FDLE

Florida Department of Law Enforcement

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CRIMINAL HISTORY RECORD CHECKS / BACKGROUND CHECKS
FACT SHEET
JULY 7, 2011

Definitions:

Criminal History Record Check: The term "background check" is often used interchangeably with "criminal history check" or "criminal history record check" which causes some confusion. Some companies use the phrase "background check" to include drivers record, credit history, or interviews with neighbors and employers. From the Florida Department of Law Enforcement (FDLE) perspective, a background check is a criminal history record check to determine if a person has been arrested and/or convicted of a crime. For the purposes of this paper, it is a search of the following databases:

- the Florida Computerized Criminal History (CCH) Central Repository for Florida arrests (**STATE CHECK**),
- the Florida Computerized Criminal History Central Repository for Florida arrests AND the national criminal history database at the FBI for federal arrests and arrests from other states (**STATE AND NATIONAL CHECK**) and
- the Florida Crime Information Center for warrants and domestic violence injunctions (**HOT FILES CHECK**).

A national criminal history record check is based on the submission of fingerprints. State criminal history record checks are based on a name (and other descriptors) or fingerprints.

Level 1 and Level 2 Background Checks: Level 1 and Level 2 Background Checks are terms used in Florida Statutes to convey the method of the criminal history record check and the extent of the data searched. However, the terms may also refer to certain disqualifying offenses if certain statutes are referenced. Level 1 and Level 2 are terms that pertain only to Florida and are not used by the FBI or other states. They are defined in Chapter 435, Florida Statutes (F.S.), but are used elsewhere in statute without definition and appear not to be associated with all of the provisions in Chapter 435, F.S.

- **Level 1** generally refers to a state only name based check AND an employment history check.
- **Level 2** generally refers to a state and national fingerprint based check and consideration of disqualifying offenses, and applies to those employees designated by law as holding positions of responsibility or trust. Section 435.04, F.S., mandates Level 2 security background investigations be conducted on employees, defined as individuals required by law to be fingerprinted pursuant to Chapter 435, F.S.

It should be noted that both the state and national criminal history databases can be searched for arrests, warrants, and other information pertaining to an individual. However, neither database has the capability of searching for specific offenses within an individual record.

Frequently Asked Questions Regarding Criminal History Record Information

1. Are local criminal history record checks available?

Yes. Local criminal history record checks can be obtained directly from each county and reflects criminal history information solely from their jurisdiction.

2. Are state only criminal history record checks available?

Yes. FDLE provides public access to Florida criminal history information consistent with Section 943.053, F.S. The fee for a state criminal history record check has been statutorily set at $24.00 per record check. These checks are performed by a name request or submitting a fingerprint card.

State criminal history record checks can be obtained by mail at:

Florida Department of Law Enforcement
Attn: Criminal History Services
Post Office Box 1489
Tallahassee, FL 32302-1489

Requests should include a return address, the subject's name and any known aliases, date of birth or approximate age, race, sex and social security number (optional). A check or money order for $24.00, made payable to FDLE, per record check must accompany the request. This process takes approximately five business days excluding postal delivery time.

State criminal history record checks can also be obtained online through our Computerized Criminal History on the Internet (CCHInet) service at https://www2.fdle.state.fl.us/CCHinet/. The $24.00 fee will be made payable by a valid credit card (Visa, MasterCard, Discover or American Express). Users will process the criminal history record check online with the results presented during the session. Requests for certified (notarized) criminal history results can not be processed through CCHInet. Such requests must be made via mail.

Contact Criminal History Services at (850) 410-8109 or BackgroundChecks@fdle.state.fl.us for questions regarding state only criminal history record checks.

3. Is there a presumption against negligent hiring when an employer conducts a background investigation of a prospective employee?

Yes. Pursuant to Section 768.096, F.S., in the case of an intentional tort, an employer is presumed not to have been negligent in hiring an employee if before hiring the employee, the employer conducted a background investigation of the prospective employee and the information did not reveal any information that reasonably demonstrated unsuitability of the prospective employee for the work to be performed or for general employment. The background investigation must include a criminal background investigation.

The statute specifically provides if an employer requests and obtains from FDLE a state criminal history record check, the employer has satisfied the criminal background investigation requirement for the presumption.

4. **Can I get warrant information or sexual offender/predator information without performing a criminal history record check?**

   Yes. Independent of a criminal history record check, the public can access this information free of charge. FDLE's Public Access System at http://pas.fdle.state.fl.us provides information on wanted persons and missing persons.

