

**Interstate Identification  
Index Name Check  
Efficacy:**

**Report of the National  
Task Force to the  
U.S. Attorney General**

**July 1999**

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# **Interstate Identification Index Name Check Efficacy**

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Report of the National Task Force  
to the U.S. Attorney General

July 1999, NCJ-179358

## **Acknowledgments**

The National Task Force on Interstate Identification Index Name Check Efficacy expresses its appreciation to the Honorable Janet Reno for initiating this Task Force effort and bringing empirical data to bear upon the difficult policy issues associated with the increasing demand to conduct national criminal history background checks on individual applicants. Appreciation also is extended to the FBI's Criminal Justice Information Services Advisory Policy Board and its Chairman Emeritus Joe Bonino for advocating the study. In addition, the Task Force wishes to acknowledge the Bureau of Justice Statistics, U.S. Department of Justice for its funding of the study and for serving as a valuable resource throughout the Task Force deliberations. Finally, special appreciation is expressed to Cathy Riley, FBI Management Analyst; Sheila Barton and Paul Woodard, SEARCH staff; and Michael Cahn and Dr. James Tien, Queues Enforth Development, Inc. for their work in staffing the meetings and carrying out the research study upon which the Task Force relied for guidance in making its recommendations to the U.S. Attorney General.



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## **Preface**

This report sets out the conclusions and recommendations of the Task Force on Interstate Identification Index Name Check Efficacy. A list of Task Force members and their affiliations is included as Appendix A.

The Task Force was formed to conduct a study to determine the accuracy of identifications resulting from name checks of the Interstate Identification Index (III) compared to identifications resulting from fingerprint-based searches of the FBI's criminal history record files. In addition, the Task Force undertook to evaluate inaccurate identifications or missed identifications resulting from name checks.

The III Index is an automated index of persons maintained by the FBI which includes names and personal identification information relating to most individuals who have been arrested or indicted for a serious criminal offense anywhere in the country. The Index includes persons born in 1956 or later concerning whom an arrest fingerprint card has been submitted to the FBI at any time and persons born prior to 1956 whose first arrest fingerprint card was submitted to the FBI on or after July 1, 1974, as well as numerous older records, certain fugitives and repeat offenders. The FBI maintains automated fingerprints and automated criminal history records for these approximately 29 million individuals. The FBI also maintains about 5 million manual criminal history records on individuals who were born prior to 1956 and whose most recent arrest (or background check) was prior to July 1, 1974. These individuals' names are not included in the III Index, but their fingerprints are automated and their names are included in an automated index used internally by the FBI for processing arrest fingerprints and civil applicant fingerprints.

Criminal history background checks based on fingerprints are considered by criminal justice officials to be extremely accurate. Searches of newer Automated Fingerprint Identification Systems are thought to result in error rates of only a small fraction of one percent of all searches. By contrast, criminal history background checks based solely on non-unique identifiers, such as name, sex, race and date of birth, are known to result in significant numbers of two types of errors, generally referred to as "false positives" and "false negatives." False positives occur when individuals are erroneously associated with

criminal records that actually relate to other individuals with similar names and other identifiers. False negatives occur when name checks fail to find the criminal records of individuals who provide inaccurate identification information either at the time of arrest or when applying for a job. False negative occurrences also may be attributed to misspellings or other such errors. Prior to the formation of the Task Force, no study had been undertaken in which both III name checks and FBI fingerprint searches were conducted for all study applicants in order to document the frequency of false positives and false negatives resulting from III name checks.

The Housing Opportunity Program Extension Act of 1996 amended the United States Housing Act of 1937 to require police departments and other law enforcement agencies to conduct national criminal history background checks, upon request, of public housing tenants or applicants. On May 29, 1996, the Attorney General and the Secretary of Housing and Urban Development (HUD) entered into a Memorandum of Understanding providing that, upon request by a public housing authority (PHA), a state or local law enforcement agency shall conduct a III name check to determine whether a public housing applicant or tenant may have a criminal history record indexed in the III system. Under the terms of the agreement, if a III name check reveals that a tenant or applicant may have a criminal history record (i.e., there is a name check "hit"), the PHA must obtain and submit the fingerprints of the individual. If the fingerprints verify the accuracy of the identification, the criminal history record may be made available to the PHA for use for authorized purposes.

The Memorandum of Understanding stated that it would remain in effect for six months, and thereafter, its effectiveness would be evaluated. The Task Force was formed to plan and oversee the evaluation and to evaluate the efficacy of name checks in performing criminal history background checks for noncriminal justice purposes generally.

In August 1998, the Bureau of Justice Statistics requested that SEARCH, The National Consortium for Justice Information and Statistics (SEARCH) and Queues Enforth Development, Inc. (Q.E.D.) cooperatively plan and conduct the study under the guidance of the Task Force and prepare a final study report subject to the approval of the Task Force. Q.E.D. developed a research design for the study that



was approved by the Task Force on October 12, 1998. The design provided for the analysis of criminal history background check outcomes for three types of noncriminal justice applicants: (1) public housing tenants and applicants from six participating Public Housing Authorities, (2) volunteer applicants from Arizona, California and Maryland, and (3) applicants for employment or occupational licensing from Florida. For all applicants for whom fingerprint cards were submitted,<sup>1</sup> initial III name checks were performed, followed by FBI fingerprint searches without regard to the outcome of the name checks. Thus, name check results and fingerprint search results could be compared for all cases included in the analysis.

The analysis included criminal history background checks of 93,274 Florida employment or licensing applicants initiated between October 1, 1998 and January 31, 1999; 323 public housing applicants initiated between November 10, 1998 and February 10, 1999; and 2,550 volunteer applicants initiated between November 12, 1998 and February 12, 1999. The Task Force approved the SEARCH/Q.E.D study on July 13, 1999. It is attached to this report as Appendix B.

The study concluded that the numbers of cases of public housing applicants and volunteer applicants included in the analysis were insufficient to yield findings in which confidence could be placed; therefore, no findings for these types of applicants were set out.<sup>2</sup> Moreover, the study observed that: (1) most of the nation's public housing authorities are not taking advantage of the law authorizing them to request national criminal background checks, (2) the few that are taking advantage of the law are in primarily small jurisdictions, and (3) many of the public housing authorities that are requesting III name checks of public housing tenants or applicants are not following the procedures set out in the Memorandum of Understanding—specifically, they are not always obtaining and submitting the fingerprints of persons whose

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<sup>1</sup> In the case of the Florida applicants, if Florida got a name check hit and a confirmation by Florida fingerprint comparison, the applicant card was not sent to the FBI. This occurred 4,859 times according to the SEARCH/Q.E.D. Study, *infra*.

<sup>2</sup> It should be noted that attempts were made by HUD to obtain participation of other large, diverse PHAs, which declined. It also should be noted that the states that were requested to participate in the volunteer portion of the study fully cooperated. The number of volunteer applicants during the study period, however, was not numerically large enough to have confidence in the outcomes.

name checks reveal that they may have criminal records indexed in the III system. These observations were communicated to the Attorney General in an interim letter report on January 27, 1999, attached here as Appendix C.

Based upon the large number of Florida employment/licensing applications analyzed during the study, the findings concerning them are statistically significant. Although the findings relate to Florida applicants only and cannot be generalized with confidence as nationally representative, the Task Force believes that they can be viewed as relevant to the efficacy of name checks for civil employment applications generally, particularly since they are the only statistically significant findings available.

In addition to the SEARCH/Q.E.D. study, the Task Force reviewed other relevant materials, including a January 1997 report by the General Accounting Office on national fingerprint-based background checks initiated in five states under the National Child Protection Act of 1993;<sup>3</sup> a 1997 FBI analysis of civil applicant fingerprint cards processed by the FBI;<sup>4</sup> an updated analysis of “False Negative Data” prepared by the FBI; and a February 1999 report by the General Accounting Office on military recruiting.<sup>5</sup> The FBI analysis is unpublished, but is attached for reference to this report as Appendices D and E. The findings set out in these reports are generally consistent with and augment those set out in the SEARCH/Q.E.D. study and provide additional support for the Task Force’s conclusions and recommendations. In addition, in formulating the findings and recommendations set out below, the members of the Task Force drew upon their own extensive professional knowledge and experience.

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<sup>3</sup> *Fingerprint-Based Background Checks, Implementation of the National Child Protection Act of 1993*, Report to the Honorable Fred Thompson, U. S. Senate, by the United States General Accounting Office, Washington, D. C. 20548, # GAO/GGD 97-32, January 1997.

<sup>4</sup> U. S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, Washington, D. C., *Civil Fingerprint Card “Hit” Survey, Part I, Executive Summary and Part II, Methodology and Analysis*, April 1998-Final.

<sup>5</sup> *Military Recruiting*, Report to the Honorable Wayne Allard, Chairman, and the Honorable Max Cleland, Ranking Minority Member of the Subcommittee on Personnel, Committee on Armed Services, United States Senate, General Accounting Office, National Security and International Affairs Division, Washington, D.C., 20548, # B-28179, February 23, 1999.

## Conclusions and Recommendations

Concerning national criminal history record background checks of public housing applicants, the Task Force approved the following conclusion and recommendation:

- 1. The National Crime Prevention and Privacy Compact became effective on April 28, 1999.<sup>6</sup> The Compact governs the use of the III system for conducting national criminal history record searches for non-criminal justice purposes. Article V provides that all requests for III criminal history record searches for noncriminal justice purposes shall be accompanied by fingerprints.<sup>7</sup> The Article provides further that all such requests shall be submitted to a state criminal history repository or to the FBI.<sup>8</sup> Since the Memorandum of Understanding (MOU) authorizes local law enforcement agencies to conduct III name searches for Public Housing Authorities, the Task Force believes it may be in conflict with the Compact and thus**

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<sup>6</sup> By its terms, the Compact became effective when ratified by the federal government and two states. Federal ratification was completed when the President signed S. 2022 on October 9, 1998. Montana ratified the Compact on April 18, 1999, followed by Georgia on April 28, 1999, making the Compact effective. Subsequently, two additional states ratified the Compact—Nevada on May 14, 1999 and Florida on June 9, 1999.

<sup>7</sup> The Compact Council established by the Compact may at some future time approve the use of other biometric identification techniques if it determines that such techniques are at least as reliable as fingerprints in establishing positive identification.

<sup>8</sup> If the FBI or a state repository identifies a record subject as having a III-indexed record, it may use the III index to obtain any parts of the record maintained by any other Compact party. Article V provides that:

“Direct access to the National Identification Index [III] by entities other than the FBI and State criminal history records repositories shall not be permitted for noncriminal justice purposes.” Art. V § (c).

**may be ineffective.<sup>9</sup> Accordingly, the Task Force recommends that the issue of the extension of the MOU be considered moot.**

Concerning name check efficacy generally, the Task Force approved the following conclusions and recommendations:

- 2. FBI fingerprint searches are highly preferable to III name checks as a means of criminal history screening. Individual fingerprint patterns are known to be unique.<sup>10</sup> For this reason, fingerprint comparison is, and has for many decades been, the accepted standard for establishing positive identification of criminal history record subjects in the United States. Modern automated fingerprint identification systems are believed to produce identification error rates of less than one percent. Compared to FBI fingerprint searches, III name checks result in appreciable numbers of both false positives and false negatives.**

This conclusion is based on the following major findings set out in the SEARCH/Q.E.D. study concerning the 93,274 Florida employment applicants who were subjected to both III name checks and FBI fingerprint searches:

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<sup>9</sup> The Housing Opportunity Program Extension Act of 1996, Pub. L. 104-120, 110 Stat. 837, did not indicate the method by which national criminal history record checks were to be conducted for Public Housing Authorities. The Memorandum of Understanding providing for name checks for such purposes was approved by the Attorney General as an exception to the FBI's longstanding policy requiring that noncriminal justice record searches be fingerprint-based in the absence of explicit statutory authority to the contrary. The fingerprint requirement is now set out in the Compact, which is federal law and has superseded FBI policy on this issue.

<sup>10</sup> A study conducted by Lockheed Martin Corp. for the FBI's Criminal Justice Information Services Division established that the probability that any single fingerprint is identical to any other fingerprint is one chance in 10 to the 86th power (10 followed by 86 zeroes). The study was conducted in preparation for a *Daubert* hearing in the case of *United States v. Mitchell*, (E.D. PA), Criminal No. 96-00407.

- (a) 10,673 of those applicants (11.4%) were determined to have fingerprint-verified criminal history records. Of those, 1,252 were indicated by III name checks *not* to have records (false negatives). This represents 11.7% of those applicants with criminal history records and 1.3% of all applicants in the study.<sup>11</sup>
- (b) 82,601 applicants were determined by fingerprint searches *not* to have criminal history records. Of those, 4,562 were inaccurately indicated by name checks to have criminal records (false positives). This represents 5.5% of persons who did not have criminal history records and 4.9% of all applicants.

**3. Reliance on III name checks alone as a method of applicant criminal history record screening can mean that, on a national basis, large numbers of persons who do not have disqualifying criminal records may be unfairly excluded from employment or other positions or entitle-**

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<sup>11</sup> The FBI analysis of 1997 civil applicants (see footnote 4) found that 11.7% of those applicants with fingerprint-verified criminal history records had provided false names and/or other false identification information in their applications. Although it cannot be determined what percentage of these applicants were false negatives (i.e., how many would have been cleared by a III name check), the finding is not inconsistent with the results of the SEARCH/Q.E.D. study.

In addition, the Task Force considered the report by the General Accounting Office on military recruiting (see footnote 5) that recommended:

“The Secretary of Defense [should] require all national agency checks for enlistment into the military service to be based on a full fingerprint search to (1) reduce the risks associated with enlisting individuals who have been convicted of the more serious misdemeanors and felonies and (2) identify individuals who have used aliases.” (pp.18-19/GAO Report, *Military Recruiting*)

Although, the practice of the Department of Defense (DoD) prior to the GAO report was to conduct background checks on name-based searches, DoD concurred in this recommendation. The implementation of the recommendation will be based on availability of automated fingerprint scanners at Military Entrance Processing Stations. (p. 37/GAO Report, *Military Recruiting*)

**ments. More importantly, large numbers of persons may be employed or permitted to volunteer in positions for which they are unfit and in which they pose societal risks because their criminal records are not discovered.**

**In this regard, the study suggests that if the 6.9 million civil applicant background checks processed by the FBI in 1997 had been processed by III name checks alone, approximately 346,500 false positives and 70,200 false negatives would have resulted.<sup>12</sup> In addition, it is clear from the number of name checks being conducted at the state level against state databases that the absolute number of false positives and false negatives would be significantly higher in a national system that permitted III name checks in lieu of fingerprint searches. The convenience of name checks would encourage many more requests for national criminal record searches than the 6.9 million received by the FBI in 1997 under current procedures requiring the obtaining and submission of fingerprints.**

- 4. Since the prospect of fingerprint-based criminal history record screening deters persons with criminal histories from applying for positions for which they are not fit,<sup>13</sup> it can be inferred that the incidence of false negatives documented by the study of Florida civil applicants would be higher in an environment in which name search-only background checks were permitted.**

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<sup>12</sup> The FBI analysis (see footnote 3) indicated that 600,000 (8.7%) of the 6.9 million civil applicants had criminal history records and 6,300,000 did not. Applying the false negative and false positive rates documented in the SEARCH/Q.E.D. study yields the following: 5.5% of 6,300,000 persons without records equals 346,500 false positives and 11.7% of 600,000 persons with records equals 70,200 false negatives.

<sup>13</sup> The January 1997 GAO study of the implementation of the National Child Protection Act, 42 U.S.C. §§ 5119a et seq., (see footnote 3) stated that officials of the various national, state and local organizations contacted by GAO (including the Boy Scouts, Girl Scouts, camp groups and other organizations that work with children) said they believed the prospect of fingerprint-based national criminal history record checks deters an indeterminate but significant number of individuals with criminal records from applying for positions for child care-related positions. The majority of the members of the Task Force concur in that belief.

5. **The Task Force acknowledges that a number of state criminal history record repositories have for many years used name checks as the sole method of searching their state criminal history files for a variety of noncriminal justice purposes. A primary rationale for these uses of name checks is that fingerprint-based searches commonly entail long mailing and processing delays which are inconsistent with the needs of record users with time-critical requirements. In addition, the process of having one's fingerprints taken for back-ground screening purposes may be inconvenient or even impracticable and usually involves the payment of a fee.**

**The development and implementation of automated fingerprint identification systems and related technologies providing for the electronic capturing and transmission of fingerprint images has made it possible to dramatically reduce fingerprint transmission and processing delays at both the state and federal levels. In this regard, the FBI's Integrated Automated Fingerprint Identification System (IAFIS), scheduled for implementation in July 1999 will enable the FBI to receive civil applicant fingerprints electronically from state repositories and provide search responses to the repositories within 24 hours. While IAFIS promises to solve the problem of federal-level processing delays for those states that have the capability of linking to the system, the states still must obtain funding to implement automated technology at the state and local levels to reduce or eliminate processing and transmission delays at the state repositories.**

6. **The increasingly widespread implementation of automated fingerprint technologies at the local, state and federal levels, together with the National Crime Prevention and Privacy Compact and recent federal laws requiring**

**that national criminal history record searches be fingerprint-based,<sup>14</sup> has created a new technological and legal environment. This new environment is engendering a shift away from the use of name checks in favor of fingerprint-based searches within the criminal justice community, for both criminal justice and noncriminal justice purposes.<sup>15</sup> The Task Force believes that this shift toward positive identification is the wave of the future and presents a challenge that policymakers at all government levels must meet. The Task Force urges the federal government and the states to give high priority to the implementation at the state and local levels of automated equipment that will enable the states to link with IAFIS and provide expedient fingerprint-based national criminal history record search responses to their noncriminal justice client agencies.**

- 7. As another way of removing disincentives to fingerprint-based criminal background checks for noncriminal justice purposes, policymakers should explore ways to subsidize fees charged to applicants, employers or other agencies for fingerprint searches. In this regard, it is recommended that Department of Housing and Urban Development officials consider assuming the costs of fingerprint searches for all public housing tenants and applicants, thereby removing a possible disincentive to the Public Housing Authorities' use of the national criminal history background check authority.**

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<sup>14</sup> An example is the National Child Protection Act as amended by the Volunteers for Children Act. 42 U.S.C. §§ 5119a et seq.

<sup>15</sup> This trend coincides with a general evolution toward positive identification in other national arenas, as evidenced by the extensive and increasing use of biometric identification methods (such as voiceprint analysis and retinal scanning) within the defense industry, the American scientific and business communities and many federal agencies.



# **Appendix A**

## **National Task Force on Interstate Identification Index Name Check Efficacy**



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# **Appendix B**

## **SEARCH/Q.E.D. Interstate Identification Index Name Check Efficacy Study**



# Interstate Identification Index Name Check Efficacy Study

June 1999

by **SEARCH, The National Consortium for Justice Information  
and Statistics and Queues Enforth Development, Inc.**

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# 1. Introduction

This study was undertaken in support of the work of the Task Force on Interstate Identification Index Name Check Efficacy. The study examined the accuracy of identifications resulting from name checks of the Interstate Identification Index (III) compared to identifications based on fingerprint comparison, and evaluated the risks of inaccurate identifications or missed identifications resulting from name checks.

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## 1.1 Study Background

The III is an automated index maintained by the FBI which includes names and personal identification information relating to individuals who have been arrested or indicted for a serious or significant<sup>1</sup> criminal offense anywhere in the country. The index is available to law enforcement and criminal justice agencies throughout the country and enables them to determine very quickly whether particular persons may have prior criminal records and, if so, to obtain the records from the state or federal databases where they are maintained. III name checks may be made for criminal justice purposes, such as police investigations, prosecutor decisions and judicial sentencing. In addition, III requests may be made for authorized noncriminal justice purposes, such as public employment, occupational licensing and the issuance of security clearances, where positive fingerprint identification of record subjects has been made.

A so-called “name check” is based not only on an individual’s name, but also on other personal identifiers such as sex, race, date of birth and Social Security Number. Because none of this information is unique to particular individuals,<sup>2</sup> name checks are known to produce inaccurate results as a consequence of identical or similar names and other

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<sup>1</sup> The FBI accepts, processes and files arrest fingerprints (and related disposition, sentencing and correctional information) submitted by state and federal law enforcement agencies if the arrested persons were charged with any criminal offense considered to be serious or significant. The FBI maintains a list of nonserious offenses. Serious offenses for which the FBI will accept fingerprint cards often are referred to as “criterion offenses.”

<sup>2</sup> Social Security Numbers are supposed to be unique to individuals, but mistakes do occur in their issuance resulting in the same number being issued to more than one person. Also, it is not difficult for individuals to obtain Social Security Numbers fraudulently.

identifiers. Mistakes can also result from misspellings, clerical errors or intentionally inaccurate identification information provided by search subjects who wish to avoid discovery of their prior criminal activities.

Name check errors are of two general types: (1) inaccurate or wrong identifications, often called “false positives,” which occur when an applicant’s III name check does not clear (i.e., it produces one or more possible candidates) and the applicant’s fingerprint search does clear (i.e., applicant has no FBI criminal record); and (2) missed identifications, often called “false negatives,” which occur when an applicant’s III name check clears (i.e., produces no possible candidates) and the applicant’s fingerprint search does not clear (i.e., applicant has an FBI criminal record). Although errors of both types are thought to occur with significant frequency—based on the experience of state record repository and FBI personnel—at the time this study was begun, there were no known studies or analyses documenting the frequency of such errors.<sup>3</sup>

In contrast, fingerprint searches are based on a biometric method of identification, the fingerprint patterns of individuals, which are unique characteristics that are not subject to alteration. Identifications based on fingerprints are highly accurate, particularly those produced by automated fingerprint identification system (AFIS) equipment, which is in widespread and increasing use throughout the country. Analyses have shown that AFIS search results are 94-98 percent accurate when searching good quality fingerprints.<sup>4</sup> For this reason, an identification based on fingerprint comparison usually is referred to as a “positive identification.” It should be stated that the study assumed fingerprint searches to be free of errors.

