main CHRI site is rendered inoperable.
- Use the backup site to test patches and upgrades to the main system before attempting to implement them in the main system.
- Prepare and train for attacks on the CHRI system.

#### **Text Box 12: Planning for All Contingencies**

An Illinois county's link to the outside world - via the Internet - was cut off when the county's Internet provider went out of business. Officials knew the change was coming but were notified only one week before loss of service that the date was being moved up. The shutdown caused problems for the state's attorney's office where lawyers rely on the Internet to link them to services that provide criminal background checks. This episode highlights the need for backup plans in the event of disruptions of access to electronically accessible criminal records.

Source: Fabbre, Alicia. (2001, May 24). County officials working without Internet access. *Chicago Daily Herald*, p. 5. Paddock Publications, Inc.

## **VI. End-Users' Understanding of the Meaning and Completeness of Criminal History Record Information Records**

Interagency and interstate sharing of criminal history record information raises issues concerning accurate and fair interpretations of criminal records. Computerized criminal history files especially often lack contextual information that reveals the nature of intent and the seriousness of the offense. Refer to Textbox 17 for a case where a person's criminal record showed a felony arson conviction, when in fact he had done no more than set rags on fire while participating in an anti-war demonstration as a college student.

Additionally, recipients of data from centralized repositories need information about whether or not all jurisdictions and crimes committed therein are represented in the search. Upon receipt of a rap sheet, one needs to know if agencies from areas where applicants are known to have lived or worked consistently submit all CHRI to their repository. Agencies may place different priority on the importance of transmitting CHRI to the State. Sometimes, reporting can be overcome by catastrophic events such as fire, floods, or computer malfunctions. Recipients of CHRI from state repositories would need to know whether they should contact certain local agencies in addition to obtaining a statewide check. In general, requestors should be informed of the variety of information sources to be accessed to ensure 'complete' research of criminal history.

Thus, understanding of criminal records by end-users pertains to knowing what information is missing, what information is available, and what the meaning is of any information that is found.

### **A. Meaning of Report Messages, Codes**

- Transmit all criminal history record information in a standard format. Formats are being developed through the efforts of the Joint Task Force on Rap Sheet Standardization (SEARCH, FBI CJIS APB, BJS, NLETS) and others.
- Ensure that recipients of CHRI can tell whether listed offenses are misdemeanors or felonies.
- Explore how to reduce the number of and variance in possible interpretations of abbreviations.
- Ensure that formats in which results of CHRI are reported serve the needs of end-users. Commonly, recipients of CHRI from

checks of the FBI III and some states' repositories must go to courts of origin to make sense of information.

- Identify strategies to ease interpretation of differences between State-specific offense classifications that appear on criminal record rap sheets:
  - Offer training in each state for recipients of CHRI on how to interpret rap sheets. This should include information about what "no record" could mean; what information is disseminated versus what is not.
  - Explore strategies for providing interstate rap sheet translation services through a website.
  - Provide a resource to call to identify offense codes, (e.g., an "offense code interpretation hotline").

**Text Box 13: Model Web Site**

For an Exemplary Model of a Web Site That Eases Interpretation of Rap Sheet Codes, see Massachusetts Criminal Offender Record Information Website at:

[http://www.state.ma.us/chsb/CORI\\_ref.html](http://www.state.ma.us/chsb/CORI_ref.html)

- Specify the reporting time periods for which criminal justice agencies have not met reporting requirements.
- Consider having state repositories maintain reports on the extent to which local criminal justice agencies forward criminal records. Providing this information would reduce the need to request records from local agencies that reliably forward records to their repositories.

## **B. Enabling Recipients to Know What Information is Available**

### **1. Publish Reported Offenses**

- Publish offenses that must be forwarded by arresting agencies to central repositories.
- Publish offenses that are routinely forwarded by arresting agencies whether required or not.
- Publish a list of the types of offenses that are not reported by criminal justice agencies. Disseminate this list along with results of checks.