   Sexual offender and predator information can be obtained at http://offender.fdle.state.fl.us. This site allows the public to perform several types of searches including by offender, neighborhood and email address.

5. **What are the requirements for a state criminal history record check and national criminal history record check?**

   State Check: May be obtained by submitting a name request or by submitting a fingerprint card.

   National Check: The following must be in place, as required by the FBI, to receive a national criminal history record check:

   - A statute must exist as a result of a legislative enactment;
   - It must require the fingerprinting of applicants who are subject to a national criminal history record check;
   - It must expressly ("submit to the FBI") or by implication ("submit for a national check") authorize the use of FBI records for the screening of applicants;
   - It must identify the specific category(ies) of licensees/employees falling within its authority;
   - It must not be against public policy;
   - It may not authorize receipt of the criminal history record information by a private entity;
   - The recipient of the criminal history record check results must be a governmental entity;
   - The entity must sign a User Agreement indicating it will comply with the terms and conditions set forth in rule by the FBI; and
   - The fingerprint submission must be first processed through the state repository for a search of its records.

6. **What entities are statutorily authorized to receive a state and national criminal history background check?**

STATUTORY REFERENCE (F.S.)	REGULATORY AGENCY	GROUPS SUBJECT TO CHECK
435.04, 112.0455	Agency for Health Care Administration (AHCA); Division of Health Quality Assurance (HQA)	Drug free workplace labs
435.04, 381.60225	AHCA; Division of HQA	Organ transplant advisory council
435.04, 383.305	AHCA; Division of HQA	Birth centers
435.04, 390.014	AHCA; Division of HQA	Abortion clinics
435.04, 400.9065	AHCA; Division of HQA	Prescribed pediatric extended care centers
435.04, 400.964	AHCA; Division of HQA	Intermediate care facilities for developmentally disabled
435.04, 395.003	AHCA; Division of HQA	Hospitals and surgical facilities
435.04, 408.802	AHCA; Division of HQA	Private review agents
435.04, 400.071	AHCA; Division of HQA	Nursing homes
435.04, 429.174	AHCA; Division of HQA	Assisted living facilities
435.04, 400.953	AHCA; Division of HQA	Home medical equipment providers
435.04, 400.512	AHCA; Division of HQA	Companion and homemaker service agencies
435.04, 394.875	AHCA; Division of HQA	Crisis stabilization units and residential treatment facilities
435.04, 400.980	AHCA; Division of HQA	Health care services pools
435.04, 400.991	AHCA; Division of HQA	Health care clinics
435.04, 400.512	AHCA; Division of HQA	Home health agencies
435.04, 400.512	AHCA; Division of HQA	Nurse registries
435.04, 429.67	AHCA; Division of HQA	Adult family-care homes

STATUTORY REFERENCE (F.S.)	REGULATORY AGENCY	GROUPS SUBJECT TO CHECK
435.04, 429.907	AHCA; Division of HQA	Adult day cares
435.04, 400.6065	AHCA; Division of HQA	Hospices
435.04, 400.801	AHCA; Division of HQA	Homes for special services
435.04, 400.805	AHCA; Division of HQA	Transitional living facilities
435.04, 483.101	AHCA; Division of HQA	Clinical laboratories
435.04, 483.30	AHCA; Division of HQA	Multiphasic health testing services
435.04, 400.215	AHCA; Division of HQA	Employees of nursing home facilities
409.907	AHCA; Division of Medicaid	Medicaid providers
68.07(2)(a)	Clerks of the Court	Name change petitioner
744.3135	Clerks of the Court	Non professional guardians
744.3135	Clerks of the Court, Department of Elder Affairs (DOEA)	Professional or public guardians
957.13	Private Correctional Facilities	Private correctional facility employment
943.13	Criminal Justice Agencies	Criminal justice employment
943.14(8)	Criminal Justice Training Schools	Criminal justice training school applicants
455.02	Dept. of Business and Professional Regulation (DBPR)	Licensure by spouses of Armed Forces personnel
849.086	DBPR; Division of Pari-mutuel wagering	Card room occupational licensees
550.105, 550.054	DBPR; Division of Pari-mutuel wagering	Pari-mutuel wagering permits; racetrack employees
551.107	DBPR; Division of Pari-mutuel wagering	Slot machine licensees

