



GCIC Non-Criminal Justice Operations Bulletin 2014-03

SUBJECT: Agency Privacy Notification Requirements for Non-Criminal Justice Applicants

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Authorized governmental and non-governmental agencies that conduct a Georgia-only or a Georgia and Federal Bureau of Investigation (FBI) national fingerprint/biometric based criminal history record check for a non-criminal justice purpose (such as application for a job or license, immigration or naturalization matter, security clearance, or adoption) are obligated to ensure the applicant is provided certain notice and other information and that the results of the check are handled in a manner that protects the applicant's privacy.

- Officials must provide the applicant written notice¹ that his/her fingerprints/biometrics will be used to check the criminal history records maintained by the Georgia Crime Information Center (GCIC) and the FBI when a federal record check is so authorized. Written notice constitutes an applicant's Privacy Rights as well as a copy of the Privacy Act Statement (Title 28 United States Code § 534) that would normally appear on the FBI fingerprint card. Copies of both are included as attachments to this Operations Bulletin.
- Officials using the Georgia or FBI criminal history record (if one exists) to make a determination of the applicant's suitability for the job, license, or other benefit must provide the applicant the opportunity to complete or challenge the accuracy of the information in the record.
- Officials must advise the applicant of the procedures for changing, correcting, or updating a criminal history record as set forth in Title 28, Code of Federal Regulations (CFR), Section § 16.34 (see attached).
- Officials should not deny the job, license, or other benefit based on information in the criminal history record until the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.
- In the event of an adverse employment or licensing decision, the applicant must be informed of all information pertinent to that decision to include the contents of the record and the effect the record had upon the decision. Failure to provide all such information to the person subject to the adverse decision shall be a misdemeanor [O.C.G.A. § 35-3-34(b) and §35-3-35(b)].

¹ Written notification includes electronic notification, but excludes oral notification.



- Officials must use the criminal history record solely for the purpose requested and cannot disseminate the record outside of the receiving department, related agency, or other authorized entity.²


GCIC and the FBI have no objection to officials providing a copy of the applicant’s Georgia or FBI criminal history record to the applicant for review and possible challenge when the record was obtained based on positive fingerprint/biometric identification. If agency policy permits, this courtesy will save the applicant the time and additional fee to obtain his/her record directly from GCIC or the FBI by following the procedures found at 28 CFR 16.30 through 16.34 as well as allow for a more timely determination of the applicant’s suitability.

Options for Written Notice

1. Georgia Applicant Processing Service (GAPS) electronic notification. For those applicants that use GAPS an electronic notification will be provided as part of the registration process.
2. Copies can be made from the attachments in this document and handed to the applicant at the time fingerprints/biometrics are taken. These notices are also available on the Georgia Bureau of Investigation (GBI) website (<http://gbi.georgia.gov/non-criminal-justice-agencies>) and through GBI’s CBT (Computer Based Training) tool.
3. Posters can be made from the attached documents and displayed near the livescan devices.
4. A copy of the Applicant’s Privacy Rights and the Privacy Act Statement can be included in the applicant’s initial application package.

Currently, there is no requirement to obtain the applicant’s signature that they were notified of the Privacy Act Statement. However, it is recommended there be documentation of the notice to the applicant. If GAPS is used, there will be an electronic log of the acknowledgement. GBI will maintain that log for a period of one (1) year.

Each agency should establish and document the process/procedures it utilizes for how/when it gives the applicant notice, what constitutes a “reasonable time” for the applicant to correct or complete the record, and any applicant appeal process that is afforded the applicant. Such documentation will be reviewed by GBI and/or FBI auditors during periodic compliance reviews on use of criminal history records for non-criminal justice purposes.

Approved:  7-1-2014
 Terry D. Gibbons, Deputy Director of GCIC Date

² See 5 U.S.C. 552a(b); 28 U.S.C 534(b); 42 U.S.C. 14616, Article IV(c); 28 CFR 20.21(c), 20.33(d), 50.12(b) and 906.2(d); O.C.G.A §35-3-38.

Attachment A

NON-CRIMINAL JUSTICE APPLICANT'S PRIVACY RIGHTS

As an applicant that is the subject of a Georgia only or a Georgia and Federal Bureau of Investigation (FBI) national fingerprint/biometric-based criminal history record check for a non-criminal justice purpose (such as an application for a job or license, immigration or naturalization, security clearance, or adoption), you have certain rights which are discussed below.