### **2. Identify Agencies That Fail to Report Criminal History Record Information**

- Consider a "truth in data" disclosure for all public CHRI that would provide the date range scope, the geographic scope (not all counties within a state may have been compliant the same years), and a "known data shortfall" statement that clearly states what might be missing, (i.e. misdemeanors, certain crimes, dispositions, a known percentage of cases, etc.).
- Provide lists of agencies that have not met reporting requirements.

## VII. Using CHRI for Employee, Volunteer, and License Applicant Screening

Recommendations in this section are concerned with:

- Relevance of criminal history record information to selection/rejection decisions
- Thresholds of seriousness of crimes for rejection of applicants
- Fairness of decisions against backdrop of other decisions
- Rules for retention and use of data

The responsibility for legally mandating recommendations in this section ideally should be born by state legislatures. In turn, decision-making based on criminal history record information should be carried out by all organizations and people granted access to that information in accordance with prevailing state and national legislative mandates. States vary widely, however, with respect to the extent of their legislation in this area. In the absence of prevailing legislation, the recommendations offer direction for policy and procedures that may be adopted by agencies that opt to responsibly use criminal history record information in selection decisions.

End-users need to be informed that by receiving and using criminal history record information, they may be called upon to demonstrate how, for certain positions, the CHRI they request will help their agency or business estimate the applicant's risk for certain behaviors. This may mean citing studies that show a clear association between likelihood of commission of specific problematic conduct and the presence of a given type of criminal record.

Additionally, recipients of criminal history record information are responsible for the safekeeping of the information entrusted to them. Once the decision-maker obtains criminal history record information on the basis of which to select personnel, she or he should be held responsible for protecting against a) misidentification, b) unauthorized disclosure to third parties and c) unauthorized access by agency personnel or third parties.

### A. Using Criminal History Record Information in Personnel Selection Decisions

#### 1. Identify Jobs, Positions and Responsibilities for Which Criminal History Checks are Required or Authorized

- Require a direct relationship between the personal criminal history record information being collected and the stated purposes for which the information is to be used.

- For a given position, identify circumstances under which presence of criminal history would involve a risk to property or to the safety or welfare of specific individuals or the general public. (See Case Studies 12 and 13)
- Ensure that relevant contractor or temporary positions are included among those requiring criminal background checks. See Text Box 14 below.

#### **Text Box 14: Importance of Checking Criminal Backgrounds of Contract and Temporary Help**

Damages of \$25.5 million were awarded in a lawsuit against a health care agency that contracted nurses out to nursing homes that in turn assigned them to homebound patients. One of these nurses murdered and robbed a paraplegic patient. The hiring process did not include a criminal background check, which would have revealed that the murderer had a disqualifying criminal history. The health care agency defended itself with claims that criminal background checks were not standard practice because they were too expensive. And, if they were affordable, the health care agency argued, they were blameless because they were not the actual employer. This case shows the importance of assignment of clear responsibility for criminal background screening to identify applicants with a propensity for violence.

Source: Atkinson, William. (2001, March 1). Keeping Violent Employees Out Of The Workplace. *Risk Management*, No. 3, Vol. 48, p. 12

## **2. Identify Jobs, Positions, and Responsibilities of Persons Who Will Receive and Adjudicate Criminal History Background Information**

- Ensure training of personnel who will be acquiring, viewing, and adjudicating this information.
- Consider the appropriate level of discretion based on whether the recipient is a single-entity (e.g., an individual or business) or a regulatory agency.

- Consider establishing a certification program for all personnel who will be adjudicating criminal history record information.