STATUTORY REFERENCE (F.S.)	REGULATORY AGENCY	GROUPS SUBJECT TO CHECK
561.17(1)	DBPR; Division of Alcoholic Beverages and Tobacco	Alcoholic beverage manufacturer, bottler, distributor, seller
498.031	DBPR; Division of Florida Land Sales	Subdivider registration licensees
326.004	DBPR; Division of Mobile Homes	Yacht and ship brokers licensees
468.525, 468.524(4)(c)	DBPR; Division of Professions	Employee leasing companies
468.453	DBPR; Division of Professions	Athlete agent licensees
468.402, 468.403	DBPR; Division of Professions	Talent agency licensees
548.024	DBPR; Division of Professions	Pugilistic exhibitions license
489.115	DBPR; Division of Professions	Construction industry licensees
468.8413	DBPR; Division of Professions	Mold related services licensure
468.8313	DBPR; Division of Professions	Home inspector licensees
475.175	DBPR; Division of Real Estate	Real estate licensees
468.433	DBPR; Division of Real Estate	Licensing of community association managers
475.615	DBPR; Division of Real Estate	Real estate appraiser applicants and real estate appraiser management companies
402, 409, 435.04	Dept. of Children and Families (DCF)	Child care facility, family day care home, family foster home, residential child caring agency, child placing agency, summer or recreation camp owners and operators
394, 435.04	DCF	As above plus “mental health facilities and programs providing care for children – directors, professional clinicians, staff members and volunteers”
393, 435.04	DCF, Agency for Persons with Disabilities (APD)	As above plus “day care or residential caretakers providing treatment to retarded or developmentally disabled individuals (children or adults)”

STATUTORY REFERENCE (F.S.)	REGULATORY AGENCY	GROUPS SUBJECT TO CHECK
397, 435.04	DCF	As above plus “treatment resource personnel including program directors, staff volunteers and foster parents providing alcohol/drug abuse treatment for minors”
39.0138, 435.04	DCF	As above plus “persons considered for placement of dependent children”
984, 985, 435.04	DCF, Dept. of Juvenile Justice (DJJ)	As above plus “juvenile delinquency programs personnel providing care for children”
552.092(2)	Dept. of Financial Services (DFS); Bureau of Fire Investigation	Explosive blasters/dealers/users Manufacture-distribution
633.34(3)	DFS; Bureau of Fire Standards and Training	Firefighters
648.34(4)	DFS; Division of Agent and Agency Services	Bail bond agents
624.34	DFS; Division of Agent and Agency Services	Insurance agents
624.34, 626.171, 626.172, 626.201	DFS; Division of Agent and Agency Services	Insurance licensure
215.5586	DFS; Division of Agent and Agency Services	Hurricane mitigation inspectors
497.142	DFS; Division of Funeral, Cemetery and Consumer Services	Funeral and cemetery related licensees
517.12(7)	DFS; Division of Securities	Securities dealers and associates, investment advisors
320.27, 320.77, 320.771	Dept. of Highway Safety and Motor Vehicles (DHSMV); Division of Motor Vehicles	Motor vehicle, mobile home and recreational vehicle dealers licensees
488.06	DHSMV; Division of Motor Vehicles	Commercial driving school instructors, agents and employees
539.001(5)	Dept. of Agriculture and Consumer Services (DOACS); Division of Consumer Services	Pawn broker licensees
790.06	DOACS; Division of Licensing	Concealed weapon/firearm licensees

STATUTORY REFERENCE (F.S.)	REGULATORY AGENCY	GROUPS SUBJECT TO CHECK
493.6105(3), 493.6108(1)	DOACS; Division of Licensing	Private investigative agencies, private investigators, private security and repossessors
1002.395	Dept of Education (DOE) – Office of Independent Education and Parental Choice	Owner or operator of eligible nonprofit scholarship-funding organization
1012.35, 1012.32, 1012.465, 1012.56	DOE - Public School Boards	Public school system employment/certification/contractors
413.011(7)	DOE – Division of Blind Services	Division employees
409.221, 430.0402	Department of Elder Affairs (DOEA)	Consumer Directed Care program
430.0402	DOEA	Agencies on Aging
430.0402	DOEA	SHINE Program
430.0402	DOEA	Long Term Care Ombudsman Program
943.0542	FDLE; Volunteer and Employee Criminal History System (VECHS)	Qualified entities under the National Child Protection Act
454.026	Florida Bar	Bar applicants
24.108(4)	Florida Lottery	Lottery vendors, lottery retailers, and lottery employees
39.821, 435.04	Florida Statewide Guardian Ad Litem Office	Guardian Ad Litem program
499.63	Dept. of Health (DOH); Division of Health Access	Ether license for manufacturers, distributors and dealers; ether permit for purchasers
499.012(4)	DOH; Division of Health Access	Prescription drug wholesaler permit
458.311, 458.313, 458.319	DOH; Division of Medical Quality Assurance (MQA)	Physicians license and renewal
459.0055, 459.008	DOH; Division of MQA	Osteopathic physicians license and renewal

