

U. S. Department of Housing and Urban Development
Public and Indian Housing

Secretary's Representatives: State/Area Coordinators; Directors Public Housing Divisions; Public Housing Agencies; Resident Management Corporations; Resident Councils	Notice PIH 98-20 (HA) Issued: April 7, 1998 Expires: April 30, 1999
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**Subject: Instructions For Obtaining FBI Criminal History Record
Information**

1) Purpose

The purpose of this Notice is to advise public housing agencies (HA) of the process for obtaining Federal Bureau of Investigation (FBI) criminal history record information for the purposes of applicant screening, lease enforcement and eviction. Gaining access involves:

- Requesting and obtaining an Originating Agency Identifier (ORI) number from the FBI; and
- Identifying and contracting with either the State Identification Bureau (SIB) or another approved channeling agent (CA) that will process and funnel requests from the HA to the FBI.

This Notice provides discussions of the different types of checks that HAs can do and how to do them.

This Notice also provides a list of the states in which the State Identification Bureaus have agreed to channel HA fingerprint submissions to the FBI, as well as a listing of FBI-approved channeling agents with which HAs can enter into a contract for this service.

2) Applicability

This Notice applies to applicants for and residents of public housing only. It is effective immediately.

3) Background

On March 28, 1996, the President signed the Housing Opportunity Extension Act of 1996 (Public Law (Pub. L.) 104-120). Section 9(b) of the law amends section 6 of the U.S. Housing Act of 1937, and grants HAs the right to obtain national criminal history records of adult applicants for, or tenants of, public housing for purposes of applicant screening, lease enforcement, and eviction. Criminal history records pertaining to juveniles may be obtained only to the extent that the release of such information is authorized under the law of the applicable state, tribe, or locality.

The law states that "the National Crime Information Center (NCIC), police departments, and other law enforcement agencies shall, upon request, provide information to public housing agencies regarding the criminal conviction records of adult applicants for, or tenants of, public housing for purposes of applicant screening, lease enforcement, and eviction."

On May 29, 1996, the Secretary of HUD and the Attorney General signed an Agreement allowing state and local law enforcement agencies access through the NCIC to the Interstate Identification Index (III) for the purpose of determining whether a tenant of, or an applicant for, public housing has a criminal history record indexed in the III.

4) Overview

HAs wishing to check applicants and residents have several options. They can:

- a) go to the state for state records only;
- b) do a name check through their local law enforcement, which has access to limited information from the NCIC Interstate Identification Index. It is up to the discretion of the local law enforcement whether it will charge a reasonable fee for this service. Access for this purpose does not entitle the requesting law enforcement agency to obtain the full content of automated records through the Interstate Identification Index; or
- c) submit an applicant fingerprint card (through their channeling agent) to the FBI in order to obtain the full content of a criminal history record. The FBI and HUD have jointly agreed that every HA shall use a

channeling agent to submit its fingerprint cards to the FBI. The FBI's processing fee for each card is currently \$24. **No fees will be passed on to the family.**

In order for HAs to have access to NCIC data through their local or state law enforcement authorities or to obtain FBI criminal history records through the submission of an applicant fingerprint card, each HA must be assigned a unique Originating Agency Identifier (ORI) number by the FBI. Those HAs that have not yet obtained an ORI number from the FBI may do so upon written request (See #5).

-- Some HAs are currently channeling fingerprint cards to the FBI through their State Identification Bureaus (SIB) (See #7). Those HAs that wish to continue channeling fingerprint cards to the FBI through their SIB may do so, or

-- an HA may choose to utilize one of the approved CAs (See #9).

An HA cannot utilize a SIB and an approved CA at the same time to channel fingerprint cards to the FBI.

HAs will send the fingerprint cards directly to their SIB or CA. The CAs and SIBs will collect the fee and forward the HA's fingerprint cards to the FBI for processing. The FBI will forward the results of the criminal records search directly back to the HA. The FBI's current processing time is approximately three weeks, but it anticipates the time will continue to decrease.