Fingerprints are obtained routinely from arrested persons as a part of the booking process and less routinely from persons who are indicted or

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<sup>3</sup> There have been documented cases in which name check errors caused dire consequences for public safety in the criminal justice arena. As an example, a May 28, 1998 article in *The New York Times* reported on the case of a fugitive parolee who was arrested by the New York City police department and mistakenly released because the false name and identification information he provided caused an ensuing name check to fail to discover his prior record and fugitive status. The individual subsequently shot and killed a police officer who was sent to arrest him after a fingerprint search revealed the mistake. Following the incident, the police department changed its policies to require fingerprint-based searches before the release of arrested persons.

<sup>4</sup> Information provided by Robert L. Marx, SEARCH Senior System Specialist, based on state studies completed in 1990 and 1992. The errors implicit in these accuracy figures are largely attributable to human errors in assigning fingerprint pattern types as a part of the search process and, to a lesser extent, in verifying computer matches. Some AFIS systems now employ computer-generated pattern type, or do not use pattern types at all in the search, and also eliminate the human verification step in favor of computer verification. For these newer systems, the accuracy rate is thought to be as high as 99-99.5 percent. This means that if there is a matching set of fingerprints in the file being searched, it will be found 99-99.5 percent of the time. The risk of both false negatives and false positives is reduced to a small fraction of 1 percent of all searches in these newer systems.

cited without previously being arrested.<sup>5</sup> These fingerprints are maintained in criminal fingerprint files at the local, state and national levels. Fingerprints maintained by state criminal record repositories and many of the larger cities are stored in automated databases with automated search capabilities. The FBI maintains an automated fingerprint file that contains the fingerprints of approximately 29 million persons whose records are included in the III system and provides the basis for the positive identification of all such persons. The FBI also maintains fingerprints of over 5 million persons who were born prior to 1956 and whose most recent arrest was prior to July 1, 1974. The criminal history records of these persons are not automated and are not included in the III system.

Because of the inaccuracies of name checks as compared to fingerprint searches, the FBI and some of the state criminal record repositories do not permit name-check access to their criminal history record databases for noncriminal justice purposes.<sup>6</sup> In particular, FBI policy does not permit the use of the III for name checks for noncriminal justice purposes unless specifically authorized by federal law.<sup>7</sup> Instead, criminal history record searches for such purposes may be obtained only by submitting the fingerprints of the search subject to a state repository or to the FBI.

In recent years, the state repositories and the FBI have been subjected to intense pressure from public and private agencies to permit name checks for an increasing number of noncriminal justice purposes. These agencies also have pressured the Congress to enact legislation permitting III name checks for such purposes. They point out that, despite the risks associated with name checks, they are cheap and fast compared to fingerprint searches, which usually require the payment of substantial fees and entail long processing delays. State record repositories that permit name checks for noncriminal justice purposes charge fees ranging from \$1 to \$25.<sup>8</sup> In contrast, the FBI charges \$18 for fingerprint searches for volunteer applicants and \$24 for other noncriminal justice fingerprint searches. The state repositories charge

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<sup>5</sup> Some states have arrest fingerprinting policies that differ from the FBI's "criterion" offense policy. Some require the fingerprinting of all arrested or indicted persons; a few require fingerprinting only of persons arrested or indicted for felony offenses, and others require fingerprinting for felonies and designated serious misdemeanors.

<sup>6</sup> Law enforcement and criminal justice agencies are thought to be better qualified through knowledge and experience to deal with the limitations and risks associated with name search identifications than are noncriminal justice agencies and are believed to be more accountable for mistakes resulting from name search errors. As a consequence, the risk of unwarranted harm to record subjects resulting from inaccurate or missed identifications is thought to be greater when criminal history records are used for noncriminal justice purposes than when they are used by criminal justice agencies for criminal justice purposes.

<sup>7</sup> Action Memorandum, dated June 22, 1998, from the Deputy Director of the FBI to the Attorney General, entitled "FBI Statement of Position Regarding the Department of Justice's (DOJ) Proposal to Allow Name Checks of the Interstate Identification Index (III) for Noncriminal Justice Employment and Licensing Purposes," referred to hereafter as "FBI Action Memorandum."

<sup>8</sup> Bureau of Justice Statistics, *Criminal Justice Information Policy: Survey of Criminal History Information Systems, 1997* (April 1999), table 23.

fees ranging from \$7 to \$52 for such searches.<sup>9</sup> Whereas automated name checks and related record retrievals require only a few minutes, fingerprint searches commonly entail processing delays that extend to weeks or even months, due principally to the lack of adequate repository personnel to process fingerprint cards and assemble and mail record responses.<sup>10</sup>

The expanding implementation of AFIS equipment at the local, state and national levels is expected to exert a downward pressure on fingerprint processing fees and processing delays. State and federal record officials, however, believe that name checks are likely to remain cheaper than fingerprint searches, and that fingerprint searches are likely to continue to entail significant processing delays; this will be the case at least until the implementation of AFIS technology is more widespread, including the linking of state systems to the FBI's IAFIS<sup>11</sup> system and the provision of live scan devices<sup>12</sup> to noncriminal justice agencies that generate large numbers of search applications.

For these reasons, some noncriminal justice agencies, including state and federal governmental agencies that need to screen applicants for public employment and occupational licensing, have sought approval from the FBI to perform name checks of applicants either in lieu of fingerprint searches or while fingerprint searches are being processed. These agencies point out that the pressure to fill vacant employee positions often forces them to hire individuals provisionally during the long delays while their fingerprint searches are pending. Although name checks of these individuals would not identify those with criminal records who intentionally provide false identification information, such checks could conceivably provide timely unsubstantiated identification of those who give accurate information and would enable the employing agencies to make informed hiring decisions before applicants begin work.

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<sup>9</sup> Bureau of Justice Statistics, *Criminal Justice Information Policy: Survey of Criminal History Information Systems, 1997*, April 1999, table 23.

<sup>10</sup> FBI Action Memorandum, *supra* at footnote 7, pp. 4-5.

<sup>11</sup> The FBI's Integrated Automated Fingerprint Identification System (IAFIS), scheduled for deployment in July 1999, will include updated facilities at the FBI for automated storage, retrieval and search of fingerprint images, as well as telecommunications facilities that will enable the state record repositories to link up with the system so as to transmit fingerprints electronically and receive search responses electronically. FBI processing "turnaround" time is expected to be 24 hours after arrival of the fingerprints at the FBI. There may be longer processing delays at the state level.

<sup>12</sup> Live scan devices permit fingerprints to be obtained by placing the subject's fingers on a scanning surface and enable the electronic transmission of such fingerprints to a processing facility.

## Other Studies and Analyses

Other studies that provide interesting results and warrant review as background to this study include the following:

### ***Fingerprint Opinion Poll***

In July 1996, Opinion Research Corporation of Princeton, New Jersey conducted a poll of a statistically representative sample of adult Americans to ascertain their views on the use of fingerprinting as an identification technique in noncriminal settings, such as background screening of persons who apply for jobs, government licenses or military service. The results, which were published in the October/November 1996 issue of *Privacy & American Business*,<sup>13</sup> showed that substantial majorities of Americans support fingerprinting in these situations. The poll revealed, among other things, that most Americans (55%) have been fingerprinted for some identification purpose and 87% of those persons felt that fingerprinting was an appropriate procedure. Further, substantial majorities of the public say they have read or heard about situations in which individuals have used fraudulent identities for illegal purposes and 75% said they would be comfortable being fingerprinted to prevent someone else from assuming their identity.

When the new process of finger imaging<sup>14</sup> was described to them, significant majorities of those polled supported the use of finger imaging to verify identity when: applying for government welfare or other benefits (81%), using credit cards (76%), cashing personal checks (77%) or entering secured areas (91%). Two out of three persons polled supported the use of finger imaging in all four situations. Of more direct relevance for purposes of the Task Force study, substantial majorities of those polled (79% to 93%) said they supported the use of finger imaging to check whether persons applying for jobs as police officers, doctors, bank tellers, stock brokers or casino employees have criminal records. Further, more than four out of five respondents (83%) rejected the view that the use of finger imaging to verify identity is stigmatizing in that it treats people like presumed criminals. Rather, they viewed identity verification by such means as an appropriate way to help protect the public from fraud.

### ***FBI Analyses of Civil Fingerprints***

In the fall of 1997, the FBI's Criminal Justice Information Services (CJIS) Division conducted an analysis of a statistically representative sample of criminal record searches conducted by the FBI for

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<sup>13</sup> "Finger Imaging Survey Charts Public Acceptance," *Privacy & American Business*, Vol. 3, No. 4, Oct./Nov. 1996, pp. 13-16.

<sup>14</sup> Finger imaging is a process of photographic scanning of fingertips, entering the digitized record of the fingerprints in a computer database and then comparing the finger images of someone applying for a job, benefit or right with the database of authorized or excluded persons. The live scan devices described earlier (see footnote 13) utilize a form of finger imaging.

noncriminal justice licensing and employment purposes.<sup>15</sup> The sample was of sufficient size to yield highly accurate<sup>16</sup> estimates concerning civil fingerprint card processing by the FBI.<sup>17</sup> Survey results indicated that the FBI currently processes about 6,900,000 civil fingerprint cards a year. Of these, 8.7% (about 600,000 annually) yield a fingerprint-verified “hit” against the criminal database. Although the published analysis includes estimates of the number of applicant fingerprints processed annually by submission purpose, i.e., category of applicant (child care, law enforcement employment, state/local government employment, financial institutions, lottery/gambling public housing, etc.), it does not break down hit rates by category of applicant.

Of particular relevance for the present Task Force study, the analysis indicates that 11.7% of the applicants in the sample who were found to have criminal records used names that were sufficiently different from the names on their criminal records to suggest that they intentionally used false names to avoid discovery of the records. This means that in an estimated 70,200 cases annually (approximately 1% of total civil fingerprint submissions), civil applicants with criminal records would have escaped detection by giving false names if their background checks had been based on name checks without follow-up fingerprint searches. Of further interest, the incidence of false name use was broken down by category for the five submission purposes for which the highest numbers of applications were processed, and the breakdown showed substantial variations from the 11.7% average for all applicants. This analysis showed that intentionally false names were used by 17% of persons with criminal records applying to the Immigration and Naturalization Service for citizenship, residence, green cards, etc., 11% of persons with criminal records applying to school systems for jobs as teachers, bus drivers, etc., 6% of persons with criminal records applying for jobs with financial institutions, 6% of persons with criminal records applying for jobs as private security guards or private detectives, and 5% of persons with criminal records applying to be federally-licensed firearms dealers or for firearms permits.

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<sup>15</sup> U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, “Civil Fingerprint Card “Hit” Survey, Part I Executive Summary and Part II Methodology and Analysis,” April, 1998-Final.

<sup>16</sup> The sample was designed to yield a statistical confidence level of 99% and a margin of error of plus or minus 1%.

<sup>17</sup> The processing of noncriminal justice record checks by the FBI is usually referred to as civil fingerprint card processing or applicant card processing because the search application is actually the fingerprint card (or electronic equivalent) of the search subject, which bears (in addition to fingerprint impressions) the subject’s name and other textual identification data as well as the identity and legal authority of the agency submitting the search application. Processing begins with a name check followed by a fingerprint search, if necessary.



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## 1.2 Study Genesis

The Housing Opportunity Program Extension Act of 1996 (the Extension Act),<sup>18</sup> enacted on March 28, 1996, amends the United States Housing Act of 1937 to provide that, “the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to public housing authorities regarding the criminal conviction records of adult applicants for, or tenants of, public housing for purposes of applicant screening, lease enforcement and eviction.” The Act provides for similar record checks of juveniles to the extent authorized under the law of the applicable state, locality or tribe.

Since the law does not specify how criminal history record searches are to be conducted for public housing authorities (PHAs), the FBI initially informed the Department of Housing and Urban Development (HUD) that, because the purpose of public housing searches is classified as noncriminal justice, fingerprints would have to be submitted with all search applications to insure positive identification. HUD objected to the fingerprint requirement and appealed to the Attorney General for authority for PHAs to obtain III name checks. HUD and the PHAs objected to fingerprinting on three grounds: (1) cost, (2) processing delays, and (3) the perceived stigma to public housing applicants associated with fingerprinting.

The Attorney General agreed to a Memorandum of Understanding (MOU) between HUD and DOJ, dated May 29, 1996, providing that state and local law enforcement agencies may use the III system to perform name checks for PHAs to determine whether public housing tenants or applicants may have criminal history records indexed in the III system. Under the terms of the agreement, if a check reveals that a tenant or applicant may have a III record, the PHA must obtain the fingerprints of the person and submit them to the FBI for “expeditious processing.”<sup>19</sup> If the fingerprints verify the identification, the criminal history record may be made available to the PHA for use in accordance with the Extension Act. The MOU stated that it would remain in effect for six months and that thereafter representatives of HUD, the PHAs, the FBI and DOJ would evaluate its effectiveness.<sup>20</sup>

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<sup>18</sup> Pub. L. 104-120, 110 Stat. 837.

<sup>19</sup> Although the MOU states that PHAs “must” obtain and submit fingerprints if notified that a public housing applicant may have a III record, a subsequent FBI advisory letter to state officials describing the procedures to be used in implementing PHA name checks stated that fingerprints must be submitted “if the PHA wishes to obtain the full content of a criminal history record.” (Letter from Bennie F. Brewer, Chief, CJIS Programs Support Section, dated Nov. 26, 1996, to All CJIS Control Terminal Officers and State Identification Bureau Chiefs, Subject: Housing Opportunity Program Extension Act of 1996 (Pub. L. 104-120)). Some state officials and PHAs may have interpreted this statement as making fingerprints optional. In any case, information compiled by the FBI relating to FY 1998 indicated that, nationwide, there is a great disparity between the number of name check hits on public housing applicants and the number of fingerprints submitted, suggesting strongly that not all PHAs are following the procedures set out in the MOU. Preliminary statistics compiled by FBI, Criminal Justice Information Division, October 1998.

<sup>20</sup> The complete text of the Memorandum of Understanding is set out in Appendix 1.

In response to concern expressed by the FBI's Criminal Justice Information Advisory Policy Board (APB) about this deviation from the long-standing policy, Attorney General Janet Reno addressed the APB and advised them that:

“[O]ur agreement with HUD in no way signifies a departure from the belief reflected in the [National Crime Prevention and Privacy] Compact that fingerprint-based searches are better than name-based ones.

“I have informed [APB] Chairman Bonino that the department will examine the HUD name-based check experiment after several months of operation to see how it's working, and we will work with the Board to try to develop a thoughtful, careful evaluation process that can give you confidence in this.”<sup>21</sup>

As a result, the Task Force was appointed to plan and oversee the evaluation contemplated by the MOU. Task Force members include representatives of HUD, the FBI, the Bureau of Justice Statistics, the FBI-CJIS Advisory Policy Board, SEARCH, Queues Enforth Development, Inc. and state criminal history record repositories.

In August 1998, the Bureau of Justice Statistics (BJS) requested that SEARCH, the National Consortium for Justice Information and Statistics (SEARCH) and Queues Enforth Development, Inc. (Q.E.D.), cooperatively plan and conduct the evaluation under the guidance of the Task Force and prepare the final report, subject to the approval of the Task Force. Q.E.D. developed a research design for the evaluation that was approved by the Task Force on October 23, 1998.

During 1998, the Task Force met three times in Washington, D.C. The Task Force also met on April 21, 1999, in Baltimore, Maryland. SEARCH and Q.E.D. personnel met with FBI personnel in Clarksburg, West Virginia, on October 1, 1998. In addition, Task Force members have participated in numerous telephone conference calls throughout the course of the study.

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<sup>21</sup> U.S. Attorney General Janet Reno, “Address to the Criminal Justice Information Advisory Policy Board,” St. Petersburg, Florida, June 4, 1997.

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## 1.3 Scope of Study

As noted above, the initial purpose of the study was to evaluate the efficacy of name checks conducted for public housing tenants and applicants pursuant to the DOJ-HUD MOU. In early discussions of the study approach, however, it became evident that there were good reasons for broadening the scope of the study to include other types of noncriminal justice name check applications. As pointed out above, there has been increasing pressure on the FBI and the Congress to authorize III name checks for a broad range of noncriminal justice purposes, including various types of private and public employment and occupational licensing. It was determined that a study that focused only on public housing applicants would not be viewed as relevant to other situations in which III name check authority was being sought. After inquiries to the Department of Justice by a Florida Congressman, the Attorney General agreed to enter into a pilot project with Florida, utilizing preliminary name checks as the precursor to fingerprint submissions. The data derived from the project was to be evaluated and included in the Name Check Efficacy Evaluation Study.

For this reason, a decision was made to include two additional categories of noncriminal justice applicants: (1) persons applying for public or private employment or licensing in Florida for which Florida statutes authorize national criminal history record checks, and (2) persons seeking volunteer positions working with children or elderly or disabled persons in Arizona, California and Maryland, pursuant to laws in those states authorizing national record checks.

# 2. Study Approach

The following sections describe the research design of the study and the data collected on the study groups.

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## 2.1 Study Design

Ideally, a *rigorous* and *definitive* study would validly determine the efficacy of utilizing only name checks (i.e., without fingerprint searches) to ascertain the existence of criminal records for noncriminal justice purposes. Such an encompassing study would be large in scope, as well as time-consuming and costly to conduct. A more modest goal would be to consider a smaller but representative set of purposes for which national background checks are performed while preserving the study's rigor. This was the goal of the Task Force on III Name Check Efficacy, focusing on three common background check purposes or applicant groups:

1. Employment and License Applicant Checks
2. Public Housing Applicant Checks
3. Volunteer Applicant Checks

Given the stated goal, what research questions should the study attempt to answer, what would be the attributes of an appropriate research design, and finally, given the existing constraints, what type of design is feasible? Before addressing these issues, an outcome framework is provided within which the issues can be analyzed.

### Outcome Framework

The outcome framework in which the study is viewed incorporates an “outcome matrix.” In this section, the matrix is described and an explanation is provided on how to interpret it.

#### ***Understanding the Outcome Matrix***

As depicted in the following diagram, the outcome matrix is a mechanism for displaying the results of the applicants' name checks and fingerprint searches:

|   | <b>Fingerprint Search<br/>Clearance<br/>FPC</b> | <b>Fingerprint Search<br/>Non-Clearance<br/>FPN</b> |
|---|---|---|
| <b>Name Check<br/>Clearance<br/>NCC</b>     | NCC_FPC<br><b>True Negative</b>                 | NCC_FPN<br><b>False Negative</b>                    |
| <b>Name Check<br/>Non-Clearance<br/>NCN</b> | NCN_FPC<br><b>False Positive</b>                | NCN_FPN<br><b>True Positive</b>                     |

In simplest terms, there are two possible results of an applicant’s name check: (1) the name check clears (i.e., no candidate is produced), or (2) the name check does not clear (i.e., at least one candidate is produced). Similarly, there are two possible results of an applicant’s fingerprint search: (1) the fingerprint search clears (i.e., the applicant has not been identified as having a criminal record), or (2) the fingerprint search does not clear (i.e., the applicant has been identified as having criminal record). Taken together, the results of the name check and the fingerprint search comprise the outcome of the background check of a particular applicant. Collectively, the outcomes of an entire applicant group (or subgroup) are described by the outcome matrix.

Since there are two possible results each for the name check and fingerprint search, in combination there are four possible outcomes, each occupying one of the four “cells” of the matrix; they are commonly referred to as:

- True Negative                      The name check clears; the fingerprint search clears.
- True Positive                      The name check does not clear; the fingerprint search does not clear.
- False Positive                      The name check does not clear; the fingerprint search clears.
- False Negative                      The name check clears; the fingerprint search does not clear.

Of the four possible outcomes, the two of particular interest are the *false* cells, containing the false positive and false negative outcomes. In a hypothetical context in which only name checks determine eligibility for employment, licensing, housing, volunteer position, etc., an applicant with a *false positive* outcome could suffer an unfair disqualification. Concomitantly, an applicant with a *false negative* outcome could incorrectly avoid disqualification. Of course, this is the outcome of greatest concern to the study because it addresses the problem of, for example, accepting an applicant for a child care position who may have one or more disqualifying convictions for violent crimes.

The following hypothetical outcome matrix is presented for purposes of illustration:

|   | <b>FPC</b><br>(Fingerprint<br>Search<br>Clearance)      | <b>FPN</b><br>(Fingerprint<br>Search Non-<br>Clearance) | <b>TOTAL</b>  |
|---|---|---|---|
|   | Number<br><i>Row %</i><br><i>Col %</i><br><i>Cell %</i> | Number<br><i>Row %</i><br><i>Col %</i><br><i>Cell %</i> | Number<br><i>Row %</i><br><i>Col %</i><br><i>Cell %</i> |
| <b>NCC</b><br>(Name<br>Check<br>Clearance)      | 500<br><i>99.0%</i><br><i>89.3%</i><br><i>82.6%</i>     | 5<br><i>1.0%</i><br><i>11.1%</i><br><i>0.8%</i>         | 505<br><i>100.0%</i><br><i>83.5%</i><br>--              |
| <b>NCN</b><br>(Name<br>Check Non-<br>Clearance) | 60<br><i>60.0%</i><br><i>10.7%</i><br><i>9.9%</i>       | 40<br><i>40.0%</i><br><i>88.9%</i><br><i>6.6%</i>       | 100<br><i>100.0%</i><br><i>16.5%</i><br>--              |
| <b>TOTAL</b>                                    | 560<br><i>92.6%</i><br><i>100.0%</i><br>--              | 45<br><i>7.4%</i><br><i>100.0%</i><br>--                | 605<br><i>100.0%</i><br><i>100.0%</i><br>--             |

Immediately, it can be observed from the cell in the bottom right corner of the matrix that a total of 605 cases is represented. The rows labeled “NCC” and “NCN” refer to cases in which the name check cleared and the name check did not clear, respectively. Thus, looking at the “Total” column on the right, one can see that 505 name checks cleared and 100 name checks did not clear. Analogously, the columns labeled “FPC” and “FPN” refer to cases in which the fingerprints cleared and the fingerprints did not clear, respectively. Looking at the “Total” row on the bottom, one can see that 560 fingerprints cleared and 45 fingerprints did not clear.