STATUTORY REFERENCE (F.S.)	REGULATORY AGENCY	GROUPS SUBJECT TO CHECK
460.406, 460.407	DOH; Division of MQA	Chiropractors
461.006, 461.007	DOH; Division of MQA	Podiatrists
456.0391	DOH; Division of MQA	Advanced registered nurse practitioners
400.215, 464.203	DOH; Division of MQA	Certified nursing assistants
468.803	DOH; Division of MQA	Orthotist, Prosthetist and Pedorthist
464.009	DOH; Division of MQA	Nursing applicants for endorsement licensure
465.022	DOH; Division of MQA	Pharmacy permits and prescription department managers
2001-299, Laws of Florida	Hillsborough County Public Transportation Commission	Certification and public vehicle driver's licenses
285.18(3)	Miccosukee and Seminole Tribe Police Dept.	Tribal education, Head Start or day care programs
285.18(3)	Miccosukee and Seminole Tribe Police Dept.	Tribal government employment
285.18(3)	Miccosukee and Seminole Tribe Police Dept.	Tribal gaming employees, primary management officials and persons having a financial interest in a class II Indian tribal gaming enterprise
538.09	Dept. of Revenue (DOR)	Second hand dealer licensees
538.25	DOR	Secondary metals recycler licensees
206.026(5)	DOR	Motor fuel licensees
961.05	Office of the Attorney General	Applicants for compensation for wrongful incarceration
494.00321	Office of Financial Regulation	Mortgage broker licensees
494.00611	Office of Financial Regulation	Mortgage lender licensees
494.00312	Office of Financial Regulation	Loan originator licensees
537.004	Office of Financial Regulation	Title loan lender licensees

STATUTORY REFERENCE (F.S.)	REGULATORY AGENCY	GROUPS SUBJECT TO CHECK
560.141	Office of Financial Regulation	Money services business licensees
110.1127	State Agencies	Designated state employees
427.012	Dept. of Transportation (DOT); Commission for the Transportation Disadvantaged	Candidates for appointment
125.5801 plus individual County ordinance	VOLUNTARY: Various County governments and municipalities	Various County government employees and volunteers
166.0442 plus individual City ordinance	VOLUNTARY: Various County governments and municipalities	Various City government employees and volunteers
373.6055	Water Management Districts	Water management facility employees and designees

7. What is the cost of a criminal history record check?

CUSTOMER TYPE	State Fee	Federal Fee *HARD CARD*	Federal Fee *ELECTRONIC*	State Fee + Federal Fee *HARD CARD*	State Fee + Federal Fee *ELECTRONIC*
Applicant / Licensees --- Required Checks					
Department of Children & Families, Department of Juvenile Justice, Department of Elder Affairs Vendors and Guardian Ad Litem: (examples include – day care center employees, juvenile treatment centers)	**$8.00**	**$30.25**	**$19.25**	**$38.25**	**$27.25**
Department of Agriculture & Consumer Services (examples include – concealed weapon permit applicants, security guards)	**$15.00**	**$30.25**	**$19.25**	**$45.25**	**$34.25**
Criminal Justice Applicants (examples include – law enforcement, corrections, correction probation officers)	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**
All other applicant required checks (examples include – realtors, insurance agents, school employees, Florida Bar applicants, foster care, doctors, nursing home employees)	**$24.00**	**$30.25**	**$19.25**	**$54.25**	**$43.25**
Volunteer and Employee Criminal History System (VECHS) --- Allowed Checks					
Employees (employees of a *qualified entity* that provides care to children, elderly or disabled persons --- that are not specifically required under the applicant groups above)	**$24.00**	**$30.25**	**$19.25**	**$54.25**	**$43.25**
Volunteers (volunteers of a *qualified entity* that provides care to children, elderly or disabled persons --- that are not specifically required under the applicant groups above)	**$18.00**	**$15.25**	**$15.25**	**$33.25**	**$33.25**