## **3. Establish Thresholds for Crime in Keeping with Well-Reasoned Selection Standards**

- Promote national standards on what constitute reasonable steps to screen applicants for different types of positions, such that both the rights of applicants are protected and private companies and regulatory agencies are less vulnerable to unreasonable charges of negligent hiring/licensing when something goes wrong.
- Determine whether there are certain positions for which specific offenses require disqualification of applicants. There is no consensus about whether laws should mandate disqualification for certain positions based on presence of criminal histories. Instead, different approaches include:
  - Having standards on what information may be disseminated, but giving discretion to authorized licensing boards and individual agencies in determining whether information is disqualifying or not. For example, Texas state law establishes what information employers are entitled to. It doesn't state what offenses are disqualifying.
  - Allowing employers to receive all information and evaluate each applicant on the merits of his/her own case, individually
  - Identifying crimes for which specific types of applicants will be rejected, regardless of mitigating conditions.
- Determine disqualifying crimes independent of felony and misdemeanor classification due to differences in classifications of crimes between different states. For an example of how to define crimes

independent of level classification, refer to the Illinois Department of Public Health Nurse Aide Registry website's "Disqualifying Convictions in Accordance with the Health Care Worker Background Check Act [225 ILCS 46]" located at <http://www.idph.state.il.us/nar/disconvictions.htm>.

- Assign responsibility for evaluating significance of offenses that are not automatically disqualifying to a senior administrator who should be trained to consider:
  - The limitations of the criminal history record
  - The location and date of the prior record
  - Current felony charge within the arresting state within the past 2 years warrants further investigation whereas a felony charge occurring across the country 20 years ago may not (Bowker, 1995).
  - Nature of arrests and convictions
  - Number of arrests and convictions
  - Evidence of rehabilitation
  - Evidence of restitution
  - Evidence of acceptance of responsibility/accountability
  - Vulnerability of individuals or sensitivity of information
  - Circumstances surrounding crimes
  - The need for further investigation
- Develop model screening standards for different types of positions in keeping with their respective levels of responsibility.
- Abide by laws that prohibit denying a license or employment to a convicted offender.

#### **Text Box 15: Model Screening Policies and Procedures**

For model criminal history record check procedures and policy, refer to the website of St. Louis University at: [http://www.slu.edu/services/HR/policies\\_criminal.html](http://www.slu.edu/services/HR/policies_criminal.html)

#### **Text Box 16: The Need for Thorough Review of Employment or Volunteer Positions that Warrant Criminal Background Checks**

According to the victim's father, "that was his whole purpose of being there." The father was referring to the man convicted of murder who had been hired as a maintenance man in the daughter's apartment complex. Among the items found in the convict's apartment was the diamond engagement ring he stole from the murdered daughter. Around the time of the murder and following the date the maintenance man had been hired, tenants reported a rash of burglaries. One woman reported he had entered her apartment when no repairs were requested or needed. Had the apartment complex management conducted a criminal background checks prior to hiring him, they would have discovered a long list of previous convictions including rape, robberies, burglaries, and credit card theft. Janitors and maintenance staff are often exempt from criminal background checks when applying for employment. Cases like this one may justify conducting relevant criminal records checks for such personnel with unsupervised access to valuables and vulnerable populations.

#### **4. Where Appropriate, Require Applicants to Disclose Arrests and/or Convictions**

- Consider whether it is appropriate to specify the scope of years for which applicants must report crimes and incarcerations.
- Ensure hiring and volunteer applications forms ask about criminal arrests and convictions to the extent allowed by law.
- Ensure applicants complete the whole application form.

- Inform applicants that any missing or false information in the application could result in rejection of the application or termination of employment.

**Text Box 17: Considering the Felony that is More than 10 Years Old**

A children’s home for troubled children hired a known felon who was subsequently convicted of fourth-degree sexual assault of a 16-year-old girl. The felon could be hired by the center because his conviction was more than 10 years old.

Source: Associated Press. (2001, May 3). New Haven man sentenced for allegedly sexual assaulting teen-ager.

**5. Obtain Informed, Signed Consent of Subject to Request Criminal Records**

- Before they complete any applications, inform prospective employees or license or volunteer applicants that criminal history record checks will be conducted.
- Inform prospective employees or applicants of the manner in which their fingerprints will be used.
- Provide applicants with information about potentially or mandatory disqualifying crimes along with their application. Providing this information will enable applicants to self-exclude which will reduce burden on the system.
- Upon disapproving an application, inform prospective employees or volunteers of their rights to obtain, review, and seek correction to their criminal history record information.

