Office of Court Administration
Criminal History Policy

Policies and procedures for obtaining criminal history record information related to persons with access to information resources or information resources technologies.

Statutory Authority

In accordance with Texas Government Code section 411.1405(e), the Office of Court Administration (OCA) adopts the policies and procedures contained herein.

General Policy

Upon the effective date of these policies and procedures, OCA may obtain from the Department of Public Safety (DPS) the criminal history record information maintained by DPS that relates to a person who:

1. is an employee, applicant for employment, contractor, subcontractor, or intern or other volunteer with OCA or with a contractor or subcontractor for OCA; and

2. has access to information resources or information resources technologies , other than a desktop computer or telephone station assigned to that person.

The human resources officer and director of information services will jointly designate the persons or positions having the requisite access.

No Automatic Disqualification

Evidence of criminal conviction or other relevant information obtained from the criminal history record information shall not automatically disqualify an individual from employment with OCA. Consideration of such information shall be in conformity with applicable federal and state statutes.

Employment Decision Factors

The hiring official of OCA will determine, on a case by case basis, whether an individual about whom such information has been obtained is qualified for employment based on factors that include, but are not limited to:

1. the specific duties of the position;
2. the number of offenses committed by the individual;
3. the nature and seriousness of each offense;
4. the length of time between the offense(s) and the employment decision;
5. the efforts by the individual at rehabilitation;

Disclosure

Any information obtained pursuant to these policies and procedures and any documents or other records derived from that information shall not be released or disclosed except:

1. by court order;
2. with the consent of the person who is the subject of the information; or
3. to the affected contractor or subcontractor. If DPS obtained the information from the Federal Bureau of Investigations, the information may not be disclosed to an affected contractor or subcontractor.

Destruction of Information

OCA and an affected contractor or subcontractor shall destroy information obtained pursuant to these policies and procedures after the information is used to make an employment decision or to take a personnel action relating to the person who is the subject of the information.

Self-reporting

OCA shall make a form for reporting subsequent convictions available to all persons about whom criminal history record information could be obtained pursuant to these policies and procedures. The form shall be posted on OCA's web site with this policy.

Distribution

These policies and procedures shall be available on OCA's web site with all other agency policies. OCA shall make these policies and procedures available to contractors and subcontractors during the procurement process.

These policies and procedures are hereby adopted, to be effective upon the date of approval by the Office of the Attorney General.

Alicia G. Key, Administrative Director — Date: 1-26-04

This policy has been reviewed by the Office of the Attorney General and has found to be consistent with applicable legal requirements.

OAG Representative and Title: AAG — Date: 1-26-04

6. the accuracy of the information on the individual's employment application;
7. whether the individual reported any subsequent criminal convictions after employment; and
8. the relationship of the crime or crimes to the employment.

Contractors

As part of its procurement process, OCA may require contractors and/or subcontractors to submit the names and other relevant information about the contractors' or subcontractors' employees, volunteers and interns who have or will have access to information technology or information technology resources, so that OCA may obtain information in accordance with these policies and procedures.

Periodic Checks

OCA may periodically obtain criminal history record information that relates to any employee, intern or volunteer, or to any employee, intern or volunteer with a contractor or subcontractor of OCA, provided the person or position is designated to have the requisite access.

Notice and Opportunity to Correct

If OCA uses the criminal history record information in order to make an employment decision or take a personnel action, OCA shall give the affected applicant, employee, volunteer, intern, contractor or subcontractor notice of the use of the information and an opportunity to correct any inaccuracies in the information. OCA, in its discretion, shall specify the time period for correction when it notifies the affected contractor or subcontractor of the utilization of such information. Such notice and period for correction is a personnel policy and does not alter the at-will status of OCA's employees.

Interim Action

If OCA receives the criminal history record information during the pendency of any proceeding in which a conviction is not final, OCA reserves the right to make an employment decision or take a personnel action before the conviction is final, if failure to do so would be impracticable or detrimental to OCA. In determining whether a conviction is final for the purposes of these policies and procedures, OCA shall exercise its discretion in accordance with all relevant federal and state statutes.

Definitions

"Information resources" and "information resources technologies" have the meanings given to those terms by Government Code section 2054.003 upon the effective date of these policies and procedures, and as that section may later be amended.