CUSTOMER TYPE	State Fee	Federal Fee *HARD CARD*	Federal Fee *ELECTRONIC*	State Fee + Federal Fee *HARD CARD*	State Fee + Federal Fee *ELECTRONIC*
Public Record Checks --- Allowed Checks					
Requests From General Public, Businesses, and Any Governmental or Non-Governmental Entity	**$24.00**	**Federal Checks Not Allowed**	**Federal Checks Not Allowed**	**Federal Checks Not Allowed**	**Federal Checks Not Allowed**

8. How is the cost established and what are they used for?

The cost of each request for a criminal history record check is mandated by federal laws and Section 943.053, F.S. These fees are used to offset the cost of producing the record information and reflect the total cost of creating, storing, maintaining, updating, retrieving, improving and providing criminal history information in a centralized, automated database and also include personnel, technology and infrastructure expenses.

9. What are the costs associated with criminal history record checks for school district personnel and contractors?

The total cost of the criminal history record check is $43.25 ($24.00* for the state check and $19.25 for the national check). Applicants may incur additional costs assessed by individual school districts and Cogent (or another livescan service provider). In accordance with Section 1012.467(2)(a), F.S., the fee charged by school districts for contractor identified checks may not exceed 30% of the total amount charged by FDLE and the FBI. Any questions related to these fees should be directed to the applicable school district or the Florida Department of Education.

*This amount for the state check may vary based on legislative policy.

NOTE: ***If a customer chooses to make electronic submissions via a livescan service provider, the service provider may assess a fee in addition to the criminal history record check fee.***

10. Besides the agencies statutorily required to conduct criminal history record checks, are there others who are allowed to request criminal history checks on individuals?

Yes. Private citizens, companies and governmental entities are authorized under Florida's public records law to request a state only criminal history record check (See Question 2). Examples of these entities include grocery stores, taxi drivers, summer camp employees, etc. Additionally, provisions of the National Child Protection Act, implemented through FDLE's Volunteer and Employee Criminal History System (VECHS) program, authorize criminal history record checks of employees and volunteers of certain qualified entities that provide care to children, the elderly or disabled persons. See Questions 36-40 below for more information about the VECHS program.

11. What issues should be considered when determining if a criminal history record check is out of date?

Section 943.051, F.S., established FDLE, Division of Criminal Justice Information Services, as the central repository of criminal history information for the state of Florida. Over one million arrests a year are added to the repository. Additionally, information such as warrants, domestic violence injunctions/protection orders, probation or supervision release status, sexual predator/offender, career criminal offender, etc. are added on a daily basis. Therefore, criminal history record check results are only accurate as of the date they were performed.

12. Are there Florida criminal history records included in the state repository, but not at the FBI?

Yes. FDLE has records the FBI does not have access to because they are not collected at the FBI.

13. What information from a state and national criminal history background check can be disclosed to a private employer?

Pursuant to federal law, regulatory and employing agencies may not share any information obtained from a state and national criminal history record check with a private entity. However, these agencies can indicate whether or not the person is eligible for licensing or employment based on their established criteria. Prior to being granted access to the records, authorized agencies must sign a Criminal Justice or Non-Criminal Justice User Agreement with FDLE agreeing to abide by state and federal law.

14. When can a non-governmental agency receive the results of a state and national background check?

Non-governmental entities are not authorized to receive both state and national criminal history information under statutory licensing and employment provisions. The only time non-governmental entities are eligible to obtain national criminal history information is through the VECHS program, which is described in detail in Questions 36-40 below.

15. Can agencies share the results of a state and national check with other agencies that require similar checks?

Although generally state and national criminal history information may <u>not</u> be shared between agencies, exceptions apply only if the purposes of the criminal history record checks are the same and the agencies are both entitled to the same information. Thus, school districts may share criminal history information with other school districts because the checks are conducted for the same purpose and all districts receive the same data (for example, they receive sealed criminal history information). Likewise, a county health department could share with another county health department because criminal history record checks are conducted for the same purpose and they receive the same data.

Sharing of criminal history information is not allowed when it has been obtained for different purposes, even if the data received is the same. For example, criminal history information received by the Department of Financial Services for licensing insurance agents may <u>not</u> be

shared with the Department of Agriculture and Consumer Affairs for licensing of security guards.