- You must be provided written notification that your fingerprints/biometrics will be used to check the criminal history records maintained by the Georgia Crime Information Center (GCIC) and the FBI, when a federal record check is so authorized.
- If your fingerprints/biometrics are used to conduct a FBI national criminal history check, you are provided a copy of the Privacy Act Statement that would normally appear on the FBI fingerprint card.
- If you have a criminal history record, the agency making a determination of your suitability for the job, license, or other benefit must provide you the opportunity to complete or challenge the accuracy of the information in the record.
- The agency must advise you of the procedures for changing, correcting, or updating your criminal history record as set forth in Title 28, Code of Federal Regulations (CFR), Section 16.34.
- If you have a Georgia or FBI criminal history record, you should be afforded a reasonable amount of time to correct or complete the record (or decline to do so) before the agency denies you the job, license or other benefit based on information in the criminal history record.
- In the event an adverse employment or licensing decision is made, you must be informed of all information pertinent to that decision to include the contents of the record and the effect the record had upon the decision. Failure to provide all such information to the person subject to the adverse decision shall be a misdemeanor [O.C.G.A. § 35-3-34(b) and §35-3-35(b)].

You have the right to expect the agency receiving the results of the criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of state and/or federal statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council.

If the employment/licensing agency policy permits, the agency may provide you with a copy of your Georgia or FBI criminal history record for review and possible challenge. If agency policy does not permit it to provide you a copy of the record, information regarding how to obtain a copy of your Georgia, FBI or other state criminal history may be obtained at the [GBI website](http://gbi.georgia.gov/obtaining-criminal-history-record-information) (<http://gbi.georgia.gov/obtaining-criminal-history-record-information>).



If you decide to challenge the accuracy or completeness of your Georgia or FBI criminal history record, you should send your challenge to the agency that contributed the questioned information. Alternatively, you may send your challenge directly to GCIC provided the disputed arrest occurred in Georgia. Instructions to dispute the accuracy of your criminal history can be obtained at the [GBI website \(http://gbi.georgia.gov/obtaining-criminal-history-record-information\)](http://gbi.georgia.gov/obtaining-criminal-history-record-information).



Attachment B

PRIVACY ACT STATEMENT

Authority: The FBI's acquisition, preservation, and exchange of fingerprints and associated information is generally authorized under 28 U.S.C. 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Pub. L. 92-544, Presidential Executive Orders, and federal regulations. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

Principal Purpose: Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based background checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

Routine Uses: During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited to, disclosures to: employing, governmental or authorized non-governmental agencies responsible for employment, contracting, licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.



Attachment C

28 CFR 16.30 through 16.34

§ 16.30 Purpose and Scope

This subpart contains the regulations of the Federal Bureau of Investigation (FBI) concerning procedures to be followed when the subject of an identification record requests production of that record to review it or to obtain a change, correction, or updating of that record.

§ 16.31 — Definition of identification record

An FBI identification record, often referred to as a “rap sheet,” is a listing of certain information taken from fingerprint submissions retained by the FBI in connection with arrests and, in some instances, includes information taken from fingerprints submitted in connection with federal employment, naturalization, or military service. The identification record includes the name of the agency or institution that submitted the fingerprints to the FBI. If the fingerprints concern a criminal offense, the identification record includes the date of arrest or the date the individual was received by the agency submitting the fingerprints, the arrest charge, and the disposition of the arrest if known to the FBI. All arrest data included in an identification record are obtained from fingerprint submissions, disposition reports, and other reports submitted by agencies having criminal justice responsibilities. Therefore, the FBI Criminal Justice Information Services Division is not the source of the arrest data reflected on an identification record.

§ 16.32 — Procedure to obtain an identification record

The subject of an identification record may obtain a copy thereof by submitting a written request via the U.S. mails directly to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306. Such request must be accompanied by satisfactory proof of identity, which shall consist of name, date and place of birth and a set of rolled-in-inked fingerprint impressions placed upon fingerprint cards or forms commonly utilized for applicant or law enforcement purposes by law enforcement agencies.

§ 16.33 — Fee for production of identification record

Each written request for production of an identification record must be accompanied by a fee of \$18 in the form of a certified check or money order, payable to the Treasury of the United States. This fee is established pursuant to the provisions of [31 U.S.C. 9701](#) and is based upon the clerical time beyond the first quarter hour to be spent in searching for, identifying, and reproducing each identification record requested as specified in § [16.10](#). Any request for waiver of the fee shall accompany the original request for the identification record and shall include a claim and proof of indigency. Subject to applicable laws, regulations, and directions of the Attorney General of the United States, the Director of the FBI may from time to time determine and establish a revised fee amount to be assessed under this authority. Notice relating to revised fee amounts shall be published in the *Federal Register*.

§ 16.34 — Procedure to obtain change, correction or updating of identification records

If, after reviewing his/her identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he/she should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her record to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI CJIS Division will make any changes necessary in accordance with the information supplied by that agency.

