

Dear Sir/Madam:

Re: Seeking public comment on the development of criminal history record checks.

In considering the 15 factors and possible recommendations:

1) The effectiveness and efficiency of utilizing commercially available databases as a supplement to IAFIS criminal history information checks.

Comment: Utilizing commercial available databases to supplement IAFIS criminal history information checks adds another dimension to static IAFIS information. Such supplemental information can be effective in determining some of the social and economic aspects of individuals not currently available. In order to efficiently organize and categorize such new information, existing databases will need to be re-designed. The design should be uniform so it can be maintained across different agencies. Once incorporated, the results should allow easy interpretation to users and reliable information as pertains to the subject. The first step in determining if a commercial database contains viable information is to solicit commercial vendors to participate in the process, ideas, and possible designs. This is an inclusive process and not an exclusive means to deny access to personal information. Static historical criminal information has the tendency to exclude not only the subject of the information but also the public's perception of the subject. Guidelines that allow for a more rounded perception of individuals in greater dimension will not necessarily detract from the role of organized enforcement and criminal profiling, but it will allow those that have made mistakes in the past to return to society and work without the traditional one-dimensional stigma and label of criminal. Adding commercial database information will enable those that use the information a better means of evaluating a person's current status in real-life terms. Access to information and the type of information is the controlling factor, but it must not be limited only to government officials.

2) Any security concerns created by the existence of these commercially available databases concerning their ability to provide sensitive information that is not readily available about law enforcement or intelligence officials, including their identity, residence, and financial status.

Comment: The privacy of law enforcement and intelligence officials should not be held at a higher or lower standard than the general public. Such officials should not be entitled to greater protection just because of their position or rank. They serve and protect the public; not the other way around. Attempting to limit access and availability to such information solely based on the fears of those who now control it and the fear of having their identities being revealed would not benefit such a plan. It's about the type of information contained in databases. The type of information can be controlled and presented in such a way that it does not reveal critical personal data. In addition, there can be different levels of access depending on the need to know.

3) The effectiveness of utilizing State databases.

Comment: State databases have a wealth of historical and current information about individuals. Some information is relevant for law enforcement purposes and other information is pertinent to other users. Determining which information should be disseminated to whom is key. Access can be determined by the type of information that is needed. If such information is centralized, there should be a way to query it based on the needs of the user. Charging a fee and limiting access should be considered.

4) Any feasibility studies by the Department of Justice of the resources and structure of the Federal Bureau of Investigation to establish a system to provide criminal history information.

Comment: It is obvious that the Department of Justice will not be able to afford the extra resources and manpower to establish, maintain, and supervise a system that expands the quantity and quality of its information. But with the cooperation of other agencies, states, and public/private sectors, it may be possible to cooperatively establish and design a new and improved system. There is a tradeoff under this design and those that assist in the efforts should have input in the design and planning stages. Such a plan should be open to new ideas and the end users of the information. It can be a win-win situation and at the same time protect the privacy and the security of the general public. Checks and balances can be designed to insure that access is granted at a level considered appropriate to the needs of the end user. Qualifying users of the information, their access level, and the type of information displayed should be a primary consideration early in the design phase. Just as people change, so does information. In order to be a viable tool, a database would need to change and grow. The most

important change in a database would be its ability to receive and contain current and relevant information. Information providers can be key to supplying current and relevant information without having access to the entire ball of wax. Who supplies what and when should be a part of the early design phase and general plan. Cooperation between Federal, State, and Public sectors will help achieve a positive end result. The public's support can be won early on by inclusive and protective media designed to foster trust in protecting the privacy of us all and promoting and associating this project as a possible new way to win the war against identity theft and other privacy failures.

5) Privacy rights and other employee protections, including-

a) Employee consent

Comment: For employment background checks where the employee consents to a background check by his/her authorizing signature, the potential employee or current employee should also be given the results of the background check in order to verify that the results are correct and accurate.

b) Access to the records used if employment was denied

Comment: The applicant should be notified of the of the information that caused the denial.

c) The disposition of the fingerprint submissions after the records are searched.

Comment: The applicant should be notified of the status of fingerprint submissions.

d) An appeal mechanism

Comment: There should be both an informal and formal appeal mechanism.

e) Penalties for misuse of the information

Comment: Penalties for misuse of the information can be in the form of a written warning, and in the case of future misuses, different forms of penalties can be enacted, such as access to future records, auditing, or monetary fines.

6) The scope and means of processing background checks for private employer utilizing data maintained by the Federal Bureau of Investigation that the Attorney General should be allowed to authorize in cases where the authority for such checks is not available at the State level.

Comment:

7) Any restriction that should be placed on the ability of an employer to charge an employee or prospective employee for the cost associated with the background check.

Comments:

8) Which requirements should apply to the handling of incomplete records.

Comments:

9) The circumstances under which the criminal history information should be disseminated to the employer.

Comments:

10) The type of restrictions that should be prescribed for the handling of criminal history information by an employer.

Comments:

11) The range of Federal and State fees that might apply to such background check requests.

Comment:

12) Any requirements that should be imposed concerning the time for responding to such background check requests.

Comment:

13) Any infrastructure that may need to be developed to support the processing of such checks, including-

a) The means by which information is collected and submitted in support of the checks.

Comment:

b) The system capacity needed to process such checks at the Federal and State level.

Comment:

14) The role that States should play.

Comment:

15) Any other factors that the Attorney General determines to be relevant to the subject of the report.  
Comment: There should be consideration in designing new methods for identifying and verifying the identity of individuals. The traditional method of fingerprinting works well for identification purposes but does not allow for ease of identification. A better method would employ a voluntary method of pre-qualifying individuals for a special identification similar to the social security number or card. Such a system would quickly verify a person's identity based on certain criteria imbedded into the card and verified by a computer like device that checks for the presence of specific physical characteristics and additional traditional identification.

Sincerely,

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