- As part of the application process, provide applicants room to explain any arrests, charges, or convictions.
- Obtain consent from the prospective employees or applicants as part of the signed application.
- Get applicants' signatures on a separate form that meets the requirements of the Fair Credit Reporting Act if using a third-party firm to conduct background investigations.
- Establish a system for maintenance of consent forms.

**6. Obtain Fingerprints from the Applicant**

- Obtain fingerprints electronically whenever possible.
- Establish sound policies for maintenance of fingerprints.

**7. Conduct Adequate Checks for Evidence of Criminal History**

- Where systems are available, immediately upon application, submit required information for statewide fingerprint-based checks and forwarding to FBI for nationwide search, as authorized by applicable law.
- Conduct checks covering all locations as needed and authorized where volunteer, employee, or license applicant may have committed crimes, to include:
  - Nationwide check (FBI III)
  - Statewide check (state repositories)
  - Countywide check (court records)
  - Municipal check (court and law enforcement records)

## 8. Verify the Accuracy and Completeness of Applicants' Criminal History Record Information

- Provide the applicant with the opportunity to ensure the information is accurate and up to date. For an example of problems created when this is not done, refer to Text Box 18.
- Verify that records of arrest for disqualifying offenses that do not have dispositions have not been voided while being allowed to remain accessible in the CHRI database.
- Do not exceed the scope of years legally allowed for checking criminal histories.
- If further investigation is warranted based on evidence of criminal records, provide the applicant with an explanation as to why and ask him/her to provide verifiable information.

### **Text Box 18: The Need for Verifying Accuracy of CHRI and for Ensuring Correction of Successfully Challenged CHRI**

For more than four years, a retail sales job applicant was repeatedly rejected or quickly dismissed for employment. He didn't know that a shoplifting report erroneously linked him to a shoplifting offense. This report had been circulating to retailers who conducted background checks. The problem began when the applicant's wallet was stolen by a thief who, in turn, used his name and identification when arrested for shoplifting. Even after the applicant became aware of the report and provided proof of his innocence, the agency circulating the report failed to make corrections. The applicant sued the agency and settled out of court for \$73,680. This case highlights the danger to subjects of erroneous criminal history records and the liability risks to agencies that maintain inaccurate criminal records.

## 9. Establish Whether There Are Permissible Responsibilities While Awaiting Results of Criminal History Background Checks

- Determine whether applicants may be assigned any responsibilities while awaiting results of criminal background checks.
- Clarify the extent to which applicants can have contact with vulnerable persons or sensitive material before results of criminal record checks are known. (See Text Box 19.)

### **Text Box 19: The Potential Problem of Permitting Access to Vulnerable Populations Before Results of Criminal Records Checks are Known**

At the time he applied for a janitor job at a high school, a man was on parole for manslaughter. Three days after reporting to work, he was under arrest for the rape and murder of a female senior. He was found guilty on both charges. While the school had a policy of conducting criminal background checks on non-teaching positions, state law allowed districts to put temporary and substitute workers to work before results of their checks were known. This case highlights the need for review of such policies.

Source: Bailey, Eric. 2000. "Janitor Convicted of Rape and Murder." *Los Angeles Times*, August 31, 200, pg. A-3.

## 10. Establish a System for Rapid Response Upon Receipt of Disqualifying Criminal History Record Information

- Immediately suspend responsibilities of subjects of criminal records checks if disqualifying information is discovered,

pending review of information by applicant and any applicant appeals.

- Establish a system to track and immediately notify appropriate persons if individuals commit crimes subsequent to the criminal history check.