For those entities participating in the VECHS program, criminal history information sharing between VECHS entities is permitted in accordance with the User Agreement. Entities must contact the VECHS Unit at (850) 410-8324 for entity verification before sharing criminal history information.

16. Are agencies required to conduct a recheck on individuals who previously received a criminal history record check?

FDLE does not have any requirements for rechecks. However, some employees are required by law or policy to have periodic state and/or national criminal history record checks through the regulatory or licensing agency. The recheck may be required at regular intervals as decided by legislative policy.

17. Can a copy of the FDLE and FBI criminal record be provided to applicants if they are denied employment, licensing, or the opportunity to volunteer?

Yes. Applicants may be shown their own criminal record. A copy may also be provided, however, applicants must be cautioned the record may **not** be used for any other purpose. Applicants are not allowed to provide a copy of the record to any other organization.

18. Is sealed or expunged information released as part of a criminal history record check?

Sealed information is disseminated only to those agencies authorized by provisions in Section 943.059, F.S. Agencies not specified in the statutes are not provided sealed criminal history information.

Expunged criminal history information is not disseminated. However, a notification that a record has been expunged is provided to agencies consistent with provisions in Section 943.0585, F.S. Agencies not specified in the statutes are not provided the expunged notification.

19. What are Hot File notifications?

Hot File notifications consist of information that may not be part of the Computerized Criminal History (CCH) system. Some examples may include: warrants, domestic violence injunctions/protection orders, deported felons, missing persons, probation or supervision release status, career criminal offender, etc.

NOTE: A name search of this file is completed for each submitted transaction and any identified information is returned in the completed results as appropriate. The “hot file” information you receive is not based on a fingerprint comparison so it may or may not be the applicant. The agency that entered the information can be contacted to learn more about the record. In addition, system generated notifications are sent to the appropriate criminal justice agency notifying them of the criminal history record check request. These messages will include information on the entity making the request as well as demographic data regarding the subject of the transaction.

20. If a state and national criminal history record check is conducted, is it necessary to conduct a separate check of the sex offender registry for registered sex offenders?

No. If the state and national fingerprint based criminal history record check is completed, the agency will be notified of all persons designated as sexual predators or offenders in Florida and in the national system.

21. How long does it take to complete a state and national criminal history record check when <u>an inked fingerprint card or "hard card"</u> is submitted?

The state portion of the criminal history record check is processed within five working days. When the FDLE processing is completed, the fingerprint card is then forwarded overnight to the FBI. The FBI typically takes two to six weeks to complete the national portion of the criminal history record check.

NOTE: Regulatory agencies often have their own internal processes to complete, resulting in a delay, before the fingerprint card is forwarded to FDLE.

22. What is the Civil Workflow Control System (CWCS)?

Many entities in Florida are required to perform criminal history background checks on potential employees, licensees or other related positions. Routinely, these record checks have been completed using the traditional inked fingerprint card. While extremely accurate and useful, the process of collecting, transporting and processing these inked cards is both labor intensive and time-consuming. Recent improvements in technology have opened the door for modernizing this process, allowing an opportunity to improve services to the citizens of Florida. In response, the Florida Department of Law Enforcement (FDLE) developed the Civil Workflow Control System (CWCS). CWCS, pronounced "QUICKS", is an automated system used to receive, process and respond to electronic requests for applicant criminal history record checks. Processing that once took several weeks with fingerprint cards now takes 24 to 72 hours with electronic submissions. CWCS allows different types of applicants to be scanned on a single device and allows input from a variety of livescan devices that adhere to FDLE and FBI standards and requirements.

The e-Government Criminal History Services can be contacted at (850) 410-8161 or ApplicantChecks@fdle.state.fl.us for questions regarding the CWCS system.

23. What steps must be completed to use the CWCS system for the electronic submission of criminal history record checks?

FDLE has established a five-step process to be completed when bringing any new civil applicant livescan into the agency's internal computer processing environment.

