ACIC Access
THE DOS, THE DON'TS & THE WHYS
THE LAW

ACCESS TO ACIC’S DATABASE IS GOVERNED BY BOTH FEDERAL AND STATE LAW

FEDERAL REGULATIONS ARE FOUND AT 28, C.F.R., 20

THESE REGULATIONS WERE ISSUED PURSUANT TO SECTIONS 501 AND 524(b) OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968 AS AMENDED

AND BY PUBLIC LAW 92-544
ACIC SYSTEM REGULATIONS ISSUED PURSUANT TO AUTHORITY GRANTED IN ARK. CODE ANN. §12-12-200, et seq AND §12 — 12 — 1000, et seq
DEFINITIONS

CRIMINAL JUSTICE AGENCY –

(FEDERAL) - A GOVERNMENTAL AGENCY OR ANY SUBUNIT THEREOF THAT PERFORMS THE ADMINISTRATION OF CRIMINAL JUSTICE AND THAT ALLOCATES A SUBSTANTIAL PART OF ITS ANNUAL BUDGET TO THE ADMINISTRATION OF CRIMINAL JUSTICE

(STATE) – A GOVERNMENT AGENCY, OR ANY SUBUNIT THEREOF, WHICH IS AUTHORIZED BY LAW TO PERFORM THE ADMINISTRATION OF CRIMINAL JUSTICE AND WHICH ALLOCATES MORE THAN ONE-HALF OF ITS ANNUAL BUDGET TO THE ADMINISTRATION OF CRIMINAL JUSTICE
ADMINISTRATION OF CRIMINAL JUSTICE –

(FEDERAL) – MEANS PERFORMANCE OF ANY OF THE FOLLOWING ACTIVITIES: DETECTION, APPREHENSION, DETENTION, PRETRIAL RELEASE, POST TRIAL RELEASE, PROSECUTION, ADJUDICATION, CORRECTIONAL SUPERVISION, OR REHABILITAION OF ACCUSED PERSONS OR CRIMINAL OFFENDERS.

(STATE) – MEANS PERFORMING FUNCTIONS OF INVESTIGATION, APPREHENSION, DETENTION, PROSECUTION, ADJUDICATION, CORRECTIONAL SUPERVISION, OR REHABILITAION OF ACCUSED PERSONS OR CRIMINAL OFFENDERS
DISCLOSURE OF INFORMATION
CRIMINAL JUSTICE PURPOSES –

FEDERAL - CRIMINAL HISTORY RECORD INFORMATION MAY BE MADE AVAILABLE:

(1) TO CRIMINAL JUSTICE AGENCIES FOR CRIMINAL JUSTICE PURPOSES, WHICH PURPOSES INCLUDE THE SCREENING OF EMPLOYEES OR APPLICANTS FOR EMPLOYMENT HIRED BY CRIMINAL JUSTICE AGENCIES

28, C.F.R., 20.33
STATE – INFORMATION FROM THE ACIC SYSTEM SHALL ONLY BE USED BY CRIMINAL JUSTICE OFFICIALS, ACTING IN THEIR OFFICIAL CAPACITIES, FOR CRIMINAL JUSTICE PURPOSES.

ACIC SYSTEM REGULATIONS SECTION 3(b)

CRIMINAL JUSTICE OFFICIAL MEANS AN EMPLOYEE, SWORN OR UNSWORN, OF A CRIMINAL JUSTICE AGENCY, PERFORMING THE ADMINISTRATION OF CRIMINAL JUSTICE.

CRIMINAL JUSTICE PURPOSE MEANS A USE FOR THE ADMINISTRATION OF CRIMINAL JUSTICE

ACIC SYSTEM REGULATIONS SECTION 2(e) and (f)
NON CRIMINAL JUSTICE PURPOSES (BACKGROUND CHECKS) –

FEDERAL – CRIMINAL HISTORY RECORD INFORMATION MADE BE MADE AVAILABLE

(3) FOR USE IN CONNECTION WITH LICENSING OR EMPLOYMENT, PURSUANT TO PUBLIC LAW 92-544, OR OTHER FEDERAL LEGISLATION AND FOR OTHER USES FOR WHICH DISSEMINATION IS AUTHORIZED BY FEDERAL LAW

ALLOWS FOR FEDERAL BACKGROUND CHECKS UNDER CERTAIN STANDARDS. THEY ARE:

1. THE AUTHORIZATION MUST EXIST AS THE RESULT OF A STATE LEGISLATIVE ENACTMENT

2. THE AUTHORIZATION MUST REQUIRE THE FINGERPRINTING OF THE APPLICANT

3. THE AUTHORIZATION MUST EXPRESSLY OR BY IMPLICATION AUTHORIZE THE USE OF FBI RECORDS FOR SCREENING OF THE APPLICANT

4. THE AUTHORIZATION MUST NOT BE AGAINST PUBLIC POLICY

5. THE AUTHORIZATION MUST NOT BE OVERLY BROAD

6. THE STATE MUST DESIGNATE AN AUTHORIZED GOVERNMENTAL AGENCY TO BE RESPONSIBLE FOR RECEIVING AND SCREENING THE RESULTS OF THE RECORD CHECK TO DETERMINE THE APPLICANT’S SUITABILITY FOR EMPLOYMENT OR LICENSING
STATE – 12-12-1009 Dissemination of conviction information for noncriminal justice purposes.