**Text Box 20: The Importance of Considering Circumstances Surrounding Offenses and Relevance to Position Before Disqualifying an Employee, Volunteer, or Applicant**

An ultrasound technologist was caught in the net of new legislation that temporarily or permanently barred from employment persons who had ever been convicted of serious offenses. In his case, he was removed from his job for nine weeks to undergo a mandatory rehabilitative process for a crime he had committed 28 years before. The crime was listed as “conspiracy to commit arson.” The technologist and other fellow college students were arrested for burning gasoline-soaked rags during a Vietnam War protest. The technologist acknowledged the act as immature and stupid. In the 28 years since that time, he received his certification as a radiologic or x-ray technician, completed a master’s degree in public health, raised a son, and built a 23-year solid track record of service in the health field. Regardless, the technologist was relieved of his responsibilities and had to spend close to a year clearing his name before being able to return to work.

**11. Provide Prospective Applicants or Employees Who Have Been Denied Selection With Rights of Appeal**

- Provide notice of and reasons for rejection.
- Provide opportunity to applicants to show they are not unsuitable for employment.

- Provide prospective employee or applicant with the opportunity to offer proof in opposition of the denial.
- Establish sound record-keeping policies for proceedings from appeals.
- Provide a right to a hearing.

**B. Protection of Criminal History Record Information By Recipients**

**1. Appoint a Criminal Record Custodian**

- Designate authorized persons to access and review criminal history record information.
- Ensure that the criminal record custodian complies with all regulations pertaining to the distribution of and access to criminal history record information.
- Require authorized persons with access to CHRI to sign a confidentiality agreement prior to receiving any criminal history record information.
- Ensure the confidentiality agreement prohibits disclosure of CHRI by the custodian after his/her tenure, except as otherwise required by the court or competent authority.

**2. Develop a Privacy Policy**

- Do not keep criminal history record information in employee files.
- Prohibit secondary dissemination of CHRI except to authorized recipients as established by law.

repositories should produce materials for this purpose.

### **3. Establish and Abide by Strict Procedures for Receipt and Handling of Fingerprints and Responses to Criminal History Records Checks**

- Retain criminal history record information in conformance with federal and state statutes.
- Retain copies of reports of “No Record.” These are important for closing the loop of investigations. “No Record” documentation establishes evidence that a CHRI check was done.
- Establish retention policies that protect both the privacy of information and the agency from the following types of challenges:
  - Person who is not hired
  - Someone who protests the hiring of a person
  - Person who is hired who does something unauthorized or illegal
- Keep retained records in a locked, secured place.
- Dispose of criminal history record information by shredding or burning, not by simply discarding.
- Maintain records on applicants for the following:
  - Date records requested
  - Date response was received
  - Date of notification that applicant was subsequently convicted of a relevant crime
  - Name of person making log entry
  - Date criminal history was destroyed
  - Signature of person making the log entry
- Use training resources for non-criminal justice agencies, such as booklets, on use of and enforcement of established protocols for security and dissemination of criminal history record information. State

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## Appendix B: States' Strategies for Submitting Criminal Records Checks Requests, Effective December, 2002

### States Offering Online Records Checks

Colorado Bureau of Investigation Records Check

<https://www.cbirecordscheck.com/index3.asp>

\$5.50 per name (requires name and dob, no consent of subject, arrests and dispositions, individual or batch)

Indiana Online Limited Criminal History Searches

<http://www.ai.org/isp/lch/>

\$20 per search for subscribers (which costs \$xx per year) or \$22 if paying by credit card

Massachusetts Criminal Offender Record Information

<http://www.state.ma.us/chsb/cori.html>

\$10 non-government certified agencies

\$0 government certified agencies

\$0 personal request

\$25 public request

\$10 attorney request

Nevada Department of Public Safety Records and Identification Bureau Online Application Form to Use Civil Name Check System

<http://nvrepository.state.nv.us/FingerprintDOCS/CivilNameCheckforBusinesses.pdf>

\$5 per name check

\$15 per fingerprint check (processed via local LEA by mail)

Ohio Bureau of Criminal Identification and Investigation WEBCHECK

<http://www.webcheck.ag.state.oh.us/Howtojoin.htm>

\$15 per record check

\$8 per annual update

Oregon State Police Public Records Unit Criminal History Record Checks

[http://www.osp.state.or.us/html/public\\_records\\_unit.html](http://www.osp.state.or.us/html/public_records_unit.html)