Because every cell in the matrix is the intersection of a row and a column, they are referred to by the names of the intersecting rows and columns; i.e., “row name\_column name.” So, for example, the cell at which the row “NCN” intersects the column “FPN”—containing the number “40” followed by 40.0%, 88.9% and 6.6%—is referred to simply as cell “NCN\_FPN.” Thus, cell NCN\_FPN includes cases in which both the name check and the fingerprint search did not clear. This matrix indicates that of the 605 cases, 40 applicants’ name checks produced candidates whose fingerprints matched those of a person with a criminal record; i.e., there are 40 true positives.

Finally, there are percentages contained in the cells. As an example, cell NCC\_FPN (i.e., cases where the name check cleared but the fingerprints did not, or false negatives) can be viewed in three ways:

1. As the *row* percentage (1.0%) of the 505 cases where the name check cleared;
2. As the *column* percentage (11.1%) of the 45 cases where the fingerprint search did not clear; or
3. As the *cell* percentage (0.8%) of all 605 cases.

To summarize:

- Cell NCC\_FPC contains the true negatives.
- Cell NCN\_FPN contains the true positives.
- Cell NCC\_FPN contains the false negatives.
- Cell NCN\_FPC contains the false positives.

### ***Interpreting the Outcome Matrix***

The *true* cells, containing the true positive and true negative outcomes, are self-explanatory. While the absolute numbers of false outcomes are informative, it is more insightful to consider the three percentages that describe the rates at which these two types of errors occur. More specifically, they are defined as:

$$\text{False Positive Row Percentage} = (\text{NCN\_FPC}/\text{NCN}) * 100$$

$$\text{False Positive Column Percentage} = (\text{NCN\_FPC}/\text{FPC}) * 100$$

$$\text{False Positive Cell Percentage} = (\text{NCN\_FPC}/\text{ALL}) * 100$$

$$\text{False Negative Row Percentage} = (\text{NCC\_FPN}/\text{NCC}) * 100$$

$$\text{False Negative Column Percentage} = (\text{NCC\_FPN}/\text{FPN}) * 100$$

$$\text{False Negative Cell Percentage} = (\text{NCC\_FPN}/\text{ALL}) * 100$$

These percentages represent three different perspectives on the false results. None of the three is right or wrong; they differ only in their orientations. The row percentages are “quality”-oriented in that they address the performance of the name check process. The column percentages are “risk”-oriented in that they address the hazards associated with replacing fingerprint-based background checks with name checks only. The cell percentages are “incidence”-oriented in that they address the overall fractions of applicants whose name checks produced false results.

Consider the false negative percentages. The **row** percentage relates the absolute number of false negative outcomes to (i.e., divides them by) the number of applicants whose name checks cleared ( $5 \div 505 = 1.0\%$ ). Its reference point is the outcome of the *name check*, which is sometimes in error; therefore, it addresses the *quality* of the name check process.

The false negative **column** percentage relates the absolute number of false negative outcomes to (i.e., divides them by) the number of applicants whose fingerprints did not clear ( $5 \div 45 = 11.1\%$ ). Its reference point is the outcome of the *fingerprint search*, which is assumed to be correct; therefore, it addresses the *risk* that an applicant with a criminal record will elude the name check.

The false negative **cell** percentage relates the absolute number of false negative outcomes to (i.e., divides them by) the total number of applicants ( $5 \div 605 = 0.8\%$ ). It addresses the overall *incidence* of false negatives in relation to the total number of applicants.

Analogously, because the denominator of the false positive row percentage is the number of applicants whose name checks did not clear (i.e., 100); it too addresses name check quality. Similarly, because the denominator of the false positive column percentage is the number of applicants who do not have criminal records (i.e., 560), it addresses the risk that the name check of an applicant without a criminal record will not clear. The false positive cell percentage addresses the overall incidence of false positives in relation to the total number of applicants.

Finally, it should be stated that while the study findings reported in Section 3 track quality, risk, and incidence percentages, ***the risk perspective is believed to be of greatest policy relevance to this study's research questions.***

## Research Questions

As approved by the Task Force, the study should attempt to address *at least* the following research questions:

1. In an operational setting, if fingerprints are not initially required of applicants whose criminal histories are statutorily mandated to be checked by the FBI, what results can be expected in terms of III QH (Query History) name check and fingerprint search\_outcomes? More specifically, with what frequencies should one anticipate the outcomes described in the outcome matrix to occur?
2. In each applicant group, what is the overall demographic composition in each of the four cells of the outcome matrix?
3. To the extent it is possible to ascertain them, what factors (e.g., ethnicity, age, gender, other demographic issues, data entry, etc.) help to explain the incidence of NCC\_FPC, NCC\_FPN, NCN\_FPC, and NCN\_FPN outcomes among the three applicant groups?
4. Within the NCN\_FPN outcomes, what subgroupings of outcomes can be identified? For example, the name check yields a number of possible candidates. However, when the fingerprint search is performed, there is a hit on the subject but the person identified was not among the list of candidates. The FBI refers to this type of outcome as a “Minutia Identification.”
5. Within the NCN\_FPC outcomes, what subgroupings of outcomes can be identified? For example, the name check produces a candidate but it is evident from a comparison of the candidate’s demographics (e.g., age, sex, race) with those of the applicant that the candidate cannot be the same person as the applicant.



6. To the extent it is possible to determine, what fraction of the disqualified applicants could have been identified at the state level? This is a very important issue that addresses the extent of the applicant filtering taking place at the state level prior to the national checks.

## Characteristics of a Rigorous Research Design

A rigorous research design would require the following steps for each of the three applicant groups:

1. Consider the entire population of applicants as a pool of research subjects from which to draw a stratified random sample. This pool would include applicants from all states and all constituent screening agencies.
2. Identify and compile historical data on the characteristics that describe the population of applicants and prospectively comprise a set of independent variables which could serve to explain differences in the outcomes among applicant sub-groups (i.e., by age, gender, ethnicity, income, area crime rate and population density, etc.).

Unfortunately, time and resource constraints preclude implementation of a rigorous research design. Generating a random sample of study subjects from the applicant population would require the associated screening agencies to participate by submitting the requested sample—as much as 100%—of their respective applicant population’s fingerprints over a sufficient time to yield a statistically valid sample. Furthermore, the data collection time frame would have to be of adequate duration to account for seasonal variabilities, if any. This would most likely entail mandating agencies that have never submitted any fingerprints to participate in the study. (Most of the nation’s 3,500 public housing authorities have never submitted a single applicant’s fingerprints to the FBI.)

While a rigorous research design is not feasible, that does not preclude gaining extremely useful insights from the conduct of a more limited study, based on what is available, including previous studies. However, it is believed that no comparable study has been performed at the national level. This is not surprising given that the FBI’s III name check system has historically been separate and distinct from its traditional fingerprint-based positive identification approach. Additionally, the states’ criminal history repositories were asked whether they had ever conducted such a study—in conjunction with an audit, perhaps. Only Georgia reported conducting even a remotely related investigation. Unfortunately, Georgia’s study is of limited relevance because it examined criminal justice checks, not background checks, and not all subjects received both a name check and fingerprint search.

## Characteristics of the Current Study

### ***Employment and License Applicants***

They are Florida residents applying for noncriminal justice employment and licenses; as required by Florida statutes, they must undergo a national criminal history background check.<sup>22</sup> Exhibit 2-1 describes the employment and license applicant background check procedure. The fact that all the employment and license applicants included in the study are from a single state precludes the possibility of generalizing the results to the national population.

### ***Public Housing Applicants***

They are local residents applying for public housing through six public housing authorities (PHAs) that agreed to participate in the study.<sup>23</sup> HUD categorizes PHAs on the basis of numbers of housing units as “large” (2,500 or more), “medium” (200-2,499) or “small” (1-199). The participating PHAs and size classifications are:

1. Big Rapids (MI) Housing Commission—medium
2. Housing Authority of the City of Chandler (AZ)—medium
3. Jefferson City (TN) Housing Authority—small
4. Reading (PA) Housing Authority—medium
5. Thibodaux (LA) Housing Authority—medium
6. Housing Authority of the City of Winston Salem (NC)—large

The background check procedures followed by the six PHAs are essentially identical, as described in Exhibit 2-2. Given the limited number of PHAs participating and the fact that none of them represents a large municipality, the findings cannot be considered representative of the population of all public housing applicants.

### ***Volunteer Applicants***

They are Arizona, California and Maryland residents applying for various volunteer positions. In Arizona, volunteers working with children, the elderly or individuals with disabilities are fingerprinted for background check purposes, including a national criminal records search. (See Exhibit 2-3.) Commencing January 1, 1999, California requires background checks, including a national check, on volunteers working with children. Prior to this time, national checks were optional. (See Exhibit 2-4.) Maryland requires background checks, including national checks, on individuals who care for or supervise children, including volunteers working in child care centers, family day care homes, child care homes, juvenile institutions, public schools, etc.

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<sup>22</sup> Pub. L. 92-544, 86 Stat. 1109 (1972) authorizes the FBI to perform national fingerprint-based criminal record checks for state agencies for employment and licensing purposes if there is in place a state statute that has been reviewed by the U.S. Attorney General and determined to specifically authorize such checks. Florida has a number of such statutes covering a broad range of public and private employment.

<sup>23</sup> PHAs are independent agencies and are not subject to mandated participation. HUD staff, therefore, sought volunteers from those PHAs that were utilizing the MOU and requested that they cooperate in the study by fingerprinting all applicants during a specified period of time.

(See Exhibit 2-5). The results of volunteer applicant background checks in three states cannot be considered nationally representative.

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## 2.2 Data Collection

For each of the applicant groups, the data collected for the study by the FBI and the associated data collection time frames are identified.

### Employment and License Applicants

#### *Data Collected*

The FBI has provided a computerized data set for all III QH name checks performed by the Florida Department of Law Enforcement (FDLE) with the following 19 key fields in each record:

1. FBI tracking number
2. Date of QH check
3. Name from QH check
4. Date of birth from QH check
5. Sex from QH check
6. Race from QH check
7. Social Security Number (SSN) from QH check
8. Originating agency identification number (ORI) from QH check
9. Total candidates from QH check
10. Name check result (Yes or No identification of QH candidate)
11. Sex from fingerprint card
12. Race from fingerprint card
13. Fingerprint search result (identification, non-identification, rejection)
14. Master record name, if fingerprint search result is an identification
15. Master record date of birth, if fingerprint search result is an identification
16. Master record sex, if fingerprint search result is an identification
17. Master record race, if fingerprint search result is an identification
18. Wanted person check result (Yes or No Hit)
19. Date case closed

Florida keeps track of those applicants determined by FDLE's state criminal history check to have Florida criminal records and who are therefore excluded from the study. Counts of these by month were received. Data also were received on cases in which FDLE believed that a candidate resulting from the QH name check was not the applicant, and therefore did not ask the FBI to expedite processing of the applicant's fingerprint card.

Obtaining additional information regarding the applicants—in particular, the type of employment or license applied for—was not possible. FDLE receives bags of fingerprint cards that identify the source agency via an ORI number and provide a text description of the

job type. However, FDLE is unable to link this information to the corresponding III QH tracking number due to the large volume of fingerprint cards processed.

### **Time Frame**

An applicant’s background check is not considered complete until both the III QH name check and the fingerprint search have been performed. When the fingerprints have been checked, the case (i.e., background check record) is considered to be “closed.” The Florida employment and license checks began on September 1, 1998; at Florida’s request, all cases initiated prior to October 1 were ignored since they could be considered to constitute a phase-in period. (Given that the data set includes more than 90,000 cases, this has not compromised the study’s findings.) In sum, the study covers cases initiated October 1, 1998 or later and closed by January 31, 1999; all data collection ceased on February 12, 1999.

### **Summary**

|   |                                |                |
|---|--------------------------------|----------------|
| Date Range of QH Checks                                     | 10/1/98 - 1/31/99              |                |
| Date Range of Closed Cases                                  | 10/2/98 - 2/12/99              |                |
| Number of Cases Received from FBI                           |                                | 103,374        |
| Number of Florida State-level Hits not Included in FBI Data |                                | 4,859          |
|   | Total Number of Cases Received | <u>108,233</u> |
| Number of Non-Closed Cases                                  |                                | (6,983)        |
| Number of Cases with Rejected Fingerprints                  |                                | (7,976)        |
| Number of Cases with Unreadable Data                        |                                | -              |
|   | Total Number of Cases Analyzed | <u>93,274</u>  |

Note that the 93,274 cases analyzed include 4,859 (estimated) cases that were not among the applicant cases transmitted to the FBI. This is because FDLE first performed a *state-level* name check on its employment and license applicants. If the state name check did not clear, it performed a state-level fingerprint verification. If the verification resulted in identification, FDLE did not send the fingerprints to the FBI since it had already been determined that the applicant has a criminal record. However, failure to account for those applicants would have biased the set of outcomes. Therefore, in part because of Florida’s NFF status and for purposes of this study, the following assumptions were made: (1) if the name check did not clear in Florida, it would not have cleared in III; and (2) if the fingerprint verification resulted in an identification in Florida, the fingerprint search would not have cleared at the FBI. Thus, the 4,859 applicants belong to the true positive (i.e., NCN\_FPN) category. Unfortunately, because the only available information about this subset of applicants is its size, the analyses were limited.

## Public Housing Applicants

### *Data Collected*

Either the PHA or a local law enforcement agency took the fingerprints of the applicant and other members of the prospective applicant's household over 18 years of age. The FBI performed and recorded the results of both the III QH name checks and the fingerprint searches. The FBI provided a computerized data set for all III QH name checks and fingerprint searches performed; the data set contains the same data elements as those associated with the employment and licensing data. In addition, the participating PHAs were asked to record supplementary demographic data on a separate form (see Exhibit 2-6). The FBI also recorded the tracking number on the form so that it could be linked to the correct FBI record.

### *Time Frame*

PHA background checks were planned to commence on October 1, 1998 and to continue for only 60 days. However, unlike Florida where the state performed the name checks, the FBI performed *both* the PHA name and fingerprint searches. Thus, the name check could not be performed until the fingerprint cards had been received by the FBI. Therefore, PHA name checks commenced on November 10, 1998, the original 60-day period was extended, and the last were performed on February 10, 1999. Data collection ceased on February 12, 1999.

### *Summary*

|  |                                |             |
|--|--------------------------------|-------------|
| Date Range of QH Checks                    | 11/10/98 - 2/10/99             |             |
| Date Range of Closed Cases                 | 11/13/98 - 2/12/99             |             |
| Total Number of Cases Received             |                                | 370 (est.)  |
| Number of Non-Closed Cases                 |                                | (40) (est.) |
| Number of Cases with Rejected Fingerprints |                                | (7)         |
| Number of Cases with Unreadable Data       |                                | -           |
|  | Total Number of Cases Analyzed | 323         |

The total number of cases received and the number of non-closed cases are estimates since non-closed public housing cases are indistinguishable from non-closed volunteer cases in the study data files.

## Volunteer Applicants

### *Data Collected*

As with the PHAs, the FBI performed and recorded the results of both the III QH name checks and the fingerprint searches for the volunteers. The FBI provided a computerized data set for all III QH name checks and fingerprint searches they performed; again, the data set contains the

same data elements as those associated with the employment and licensing data. As with the employment and license applicants, information regarding the nature of the volunteer position being sought is unavailable. (The volunteer agencies send applicants' fingerprint cards to their respective states' central repositories. In turn, the repositories send the fingerprint cards to the FBI, but the cards contain no information other than applicant demographics.)

**Time Frame**

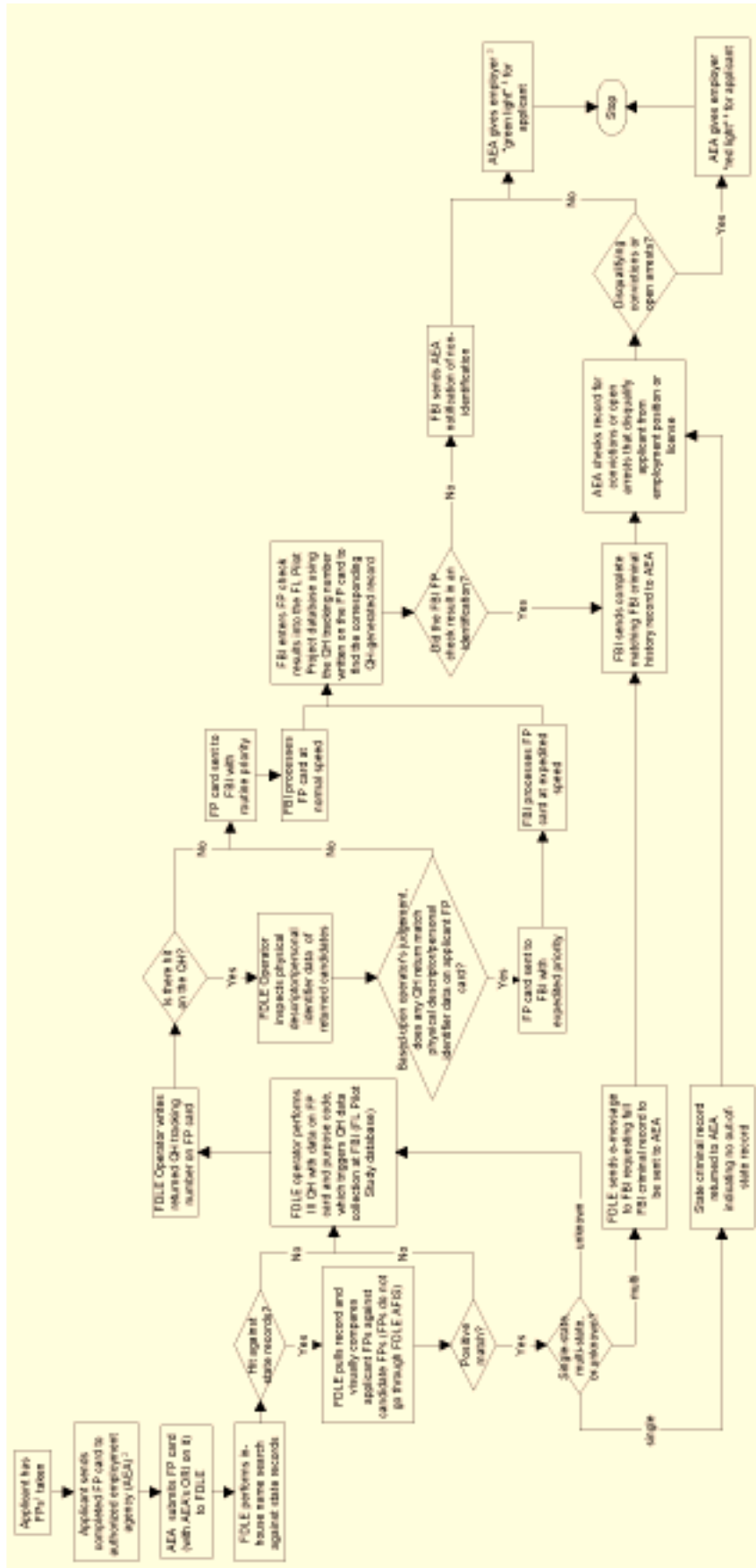
Volunteer applicant data from Arizona, Maryland and California reflect name checks commencing on November 12, 1998 and continuing through February 10, 1999. Collection ceased on February 12.

**Summary**

|  |                                |              |
|--|--------------------------------|--------------|
| Date Range of QH Checks                    | 11/12/98 - 2/10/99             |              |
| Date Range of Closed Cases                 | 11/16/98 - 2/12/99             |              |
| Total Number of Cases Received             |                                | 3,069 (est.) |
| Number of Non-Closed Cases                 |                                | (328) (est.) |
| Number of Cases with Rejected Fingerprints |                                | (191)        |
| Number of Cases with Unreadable Data       |                                | -            |
|  | Total Number of Cases Analyzed | <u>2,550</u> |

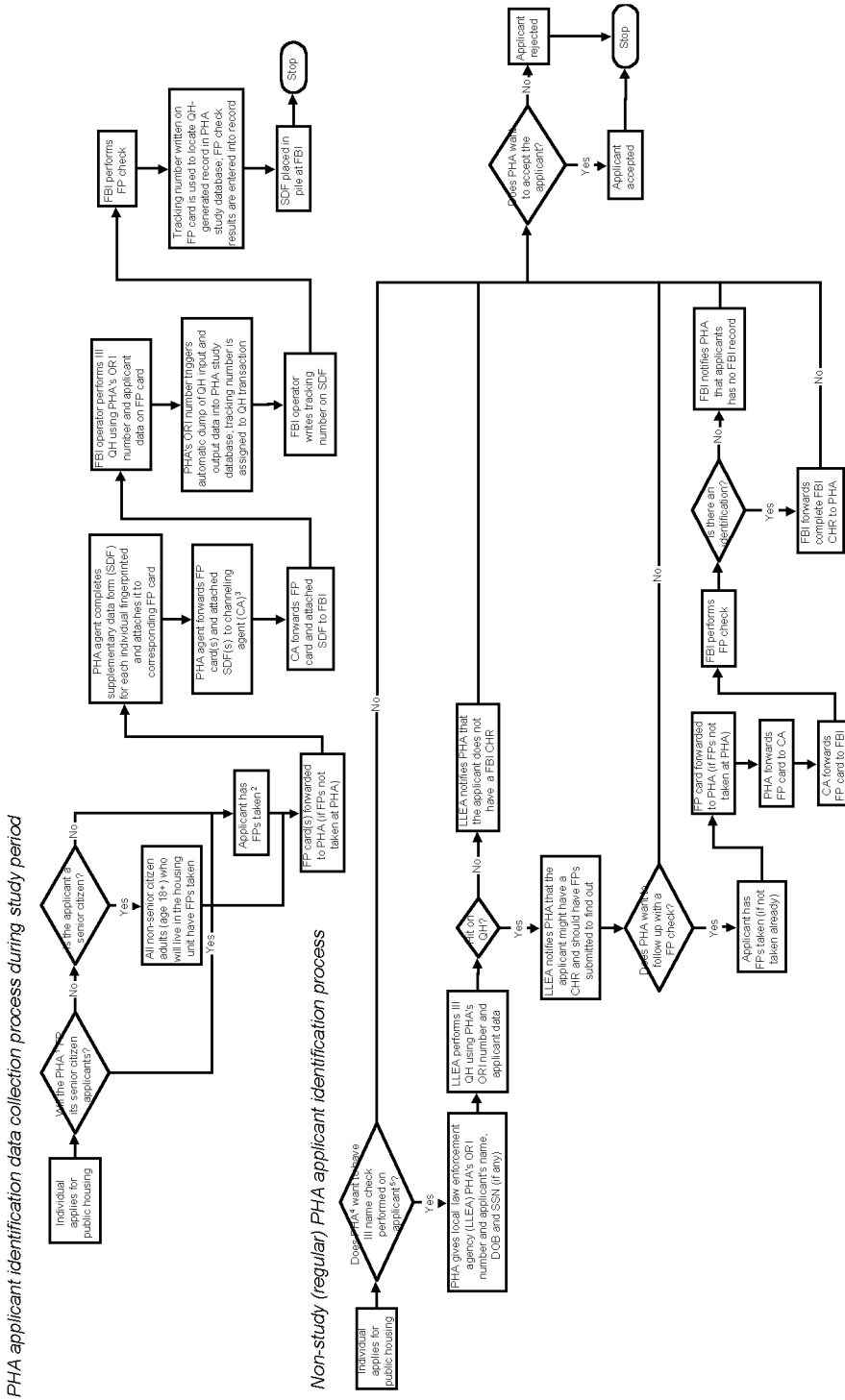
The total number of cases received and the number of non-closed cases are again estimates since non-closed public housing cases are indistinguishable from non-closed volunteer cases in the study data files.