(a) Conviction information shall be made available for the following noncriminal justice purposes:
   (1) To any local, state, or federal governmental agency that requests the conviction information for the enforcement of a local, state, or federal law;
   (2) To any entity authorized either by the subject of the record in writing or by state or federal law to receive the conviction information; and
   (3) To any federal agency or central repository in another state requesting the conviction information for a purpose authorized by law.

(b) Conviction information disseminated for noncriminal justice purposes under this subchapter shall be used only for the purposes for which it was made available and may not be redisseminated.
(c) Nonconviction information shall not be available under the provisions of this subchapter for noncriminal justice purposes.
(d) No agency or individual shall confirm the existence or nonexistence of criminal history information to any person or organization that would not be eligible to receive the criminal history information pursuant to this subchapter.
(e) A local agency may release its own agency records according to its own policy.
ANY NON-CRIMINAL JUSTICE USES MUST BE AUTHORIZED BY LAW, UNDER PROCEDURES APPROVED BY THE ACIC SUPERVISORY BOARD, AND MAY INCLUDE THE RELEASE OF INFORMATION TO THE PUBLIC ON WANTED PERSONS, MISSING PERSONS, STOLEN PROPERTY, HAZARDOUS MATERIALS, AND ROAD AND WEATHER CONDITIONS

ACIC SYSTEM REGULATIONS SECTION 3(b)

CRIMINAL HISTORY INFORMATION MAY BE RETRIEVED FROM THE FBI, AS WELL AS DIRECTLY FROM OTHER STATES. CRIMINAL HISTORY RECORDS OBTAINED THROUGH THE FBI AND FROM OTHER STATES ARE RESTRICTED TO CRIMINAL JUSTICE USE AND MAY NOT BE ACCESSED FOR LICENSING OR EMPLOYMENT PURPOSES, EXCEPT CRIMINAL JUSTICE EMPLOYMENT.

ACIC SYSTEM REGULATIONS SECTION 7(d)
MISCONCEPTIONS

28, C.F.R., § 20.21(b) STATES:

(b) LIMITATIONS ON DISSEMINATION. INSURE THAT DISSEMINATION OF NONCONVICTION DATA HAS BEEN LIMITED, WHETHER DIRECTLY OR THROUGH ANY INTERMEDIARY ONLY TO:

(1) CRIMINAL JUSTICE AGENCIES FOR PURPOSES OF THE ADMINISTRATION OF CRIMINAL JUSTICE AND CRIMINAL JUSTICE AGENCY EMPLOYMENT;

(2) INDIVIDUALS AND AGENCIES FOR ANY PURPOSE AUTHORIZED BY STATUTE, ORDINANCE, EXECUTIVE ORDER, OR COURT RULE. DECISION, OR ORDER AS CONSTRUED BY APPROPRIATE STATE OR LOCAL AGENCIES
SUBPART B – STATE AND LOCAL CRIMINAL HISTORY RECORD INFORMATION SYSTEMS

IT DOES NOT APPLY TO FEDERAL RECORDS FOR NON CRIMINAL JUSTICE PURPOSES. A LOCAL ORDINANCE DOES NOT PROVIDE ANY BASIS WHATSOEVER FOR ACCESSING ACIC AND NCIC FOR NON CRIMINAL JUSTICE PURPOSES.
CRIMINAL HISTORY CHECKS THAT CAN BE RUN BY POLICE AGENCIES

CRIMINAL INVESTIGATIONS
RESERVE POLICE CHECKS
CRIMINAL JUSTICE SITE SECURITY
JAIL VISITORS
CRIMINAL COURTS DEFENDANTS, WITNESSES, VICTIMS, JURORS, EXPERTS, FRIENDS, RELATIVES, ASSOCIATES OF CRIMINAL JUSTICE APPLICANT
ARSON INVESTIGATORS
PROSECUTOR EMPLOYMENT
TOW TRUCK OPERATOR W/ CONTRACT WITH CRIMINAL JUSTICE AGENCY
JANITORS, VENDORS, VOLUNTEERS WITH ACCESS TO CJIS DATA

PAROLE ASSOCIATION CHECKS
CITIZEN ACADEMYS
CRIMINAL JUSTICE EMPLOYMENT
CRIME PREVENTION PROGRAMS
IT PERSONNEL W/ ACCESS TO CJIS DATA
RELEASE OF A FIREARM

TOW TRUCK OPERATOR W/ CONTRACT WITH CRIMINAL JUSTICE AGENCY
JANITORS, VENDORS, VOLUNTEERS WITH ACCESS TO CJIS DATA
CRIMINAL HISTORY CHECKS THAT MAY BE RUN BY POLICE AGENCIES

CRIMINAL JUSTICE AGENCIES MAY RUN CHECKS FOR PUBLIC HOUSING PURPOSES AND/OR FOR PROTECTION OF CRITICAL INFRASTRUCTURE

THESE CHECK REQUIRE THAT THE HOUSING AUTHORITY AND CRITICAL INFRASTRUCTURE ENTITIES OBTAIN THEIR OWN ORI FROM THE FBI AND THAT A CERTAIN PROCEDURE BE FOLLOWED.