5) Issuance of ORI Numbers

The first step in obtaining criminal history data through the NCIC is for the HA to obtain an ORI number. All HAs, regardless of whether they intend to channel fingerprint cards through their SIB or an approved CA, must first obtain an ORI number. This number identifies the HA in NCIC transactions as an entity authorized to receive criminal history records through the submission of fingerprint cards and enables those submissions to be tracked and billed appropriately.

Requests for ORI numbers should be sent directly to the FBI at the following address:

Chief
Programs Support Section
Module E3
FBI Complex
1000 Custer Hollow Road
Clarksburg, WV 26306

The request should include the full name of the HA, the complete mailing address, the county in which its main office is located, the number of fingerprint cards the agency will initially need, the name and phone number of a contact person, and which CA or SIB the HA will utilize. The FBI will assign an ORI number to the HA and furnish applicant fingerprint cards to the HA bearing that ORI number. A reorder form will be included with each supply of fingerprint cards so that the HA can reorder when necessary.

6) **Instructions for Obtaining Criminal History Records**

Once the HA has its own ORI number, it is eligible to obtain criminal history records on public housing applicants and tenants. The following procedures have been developed to facilitate the process:

A. The HA submits a name check request to the local/state law enforcement agency. The name check request must include the name, date of birth, and social security number of the applicant/tenant (if he/she has one). Using the ORI number assigned to the HA, the law enforcement agency will access the Interstate Identification Index through the NCIC for the purpose of determining whether an applicant/tenant for public housing may have a criminal history record indexed in the Interstate Identification Index.

B. The law enforcement agency will advise the HA that either:

(1) the information provided by the HA did not match any criminal record in the index to the national database, or

(2) the information **may** match a criminal record indexed in the national database. This statement means only that, based on the information provided, the record may belong to the applicant/tenant, but is inconclusive without a positive fingerprint comparison. **The results of an inconclusive name check cannot be used to deny an applicant admission to housing.**

C. If the local/state law enforcement agency indicates to the HA that there is a criminal history record indexed in the III which may belong to the applicant/tenant, the HA must submit an applicant fingerprint card to the FBI, through either the SIB or an approved CA, in order to verify whether the criminal record is in fact the applicant's. This step would of course be unnecessary if the individual chooses to withdraw his/her application.

When a fingerprint check is necessary, the FBI recommends that HAS use trained local law enforcement personnel to do the actual fingerprinting. Although the process appears simple, many fingerprints are rejected as unreadable, even when taken by qualified personnel.

D. The applicant's fingerprints will be compared with criminal fingerprints maintained in FBI files, and if found to be identical, a copy of the corresponding criminal history record will be provided to the HA. Applicant fingerprint card submissions not identified with a criminal record will be destroyed, and automated responses indicating that no record was found will be generated in lieu of returning the fingerprint cards to the HA.

7) **Channeling To The FBI Through a State Identification Bureau (SIB)**

The FBI conducted a survey of all the states' Criminal Justice Information Services Control Terminal Officers (CTOs), to determine whether the SIBs would agree to channel HA fingerprint submissions to the FBI. The following is a list of all the states and territories that have agreed to channel HA fingerprint submissions through their SIB:

Alabama	Indiana	Oklahoma
Alaska	Missouri	Oregon
Colorado	Nebraska	South Carolina
Connecticut	Nevada	Texas
District of Columbia	New Jersey	Utah
Florida	New York	Virginia
Hawaii	North Dakota	Washington
Illinois	Ohio	Virgin Islands

HAS in the above-listed states and territories may either:

-- use the SIB to channel their fingerprint cards to the FBI (these HAS will be provided the name and telephone number of

a contact in their states for instructions on channeling procedures and applicable state processing fees along with the assignment of their ORI numbers), or

-- choose to procure services through one of the other approved CAs (see list at Section 8 of this Notice).

Each HA not choosing to channel through a SIB must competitively select a CA in accordance with its own procurement standards and HUD regulations at 24 CFR 85.36.