\$15 per request

South Carolina Law Enforcement Division (SLED) Carolina Access to Criminal Histories (CATCH)

<http://www.sled.state.sc.us/SLED/default.asp?Category=SLEDCRC&Service=CRC>

\$25.00 per name

\$8.00 charitable organizations

Texas Online Convictions Database

<http://records.txdps.state.tx.us/>

\$3.15 per query

Washington State Patrol Criminal History Records

<http://www.wa.gov/wsp/crime/crimhist.htm>

\$10 per name

Wisconsin Criminal History Record Check

<https://wi-recordcheck.org/account/html/logon.jsp>

Account request form:

<http://www.doj.state.wi.us/dles/cib/forms/index.asp - recordCheckForms>

\$2 non-profit

\$5 government agency

\$13 all others

### States Offering Online Forms for Mail or Fax

California Department of Justice Fingerprint Submissions Forms

<http://caag.state.ca.us/fingerprints/forms.htm>

\$24 federal

\$18 volunteers

\$32-\$52 others

Connecticut Department of Public Safety  
Division of State Police Bureau of  
Identification  
<http://www.state.ct.us/dps/SPBI.htm>  
\$25 per subject

Florida Department of Law Enforcement  
(FDLE) Obtaining Criminal History  
Information  
<http://www.fdle.state.fl.us/CriminalHistory/>  
\$15 per name  
\$39 fingerprint employee (includes FBI III  
check)  
\$33 fingerprint volunteer (includes FBI III  
check)

Hawaii Criminal Justice Data Center  
<http://www.state.hi.us/hcjd/form.htm>  
\$15 per name  
\$25 fingerprint or subject review

Idaho State Police Criminal Identification  
Criminal History Information  
[http://www.isp.state.id.us/identification/crime\\_history/index.html](http://www.isp.state.id.us/identification/crime_history/index.html)  
\$10 for fingerprint check  
\$10 per name  
Non-conviction CHRI requires signed  
waiver from subject of record

Illinois State Police Online Form to Email  
Request for Uniform Conviction  
Information Request Forms  
(Click on "Info Center" and then "How Do I  
Request Criminal History Information?"  
links)  
<http://www.isp.state.il.us/isphpagen.html>  
\$12 name check  
\$14 fingerprint-based check

Indiana State Police Limited Criminal  
History Search  
<http://www.ai.org/isp/lch/>  
\$7 civil purposes  
\$0 select volunteers and non-profits  
\$10 subject of record

Iowa Division of Criminal Investigation  
Request and Billing Forms for Iowa  
Criminal History Records  
<http://www.state.ia.us/government/dps/dci/crimhist.htm>  
\$13 per name

Massachusetts Criminal Offender Record  
Information (CORI)  
[http://www.state.ma.us/chsb/CORI\\_Forms.html](http://www.state.ma.us/chsb/CORI_Forms.html)  
\$10 non-government certified agencies  
\$0 government certified agencies  
\$0 personal request  
\$25 public request  
\$10 attorney request

Minnesota Department of Public Safety  
Bureau of Criminal Apprehension  
Computerized Criminal History Checks  
Sample Informed Consent Form  
<http://www.dps.state.mn.us/bca/Forms/Documents/Form-Intro.html>  
\$15 requires signed, notarized informed  
consent form from subject  
\$8 for non-profits

Missouri State Highway Patrol Criminal  
Records and Identification Division  
Online Request Form  
[http://www.msHP.state.mo.us/HP32P001.nsf/By Title/Request for Criminal Record Check?OpenDocument&ExpandSection=1 - Section 1](http://www.msHP.state.mo.us/HP32P001.nsf/By%20Title/Request%20for%20Criminal%20Record%20Check?OpenDocument&ExpandSection=1-Section1)  
\$5 per name  
\$14 per fingerprint check