- **Step 1**: The livescan device must successfully pass the FBI **CERTIFICATION** processes;
- **Step 2**: Potential customers must submit a livescan registration form for each potential device. Each specific livescan device must pass a **QUALIFICATIONS**

test to ensure that the equipment is capable of transmitting an approved standard fingerprint format to FDLE via the internet;

- **Step 3**: Appropriate data must be submitted from each qualified livescan device into a test system and must pass **VALIDATION** routines administered by the FDLE;
- **Step 4**: Accepted customers (excluding those classified specifically as livescan service providers) must submit individual **REGISTRATION** forms provided by FDLE for each account (based on the Originating Agency Identifier, referred to as an ORI number) they will be using. This step ensures the submitter and recipient are in full compliance with all applicable statutes governing the submission and receipt of state and/or federal criminal history information. Additionally, this step confirms the appropriate invoice and/or payment information;
- **Step 5**: After successfully completing the above steps, customers begin **OPERATIONS** by submitting electronic requests for criminal history record checks.

Additionally, if the purchase of a livescan device is not an option, there are numerous service providers within the state of Florida. Each of these service providers is required to register and certify their devices with FDLE before submitting electronic criminal history record check requests on behalf of an agency.

24. How long does it take to complete a state and national criminal history record check when fingerprints are submitted <u>electronically?</u>

Typically, state and national criminal history record checks are completed within two to three working days of receiving the electronic submission. When a transaction is complete within the CWCS system, the results are posted to Certified Mail, a secure FDLE web mail application. The results will include both state and national criminal history information, as well as any warrants and other information related to the individual.

A result notification email is sent to the email address designated by the customer and will contain a link to this Certified Mail application. This notification will also contain descriptive information specific to the transaction.

25. Which entities submit electronic requests for criminal history record checks?

Currently there are many agencies submitting electronically, including all 67 school districts, the Department of Business and Professional Regulations (DBPR), the Department of Children and Families (DCF), the Department of Agriculture and Consumer Services (DOACS), local counties and some private companies.

<u>APPLICANT FINGERPRINT RETENTION AND NOTIFICATION PROGRAM (AFRNP)</u>

26. What is the Applicant Fingerprint Retention and Notification Program (AFRNP)? And, what is meant by arrest hit notifications?

In response to various legislative mandates, for the retention of certain electronically submitted applicant fingerprints and monitoring for new arrests, FDLE developed the AFRNP. All incoming Florida arrest fingerprints are searched against fingerprints retained in

the AFRNP. When the subject of retained fingerprints is identified with fingerprints of an incoming Florida arrest, FDLE notifies the licensing or employing agency of the arrest (referred to as arrest hit notifications). The arrest hit notification will include the name of the arresting agency.

FDLE retains only those applicant fingerprints authorized by law. All other applicant prints submitted to FDLE ARE NOT retained in our database.

27. Will the AFRNP provide arrest hit notifications for arrests outside the state of Florida?

The AFRNP can only conduct searches against incoming Florida arrest fingerprints. Arrests made in other states or by the federal government will NOT result in arrest hit notifications, as access to these arrests is restricted by federal law. Information on arrests in other states or the federal government is available only upon a fingerprint submission.

28. How does the quality of fingerprints submitted into the AFRNP affect arrest hit notifications?

The quality of fingerprints submitted into the AFRNP has a direct effect on the search and the resulting arrest hit notification. While it is not expected to be a frequent occurrence, it should be understood that if the submitted fingerprints for an applicant were of sub-standard quality or if the fingerprints submitted on an arrested individual were of sub-standard quality, the identification of these persons as the same may not occur and an arrest notification may not be made. Additionally, until the arrest fingerprint submission is received by FDLE, we will have no way to identify the arrested person as the individual retained in AFRNP.

29. What is the cost associated with the retention of fingerprints?

With the exception of criminal justice applicants, the cost for the retention of applicant fingerprints is $6 per year per applicant. The retention of fingerprints eliminates the necessity to have a state criminal history record recheck at a cost of $24, since all incoming Florida arrest information is continuously compared to the retained applicant database. If a recheck is required, it would only be for a national criminal history record check.

30. Do other states retain applicant fingerprints?

Yes. There are other states retaining applicant fingerprints and providing subsequent arrest notifications.

31. Does the FBI retain applicant fingerprints at the national level?

No. The FBI does not retain applicant fingerprints submitted by the states.

32. What agencies are currently authorized to have applicant fingerprints retained?

The school districts were the first agencies to have applicant fingerprints retained in 2004. In 2005-2006, seaports, the Department of Juvenile Justice (employees and caretakers) and Department of Business and Professional Regulations (Slot machine occupational licensees) were added. In subsequent years, the Department of Elder Affairs (Statewide Public Guardianship Office), the Clerk of Courts (guardianship), criminal justice agencies

(sworn personnel) and VECHS private schools (state school choice scholarship program participants) also started having applicant fingerprints retained.