IF A CRIMINAL JUSTICE AGENCY WISHES TO CONDUCT THESE TYPES OF CHECKS THEY NEED TO CONTACT ACIC TO SET UP THE PROPER PROCEDURE
CRIMINAL HISTORY CHECKS THAT CAN’T BE RUN BY POLICE AGENCIES

ADOPTIONS
CASINO WORKERS
VOLUNTEERS WORKING WITH KIDS AT SCHOOL
DOG CatchERS
FOSTER PARENTS
PUBLIC AND PRIVATE SCHOOL EMPLOYEES OR VOLUNTEERS
TAXI CAB LICENSES
TOW TRUCK DRIVERS WITH NO CONTRACT W/ THE CRIM. JUSTICE AGENCY
ANY TYPE OF BACKGROUND CHECK REQUIRED BY LOCAL ORDINANCE

BUSINESS LICENSING OF ANY TYPE
CASA WORKERS
FIREFIGHTERS
ALCOHOL PERMITS
DOOR TO DOOR SALESPEOPLE
FINGERPRINT BASED BACKGROUND CHECKS AUTHORIZED BY STATE LAW

ALCOHOL BEVERAGE LICENSE APPLICANTS
PRIVATE INVESTIGATORS  ALARM SYSTEM COMPANY EMPLOYEES
BAIL BONDSMEN  CHILD CARE FACILITY OWNERS AND EMPLOYEES
TEACHERS  ATTORNEYS  ELDER CARE  CONCEALED CARRY LICENSE
PSYCHOLOGY BOARD LICENSE  VOLUNTEERS IN SCHOOLS
EMPLOYEES IN CHILD WELFARE AGENCIES  EMT’S  NURSES
AUCTIONEERS  PHARMACISTS  PRIVATE SCHOOL LICENSES
DOCTORS  PUBLIC ACCOUNTANTS  REALTORS
VOLUNTEERS WORKING WITH CHILDREN, ELDERLY, DOMESTIC ABUSE
VICTIMS OR PERSONS WITH DISABILITIES
FINGERPRINT BASED BACKGROUND CHECKS AUTHORIZED BY STATE LAW – CONTINUED

BANK DEPARTMENT EMPLOYEES
RACING COMMISSION LICENSES
EMPLOYEES IN FINANCIAL OR IT POSITIONS WITH DHS
MASSAGE THERAPISTS
STATE EMPLOYEES WHO HANDLE MONEY
LOTTERY COMMISSION EMPLOYEES, VENDORS AND LICENSES
DENTISTS AND DENTAL HYGENISTS
VOICE STRESS ANALYSTS
SCHOOL SECURITY OFFICER
POLYGRAPH EXAMINER
REAL ESTATE APPRAISER
ADOPTIVE PARENTS
FOSTER PARENTS
ADMISSION REPRESENTATIVES FOR PRIVATE COLLEGES
FINGERPRINT BASED BACKGROUND CHECKS AUTHORIZED BY FEDERAL LAW

MEDICARE PROVIDERS PURSUANT TO THE AFFORDABLE CARE ACT

VOLUNTEERS PURSUANT TO THE VOLUNTEERS FOR CHILDREN ACT

EMPLOYEES AND VOLUNTEERS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE PURSUANT TO THE SERVE AMERICA ACT

VOLUNTEERS WORKING WITH CHILDREN PURSUANT TO THE ADAM WALSH ACT
PROCESS

ALL NONCRIMINAL JUSTICE BACKGROUND CHECKS MUST BE ORIGINATED AT THE STATE POLICE – WHETHER FINGERPRINT BASED OR NOT

NO OTHER ENTITY IS AUTHORIZED TO ACCESS ACIC/NCIC TO CONDUCT ANY TYPE OF BACKGROUND CHECK OTHER THAN THOSE PREVIOUSLY MENTIONED
ACIC AUDITS EVERY ENTITY THAT HAS ACIC ACCESS ONCE EVERY THREE YEARS – PART OF THE AUDIT INCLUDES DETERMINING IF ACIC WAS ACCESSED FOR A PROPER PURPOSE.

NCIC AUDITS ACIC AND RANDOMLY SELECTED LAW ENFORCEMENT AGENCIES EVERY THREE YEARS – PART OF THAT AUDIT ALSO INCLUDES A DETERMINATION IF ACCESS WAS DONE FOR A PROPER PURPOSE.

ACCESSING ACIC/NCIC FOR AN IMPROPER PURPOSE IS MISUSE AS DEFINED BY ARK. CODE ANN. §12-12-212 AND 12-12-1002 – POSSIBLE CRIMINAL PENALTIES.

ADDITIONALLY, ACIC CAN CUT OFF ACCESS TO ACIC IF AN AGENCY CONTINUES TO MISUSE THE SYSTEM.
QUESTIONS

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