**Exhibit 2-1: Employment and License Applicant Background Check Procedure**



1. Fingerprints may be taken at a law enforcement agency or capable private entity.
2. An authorized employment agency (AEA) is required by Florida statute to perform national employment background checks. The AEA obtains from the FBI a unique originating agency identifier (ORI) number. The term "AEA" is not standard and is adopted here for convenience.
3. Here an "employer" has statutory responsibility to perform background checks and may or may not be an AEA. If not, the employer has made arrangements with an AEA to interface with FDLE on its behalf. Employers without an AEA affiliation may perform state background checks only.
4. "Green light" indicates applicant does not have a disqualifying criminal record; "red light" indicates applicant has a disqualifying record.

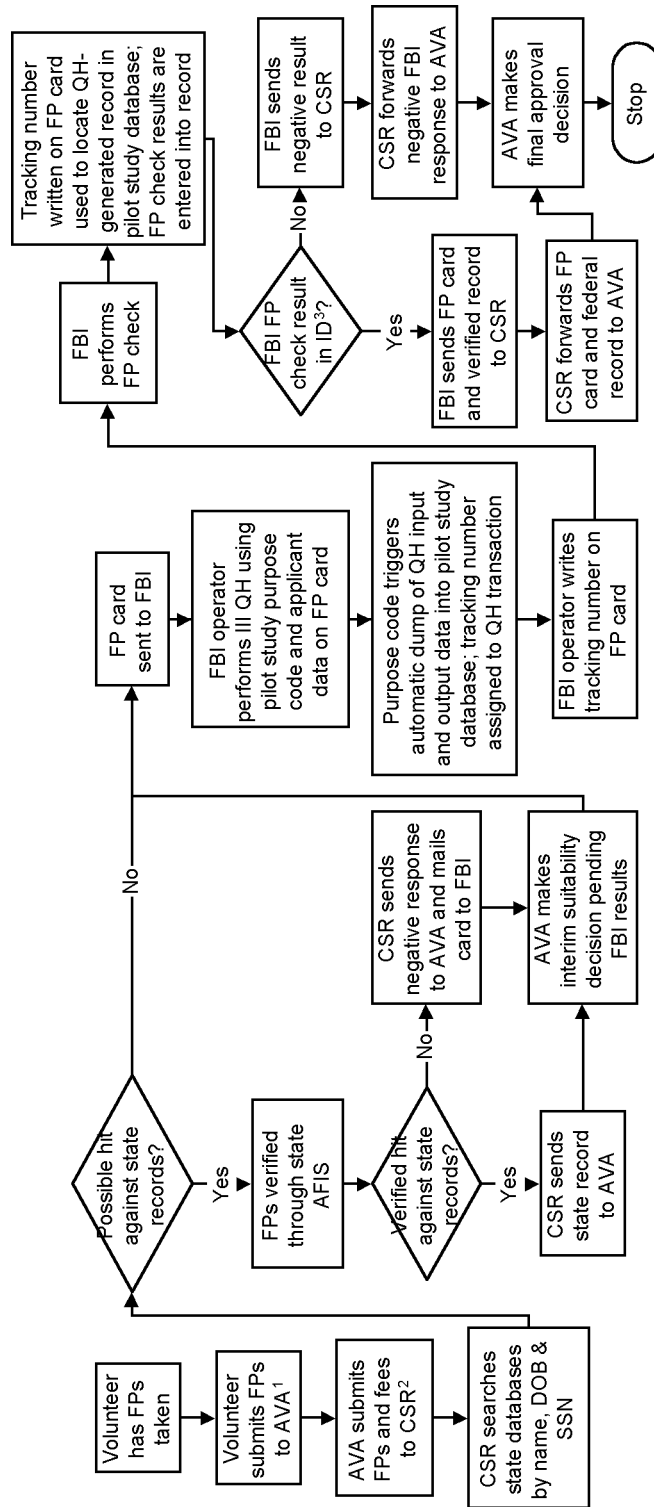
## Exhibit 2-2: Public Housing Applicant Background Check Procedure



1. Here “PHA” refers to one of the six public housing authorities participating in the study.
2. Fingerprints may be taken by the PHA or by a local law enforcement agency.
3. To perform national background checks, a PHA must obtain an ORI number from the FBI and utilize the state repository or one of four channeling agents.
4. Here “PHA” refers to a public housing authority authorized to perform national checks.
5. The applicant may or may not be a senior citizen.

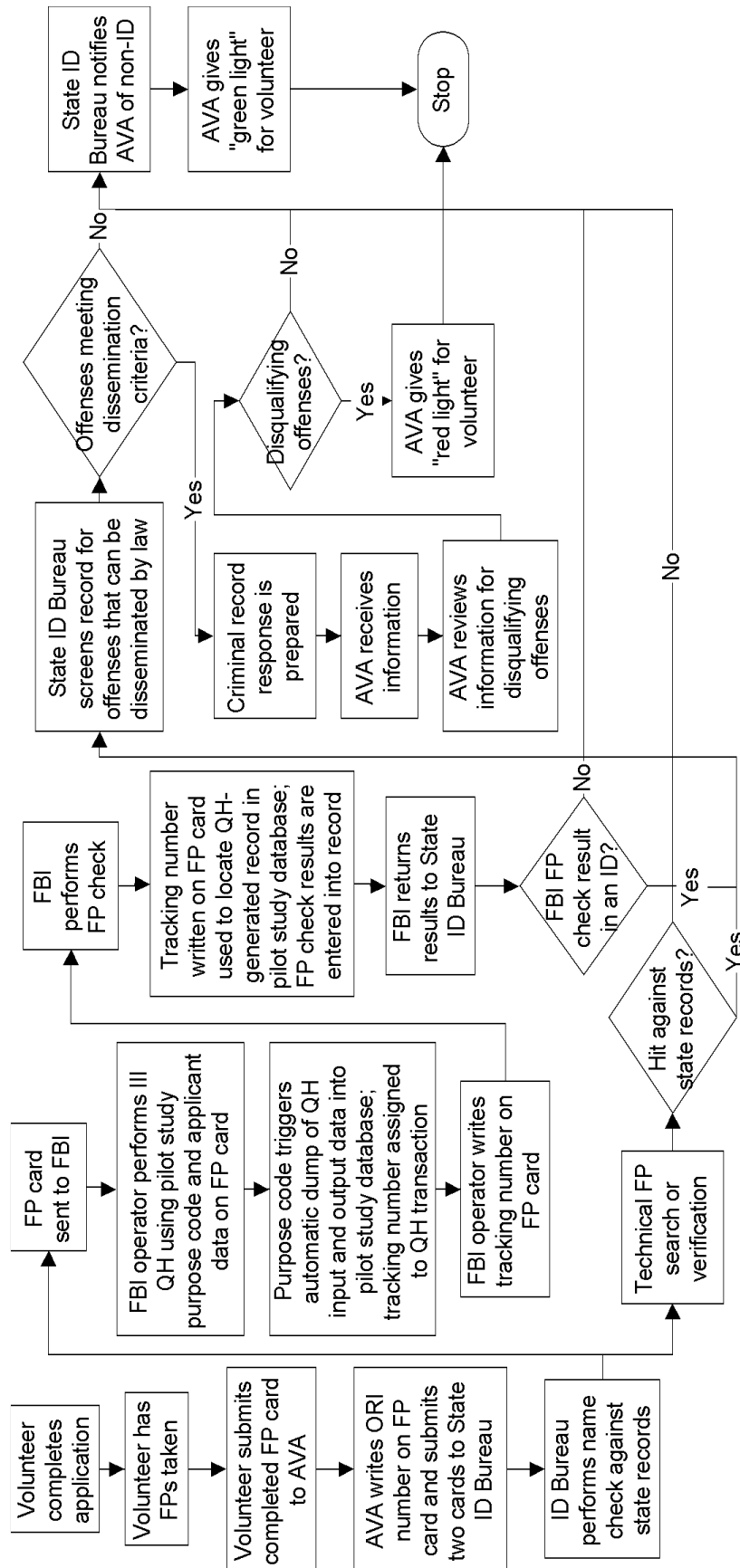


**Exhibit 2-3: Volunteer Applicant Background Check Procedure – Arizona**

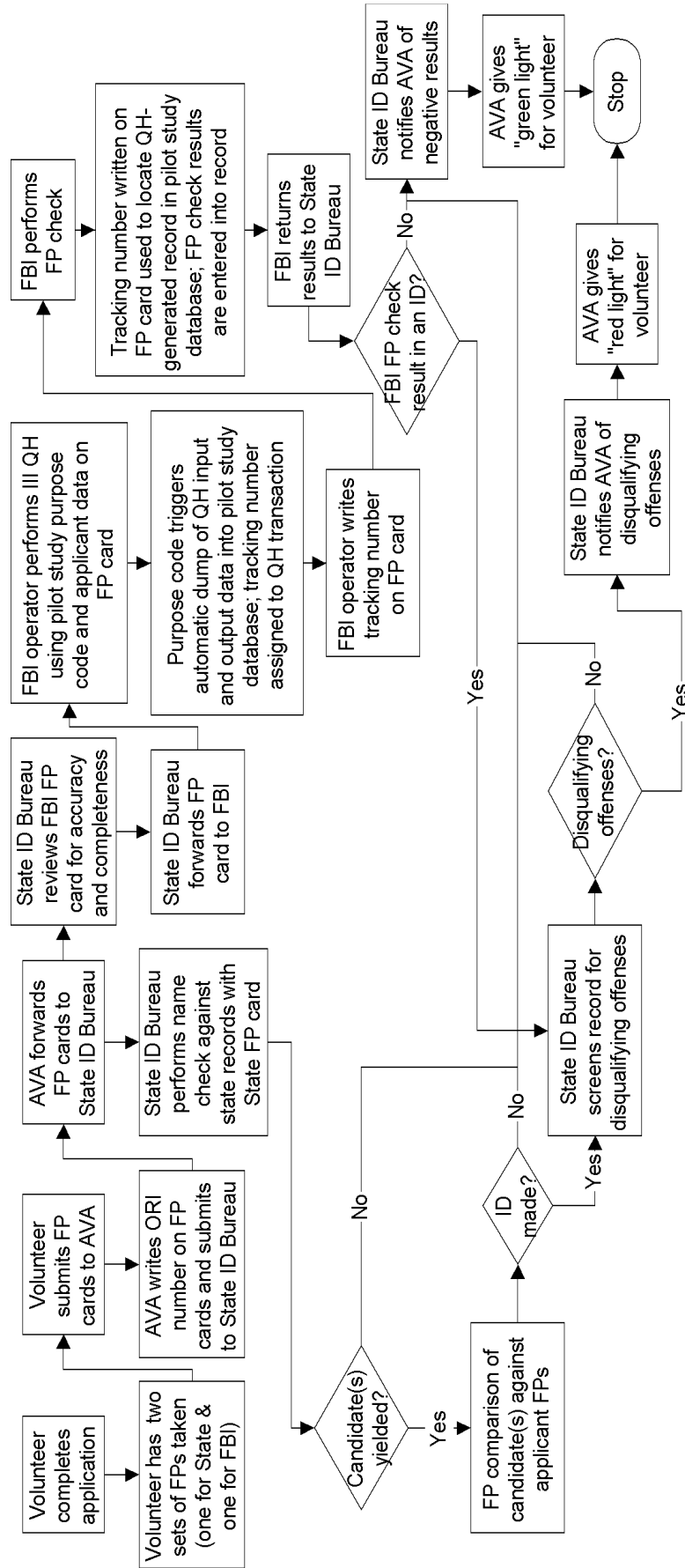


1. AVA = Authorized Volunteer Agency
2. CSR = Central State Repository
3. ID = Identification

**Exhibit 2-4: Volunteer Applicant Background Check Procedure – California**



**Exhibit 2-5: Volunteer Applicant Background Check Procedure – Maryland**





# 3. Study Findings

Before presenting the study findings, the following two critically important caveats must be stated:

- 1. Sufficient data to have confidence in the findings exists only for the employment and license applicant group. For this reason, findings for the public housing and volunteer applicant groups are not presented.**
- 2. Because of the design limitations identified in Section 2.1, the findings cannot be considered nationally representative. That is, the outcomes cannot be generalized to describe groups of applicants for employment and licenses in states other than Florida.**

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## 3.1 Employment and License Group Characteristics

As noted earlier, there are several sources of demographic information available: the QH query, the fingerprint card, and, if an identification is made, the FBI's master record. In addition to a name, a QH name check requires information concerning date of birth, sex and race. Thus, for determining the applicants' demographic characteristics, the QH-based information was the most complete. Exhibit 3-1 summarizes the demographic characteristics of the employment and license applicant group.

## 3.2 Name Check and Fingerprint Search Outcomes

This section presents and explains the outcomes for the employment and license applicant group.

### Aggregate Results

Exhibit 3-2 contains the name check and fingerprint search outcomes for the employment and license applicants. The results indicate that 11.4% of the applicants have criminal records. Based upon the name check and fingerprint search outcomes and the data collection time frame, the projected frequencies of false positives and false negatives that may occur in a 12-month period are as follows:

| Study Group                     | Study Time Frame | Projected Annual False Positives | Projected Annual False Negatives |
|---------------------------------|------------------|----------------------------------|----------------------------------|
| Employment & License Applicants | 4 months         | 13,686                           | 3,756                            |

### False Positive Results

The following false positive percentages and corresponding probabilities were observed:

| False Positives - Risk Orientation |             | False Positives - Quality Orientation |             | False Positives - Incidence Orientation |             |
|------------------------------------|-------------|---------------------------------------|-------------|---|-------------|
| Percentage                         | Probability | Percentage                            | Probability | Percentage                              | Probability |
| 5.5%                               | 1 in 18     | 32.6%                                 | 1 in 3      | 4.9%                                    | 1 in 20     |

From a risk-oriented perspective, approximately 1 out of every 18 employment and license applicants without an FBI criminal record failed to clear the name check. The corresponding quality-oriented probability (i.e., that an applicant failing to clear the name check does not have an FBI criminal record) is 1 out of 3. In terms of overall incidence, 1 out of every 20 employment and license applicants was a false positive.

One can think of the false positive incidence percentage as the false positive risk percentage weighted by the fraction of applicants without criminal records. That is:

$$(\text{NCN\_FPC}/\text{FPC}) * (\text{FPC}/\text{ALL}) * 100 = (\text{NCN\_FPC}/\text{ALL}) * 100$$

However, unlike the false positive risk percentage, the false positive incidence percentage is influenced by an increase or decrease in the overall number of applicants with criminal records, a group which includes no false positives.

Exhibit 3-3 breaks down the false positive percentages by sex and age. In terms of risk, the false positive percentage for males appears higher than that for females. This phenomenon may arise from two factors. First, the name check process is heavily biased towards same-sex matches. In other words, the process for the most part seeks to match male (female) applicants with males (females) in the III. Second, 77% of the persons in the III are male. Consequently, male applicants face a much larger pool of potential record-possessing persons with whom they can be erroneously matched. The age breakdown reveals a similar effect; applicants in the 31 to 50 age group are at higher risk of being incorrectly matched than those in the older and younger groups. The reasoning associated with the sex effect applies here as well, as the age distribution of persons in the III attests: approximately 19%, 58% and 23% for the under 31, 31 to 50, and over 50 age groups, respectively.

Incomplete data preclude reporting the false positive quality-oriented results. It is postulated, however, that females would have the higher false positive percentage. To understand this, note that there are more males with records than females. Consequently, relative to males, females who do not clear the name check are more likely to clear the fingerprint search, simply because of the reduced chance of possessing a record. For similar reasons, applicants aged 31 to 50 would in all likelihood have a higher false positive percentage than those in either of the other two age groups.

The risk-oriented percentage of false positives among Florida’s employment and license check applicants may be understated. The reason for this conjecture is that the FDLE usually does not include Social Security Numbers (SSNs) in the QH name checks it submits (i.e., only 3% of the name checks include SSNs). Section 3.3 discusses this finding in more detail.

## False Negative Results

The following false negative percentages and probabilities were observed:

| False Negatives - Risk Orientation |             | False Negatives - Quality Orientation |             | False Negatives - Incidence Orientation |             |
|------------------------------------|-------------|---------------------------------------|-------------|---|-------------|
| Percentage                         | Probability | Percentage                            | Probability | Percentage                              | Probability |
| 11.7%                              | 1 in 9      | 1.6%                                  | 1 in 63     | 1.3%                                    | 1 in 75     |

From a risk-orientation, about 1 out of every 9 employment and license applicants with an FBI criminal record cleared the name check.<sup>24</sup> The corresponding quality-orientated probability (i.e., that an applicant clearing the name check has an FBI criminal record) is 1 out of 63. In terms of overall incidence, 1 out of every 75 employment and license applicants was a false negative.

<sup>24</sup> The 1 in 9 probability might lead one to ask what types of offenses applicants with criminal records have been convicted of. Illustratively, according to ancillary information provided by the FBI regarding applicants in the false negative category, there were 259 persons who applied for child care-related employment. Of these, 58 had convictions for assault, 67 persons for dangerous drugs, or both.

One can think of the false negative incidence percentage as the false negative risk percentage weighted by the fraction of applicants with criminal records. That is:

$$(NCC\_FPN/FPN)*(FPN/ALL)*100 = (NCC\_FPN/ALL)*100$$

However, unlike the false negative risk percentage, the false negative incidence percentage is influenced by an increase or decrease in the overall number of applicants without criminal records, a group which includes no false negatives.

There are two scenarios in which the name check process would clear an applicant with a criminal record. In the first, the applicant is in the III but the name check does not find him or her. In the second, the applicant is simply not in the III, as was the case for approximately one-third of the 1,252 false negatives among the employment and licensing applicant group. This can be ascertained by checking whether the relevant fingerprint record was automated or manual, since persons with manual records are not in the III.

Exhibit 3-4 breaks down the false negatives by sex and age. Incomplete data preclude reporting the risk-oriented results. However, one would expect persons over 50 with criminal records to have a greater chance of eluding the name check than younger applicants, because they are more likely than those in the other two (age) groups to be absent from the III. To see why, note that people in the III fall into two categories: first, those born in 1956 or later that have FBI records; and second, those born prior to 1956 whose first arrest card was submitted to the FBI on or after July 1, 1974. Thus, a person over 50—i.e., born prior to 1950—would be in the III only if his or her initial arrest card was submitted in 1974 or later, at which point that person would have been at least 25 years of age. Since criminal activity typically diminishes with age, a person age 50 or older whose criminal activity ceased by age 25 would probably not be in III unless a background check had been performed on that person after 1974. Exhibit 3-5 provides further support for this conjecture; it depicts the distribution of ages for applicants from the employment and licensing group who had false negative outcomes.

With respect to the quality-oriented false negative findings, just as the lower percentage of females with records should produce a higher false positive percentage for females, the higher percentage of males with records should produce a higher false negative percentage for males. Similar reasoning suggests that the false negative percentage for the 31 to 50 age group should be highest. The reason why this percentage is highest in the over 50 age group, especially given the large sample of employment and license applicants, could not be determined.

The relationship between risk-oriented false negative percentage and the extent to which the QH demographics of an applicant with a criminal record match those of his or her criminal record perfectly was examined. More specifically, the purpose was to determine whether both, one, or none of the applicant's last name and date of birth matched the FBI's master record. As Exhibit 3-6 clearly indicates, the incorrect miss percentage exceeds 50% when there are no perfect matches for name and date of birth, decreases by about 10 percentage points when there is one perfect match, and drops precipitously when both occur. Note, however, that even when the applicant's name and date of birth match the FBI's master record exactly, there is still a 10%



chance of an incorrect miss. This 10% figure appears high. It is unlikely that the name check would fail to identify so high a percentage of applicants with criminal records in the face of such excellent matching information. It is hypothesized that the figure is inflated because of the incompleteness of the III.

Finally, the data were separated by age group and the previous analysis repeated; Exhibit 3-7 displays the results. When both the name and date of birth match perfectly, applicants over 50 have almost a 20% chance of eluding the name check—more than three times the observed chances for the other two age groups. This further supports the earlier observation that applicants over 50 year of age with criminal records are more likely to elude the name check process because of the increased chance that their names are not in the III.

## Overall Error Incidence

When the false positive and false negative incidence percentages are summed, the total is the rate at which errors occur in the applicant name check process. The following table describes the overall error incidence rate as both a percentage and a probability:

| Overall Error Incidence |             |
|-------------------------|-------------|
| Percentage              | Probability |
| 6.2%                    | 1 in 16     |

Thus, for the specific group of employment and license applicants whose background checks were analyzed in this study, the name check process generated an incorrect result for 1 out of every 16 applicants.