8) Channeling to the FBI Through A Non-SIB Channeling Agent

The FBI has approved the following channeling agents, whose points of contact are listed below in alphabetical order of the company name:

- A. Ms. C. Diane Poole
Manager - Recordkeeping Services
American Bankers Association
1120 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 663-5379

- B. Mr. Mark S. Wall
Manager - Contracts
Lockheed Martin Corporation
12506 Lake Underhill Road
Orlando, Florida 32825-5002
(407) 306-7156

- C. Mr. Allen L. Yurek
Vice President
Solutions, Inc.
201 East Washington Street
Middleburg, Virginia 20117
(540) 687-4779

- D. Mr. Owen B. Seaton
Vice President - Sales and Marketing
U.S. Investigations Services, Inc.
1137 Branchton Road
Post Office Box 26
Annandale, Pennsylvania 16018-0026
(412) 794-4498

HAs may be interested to know that each non-SIB channeling agent will execute a memorandum of understanding (MOU) with the FBI and must agree to the following duties and responsibilities:

A. Receive "noncriminal justice applicant fingerprint cards" of adult applicants for, or tenants of, public housing for purposes of applicant screening, lease enforcement, and eviction from the HAs, which the CA will receive and forward to the FBI for processing.

B. Ensure that all fingerprint cards have been properly and adequately completed and are being submitted under the authority of Pub. L. 104-120.

C. Charge and collect the FBI fee, currently \$24, for the processing of each applicant's or tenant's fingerprint card. The CA's total fee to the HA will be the amount reflected in its response to the competitive HA solicitation in addition to the FBI fee.

D. Submit payment of the FBI's fee to the FBI within thirty (30) calendar days from the date upon which it receives a bill from the FBI for those fingerprint cards processed during the preceding month.

E. Batch and submit fingerprint cards on a daily weekday basis to the FBI for processing.

F. Develop instructions and information for dissemination to participating HAs regarding the procedures to be followed to ensure the adequacy of the channeling system. This would involve the creation of strategies for the resolution of issues relating to:

- Incomplete or missing data on the fingerprint cards, illegible (i.e., unclassifiable) fingerprints, etc.
- Payment of fees, i.e., no payment, overpayment, underpayment, credit memoranda, etc.
- Reasonable inquiries by HAs and applicants regarding processing status of a fingerprint card.
- Requests for special or expedited processing based on extenuating circumstances.

9) HA Procurement for Non-SIB Channeling Agents

Each HA not channeling through a SIB will competitively procure a CA consistent with HUD procurement requirements at 24 CFR 85.36 and its own procurement policies. Since only the firms listed in #8 above have been approved by the FBI, they are the only ones authorized to receive HA applicant fingerprint cards and submit them to the FBI for processing. Therefore, HAs are authorized to limit competition to these

firms.

The FBI's automated billing system is designed to link HAS with their selected CA through the ORI number. To avoid having their fingerprint card submissions rejected, HAS must notify the FBI in writing when a CA other than a SIB is contracted for fingerprint channeling purposes.

HAS may contract with CAs for a maximum of three years, after which the HA must reinitiate the procurement process.

However, the HA, pursuant to 24 CFR 85.36 (b)(2), must ensure that contractors perform in accordance with the terms and conditions of their contracts. If the HA encounters performance problems with the CA, it should take appropriate action, which may include contract termination. In such cases, the HA should procure another CA, giving the FBI sixty (60) days written notice. Any time the HA changes its CA, the FBI must assign a different ORI number to the HA (which is coded to reflect the new CA chosen by the HA) and issue a new supply of applicant fingerprint cards preprinted with the HA's new ORI number. For all correspondence with the FBI, HAS may use the address identified in Section 5 of this Notice.

HUD is not a party to any arrangement between the FBI and the approved CAs.

10) For Further Information

For further information, you may contact the Public and Indian Housing Resource Center at the following number:
1-800-955-2232.

_____/s/_____
James V. DeSarno, Jr.
Assistant Director in Charge
Criminal Justice Information
Services Division, FBI

_____/s/_____
Deborah Vincent
Acting Assistant Secretary for
Public and Indian Housing