New Hampshire Department of Safety,  
Division of State Police, Criminal Records  
<http://www.state.nh.us/safety/nhsp/cr.html>  
\$10 per name with signed consent  
\$23 school volunteers, \$34 school  
employees fingerprint state and FBI check  
\$5 non-profits

New Mexico Department of Public Safety  
Law Enforcement Records Bureau  
Authorization Release Form  
[http://www.dps.nm.org/dps/beta/record\\_request.pdf](http://www.dps.nm.org/dps/beta/record_request.pdf)  
\$7.00 requires signed notarized consent form

North Dakota Office of Attorney General  
Bureau of Criminal Investigation Non-Criminal Justice Request for Criminal History Record Information  
<http://www.ag.state.nd.us/BCI/CHR/NCJRform.pdf>  
\$20 per subject

Oklahoma State Bureau of Identification  
(click on "Open Records Act")  
<http://www.osbi.state.ok.us/>  
\$19 state fingerprint check  
\$41 FBI NCIC III check  
\$15 per name  
.25 cents per page copy fee

Pennsylvania CLEAN {link to JNET temporarily down – check again}  
<http://www.psp2.state.pa.us/bts/clean.htm>

Pennsylvania Online form to Request Criminal Record Check: Posted on Pennsylvania Department of Welfare  
<http://www.dpw.state.pa.us/ocyf/pdf/statepolice-bkgd.PDF>  
\$10 certified check or money order mailed to PA State Police, response mailed back to requester

Tennessee Bureau of Investigation  
Information Systems Division Records & Identification Unit  
[http://www.tbi.state.tn.us/divisions/isd\\_riu\\_applicants.htm](http://www.tbi.state.tn.us/divisions/isd_riu_applicants.htm)  
Tennessee Applicant Processing Services (TAPS) provides for electronic submission at processing centers  
State TAPS applicant \$32 / FBI III TAPS applicant \$56  
State TAPS volunteer \$26 / FBI III TAPS volunteer \$44

Texas Department of Public Safety  
Request for Public History Data Form  
<http://records.txdps.state.tx.us/cchrequest.pdf>  
\$10 per name

Vermont Crime Information Center "How to Obtain Criminal Record Checks in Vermont"  
<http://www.dps.state.vt.us/cjs/recordcheck.html>  
Instructions and forms for state and NCIC III checks.  
NCIC III \$34 or \$28 for volunteers  
\$10 state check fee waived for staff working with vulnerable populations

Utah Department of Public Safety Bureau of Criminal Identification Online Application for Criminal History Review  
<http://bci.utah.gov/Records/roa.pdf>  
\$10 requires fingerprints and signed consent

Virginia State Police Criminal Justice Information Services Criminal History Records Check  
[http://www.vsp.state.va.us/cjis\\_chrc.htm](http://www.vsp.state.va.us/cjis_chrc.htm)  
\$13 state  
\$24 FBI III

Wisconsin Division of Law Enforcement Services Crime Information Bureau Record Check Forms  
<http://www.doj.state.wi.us/dles/cib/forms/index.asp - recordCheckForms>  
\$2 non-profit  
\$5 government agency  
\$13 all others

## **States with No Apparent Online Criminal Record Check Services or Forms**

Alabama Criminal Justice Information Center  
<http://acjic.state.al.us/>  
Contact information only.

Alaska Department of Public Safety  
Administrative Services  
<http://www.dps.state.ak.us/admin/asp/>  
Mentions Alaska Public Safety Information  
Network (APSIN). No other information

Arizona Department of Public Safety  
<http://www.dps.state.az.us/cjsd/criminalinfo/svc/criminalrecords.htm>  
Authorization and contact information

Arkansas State Police  
<http://www.asp.state.ar.us/faqs.html>  
Contact information to obtain request and  
waivers forms

Delaware State Police Bureau of  
Identification  
[http://www.state.de.us/dsp/sbi.htm -  
CriminalHistory](http://www.state.de.us/dsp/sbi.htm - CriminalHistory)  
Only brief description