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## 3.3 Other Findings

### Impact of Missing Social Security Numbers

It is postulated that the absence of an SSN from the data submitted to the name check process influences the rates at which false negatives and false positives occur. From a quality-oriented perspective, the absence of an SSN *increases* the false positive percentage and *decreases* the false negative percentage. From a risk-oriented perspective, the absence of an SSN *decreases* the false positive percentage and *increases* the false negative percentage. Finally, from an incidence perspective, the absence of an SSN produces the same effects as it does for the risk-oriented percentages, i.e., it *decreases* the false positive percentage and *increases* the false negative percentage.

#### ***Impact on False Positives***

It is helpful to restate the three false positive-related percentages:

False Positive Quality Percentage =  $(NCN\_FPC/NCN)*100$

False Positive Risk Percentage =  $(NCN\_FPC/FPC)*100$

False Positive Incidence Percentage =  $(NCN\_FPC/ALL)*100$

Note that all three percentages have the same numerator, i.e., NCN\_FPC. The absence of an SSN tends to decrease this quantity because it precludes the possibility of a partial SSN match with an incorrect candidate. Therefore, the key to explaining the impact of SSN absence is the denominator.

The denominator of the quality percentage is NCN. SSN absence also decreases this quantity, again because the lack of the SSN precludes partial SSN matches. The extent of the decrease, however, tends to be greater than in the numerator because the denominator is not conditioned on the result of the applicant's fingerprint search. In sum, SSN absence causes both the numerator and denominator of the quality percentage to decrease, with the greater decrease usually occurring in the denominator. The net result is the false positive quality percentage increases.

The denominator of the risk percentage is FPC. SSN absence has no effect on this quantity. Consequently, SSN absence decreases the numerator of the false positive risk percentage, causing the percentage to decrease.

Finally, the denominator of the false positive incidence percentage is ALL. SSN absence clearly has no effect on this quantity. Therefore, SSN absence causes the false positive incidence percentage to decrease.

#### ***Impact on False Negatives***

It is again helpful to restate the three relevant percentages:

False Negative Quality Percentage =  $(NCC\_FPN/NCC)*100$

False Negative Risk Percentage =  $(NCC\_FPN/FPN)*100$

False Negative Incidence Percentage =  $(NCC\_FPN/ALL)*100$

The three percentages again share a common numerator, i.e., NCC\_FPN. SSN absence tends to increase this quantity because of the lack of the powerful matching potential of the SSN. (Indeed, according to the FBI, an SSN match alone is a sufficient basis for a name check to produce a candidate.) As with the false positive percentages, the key to explaining the effect of SSN absence on the false negative percentages is the denominator.

The denominator of the quality percentage is NCC. SSN absence causes NCC to increase, again because of the lack of the powerful matching potential. The extent of this increase, however, tends to be greater than in the numerator because the denominator is not conditioned on the result of the applicant's fingerprint search. Therefore, SSN absence causes both the numerator and the denominator of the quality percentage to increase, with the greater increase usually occurring in the denominator. The net result is the false negative quality percentage decreases.

The denominator of the risk percentage is FPN. SSN absence has no effect on this quantity. Consequently, SSN absence increases the numerator of the false negative risk percentage, causing the percentage to increase.

Finally, the denominator of the false negative incidence percentage is ALL. SSN absence has no effect on this quantity. Therefore, SSN absence causes the false negative incidence percentage to increase.

## **FDLE Response to Name Check Non-Clearances**

As Exhibit 2-1 shows, the FDLE must decide whether to ask the FBI to “expedite” the fingerprint processing, or not. If the FDLE clerk believes that a candidate returned by a QH name check that did not clear is not the applicant, the fingerprint card is processed normally. If not, expedited processing is requested. Exhibit 3-8 describes the success with which the FDLE made “do not expedite” decisions.

Excluding the 4,859 state hit applicants already determined to have criminal records, there are 9,124 (i.e., 13,983 – 4,859) applicants whose name checks did not clear. Of these, the FDLE did not expedite 4,751, or 52%. If the prints clear (and 4,452 did), the FDLE would have been correct in those cases. Further, if the prints do not clear, but turn out to match a different candidate (i.e., a minutia identification), the FDLE would also have been correct because the record belongs to someone other than the III-identified candidate. This happened in 69 cases. Collectively, the FDLE performed correctly in 4,521 cases, or 95% of the time.

Finally, it should be noted that the employment and license applicant outcome matrix remains valid despite the specific FDLE procedure.

## **State-Level Identification of Disqualified Applicants**

As Exhibit 3-2 indicates, there were 10,673 employment and license applicants whose fingerprints did not clear who would therefore be disqualified from the employment position or license they sought. As noted, 4,859 applicants were identified by FDLE at the state level to

have criminal records and were included in the NCN\_FPN (i.e., true positive) cell. Thus, in Florida,  $(4,859/10,673)*100$ , or 45.5%, of the potentially disqualified employment and license applicants could be identified at the state level. Of course, if Florida were performing both name checks and full fingerprint searches, the percentage of disqualified applicants identified at the state level would be higher.

***Exhibit 3-1: Employment and License Applicant Demographics***

| Demographic              | Number       | Percent       |
|--------------------------|--------------|---------------|
| Age (based on QH D.O.B.) |              |               |
| Under 21                 | 4312         | 4.9%          |
| 21 thru 30               | 24362        | 27.6%         |
| 31 thru 40               | 23042        | 26.1%         |
| 41 thru 50               | 18970        | 21.5%         |
| 51 thru 60               | 12050        | 13.6%         |
| Over 60                  | 5679         | 6.4%          |
| <b>Total</b>             | <b>88415</b> | <b>100.0%</b> |
| QH Sex                   |              |               |
| Male                     | 37254        | 42.1%         |
| Female                   | 51161        | 57.9%         |
| <b>Total</b>             | <b>88415</b> | <b>100.0%</b> |
| QH Race                  |              |               |
| White                    | 66704        | 75.4%         |
| Black                    | 16117        | 18.2%         |
| Asian                    | 1262         | 1.4%          |
| Native American          | 183          | 0.2%          |
| Undeclared               | 4149         | 4.7%          |
| <b>Total</b>             | <b>88415</b> | <b>100.0%</b> |

**Exhibit 3-2: Employment and License Applicant Background Check Outcomes**

Source Data:

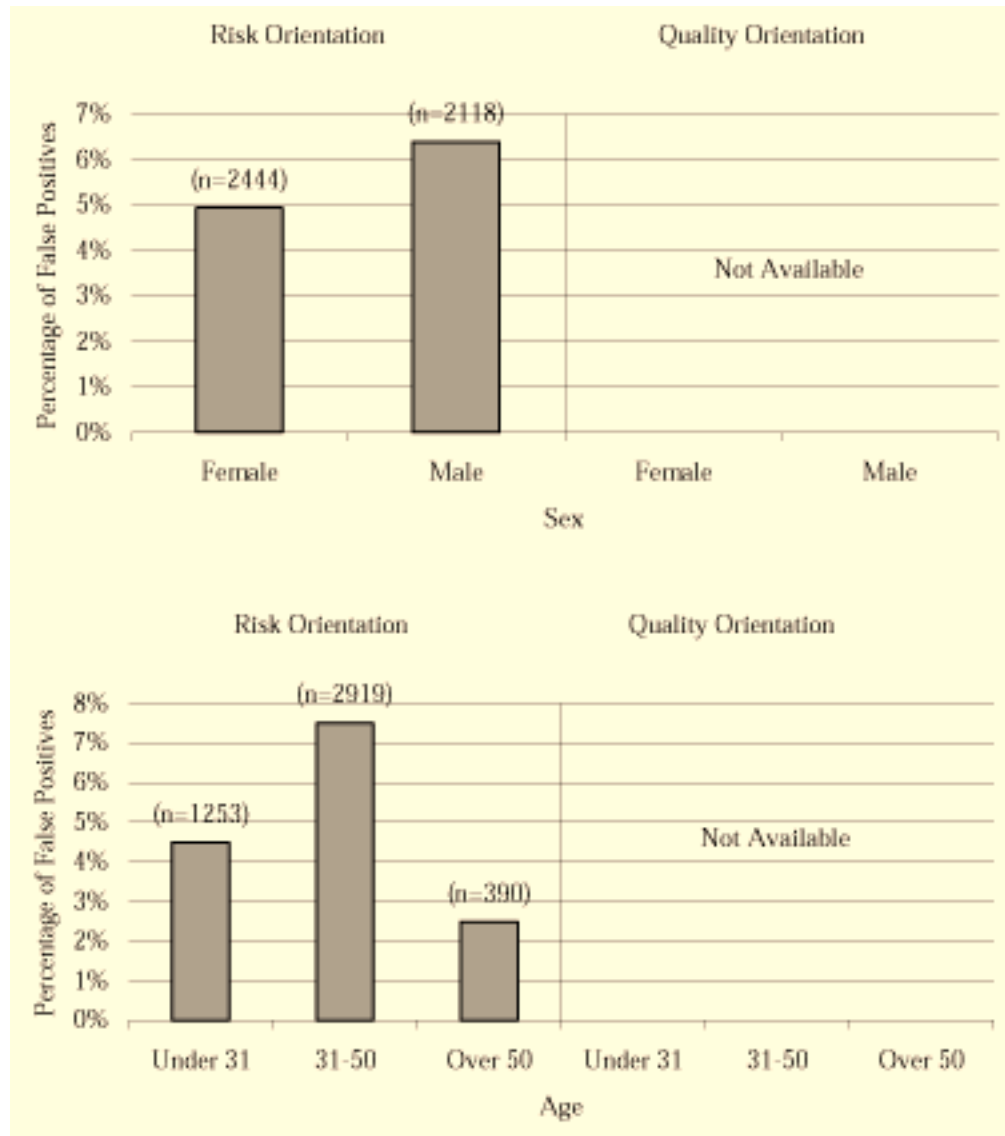
|   |                   |
|---|-------------------|
| Date Range of QH Checks                                     | 10/1/98 - 1/31/99 |
| Date Range of Closed Cases                                  | 10/2/98 - 2/12/99 |
| Number of Cases Received from FBI                           | 103,374           |
| Number of Florida State-level Hits not Included in FBI Data | 4,859             |
| <b>Total Number of Cases Received</b>                       | <b>108,233</b>    |
| Number of Non-Closed Cases                                  | (6,983)           |
| Number of Cases with Rejected Fingerprints                  | (7,976)           |
| Number of Cases with Unreadable Data                        | -                 |
| <b>Total Number of Cases Analyzed</b>                       | <b>93,274</b>     |

|  | FPC<br>(Fingerprint Search Clearance)    | FPN<br>(Fingerprint Search Non-Clearance) | TOTAL                                   |
|--|--|---|---|
|  | Number<br>Row %<br>Col %<br>Cell %       | Number<br>Row %<br>Col %<br>Cell %        | Number<br>Row %<br>Col %<br>Cell %      |
| <b>NCC</b><br>(Name Check Clearance)     | <b>78,039</b><br>98.4%<br>94.5%<br>83.7% | <b>1,252</b><br>1.6%<br>11.7%<br>1.3%     | <b>79,291</b><br>100.0%<br>85.0%<br>--  |
| <b>NCN</b><br>(Name Check Non-Clearance) | <b>4,562</b><br>32.6%<br>5.5%<br>4.9%    | <b>9,421</b><br>67.4%<br>88.3%<br>10.1%   | <b>13,983</b><br>100.0%<br>15.0%<br>--  |
| <b>TOTAL</b>                             | <b>82,601</b><br>88.6%<br>100.0%<br>--   | <b>10,673</b><br>11.4%<br>100.0%<br>--    | <b>93,274</b><br>100.0%<br>100.0%<br>-- |

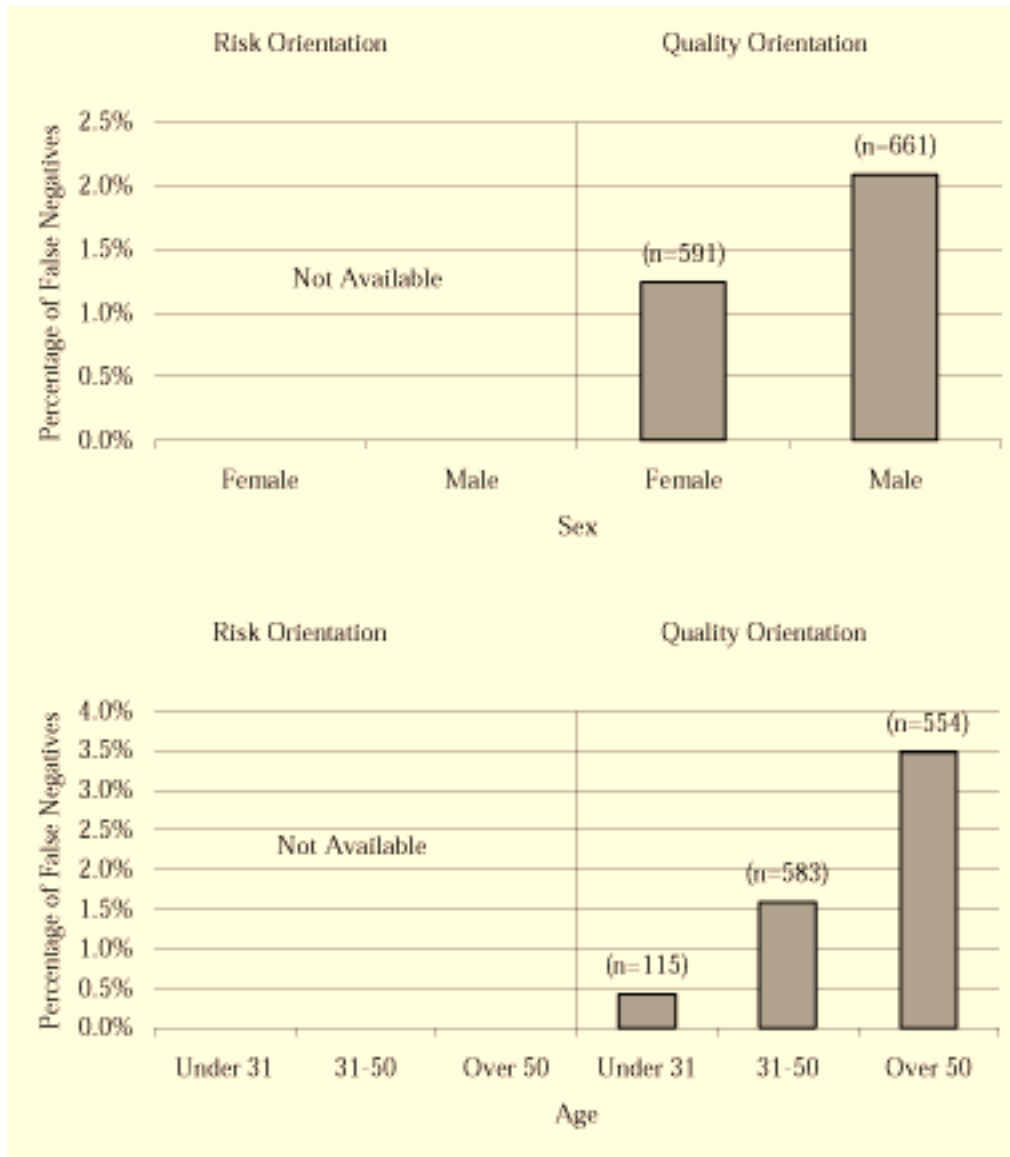
Notes:

| Included in Cell | Descriptor   | Number | % of Cell |
|------------------|--|--------|-----------|
| NCN_FPN          | Cases Resulting in a Minutia Identification                      | 72     | 0.8%      |
| NCN_FPN          | Cases Determined at Time of State Check to Have Criminal Records | 4859   | 51.6%     |

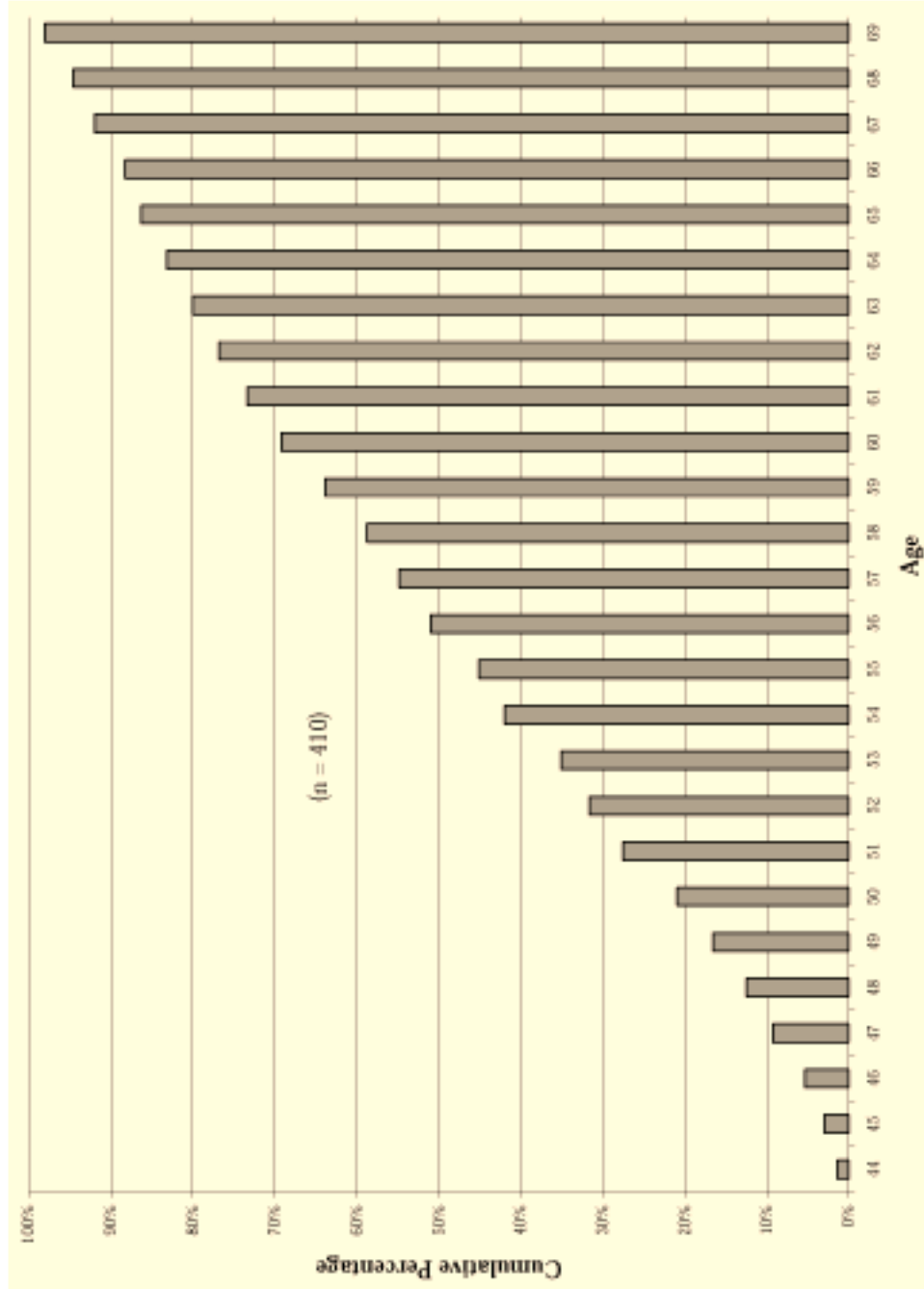
**Exhibit 3-3: False Positives by Sex and Age – Employment and License Applicants**



**Exhibit 3-4: False Negatives by Sex and Age – Employment and License Applicants**



*Exhibit 3-5: Cumulative Age Distribution of False Negatives with Manual Fingerprints – Employment and License Applicants*