33. Are school district volunteers required to have criminal history record checks?

No. The decision to conduct criminal history checks on volunteers remains a local decision, but schools are required by Florida law to check volunteers' names against the state sex offender registry which is available via the Internet at no charge. If a school district chooses to perform state and national criminal history on volunteers, those checks MUST be conducted through the VECHS program and not through the regular submission method with other personnel fingerprints.

Additionally, Section 943.04351, F.S., requires checks of the sexual offender/predator registry for certain volunteers, appointees or employees.

34. Is FDLE authorized to retain volunteers' fingerprints?

No. FDLE does not have authority to retain any volunteer fingerprints.

In the case of school districts, volunteers' fingerprints should not be submitted in the same manner as employees and contractors, since employee/contractor fingerprints are retained and volunteer fingerprints are not. If state and national checks are desired on volunteers, they should be submitted through the VECHS program under the authority of the National Child Protection Act.

35. How can different school districts access the criminal history records of contractors screened in another school district?

As mandated by Section 1012.467, F.S., FDLE developed the Florida Shared School Results (FSSR) application which allows school districts an automated option for sharing criminal history information with other school districts. Criminal history record check responses, resulting from appropriately identified background checks submitted on vendor/contractors, are posted to the FSSR system and maintained for five years from the date of the original criminal history record check.

School districts can then access the results and view the same criminal history record and subsequent arrest notifications received by the original school district. The sharing of criminal history information between districts reduces the need for these persons to be fingerprinted multiple times and pay fees for criminal history record checks in each county in which the individual works.

FLORIDA'S VOLUNTEER AND EMPLOYEE CRIMINAL HISTORY SYSTEM (VECHS) NATIONAL CHILD PROTECTION ACT

36. What is the Volunteer and Employee Criminal History System (VECHS) program?

The VECHS program allows for qualified entities to obtain state and national criminal history record checks on individuals working with children, the elderly or the disabled. The authority

for these checks is granted under the National Child Protection Act (NCPA), which is implemented through the VECHS program, under Section 943.0542, F.S.

NOTE: Entities required to conduct state and national criminal history record checks under other statutory provisions, on all or specific employees/volunteers, must continue to comply with those statutes and the procedures that specifically apply to them. Requests for these required criminal history record checks may not be processed through the VECHS Program, pursuant to state and federal law.

37. What is the difference between the National Child Protection Act (NCPA) and the Volunteers for Children Act (VCA)?

The NCPA and VCA refer to the same basic law. For the purposes of criminal history record checks, the NCPA and VCA permits qualified entities working with children, the elderly and the disabled access to state and national criminal history information

38. What is a "qualified entity"? Who can obtain criminal history background checks under the NCPA and Section 943.0542, Florida Statutes?

To qualify for the VECHS Program, an entity must provide some type of "care" or "care placement services" for children, the elderly or the disabled; even if it is only a limited part of the entity's overall business. Once qualified to participate in the program, an entity may request criminal history information on all current and prospective employees and volunteers, not only those who work with vulnerable persons. A qualified entity may also request criminal history information on employees or volunteers who have or who seek to have unsupervised access to the populations described above.

"Qualified entities" are authorized to obtain criminal history record information as described under the NCPA and related federal guidelines. Under the NCPA and Florida statute, a "qualified entity" is a business or organization, whether public, private, for profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services. "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

39. How does an organization enroll in the VECHS program?

If an entity meets the criteria of a "qualified entity", they may download and complete a copy of the VECHS Qualified Entity Application and the VECHS User Agreement at http://www.fdle.state.fl.us/BackgroundChecks or contact the VECHS Unit at (850) 410-VECHS (850-410-8324), to request a copy of each document.

40. Can qualified entities share criminal history information with other qualified entities?

Yes. Criminal history information may be obtained from other VECHS entities, if the employee or volunteer agrees to this on the VECHS Waiver Statement and Agreement form, required to be signed when he/she was fingerprinted, and if the transfer of information is recorded by the other qualified entity on its Dissemination Log. The restrictions on this process are described in the User Agreement. Entities must contact the VECHS Unit at (850) 410-8324 for entity verification before sharing criminal history information.