Georgia Crime Information Center  
<http://www.ganet.org/gbi/crimhist.html>  
Procedures and contact information  
\$15 per check

Kansas Bureau of Investigation Criminal  
Justice Information System  
[http://www.accesskansas.org/kbi/about\\_stru  
cture\\_cjis.htm](http://www.accesskansas.org/kbi/about_structure_cjis.htm)  
Description and email link

Kentucky State Police  
[http://www.kentuckystatepolice.org/faq.htm  
- 4](http://www.kentuckystatepolice.org/faq.htm - 4)  
Contact information in FAQs  
\$10.00 fee charged for each background  
check  
Requests must be submitted in person, or by  
mail. No electronic transmissions or faxes.

Louisiana State Police Bureau of Criminal  
Identification and Information  
[http://www.lsp.org/who\\_support.html -  
criminal](http://www.lsp.org/who_support.html - criminal)  
Contact information

Maine Department of Public Safety Bureau  
of Identification (SBI)  
[http://www.state.me.us/dps/msp/web\\_tour/  
our\\_page\\_20.htm](http://www.state.me.us/dps/msp/web_tour/our_page_20.htm)  
Agency description. No contact or other  
information.  
SBI criminal history records checks forms  
are included with specific licensing  
applications  
\$8 per check

Maryland Department of Public Safety CJIS  
Central Repository  
<http://www.dpscs.state.md.us/dsd/dsder.htm>  
Contact information  
Must request authorization number and state  
from CJIS  
\$18 per check

Michigan State Police Search, Modify,  
Locate Criminal Records  
[http://www.michigan.gov/msp/0,1607,7-  
123-1589\\_1878\\_8311-10418--,00.html -  
nofp](http://www.michigan.gov/msp/0,1607,7-123-1589_1878_8311-10418--,00.html - nofp)  
Procedures and contact information  
\$30 fingerprint check  
\$10 per name

Mississippi Department of Public Safety  
Criminal Information Center  
[http://www.dps.state.ms.us/dps/dps.nsf/divp  
ages/ss2cic?OpenDocument](http://www.dps.state.ms.us/dps/dps.nsf/divpages/ss2cic?OpenDocument)  
Contact information via "Contact Us" link

Montana Criminal Justice Information  
Services Bureau  
<http://www.doj.state.mt.us/itsd/cjisb.htm>  
Contact information

Nebraska State Patrol Criminal History  
Reports  
[http://www.nsp.state.ne.us/findfile.asp?id2=  
174](http://www.nsp.state.ne.us/findfile.asp?id2=174)  
\$10 per subject  
Procedures and contact information

New Jersey State Police Criminal History  
Records Checks

[http://www.njsp.org/about/serv\\_chrc.html](http://www.njsp.org/about/serv_chrc.html)

\$15 per name

\$25 fingerprint check

Procedures and contact information

New York State Division of Criminal  
Justice Services

<http://criminaljustice.state.ny.us/>

No information

North Carolina State Bureau of  
Investigation Division of Criminal  
Information

<http://sbi.jus.state.nc.us/>

Contact information.

Rhode Island Attorney General Bureau of  
Criminal Identification Access to Public  
Records Form

<http://www.riag.state.ri.us/criminal/investig.html>

\$15 per hour

\$.15 per copied page

South Dakota Division of Criminal  
Investigation Identification Section

<http://www.sddci.com/administration/id/index.htm>

\$15 fee for request by subject of record;  
otherwise instructions on calling for forms

West Virginia State Police

<http://www.wvstatepolice.com/>

Record contact phone number via  
“Contacts” link

Wyoming

<http://attorneygeneral.state.wy.us/dci/>

Contact information. Procedures available  
via FAQs “Fingerprint and Criminal History  
Checks” link:

<http://attorneygeneral.state.wy.us/dci/chc.html>

\$15 + \$5 for fingerprinting

\$10 + \$5 for fingerprinting for volunteers

## Appendix C: Expert Contributors<sup>2</sup>

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