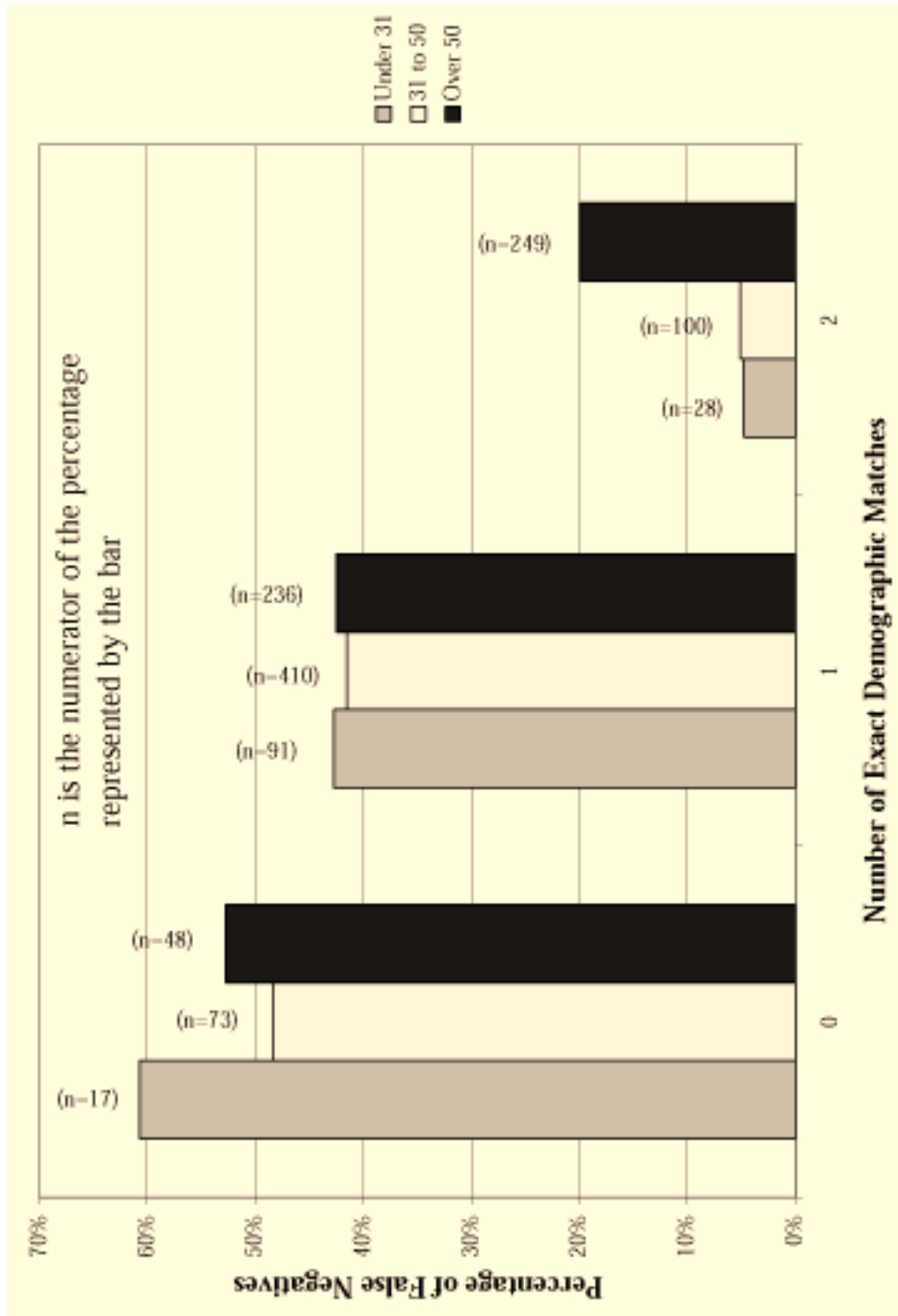




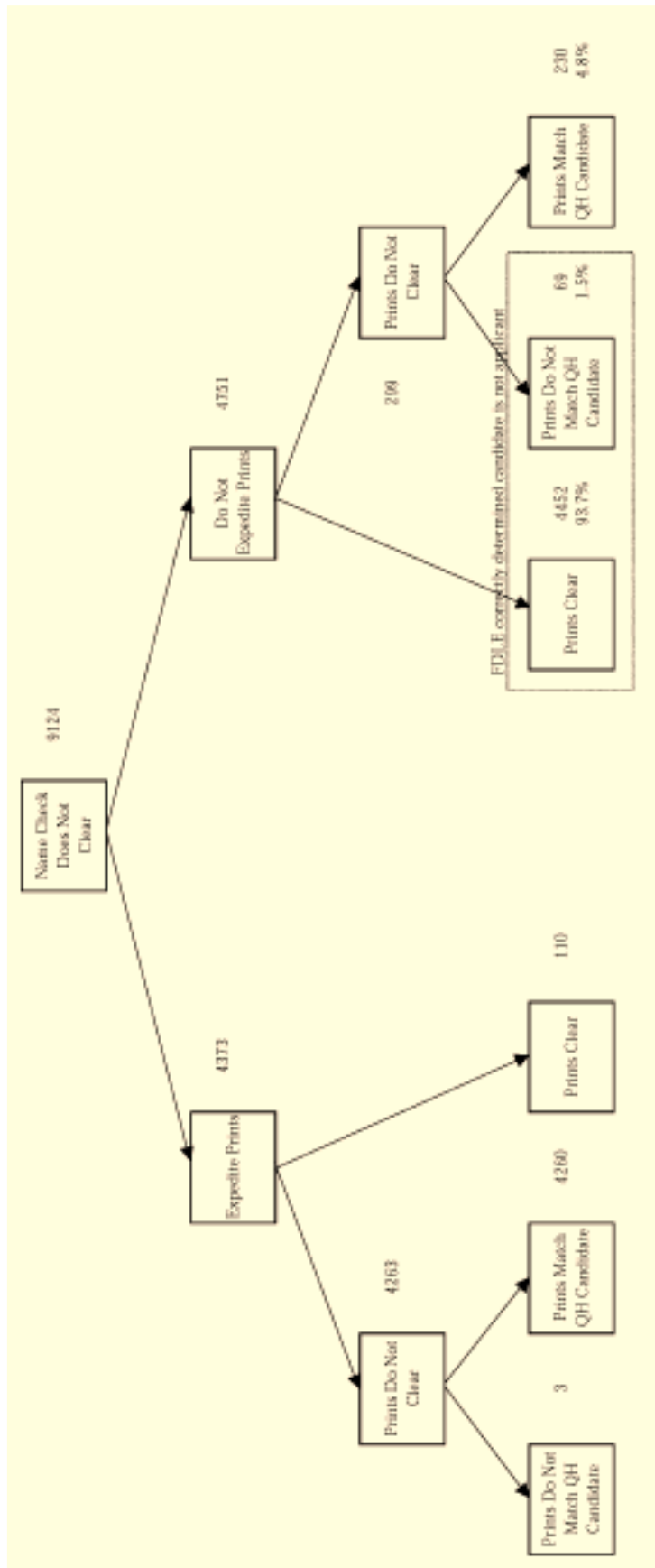
*Exhibit 3-6: Risk of False Negatives as a Function of Demographic Matching – Employment and License Applicants*



**Exhibit 3-7: Risk of False Negatives by Age as a Function of Demographic Matching – Employment and License Applicants**



**Exhibit 3-8: FDLE's "Expedite vs. Don't Expedite Fingerprints" Decision Process**





# **Appendix 1**

## **Memorandum of Understanding between the U.S. Department of Justice and the U.S. Department of Housing and Urban Development**



COPY

**Agreement between the U.S. Department of Housing & Urban  
Development and the U.S. Department of Justice Regarding  
Access to National Crime Information Center Data**

## Introduction and Purpose

In March 1996, Congress passed the Housing and Opportunity Program Extension Act of 1996 (Extension Act). The Extension Act gives public housing authorities (PHAs) new authority and obligations regarding screening and evictions. The Extension Act also requires the Department of Justice (DOJ), police departments, and other law enforcement entities to make criminal conviction records available to PHAs upon request and payment of reasonable costs for purposes of screening, lease enforcement and eviction.

DOJ is working as HUD's partner to assure effective implementation of the Act. DOJ and HUD specifically recognize the importance of providing a simple and workable means of PHA access to NCIC data as part of the screening process, as well as the need for safeguards to ensure proper data use and confidentiality.

Accordingly, HUD and DOJ agree to the following provisions to facilitate proper and effective use of NCIC data. This agreement will remain in effect for six months from the date of the signing of this agreement. After six months, representatives from HUD, PHAs, DOJ, and the Federal Bureau of Investigation (FBI), will evaluate the efficacy of this agreement with a view toward making it permanent.

## Procedures for Access to Criminal History Data

State or local law enforcement agencies are permitted access through the National Crime Information Center (NCIC) System to the Interstate Identification Index (III) for the purpose of determining whether a tenant of or applicant for public housing has a criminal history record indexed in the III. Access for this purpose does not entitle the requesting law enforcement agency to obtain the full content of automated records through III. To obtain the full content of a criminal history record, the PHA shall submit a separate request accompanied by a fingerprint card to the Identification Records Section of the Federal Bureau of Investigation, and shall pay a reasonable fee, as provided below.

To determine whether the PHA needs to obtain a full criminal history record, appropriate state and local law enforcement agencies are authorized to use their NCIC access to perform name checks. These state and local law enforcement agencies are authorized to inform a PHA whether a name check reveals that a public housing applicant may have a criminal history record index in the III. Such name checks are authorized for adults or for juveniles to the extent the release of such information is authorized under applicable state, local or tribal law.







# **Appendix C**

## **Interim Report of the National Task Force to the U.S. Attorney General**



January 27, 1999

Attorney General Janet Reno  
U.S. Department of Justice  
Tenth Street and Constitution Avenue, N.W.  
Washington, D.C. 20530

Dear Ms. Reno:

At your request, the Task Force on Interstate Identification Index Name Check Efficacy has been meeting over the past year in both meetings arranged by the FBI and conference calls. A list of the participants in these meetings is attached.

Although the original idea was to study the efficacy of name searches of the Interstate Identification Index (III) as a means of criminal history screening of public housing applicants, the study now includes two additional components: (1) volunteers from three states, and (2) employment checks for the state of Florida. The purpose of this letter is to provide you with a report on the progress of this limited, three-month study.

In addition to data relating to the Public Housing Authorities (PHAs) participating in the study, the FBI has compiled some information relating to the total number of name searches conducted for PHAs nationwide in FY 1998 and the number of fingerprint submissions generated by those searches. As you know, the Memorandum of Understanding (MOU) authorizing name searches for PHAs requires them to obtain and submit applicant fingerprints if name search results indicate that particular applicants may have criminal history records indexed in the III system.

As of October 1, the FBI had processed 126,741 name searches for PHAs in FY 1998. Those searches resulted in 35,372 "hits" indicating that applicants might have criminal history records. However, only 5,520 fingerprint submissions were received from PHAs during this period. There is no direct correlation between the number of FY 98 hits and

Ms. Janet Reno  
January 27, 1999  
Page Two

fingerprint submissions, because, among other considerations that may be relevant, name search hits often occur months in advance of fingerprint submissions, and it is possible that hits in 1998 will generate further fingerprint submissions that will arrive in early 1999. However, the great disparity between the number of hits and the number of fingerprint submissions suggests strongly that not all PHAs are following the procedures set out in the MOU.

The FBI has provided a breakdown of the above numbers by state (attached). This breakdown strongly implies that there is a significant under-utilization of the name search authority set out in the MOU. For example, no PHA name searches have been processed for California and relatively few for other states with large numbers of public housing units, such as New York, Illinois and Michigan. Clearly, many PHAs, including some of the largest, are not taking advantage of the name search authority provided by the MOU. We recommend that you request that the HUD look further into the reasons why the large PHAs are not taking advantage of the MOU.

In regard to the study, in brief, it will compare name search results with fingerprint search results to determine how often a reliance on name searches alone would produce false positive or false negative results. A name search is based not only on the individual's name, but also includes other personal identifiers such as Social Security number, race, sex, and date of birth. In contrast, a fingerprint search is based on a biometric method of identification, that is, the fingerprints of an individual, which establish unique characteristics that are not subject to alteration.

For various reasons explained below, the sample size of the Public Housing Authorities will not yield definitive results, but we already know a lot from FBI records. The study design calls for the participation of six Public Housing Authorities, which agreed to obtain and submit fingerprints of *all* applicants for whom criminal history searches were required during the study period. As noted, the study will also evaluate the efficacy of III name searches for criminal history screening of applicants for employment and licensing in Florida and applicants for volunteer positions in Arizona, California and Maryland.

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January 27, 1999  
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Study data are being collected by the FBI. Data collection began on September 1, 1998 for Florida licensing and employment checks, on October 1 for Public Housing Authority checks and on November 1, 1998 for volunteer checks. Data collection continued through January 15, 1999 for PHA applicants and will continue through January 31, 1999 for employment and volunteer applicants. The analysis period for all three groups is yet to be determined.

As mentioned earlier, the study calls for the participation of six public housing authorities. Initially, we had sought the participation of two large PHAs (2,500 or more housing units), two medium-sized PHAs (200-2,500 units) and two small PHAs (less than 200 units). Inasmuch as the PHAs are independent agencies and HUD cannot mandate participation in a study such as this, and due to the fact that only eight large PHAs, which unfortunately did not include such cities as Chicago and New York, were taking advantage of the current MOU between HUD and DOJ, the test group includes only one large PHA: Winston-Salem, North Carolina. The other participating PHAs are located in Reading, Pennsylvania; Thibodaux, Louisiana; Chandler, Arizona; Big Rapids, Michigan; and Jefferson City, Tennessee. As noted, participation by the PHAs is voluntary.

What we do know about the PHA participants at this time is that none of these agencies generates a large volume of applications for criminal history background screening. Indeed, based on data collection to date, it appears that the total number of applications submitted by all six PHAs during the study period will probably not exceed 250. Applications for Florida employment screening are projected to exceed 60,000, and applications for volunteers will total about 2,000. Thus, while the sample size of employment and volunteer applicants will be large enough to produce useful study results concerning the efficacy of name checks versus fingerprint checks for noncriminal justice purposes generally, it appears that the nature and number of PHA applicants will limit the usefulness of the study concerning such applications.

We anticipate forwarding the final report to you in April 1999. We believe that the report will contain useful information regarding name search versus fingerprint search efficacy

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January 27, 1999  
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that will provide you with a basis for future policy decisions. If you have any questions about this interim report, please do not hesitate to let us know. In addition, if you have comments about the report or the study, we would be pleased to receive them.

Sincerely yours,

*For and on behalf of the Task Force:*

Gary R. Cooper  
SEARCH Executive Director and Member of  
Interstate Identification Index Name Check  
Efficacy Evaluation Task Force

Enclosures  
cc: Task Force Members



**Participants on the Interstate Identification Index  
Name Search Efficacy Evaluation Task Force**

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Paul L. Woodard  
Senior Counsel

**Public Housing Authority III Inquiries, "Hits" and Fingerprint Submissions FY 98**

| <b>State</b>         | <b>Name Inquiries FY 98</b> | <b>Name "Hits" FY 98*</b> | <b>Fingerprint Submissions FY 98*</b> |
|----------------------|-----------------------------|---------------------------|---------------------------------------|
| Alabama              | 23,472                      | 5694                      | 682                                   |
| Alaska               | 7                           | 3                         | 1                                     |
| Arizona              | 6163                        | 2255                      | 582                                   |
| Arkansas             | 641                         | 223                       | 65                                    |
| California           | 0                           | NA                        | 59                                    |
| Colorado             | 0                           | NA                        | 0                                     |
| Connecticut          | 811                         | 220                       | 0                                     |
| Delaware             | 219                         | 68                        | 46                                    |
| District of Columbia | 0                           | NA                        | 0                                     |
| Florida              | 1128                        | 388                       | 0                                     |
| Georgia              | 2647                        | 1130                      | 8                                     |
| Hawaii               | 7                           | 3                         | 0                                     |
| Idaho                | 0                           | NA                        | 0                                     |
| Illinois             | 4008                        | 1120                      | 273                                   |
| Indiana              | 3724                        | 1072                      | 101                                   |
| Iowa                 | 0                           | NA                        | 4                                     |
| Kansas               | 493                         | 137                       | 4                                     |
| Kentucky             | 1941                        | 368                       | 98                                    |
| Louisiana            | 337                         | 66                        | 22                                    |
| Maine                | 407                         | 112                       | 6                                     |
| Maryland             | 1891                        | 434                       | 126                                   |
| Massachusetts        | 497                         | 96                        | 0                                     |
| Michigan             | 2618                        | 643                       | 34                                    |
| Minnesota            | 6542                        | 1644                      | 495                                   |
| Mississippi          | 12503                       | 267                       | 3                                     |
| Missouri             | 5117                        | 1300                      | 121                                   |
| Montana              | 2659                        | 842                       | 124                                   |
| Nebraska             | 914                         | 255                       | 11                                    |
| Nevada               | 2696                        | 1027                      | 320                                   |
| New Hampshire        | 237                         | 42                        | 0                                     |
| New Jersey           | 4312                        | 367                       | 9                                     |
| New Mexico           | 0                           | NA                        | 2                                     |
| New York             | 1486                        | 465                       | 58                                    |
| North Carolina       | 5832                        | 1604                      | 286                                   |
| North Dakota         | 0                           | NA                        | 0                                     |
| Ohio                 | 3637                        | 1163                      | 21                                    |
| Oklahoma             | 2113                        | 528                       | 73                                    |
| Oregon               | 506                         | 147                       | 31                                    |
| Pennsylvania         | 6755                        | 2184                      | 341                                   |
| Rhode Island         | 91                          | 22                        | 81                                    |
| South Carolina       | 3034                        | 1257                      | 0                                     |
| South Dakota         | 0                           | NA                        | 0                                     |
| Tennessee            | 10,171                      | 2683                      | 460                                   |
| Texas                | 1 <sup>†</sup>              | 0                         | 0                                     |
| Utah                 | 2117                        | 753                       | 0                                     |
| Vermont              | 308                         | 56                        | 14                                    |
| Virginia             | 0                           | NA                        | 42                                    |
| Washington           | 11,747                      | 343                       | 470                                   |
| West Virginia        | 4144                        | 107                       | 447                                   |
| Wisconsin            | 61                          | 1                         | 0                                     |
| Wyoming              | 0                           | NA                        | 0                                     |
| <b>Total</b>         | <b>126,741</b>              | <b>35,372</b>             | <b>5,520</b>                          |

\* There is no correlation between name "hits" and fingerprint submissions on a monthly basis since hits on inquiries can occur months in advance of actual fingerprint submissions.

† Due to technical difficulties, Texas was not able to forward the criminal history inquiries for checks against the Interstate Identification Index.

STATISTICS RE: PUBLIC HOUSING AUTHORITY UNITS

| State                | Number of units available* | Percent Occupancy** | Average months stay† |
|----------------------|----------------------------|---------------------|----------------------|
| Alabama              | 44,592                     | 89%                 | 68                   |
| Alaska               | 1,629                      | 85                  | 34                   |
| Arizona              | 7,046                      | 96                  | 63                   |
| Arkansas             | 15,156                     | 93                  | 42                   |
| California           | 45,707                     | 93                  | 82                   |
| Colorado             | 9,109                      | 91%                 | 56                   |
| Connecticut          | 18,321                     | 87                  | 99                   |
| Delaware             | 3,373                      | 87                  | -1††                 |
| District of Columbia | 11,267                     | 85                  | 99                   |
| Florida              | 43,852                     | 89                  | 69                   |
| Georgia              | 54,998                     | 87%                 | 66                   |
| Hawaii               | 5,262                      | 97                  | 85                   |
| Idaho                | 831                        | 99                  | 45                   |
| Illinois             | 77,835                     | 79                  | -1††                 |
| Indiana              | 17,976                     | 90                  | 46                   |
| Iowa                 | 4,797                      | 92%                 | 49                   |
| Kansas               | 9,358                      | 88                  | 46                   |
| Kentucky             | 24,198                     | 92                  | 51                   |
| Louisiana            | 31,515                     | 88                  | 97                   |
| Maine                | 4,154                      | 96                  | 68                   |
| Maryland             | 24,662                     | 84%                 | -1††                 |
| Massachusetts        | 34,478                     | 91                  | 72                   |
| Michigan             | 26,697                     | 86                  | 67                   |
| Minnesota            | 21,684                     | 93                  | 55                   |
| Mississippi          | 15,483                     | 93                  | 66                   |
| Missouri             | 20,088                     | 82%                 | 56                   |
| Montana              | 2,068                      | 98                  | 30                   |
| Nebraska             | 7,413                      | 96                  | 53                   |
| Nevada               | 4,579                      | 74                  | 54                   |
| New Hampshire        | 4,345                      | 97                  | 66                   |
| New Jersey           | 45,235                     | 88%                 | 99                   |
| New Mexico           | 4,917                      | 91                  | 53                   |
| New York             | 197,021                    | 97                  | 99                   |
| North Carolina       | 39,436                     | 94                  | 69                   |
| North Dakota         | 1,913                      | 94                  | 48                   |
| Ohio                 | 56,145                     | 83%                 | 66                   |
| Oklahoma             | 13,187                     | 87                  | 30                   |
| Oregon               | 6,171                      | 96                  | 59                   |
| Pennsylvania         | 78,654                     | 84                  | 76                   |
| Puerto Rico          | 57,107                     | 97                  | -1††                 |
| Rhode Island         | 10,084                     | 93%                 | 71                   |
| South Carolina       | 16,820                     | 93                  | 63                   |
| South Dakota         | 6,052                      | 99                  | 53                   |
| Tennessee            | 42,565                     | 91                  | 66                   |
| Texas                | 66,222                     | 86                  | 55                   |
| Utah                 | 2,212                      | 96%                 | 47                   |
| Vermont              | 1,834                      | 96                  | 75                   |
| Virgin Islands       | 4,280                      | 83                  | -1††                 |
| Virginia             | 22,905                     | 93                  | 87                   |
| Washington           | 16,884                     | 96                  | 54                   |
| West Virginia        | 7,436                      | 91%                 | 50                   |
| Wisconsin            | 13,840                     | 95                  | 55                   |
| Wyoming              | 716                        | 94                  | 38                   |
| <b>Total</b>         | <b>1,304,109</b>           |                     |                      |

\* Number of units under contract for federal subsidy and available for occupancy. Count is as of May 1998.

\*\* Occupied units as percent available.

† Average months since occupants moved in.

†† Low reporting or unknown.



# **Appendix D**

## **FBI “Analysis of False Negative Data”**

**June 1999**



## Analysis of False Negative Data

The following section provides insight into the criminal involvement of those individuals who were missed when using the name-based check, and only identified by the fingerprint comparison. Numbers alone cannot tell the whole story. The gravity of the crimes represented herein more clearly articulates and personalizes the risk inherent with relying on name-based background check practice.

Please note that the projected estimates for yearly false negatives used in this section are slightly different than those quoted previously in the report. This discrepancy is due to the fact that the charges for the criminal history information were manually collected as a secondary step in the process, while the actual numbers reported in the outcome matrix were automatically generated as each fingerprint was completed. This ancillary process did not allow charge information to be collected in some instances. Consequently, the figures represented in the following tables will be slightly under-reported.

Due to a difference between the automated and the manual collection process, a total of 19 records were dropped from false negative subset shown in this section. Thus, the projected yearly estimate for false negatives was adjusted from 3,756 to 3,699 (referenced numbers found on page 28 and page 2 Appendix D, respectively) for estimating purposes. This study assumes that one-third or 33.3% of the yearly applicants were sampled for this study, discounting any seasonal variation.

Data collection includes the submission purpose for employment and applicant background checks; the number and type of offenses in matching criminal records for those applicants who were determined to fall into the false negative category. Analysis of the disposition data is not included due to known deficiencies in the completeness of this data.

In brief, the approach of using solely name-based checks would allow some of the most vulnerable portions of our population to have continual exposure to persons with criminal backgrounds. Alarming examples based on annual projections indicate that over 900 persons with criminal backgrounds may have gained access to Florida's public school system, close to 800 persons to child care facilities, and approximately 800 persons to secure concealed firearms permits. Consideration should be given to the possibility that not all of these offenses would be disqualifiers and must be based not only on an arrest but also a conviction. (See Appendix E for specific information on disqualifiers for employment purpose.) This data clearly demonstrates that fingerprint searches identify more persons with criminal records than do name-based checks, thereby providing more effective screening for licensing and employment purposes. One cannot argue that the less effective name-based checks places the public at greater risk of exposure to those previously engaged in criminal activity, which in turn creates an environment conducive to victimizing the weak and unprotected.

Table 1. below shows the results of false negative submissions for employment and license applicant background checks obtained during the III Name Check Efficacy Study.

Column 1 lists the general type of submission purpose.

