

Next Generation Identification Audit Outline Noncriminal Justice Access to Criminal History Record Information

This outline summarizes requirements for access to criminal history record information (CHRI) for noncriminal justice purposes assessed during Next Generation Identification audits conducted by the Federal Bureau of Investigation's (FBI) Criminal Justice Services (CJIS) Division, CJIS Audit Unit. The outline can be used as a checklist to conduct audits or to advise audit participants on what to expect during an audit. The outline serves as a supplement to the National Crime Prevention and Privacy Compact Council's (Council) *Audit Guide* and corresponds to requirements in the *Next Generation Identification Audit Noncriminal Justice Access to Criminal History Record Information Policy Reference Guide* and the Council's Noncriminal Justice Online Policy Resources.

1. Use of CHRI

a. Authorized Requests

- Fingerprint-based and name-based requests for CHRI must be submitted pursuant to an existing authority approved for use by the FBI.
- Subjects of a request for CHRI (i.e., applicant types) must be covered by the authority designated for use in requesting the CHRI.
- CHRI must not be requested for a future anticipated need (i.e., a need does not actually exist at the time the request is made).

b. Implementation

- Applicable administrative and procedural provisions associated with the authority designated for use in fingerprint-based and name-based requests for CHRI must be met.
- Examples of implementation requirements include:
 - Obtaining FBI approval of state statutes for use of Public Law 92-544.
 - Obtaining FBI approval for use of Sections 151 and 153 of the Adam Walsh Act.
 - Obtaining signed statements required by use of National Child Protection Act/Volunteers for Children Act (NCPA/VCA).
 - Obtaining signed waivers required by use of an NCPA/VCA VECHS program.
 - Obtaining FBI approval and use of a "Q" ending Originating Agency Identifier (ORI) for Purpose Code H name-checks required by use of the Housing Opportunity Program Extension (HOPE) Act.
 - Submitting follow-up fingerprints within 15 calendar days after conducting a Purpose Code X name-based check required by the Council's Fingerprint Submission Requirements rule and the Amended Florida Proposal.

c. Re-use

- CHRI received as a result of fingerprint-based and name-based requests must only be used for the specific purpose requested.
- CHRI received as a result of fingerprint-based and name-based requests may only be re-used for authorized purposes.
 - Coordination with the FBI is highly recommended prior to implementation of processes that include any re-use of CHRI.

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2. Dissemination of CHRI

a. Authorized Recipients

- CHRI received as a result of fingerprint-based and name-based requests must only be disseminated to authorized receiving departments and related agencies relative to the authority designated for use in requesting CHRI. Examples of dissemination requirements include:
 - CHRI obtained under Public Law 92-544, NCPA/VCA, and Serve America Act must only be disseminated to governmental agencies.
 - CHRI obtained under the Adam Walsh Act or under an NCPA/VCA VECHS program may be disseminated to certain non-governmental entities, such as private schools or private nursing homes, respectively.
 - CHRI received as a result of a Purpose Code H name-based requests under the HOPE Act must not be disseminated to housing agencies.
- Authorized related agencies typically include other agencies/entities involved in a single adjudication or other agencies/entities to which CHRI is shared for authorized re-use.

b. Jurisdictional Control

- CHRI received as a result of fingerprint-based and name-based requests must not be disseminated outside permissible limits of jurisdictional control and agencies/entities outside a jurisdiction cannot be designated as related. Examples of unauthorized dissemination include:
 - A state governmental agency sharing CHRI received under Public Law 92-544 with a governmental agency in another state.
 - Sharing initiatives involving participation in national compacts, associations, or databases.

c. Public Access

- CHRI received as a result of fingerprint-based and name-based requests must not be disseminated to the general public, to include maintaining CHRI formats accessible to the public or releasing CHRI as part of public records requests.
- CHRI may be disclosed at a meeting/hearing open to the public as part of an adjudication process if specific conditions are met.

d. Subject of a Record

- CHRI received as a result of name-based requests must not be disseminated to the subject of the request.
- CHRI received as a result of fingerprint-based requests must only be disseminated to the subject of the record or the subject's attorney. CHRI must not be disseminated to spouses or other household members.
- Applicants must not be given their record and then directed/obligated to provide CHRI to agencies not otherwise permitted to have access.

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3. Purpose for Disclosure of CHRI

a. Reason Fingerprinted (RFP) Field

- The RFP field must accurately reflect the statutory authority and/or the purpose (i.e., applicant type) of the request for CHRI.
- The RFP field must provide a reasonable level of specificity regarding the statutory authority and/or purpose of the request for CHRI (i.e., not overly broad).
 - If an agency is responsible for submitting fingerprints for multiple applicant types (pursuant to one or more statutory authorities), then the RFP field must accurately reflect the single statutory authority and/or purpose corresponding to the specific applicant type, as opposed to the RFP field reflecting all of the possible statutory authorities and/or purposes in each submission.
 - If a single fingerprint submission is made for multiple applicant types, which are known to legitimately exist at the time of submission, then the RFP field must accurately reflect the multiple statutory authorities and/or multiple purposes.

b. Interstate Identification Index (III) Purpose Codes

- The correct purpose code must be used for name-based III queries.

c. Reason for Request

- Reasonably specific supporting information must be provided during audits in order to confirm fingerprint-based and name-based requests for CHRI are for authorized purposes.
- Reasonably specific supporting information must be provided during audits in order to confirm the accuracy of the RFP field and correct III purpose code usage.

4. Applicant Notification and Record Correction

a. Privacy Act Statement

- All applicants (i.e. subjects of a request for CHRI) must be provided a written FBI Privacy Act statement or substantively similar language (2013 version or later).

b. Procedures to Correct a Record

- All applicants (i.e. subjects of a request for CHRI) must be provided written notice regarding procedures for accessing and correcting their FBI record (found at Title 28, Code of Federal Regulations, Section 16.34).

c. Opportunity to Correct a Record

- All applicants (i.e. subjects of a request for CHRI) must be provided the opportunity to correct their FBI records (if such records exist) regardless of the record's effect on the outcome of the adjudication.

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5. User Fee

a. Criminal Justice

- Fingerprint checks for screening criminal justice agency employees or applicants for employment (sworn and non-sworn) may be submitted as no-fee type of transactions.
- Fingerprint checks for screening those under contract with a criminal justice agency, where the contractor is performing services for the administration of criminal justice, may be submitted as no-fee type of transactions.
- Fingerprint checks for screening those under contract with a criminal justice agency, where the contractor is not performing services for the administration of criminal justice but has unsupervised access to the facility, may be submitted as no-fee type of transactions.
- Fingerprint checks for screening employees of contractors to whom an entire administration of criminal justice function has been outsourced, such as a private prison or dispatch center, must be submitted as full user fee type of transactions.

b. Volunteer

- Fingerprint checks for screening noncriminal justice applicants, who are not volunteering to provide care for children, the elderly, or individuals with disabilities, must be submitted at the full user fee rate.
- Fingerprint checks for screening volunteers, who provide care for children, the elderly, or individuals with disabilities, may be submitted at the reduced user fee rate (Type of Search Request value of “V”).