Column 2 lists the total persons whose name check produced false negatives results.

Column 3 lists the submission purpose percentage of all false negatives obtained. Estimated error = 3% at 95% confidence level.

Column 4 shows the estimated total false negatives by submission purpose (equal to total false negatives x 3).

**Table 1.  
Employment and Licensing Applicant False Negative Submission Totals**

| <b>Submission Purpose</b>                | <b>False Negative<br/>Name Check<br/>Results</b> | <b>Percent of All False<br/>Negatives Obtained</b> | <b>Estimated Total<br/>False Negatives</b> |
|--|--|--|--|
| School system .....                      | 303 .....  | 24.57% .....                                       | 909  |
| Concealed Firearm .....                  | 261 .....  | 21.17% .....                                       | 783  |
| Child Care .....                         | 259 .....  | 21.01% .....                                       | 777  |
| Insurance Business .....                 | 103 .....  | 8.35% .....  | 309  |
| Real Estate .....                        | 81 .....   | 6.57% .....  | 243  |
| Alcoholic Beverage .....                 | 42 .....   | 3.41% .....  | 126  |
| Health Care .....                        | 36 .....   | 2.92% .....  | 108  |
| State/Local Govt. Employment .....       | 32 .....   | 2.60% .....  | 96   |
| Racing/Pari-mutuel Betting .....         | 29 .....   | 2.35% .....  | 87   |
| Other or Undetermined .....              | 24 .....   | 1.95% .....  | 72   |
| Gaming (Tribal) .....                    | 21 .....   | 1.70% .....  | 63   |
| Security/Private Detective Service ..... | 18 .....   | 1.46% .....  | 54   |
| Motor Vehicle Dealers .....              | 15 .....   | 1.22% .....  | 45   |
| Fire Department .....                    | 5 .....  | 0.41% .....  | 15   |
| Elderly Care .....                       | 2 .....  | 0.16% .....  | 6  |
| Explosives/Hazardous Waste .....         | 1 .....  | 0.08% .....  | 3  |
| Financial Institutions .....             | 1 .....  | 0.08% .....  | 3  |
| <b>Total .....</b>                       | <b>1,233 .....</b>                               | <b>100% .....</b>                                  | <b>3,699</b>                               |



Table 1a. below, further details the false negative submissions for school system applicants.

Column 1 lists the type of offense.

Column 2 lists the number of charges for the type of offense taken from the 303 false negative samples occurring during the study.

**Table 1a. School System - False Negative  
Total Charges by Offense Type  
(303 persons)**

| <b>Type of Offense</b>       | <b>Number of Charges</b> |
|------------------------------|--------------------------|
| Larceny .....                | 112                      |
| Dangerous Drugs .....        | 62                       |
| Traffic Offenses .....       | 59                       |
| Fraudulent Activities .....  | 49                       |
| Assault .....                | 41                       |
| Other .....                  | 37                       |
| Public Peace .....           | 29                       |
| Burglary .....               | 22                       |
| Obstructing Police .....     | 20                       |
| Forgery .....                | 18                       |
| Weapon Offense .....         | 15                       |
| Obstructing Justice .....    | 15                       |
| Immigration .....            | 14                       |
| Family Offenses .....        | 10                       |
| Stolen Vehicle .....         | 10                       |
| Stolen Property .....        | 10                       |
| Gambling .....               | 8                        |
| Sex Offenses .....           | 7                        |
| Sexual Assault .....         | 6                        |
| Damage to Property .....     | 5                        |
| Morals/Decency Crimes .....  | 4                        |
| Liquor .....                 | 4                        |
| Robbery .....                | 4                        |
| Kidnapping .....             | 3                        |
| Homicide .....               | 3                        |
| Commercial Sex Offense ..... | 3                        |
| Flight - Escape .....        | 2                        |
| Bribery .....                | 2                        |
| Property Crimes .....        | 1                        |
| Threats .....                | 1                        |
| <b>Total Charges .....</b>   | <b>576</b>               |
| <b>Avg. # Charges .....</b>  | <b>1.9</b>               |

Table 1b. below, further details the false negative submissions for concealed firearm applicants.

Column 1 lists the type of offense.

Column 2 lists the number of charges for the type of offense taken from the 261 false negative samples occurring during the study.

**Table 1b. Concealed Firearm-False Negative Total Charges by Offense Type (261 persons)**

| <b>Type of Offense</b>       | <b>Number of Charges</b> |
|------------------------------|--------------------------|
| Larceny .....                | 61                       |
| Public Peace .....           | 55                       |
| Traffic Offenses .....       | 54                       |
| Assault .....                | 47                       |
| Dangerous Drugs .....        | 42                       |
| Other .....                  | 42                       |
| Weapon Offense .....         | 38                       |
| Fraudulent Activities .....  | 30                       |
| Burglary .....               | 23                       |
| Immigration .....            | 22                       |
| Stolen Vehicle .....         | 18                       |
| Obstructing Police .....     | 18                       |
| Stolen Property .....        | 17                       |
| Obstructing Justice .....    | 14                       |
| Liquor .....                 | 10                       |
| Gambling .....               | 9                        |
| Family Offenses .....        | 9                        |
| Sex Offenses .....           | 9                        |
| Forgery .....                | 7                        |
| Robbery .....                | 6                        |
| Flight - Escape .....        | 5                        |
| Sexual Assault .....         | 4                        |
| Damage to Property .....     | 3                        |
| Bribery .....                | 3                        |
| Threats .....                | 2                        |
| Morals/Decency Crimes .....  | 2                        |
| Commercial Sex Offense ..... | 2                        |
| Obscenity .....              | 1                        |
| Conservation .....           | 1                        |
| Arson .....                  | 1                        |
| <b>Total Charges .....</b>   | <b>555</b>               |
| <b>Avg. # Charges .....</b>  | <b>2.13</b>              |

Table 1c. below, further details the false negative submissions for child care applicants.

Column 1 lists the type of offense.

Column 2 lists the number of charges for the type of offense taken from the 259 false negative samples occurring during the study.

**Table 1c. Child Care - False Negative Total Charges by Offense Type (259 persons)**

| <b>Type of Offense</b>       | <b>Number of Charges</b> |
|------------------------------|--------------------------|
| Larceny .....                | 86                       |
| Dangerous Drugs .....        | 67                       |
| Assault .....                | 58                       |
| Traffic Offenses .....       | 52                       |
| Fraudulent Activities .....  | 42                       |
| Public Peace .....           | 36                       |
| Obstructing Police .....     | 25                       |
| Weapon Offense .....         | 24                       |
| Obstructing Justice .....    | 23                       |
| Other .....                  | 18                       |
| Forgery .....                | 14                       |
| Commercial Sex Offense ..... | 13                       |
| Stolen Property .....        | 12                       |
| Burglary .....               | 11                       |
| Immigration .....            | 11                       |
| Family Offenses .....        | 11                       |
| Gambling .....               | 8                        |
| Stolen Vehicle .....         | 8                        |
| Damage to Property .....     | 8                        |
| Sexual Assault .....         | 7                        |
| Sex Offenses .....           | 5                        |
| Liquor .....                 | 4                        |
| Threats .....                | 4                        |
| Morals/Decency Crimes .....  | 2                        |
| Tax Revenue .....            | 2                        |
| Robbery .....                | 2                        |
| Embezzlement .....           | 2                        |
| Homicide .....               | 1                        |
| Flight - Escape .....        | 1                        |
| Obscenity .....              | 1                        |
| Kidnapping .....             | 1                        |
| Conservation .....           | 1                        |
| <b>Total Charges .....</b>   | <b>560</b>               |
| <b>Avg. # Charges .....</b>  | <b>2.16</b>              |

It has been previously noted that the study findings may not be considered nationally representative due to the limitations of the study design. However, the following table indicates there is a high coefficient correlation between this study and another study which is nationally representative. Table 2 lists the number of samples by submission purpose for the III Name Check Efficacy Study and then cited a previously compiled FBI study, the “Civil Fingerprint Card ‘Hit’ Survey.” The “Hit Survey” obtained approximately 16,400 samples of civil applicant hits from all applicant locales. As can be observed from the correlation coefficient of .703, the distribution of false negatives by submission purpose in the efficacy study approximates the distribution for those of the “Hit Survey” for those submission purposes listed. Variations can be explained by differences in statutes from state to state.

**Table 2. False Negative Sample correlation with “Civil Fingerprint Card ‘Hit’ Survey”**

| <b>Submission Purpose</b>               | <b>III Study</b>  | <b>Hit Survey</b> |
|---|-------------------|-------------------|
| School System.....                      | 303.....          | 1425              |
| Firearm.....                            | 261.....          | 1391              |
| Child Care.....                         | 259.....          | 835               |
| Insurance Business.....                 | 103.....          | 53                |
| Real Estate.....                        | 81.....           | 123               |
| Alcoholic Beverage.....                 | 42.....           | 166               |
| Health Care.....                        | 36.....           | 133               |
| Government Employment State/Local.....  | 32.....           | 786               |
| Racing/Pari-mutuel Betting.....         | 29.....           | 374               |
| Security/Private Detective Service..... | 18.....           | 1098              |
| Gaming (Tibal).....                     | 21.....           | 198               |
| Motor Vehicle Dealers.....              | 15.....           | 74                |
| Fire Department.....                    | 5.....            | 22                |
| Elderly Care.....                       | 2.....            | 21                |
| Explosives/Hazardous Waste.....         | 1.....            | 3                 |
| Lottery/Gambling.....                   | 1.....            | 648               |
| <b>Correlation Coefficient .....</b>    | <b>0.70329807</b> |                   |

The information presented in the tables above show that the risk to Florida citizens is real for sensitive employment positions in school, child care, concealed firearm categories, and others. One should consider that a high profile case from a missed identification could result in far-reaching repercussions.

At the request of officials from the Florida Department of Law Enforcement, the following opinion is provided, notwithstanding the FBI Analysis of False Negative Data:

“Florida is convinced that fingerprint checks are the most effective mechanism to assure that persons with criminal history records are not allowed access to sensitive employment positions. Florida believes, however, that the study indicates that many persons are identified through the name check process. As a result, Florida’s position is that name-based checks are preferable to having no search at all, particularly when other background investigation information is considered.”

The data in Table 3 and Appendix E demonstrate the expansion in submissions received for applicant background checks, as well as the increased number of statutes enacted for applicant background checks. Appendix E provides an additional component of information in a non-inclusive listing of disqualifying offenses for particular types of employment. This list illustrates that there are diverse reasons for causing one to be unsuitable for employment. This information causes one to understand that the public desires access to national information because of the potential to increase public safety.

**Yearly Totals For Florida Applicant/Employment Civil Fingerprint Card Checks**

Table 3. shows the number of fingerprint cards processed by CJIS for the State of Florida for Fiscal Years (FY) 1987 through 1998. Estimates for FY 1999 and 2000 were taken from a straight-line trend projection from the previous years.

**Table 3. Civil Applicant/Employment Total by Fiscal Year**

| <b>Fiscal Year</b>        | <b>Number of Applicant/<br/>Employment Processed</b> |
|---------------------------|--|
| FY 1987 .....             | 180,929  |
| FY 1988 .....             | 219,748  |
| FY 1989 .....             | 214,629  |
| FY 1990 .....             | 255,812  |
| FY 1991 .....             | 274,467  |
| FY 1992 .....             | 208,575  |
| FY 1993 .....             | 236,117  |
| FY 1994 .....             | 277,227  |
| FY 1995 .....             | 260,661  |
| FY 1996 .....             | 248,112  |
| FY 1997 .....             | 369,588  |
| FY 1998 .....             | 318,198  |
| FY 1999 (Projected) ..... | 326,998  |
| FY 2000 (Projected) ..... | 338,022  |

Appendix E is a listing of all current fingerprint submission statutes, both federal and state that apply to the State of Florida.



# **Appendix E**

## **Florida Statutory Requirements for Fingerprint Submissions**

and accompanying comments and disqualifiers

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Alcoholic Beverage**

Statute Name: *Division of Beverage*

Statute number: 561.17 [1] 561.15 [2]

Date Enacted: 12/29/1971      Mandatory

Federal, State, County, or City: State

Comments and Disqualifiers:

\*\*Currently No Known Restrictions\*\*



**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Child Care**

Statute Name: *Background Check / Child Care*

Statute number: CHAPTERS 393, 394, 396, 397, 402, 409 Section 984, 985, and 435 F.S.

Date Enacted: 2/23/1998                      **Mandatory**

Federal, State, County, or City: State

**Comments and Disqualifiers:**

Murder; Manslaughter; Vehicular Homicide; Killing of an unborn child by injury to the mother; Aggravated Assault; Aggravated Battery; Kidnapping; False Imprisonment; Removing minors from the state or concealing minors contrary to court order; Sexual Battery; Prostitution; Lewd and Lascivious Behavior; Lewdness and Indecent Exposure; Arson; Fraudulent sale or controlled substances, if the offense was a felony; Abuse or neglect of a disabled adult or elderly person; Robbery; Incest; Aggravated Child Abuse; Child Abuse; Negligent treatment of children; Sexual performance by a child; Obscene Literature; Assault, if the victim of the offense was a minor; Battery, if the offense was a minor; and Drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Contributor Requirement**

Statute Name: *Subdivider Registration License*

Statute number: FS 498.031

Date Enacted: 2/23/1981                      Mandatory

Federal, State, County, or City: State

**Comments and Disqualifiers:**

The subdivider has not, or, if a corporation, its officers, directors, or principals have not, been convicted of a crime involving land dispositions or any aspect of the land sales business in this state, the United States, or any other state or foreign country, or had a bond forfeited when charged with such a crime, within the past 10 yrs.  
Has not had a conviction of a criminal offense prohibited by this chapter and is not the subject of an indictment, information, or other formal charge relating to a criminal offense prohibited by this chapter.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Contributor Requirement**

Statute Name: *Bail Bondmen, under Department of Inv.*

Statute number: 648.34 [2] [3]

Date Enacted: 2/24/1981                      Mandatory

Federal, State, County, or City: State

**Comments and Disqualifiers:**

The applicant is a natural person who has reached the age of 18 yrs.  
The applicant has been a bona fide resident of the state for 1 yr. last past and will actually reside in this state at least 6 months out of each year.

# FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA

State Name: Florida

REGION NAME: SOUTHERN

## Submission Name: Contributor Requirement

Statute Name: *Talent Agency Owners and Operators License*

Statute number: FS 468.402 and 468.403

Date Enacted: 1/1/1987

Mandatory

Federal, State, County, or City: State

### Comments and Disqualifiers:

- 1) Obtained or attempted to obtain any license by means of fraud, misrepresentation, or concealment;
- 2) Violated any provision of this part or any rule of the department;
- 3) Found guilty of or had adjudication withheld with respect to a crime involving moral turpitude or dishonest dealing under the laws of this state or any other state or government;
- 4) Made, printed, published, distributed or caused, authorized, or knowingly permitted the making, printing, publication, or distribution of any false statement, description, or promise of such a character as to reasonably induce any person to act to his damage or injury, if such statement, description, or promises were purported to be performed by the talent agency and if the owner or operator then knew, or by the exercise of reasonable care and injury, could have known of the falsity of the statement description or promise;
- 5) Knowingly committed or been a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relying upon the work, representation, or conduct of the talent agency a or has acted to his injury or damage;
- 6) Failed or refused upon demand to disclose any information, as required by this part, within his knowledge, or failed or refuse to produce any document, book, or record in his possession for inspection to the department or any authorized agent thereof acting within its jurisdiction or by authority of law;
- 7) Established the talent agency within any place where intoxicating liquors are sold; any place where gambling is permitted, or any house of prostitution;
- 8) Charged, collected, or received compensation for any service performed by the talent agency greater than specified in its schedule of maximum fees, charges, and commissions previously filed with the department;
- 9) A license to operate a talent agency revoked, suspended or otherwise acted against, including but not limited to, having been denied a license for good cause by the licensing authority of another state, territory, or country.
- 10) Willfully made or filed a report or record which the licensee knew to be false, failed to file a report or record required by stat or federal law, impeded or obstructed such filing, or induced another person to impede or obstruct such filing. Such reports or records shall include only those which are signed in the capacity as a licensed talent agency.
- 11) Advertised goods or services in a manner which was fraudulent, false, deceptive, or misleading in form or content.
- 12) Advertised, operated, or attempted to operate under a name other than the name appearing on the license.
- 13) Guilty of fraud or deceit in the operation of a talent agency.
- 14) Operated with a revoked, suspended or inactive license
- 15) Permitted, aided, assisted, procured, or advised any unlicensed person to operate a talent agency contrary to this chapter o to a rule of the department.
- 16) Failed to perform any statutory or legal obligation placed on a licensed talent agency.
- 17) Practiced or offered to practice beyond the scope permitted by law or has accepted and performed professional responsibilities which the licensee knows or has reason to know that he is not competent to perform.
- 18) Conspired with another licensee or with any other person to commit an act, or has committed an act, which would tend to coerce, intimidate, or preclude another licensee from advertising his services.
- 19) Solicited business, either personally or through an agent or through any other person, through the use of fraud, deception, or otherwise; the use of misleading statements; or the exercise of intimidation or undue influence.
- 20) Exercised undue influence on the artist in such a manner as to exploit the artist for financial gain of the licensee or a third party, which includes, but is not limited to, the promoting or selling of services to the artist.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Contributor Requirement**

Statute Name: *Employee Leasing Companies*

Statute number: 468.520 - 468.534 FS

Date Enacted: 1/1/1992                      Mandatory

Federal, State, County, or City: State

Comments and Disqualifiers:

\*\*Currently No Known Restrictions\*\*

# FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA

State Name: Florida

REGION NAME: SOUTHERN

## Submission Name: Contributor Requirement

Statute Name: *Yacht and Ship Brokers License*

Statute number: 326.004 FS

Date Enacted: 5/5/1992

Mandatory

Federal, State, County, or City: State

Comments and Disqualifiers:

\*\*Currently No Known Restrictions\*\*

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Contributor Requirement**

Statute Name: *Licensing of Community Association Managers*

Statute number: 468.433 FS

Date Enacted: 6/7/1994                      Mandatory

Federal, State, County, or City: State

Comments and Disqualifiers:

\*\*Currently No Known Restrictions\*\*

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Contributor Requirement**

Statute Name: *Professional Guardians*

Statute number: FS 744.3135

Date Enacted: 10/1/1997      Mandatory

Federal, State, County, or City: State

Comments and Disqualifiers:

\*\*Currently No Known Restrictions\*\*



**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Contributor Requirement**

Statute Name: *Cigarette, Distributing Agent, Wholesale Dealer to Exporter*

Statute number: 210.15[1] [c] [e]

Date Enacted: 10/1/1998                      Mandatory

Federal, State, County, or City: State

**Comments and Disqualifiers:**

Any person who has been convicted within the past 5 yrs. of any offense against the cigarette laws of this state or who has b  
convicted in this state, or the United States during the past 5 yrs. of any offense designated as a felony by such state or the  
United States, or to a corporation, any of whose officers have been so convicted. The term "conviction" shall include an  
adjudication of guilt on a plea of guilty of a plea of nolo contendere, or the forfeiture of a bond when charged with a crime.

# FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Explosives/Haz Waste**

**Statute Name:** *Explosive - 1. Blasters 2. Dealers 3. User 4. Manufacture - Distribution.*

**Statute number:** 552.092 [2]

**Date Enacted:** 6/1/1977

**Mandatory**

**Federal, State, County, or City:** State

**Comments and Disqualifiers:**

No license or permit shall be issued, renewed, or be allowed to remain in effect for any natural person:

- 1) Under 18 years of age;
- 2) Has been convicted of a felony and has not been pardoned or had his civil rights restored; or
- 3) Has been adjudicated mentally incompetent and has not had his civil rights restored.

# FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Explosives/Haz Waste**

**Statute Name:** *Motor Fuel License for Refiners, Importers, and Wholesalers*

**Statute number:** FS 206.026

**Date Enacted:** 1/1/1986

**Mandatory**

**Federal, State, County, or City:** State

**Comments and Disqualifiers:**

- 1) A felony in this state.
- 2) Any felony in any other state which would be a felony if committed in this state under the laws of Florida.
- 3) Any felony under the laws of the United States.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Explosives/Haz Waste**

**Statute Name:** *Ether License for Manufacturers, Distributors and Dealers of Ether; Ether Permit for Purchasers of Ether*

**Statute number:** FS 499.63

**Date Enacted:** 10/1/1986                      **Mandatory**

**Federal, State, County, or City:** State

**Comments and Disqualifiers:**

If the applicant has possessed a valid Florida license or permit under this part during the prior license or permit year and such Florida license or permit has not lapsed or been suspended or revoked, a set of fingerprints shall not be required. If fingerprints are required, the set of fingerprints shall be submitted by the department to the Department of Law Enforcement for state and federal processing.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Financial Institutions**

Statute Name: *Licensing of Mortgage Brokers and Mortgage Solicitors*

Statute number: 494.04 [4]

Date Enacted: 9/23/1977                      Mandatory

Federal, State, County, or City: State

Comments and Disqualifiers:

\*\*Currently No Known Restrictions\*\*

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Fire Department**

Statute Name: *Fire Fighters*

Statute number: 633.34 [2] [a]

Date Enacted: 12/29/1971      Mandatory

Federal, State, County, or City: State

**Comments and Disqualifiers:**

A high school graduate or the equivalent, as the term may be determined by the division, and at least 18 yrs of age. Neither have been convicted of a felony or a misdemeanor directly related to the position of employment sought, nor have pled nolo contendere to any charge of felony. If an applicant has been convicted of a felony, such applicant must be in compliance with s. 112.011 (2) (b). If an applicant has been convicted of a misdemeanor directly related to the position of employment sought, such applicant shall be excluded from employment for a period of 4 yrs. after expiration of sentence. If the sentence is suspended or adjudication is withheld in a felony charge or in a misdemeanor directly related to the position or employment sought and a period of probation is imposed, the applicant must have been released from probation.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Gaming (Tribal)**

**Statute Name:** *Licensing of Professional Pugilistic Exhibitions, including Boxers, Managers, Trainers, Seconds, Timekeeper Referees, Judges, etc.*

**Statute number:** FS 548.023, 548.028, and 548.071

**Date Enacted:** 2/21/1985

**Mandatory**

**Federal, State, County, or City:** State

**Comments and Disqualifiers:**

- 1) Is guilty of violating this chapter or rules of the commission.
- 2) Has committed fraud or deceit in securing any license or permit.
- 3) Has been convicted of, has pleaded guilty to, has entered a plea of nolo contendere to, or has been found guilty of a crime involving moral turpitude in any jurisdiction within 10 yrs. preceding the suspension or revocation.
- 4) Is guilty of unprofessional or unethical conduct.
- 5) Made a misstatement of a material fact, fraudulently concealed a material fact, or induced or aided another person in misstating or concealing any material fact in any application or other proceeding under this chapter.
- 6) Failed to account for or pay over moneys belonging to others which have come into his possession in connection with a match.
- 7) Failed to furnish to the proper party a copy of any contract or statement required by this chapter or has breached such a contract.
- 8) Has paid or agreed to pay any money or article of value to any licensee or permittee for soliciting or for business secured or for rendering any service or the doing of any of the acts forbidden by this chapter and the rules adopted hereunder.
- 9) Has loaned his license or permit to another person or has borrowed or used the license or permit of another.
- 10) Has employed a person who does not hold a license or permit as required by law.
- 11) Has failed to maintain in force the bond required by this chapter or has failed to deposit with the commission the required cash, check, or securities.
- 12) Has been disciplined by the State Athletic Commission or similar agency or body of an jurisdiction.
- 13) Has failed to pay a fine imposed under this chapter.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Gaming (Tribal)**

**Statute Name:** *Miccosukee Tribe of Indians and Seminole Tribe of Florida Police Departments background checks relating to applicants for: Tribal Education, Tribal Government, and Tribal Gaming Employees, primary m*

**Statute number:** 285.18[3] FS

**Date Enacted:** 5/25/1994      **Mandatory**

**Federal, State, County, or City:** State

**Comments and Disqualifiers:**

\*\*Currently No Known Restrictions\*\*



**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Govt Employmnt State/**

**Statute Name:** *Employees of State Agencies - Includes, but is not limited to, the Florida School of the Deaf/Blind and the University of Florida*

**Statute number:** FS 110.1127

**Date Enacted:** 7/1/1983

**Mandatory**

**Federal, State, County, or City:** State

**Comments and Disqualifiers:**

The conviction or prior conviction of a crime which is reasonably related to the nature of the position sought or held by the individual; or

The entering of a plea of nolo contendere or, when a jury verdict of guilty is rendered but adjudication of guilt is withheld, with respect to a crime which is reasonably related to the nature of the position sought or held by the individual.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Health Care**

**Statute Name:** *Applicants for License from the Arizona Board of Chiropractic Examiners*

**Statute number:** EO 88-4; ARS 41-1750

**Date Enacted:** 6/23/1988      **Mandatory**

**Federal, State, County, or City:** State

**Comments and Disqualifiers:**

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

**State Name:** Florida

**REGION NAME:** SOUTHERN

**Submission Name:** Health Care

**Statute Name:** Medicaid Provider

**Statute number:** 409.907 FS (SENATE BILL 508 AMENDED)

**Date Enacted:** 9/9/1997

**Mandatory**

**Federal, State, County, or City:** State

**Comments and Disqualifiers:**

- 1) A false representation or omission of any material fact in making the application, including the submission of an application that conceals the controlling or ownership interest of any officer, director, agent, managing employee, affiliated person, or partner or shareholder who may not be eligible to participate;
- 2) Currently excluded, suspended, terminated from, or has involuntarily withdrawn from participation in, Florida's Medicaid program or governmental or private health care or health insurance program;
- 3) Convicted of a criminal offense relating to the delivery of any goods or services under Medicaid or Medicare or any other public or private health care or health insurance program including the performance of management or administrative services relating to the delivery of goods or services under any such program;
- 4) Convicted under federal or state law or a criminal offense related to the neglect or abuse of a patient in connection with the delivery of any health care goods or services;
- 5) Convicted under federal or state law or a criminal offense relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance;
- 6) Convicted of any criminal offense related to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct;
- 7) Convicted under federal or state law of a crime punishable by imprisonment of a year or more which involves moral turpitude;
- 8) Convicted in connection with the interference or obstruction of any investigation into any criminal offense listed in this subsection;
- 9) Found to have violated federal or state laws, rules, or regulations governing Florida's Medicaid program or any other state's Medicaid program, the Medicare program, and been sanctioned accordingly;
- 10) Been previously found by a licensing, certifying, or professional standards board of agency to have violated the standards or conditions relating to licensure or certification or the quality of services provided;
- 11) Failed to pay any fine or overpayment properly assessed under the Medicaid program in which no appeal is pending or after resolution of the specific letter of forgiveness or has approved a repayment schedule to which the provider agrees to adhere.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Health Care**

**Statute Name:** *Medical Practitioners Licenses and Renewals - Physicians, Osteopathic Physicians, Chiropractors, and Podiatrists*

**Statute number:** 458.311 458.313 458.319 459.0055 459.008 460.406 460.407 461.006 461.007 FS

**Date Enacted:** 10/2/1997                      **Mandatory**

**Federal, State, County, or City:** State

**Comments and Disqualifiers:**

Description of any criminal offense of which the applicant has been found guilty, regardless of whether adjudication of guilt was withheld, or to which the applicant has pled guilty or nolo contendere. A criminal offense in another jurisdiction which would have been a felony or misdemeanor if committed in this state must be reported. If the criminal offense is under appeal, the applicant must submit a copy of the notice and the department must state that the criminal offense is under appeal. It is then placed in the applicant's profile. If the applicant indicates to the department that a criminal offense is under appeal, the applicant must, upon disposition of the appeal, submit to the department a copy of the final written order of disposition. A description of any final disciplinary action taken with the previous 10 yrs against the applicant by the agency regulating the profession that the applicant is or has been licensed to practice, whether in this state or in any other jurisdiction, by a specialty board that is recognized by the American Board of Medical Specialties, the American Osteopathic Association, or a similar national organization, or by a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Health Care**

Statute Name: *Agency for Health Care Administration*

Statute number: 435.04 - 112.0455 381.60225 383.305 390.015 391.206 393.067 394.875 395.0055 395.0199 400.071  
400.4174 400.471 400.506 400.5572 400.6065 400.801 400.805 483.101 483.30

Date Enacted: 8/17/1998                      Mandatory

Federal, State, County, or City: State

Comments and Disqualifiers:

\*\*Currently No Known Restrictions\*\*

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Health Care**

Statute Name: *Employees of Nursing Facilities Licensed under Part II*

Statute number: 400.215 FS and 435.04 FS

Date Enacted: 10/13/1998      Mandatory

Federal, State, County, or City: State

**Comments and Disqualifiers:**

**\*\*BECOMES MANDATORY AT LEVEL 2\*\***

That no persons subject to the provisions of this section have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offenses prohibited under any of the following provisions of the Florida Statutes or under an similar statute of another jurisdiction: Adult abuse, neglect, or exploitation of aged person or disabled adults; Murder; Manslaughter, Aggravated Manslaughter of an elderly person or disabled adult or Aggravated Manslaughter of a child; Vehicular Homicide; Killing of an unborn child by injury to the mother; Assault, if the victim of the offense was a minor; Aggravated Assault; Battery, if the victim of the offense was a minor; Aggravated Battery; Kidnapping; False Imprisonment; Sexual Battery; Prohibited Acts of persons in familial or custodial authority; Prostitution; Lewd and Lascivious Behavior; Lewdness and Indecent Exposure; Arson; Theft, Robbery, and related crimes, if the offense is a felony; Fraudulent sale of controlled substance, only if the offense was a felony; Abuse, aggravated abuse, or neglect of an elderly person or disabled adult; Lewd or Lascivious offenses committed upon or in the presence of an elderly person or disabled adult; Exploitation of an elderly person or disabled adult, if the offense was a felony; Incest; Child abuse, aggravated child abuse, or neglect of a child; Contributing to the delinquency of dependency of a child; Negligent treatment of children; Sexual performance of a child; Obscene literature; and Drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor. For employees or employers licensed or registered pursuant to chapter 400, does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5), which has been uncontested or upheld under s. 415.103. Committed an act that constitutes domestic violence as defined in s. 741.30.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Insurance Business**

**Statute Name:** *Runners (Department of Insurance, Bureau of License)*

**Statute number:** FS 648.37

**Date Enacted:** 2/24/1981                      **Mandatory**

**Federal, State, County, or City:** State

**Comments and Disqualifiers:**

Applicant is a natural person who has reached the age of 18 years.  
Applicant has been a bona fide resident of this state for more that 6 months last past.  
Applicant will be employed by only one bail bondsman, who will supervise the work of the applicant, and be responsible for the runner's conduct in the bail bond business.  
The application must be endorsed by the appointing bail bondsman, who shall obligate himself to supervise the runner's activities in his behalf.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Insurance Business**

Statute Name: *Fingerprint Submissions from the Bureau of Insurer Examinations, Department of Insurance*

Statute number: FS 624.34

Date Enacted: 6/7/1984                      Mandatory

Federal, State, County, or City: State

**Comments and Disqualifiers:**

No Known Restrictions, however, the provisions of this section do not apply to the licensing of general lines agents and solicitors, life insurance agents, health insurance agents, and insurance adjusters as provided for under chapter 626.



**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Insurance Business**

Statute Name: *Insurance Representatives*

Statute number: 626.171 FS

Date Enacted: 9/13/1990      Mandatory

Federal, State, County, or City: State

Comments and Disqualifiers:

\*\*Currently No Known Restrictions\*\*

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Lawyer**

Statute Name: *State Bar Examiners*

Statute number: FS 454.026

Date Enacted: 4/10/1985      Mandatory

Federal, State, County, or City: State

Comments and Disqualifiers:

\*\*Currently No Known Restrictions\*\*

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Lottery/Gambling**

**Statute Name:** *Lottery Vendors, Lottery Retailers, and Lottery Employees*

**Statute number:** CH. 87-65, Laws of Florida

**Date Enacted:** 1/1/1990

**Mandatory**

**Federal, State, County, or City:** State

**Comments and Disqualifiers:**

Convicted of, or entered a plea of guilty or nolo contendere to, a felony committed in the preceding 10 years, regardless of adjudication, unless the department determines that:

- 1) The person has been pardoned or his civil rights have been restored; or
- 2) Subsequent to such conviction or entry or plea the person has engaged in the kind of law-abiding commerce and good citizenship that would reflect well upon the integrity of the lottery.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Lottery/Gambling**

Statute Name: *Bingo Licensees*

Statute number: 849.093 FS

Date Enacted: 10/1/1991                      Mandatory

Federal, State, County, or City: State

**Comments and Disqualifiers:**

Been convicted of a felony within the last 5 yrs. Has been convicted of or pleaded nolo contendere to any illegal gambling activity or forfeited bond for not appearing while charged with such. Directly or indirectly leases promises or sells leases or otherwise distributes bingo equipment or supplies. Furnishes any services to a licensee. Violated any provisions of this section or any rules adopted pursuant thereto.  
Knowingly caused, aided, abetted, or conspired with another to cause any person to violate this section or any rules adopted pursuant thereto; or obtained a license by fraud, misrepresentation, or concealment; or if any officer, director, stockholder, or member of the bingo committee of the licensed distributor or licensed organization is found to be no longer eligible under this section.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Lottery/Gambling**

**Statute Name:** *Cardroom Occupational License Applicants*

**Statute number:** FS 849.086

**Date Enacted:** 12/27/1996      **Mandatory**

**Federal, State, County, or City:** State

**Comments and Disqualifiers:**

\*\*Currently No Known Restrictions\*\*

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Motor Vehicle Dealers**

**Statute Name:** *Motor Vehicle, Mobile Home and Recreational Vehicle Dealers License*

**Statute number:** FS 320.27 and FS 320.77

**Date Enacted:** 10/1/1988                      **Mandatory**

**Federal, State, County, or City:** State

**Comments and Disqualifiers:**  
Any prior criminal record or any outstanding warrants.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Other or Undetermined**

Statute Name: *Union Business Agent*

Statute number: 447.04 [2] [3]

Date Enacted: 12/29/1971      Mandatory

Federal, State, County, or City: State

**Comments and Disqualifiers:**

- No person shall be granted a license or a permit to act as a business agent in the state:
- 1) Who has not been a citizen of and has not resided in the United States for a period of more than 5 yrs. next prior to making application for such license or permit;
  - 2) Who has been convicted of a felony and has not had his civil rights restored;
  - 3) Who is not a person of good moral character.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Other or Undetermined**

Statute Name: *Secondary Metals Recycler License*

Statute number: 538.25 FS

Date Enacted: 10/2/1989

Mandatory

Federal, State, County, or City: State

**Comments and Disqualifiers:**

The applicant or registrant has been convicted of knowingly and intentionally:

- 1) Violated s 538.20 or s. 538.21;
- 2) Engaged in a pattern of failing to keep records as required by s 538.19;
- 3) Made a material false statement in the application for registration; or
- 4) Engaged in a fraudulent act in connection with any purchase or sale of regulated metals property.

The applicant or registrant has been convicted of, or entered a plea of guilty or nolo contendere to, a felony committed by the secondary metals recycler against the laws of the state of the United States involving theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, or an felony drug offense or of knowingly and intentionally violating the laws of the state relating to registration as a secondary metal recycler.



**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Pawnbroker Business**

Statute Name: *Second - Hand Dealer License*

Statute number: 538.09 FS

Date Enacted: 10/2/1989

Mandatory

Federal, State, County, or City: State

**Comments and Disqualifiers:**

Has been guilty of a fraudulent act in connection with any purchase or sale, or has been or is engaged in or is about to engage in any practice, purchase, or sale which is fraudulent or in violation of the law.

Has, within the preceding 5-year period, been convicted of, or has entered a plea of guilty or nolo contendere to, a crime against the laws of this state or any other state of the United States which relates to registration as a second-hand dealer or which involves theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, and felony drug offense, any violation of s. 812.015, or any fraudulent or dishonest dealing.

Has had a final judgment entered against him in a civil action upon grounds of fraud, embezzlement, misrepresentation or deceit.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Private Process Server**

Statute Name: *Special Process Server*

Statute number: FS 48.021

Date Enacted: 10/1/1988                      Mandatory

Federal, State, County, or City: State

**Comments and Disqualifiers:**

An applicant who has been convicted of a crime within the last 5 years may not serve.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Racing/Pari-mutuel Betting**

Statute Name: *Racing Permits/Racetrack Employees License*

Statute number: FS 550.105; FS 550.054

Date Enacted: 8/3/1998

Mandatory

Federal, State, County, or City: State

**Comments and Disqualifiers:**

Deny a license to or revoke, suspend, or place conditions upon or restrictions on a license of any person who has been refused a license by any other state racing commission or racing authority;

Deny, suspend, or place conditions on a license of any person who is under suspension or has unpaid fines in another jurisdiction; if the state racing commission or racing authority of such other state or jurisdiction extends to the division reciprocal courtesy to maintain the disciplinary control.

The division may deny, suspend, revoke, or declare ineligible any occupational license if the applicant for or holder thereof has violated the provisions of this chapter or the rules of the division governing the conduct of persons connected with racetracks and frontons. In addition, the division may deny, suspend, revoke or declare ineligible any occupational license if the applicant for such license has been convicted in this state in any other state, or under the laws of the United States of a capital felony, a felony, or an offense in any other state which would be a felony under the laws of this state involving arson; trafficking in, conspiracy to traffic in, smuggling, importing, conspiracy to smuggle or import, or delivery, sale, or distribution of a controlled substance; or a crime involving a lack of good moral character, or has had a pari-mutuel wagering.

The division may deny, declare ineligible, or revoke any occupational license if the applicant for such license has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States, if such felony or misdemeanor is related to gambling or bookmaking, as contemplated in s. 849.25, or involves cruelty to animals. If the applicant establishes that she or he is of good moral character, that she or he is of good moral character, that she or he has been rehabilitated, and that the crime she or he was convicted of is not related to pari-mutuel wagering and is not a capital offense, the restrictions excluding offenders may be waived by the directors of the division.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Real Estate**

Statute Name: Applicants for Real Estate License (658)

Statute number: FSA 475.16

Date Enacted: 2/14/1972 Mandatory

Federal, State, County, or City: State

**Comments and Disqualifiers:**

Been guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing, trick, scheme or device, culpable negligence, or breach of trust in any business transaction, in this state or any other state, nation, or territory; has violated a duty imposed upon him by law or by the terms of listing contract, written, oral, express or implied, in a real estate transaction; has aided, assisted, or conspired with any other person engaged in any such misconduct and in furtherance thereof; or has formed an intent, design, or scheme to engage in any such misconduct, and has committed an overt act in furtherance of such intent, design or scheme.

Been guilty of false advertising in, on or by, signs, bill boards, newspapers, magazines, periodical, books, pamphlets, circulars, radio, telephone, telegraph, or other means of communication of publicity, of such character as to deceive or defraud investors, or prospective investors, in real property or interests therein, as more particularly described in subsection (2) of ss 475.01, whether such property is owned, or purported to be owned by the registrant or by another; or,

Failed to account or deliver to any person, including registrants under this chapter, any personal property such as money, fund, deposit, check, draft, abstract of title, mortgage, conveyance, lease, or other document, or thing of value, including a share of a real estate commission, or any secret or illegal profit, or any divisible share or portion thereof, which has come into his hands and which is not his property, or which he is not in law or equity entitled to retain, under the circumstances, and at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery; provided, however, that, if the registrant shall, in good faith, entertain doubt as to his duty to account and deliver said property, or as to what person is entitled to the accounting and delivery, or if conflicting demands therefore shall have been made upon him and he has not appropriated the property to his own use or intermingled it with his own property of like kind, he may notify the commission promptly, truthful stating the facts, and ask its advice thereon, after notice thereof to the commission, shall promptly submit the issue to arbitration by agreement of all parties, or interplead the parties, or otherwise seek an adjudication of the question in a proper court and shall abide, or offer to perform, the advice of the commission or the orders of the court or arbitrators, no information against him shall be permitted to be maintained; or,

Violated any of the provisions of this chapter, or any lawful order, rule or regulation made or issued under the provisions of this chapter; or,

Been guilty of a crime against the laws of this state or any other state or of the United States, involving moral turpitude, or fraudulent or dishonest dealing; and the record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the state, shall be admissible as prima facie evidence of such guilt; or,

Become temporarily incapacitated from acting as a broker or salesman with safety to investors or those in a fiduciary relation with him because of drunkenness, use of drugs, or temporary mental derangement, expect that the suspension in such cases shall be for the period of such capacity; and,

The registration of a registrant may be revoked if the registrant shall, for a second time, be found guilty of any misconduct that warrants his suspension under subsection (1) of this section, or if he shall be found guilty of a course of conduct or practices which show that he is so incompetent, negligent, dishonest or untruthful that the money, property, transactions and rights of investors or those with whom he may sustain a confidential relation, may not safely be entrusted to him.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: School System**

Statute Name: *School System Employment/Certification*

Statute number: 231.17

Date Enacted: 10/1/1984                      **Mandatory**

Federal, State, County, or City: State

**Comments and Disqualifiers:**

Be of good moral character; and  
The superintendent shall report to the department the name of any person who has been convicted of, or who has pled nolo contendere to a misdemeanor, felony, or any other criminal charge, other than a minor traffic infraction, or any act which would be grounds for revocation or suspension under subsection (1). The superintendent shall also report to the department the name of any person who has been dismissed or severed from employment because of conduct involving any immoral, unnatural, or lascivious act.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Security/Private Det Svc**

Statute Name: *Division of Securities*

Statute number: FS 517.12 [6]

Date Enacted: 11/1/1978                      Mandatory

Federal, State, County, or City: State

**Comments and Disqualifiers:**

Conviction of, or plea of nolo contendere to, a criminal offense of his commission of any acts which would be grounds for refus of an application under s. 517.161.

**FINGERPRINT SUBMISSIONS FOR THE STATE OF FLORIDA**

State Name: Florida

REGION NAME: SOUTHERN

**Submission Name: Security/Private Det Svc**

Statute Name: *PI/PIA/Patrol/Deception Detection/Solicitor/Concealed Firearm License*

Statute number: CHPT 493 496 790 FS 493.30-493.329 493.561-493.579 496.01-496.40 790.06

Date Enacted: 11/29/1989

Mandatory

Federal, State, County, or City: State

**Comments and Disqualifiers:**

- 1) Fraud or willful misrepresentation in applying for or obtaining a license;
- 2) Use of any fictitious or assumed name by a licensee unless he has department approval and qualifies under s. 865.09;
- 3) Conviction of a crime which directly relates to the business for which the license is held or sought, regardless of whether adjudication was withheld or whether imposition of sentence was suspended. A conviction based on a plea of nolo contendere shall create a presumption of guilt to the underlying criminal charges, and the department shall allow the person being disciplined to present any evidence relevant to the underlying charges and the circumstances surrounding his plea;
- 4) A false statement by the licensee that any person is or has been in his employ;
- 5) A finding that the licensee or any of his or its employees is guilty of willful betrayal of a professional secret;
- 6) Proof that the licensee is guilty of fraud or deceit, or of negligence, incompetency, or misconduct, in the practice of his business for which the license is held or sought;
- 7) Conducting business without a license or with a revoked or suspended license;
- 8) Failure of the licensee to maintain in full force and effect the general liability insurance coverage, if required, referred to in s. 493.31.
- 9) Impersonating, or permitting or aiding and abetting an employee to impersonate, a law enforcement officer or an employee of this state, the United States, or any political subdivision thereof;
- 10) Commission of assault, battery, or kidnapping or use of force or violence on any person except in self-defense or in the defense of a client;
- 11) Knowingly violating, or advising, encouraging, or assisting the violation of any court order, capias, warrant, or injunction in the course of business as a licensee of that relates to the business for which licensure is sought;
- 12) Acting as a runner or a capper for any attorney;
- 13) Falsification or alteration of an inventory or recovered personal property required by s. 493.318;
- 14) Transferring or attempting to transfer a license issued pursuant to this chapter;
- 15) Failure or refusal to cooperate with the department's investigation of any suspected violation of this part;
- 16) Violating any provision of this chapter.