California Department of Justice
Bureau of Criminal Information and Analysis
Applicant Record & Certification Branch

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DOJ Mandates

Existing law requires the DOJ to maintain state summary criminal history information and to furnish the information in response to requests from authorized agencies, organizations, or individuals that are authorized to receive it.

Pursuant to section 11105 of the California Penal Code:

◦ (a) (1) The Department of Justice shall maintain state summary criminal history information.

◦ (b) The Attorney General shall furnish state summary criminal history information to any of the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties...
CORI Use and Definition

Pursuant to section 11075 of the California Penal Code:

- (a) As used in this article, "criminal offender record information" means records and data compiled by criminal justice agencies for purposes of identifying criminal offenders and of maintaining as to each such offender a summary of arrests, pretrial proceedings, the nature and disposition of criminal charges, sentencing, incarceration, rehabilitation, and release. (b) Such information shall be restricted to that which is recorded as the result of an arrest, detention, or other initiation of criminal proceedings or of any consequent proceedings related thereto.

Pursuant to section 11076 of the California Penal Code, agencies can only request and receive CORI if they are authorized by a California Statute and/or regulation.

- “Criminal offender record information (CORI) shall be disseminated, whether directly or through any intermediary, only to such agencies as are, or may subsequently be, authorized access to such records by statute.”
Authority to Receive Federal CORI

Pursuant to an authorizing statute (example language)

- “...for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

- (2)When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response...”
Background Check Process

Fingerprint images captured
- Live scan site
- FD-258 ("hard card")

Fingerprint images submitted to the DOJ

Fingerprint images searched against other images in the DOJ’s fingerprint database

Fingerprint images are forward to the FBI for a national criminal record search, if the request is statutorily authorized

Response usually sent within 48 to 72 hours
- "No Record" response
- Delay notice (the background check response will follow)
Missing Dispositions, aka Open Arrests

... What takes so long?

“Genuine effort” mandated by statute and case law

◦ Booking police or sheriff’s department
◦ District Attorney’s office
◦ Court
◦ Probation department may also be contacted

Contact via direct connections, telephone, or fax request

Criminal history is updated, the Record of Arrest and Prosecution (RAP) sheet is reviewed, dissemination criterion applied, and background check response sent
CORI Dissemination

CORI is disseminated pursuant to section 11105 of the California Penal Code:

(p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (l), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or any statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) EVERY CONVICTION rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.49.

(B) EVERY ARREST FOR AN OFFENSE FOR WHICH THE APPLICANT IS PRESENTLY AWAITING TRIAL, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) SEX OFFENDER REGISTRATION STATUS of the applicant.
Federal Criminal Records Search

Missing dispositions (open arrests)
  ◦ Genuine effort applies

Dissemination “rules” are applied per California statute

Non-governmental agencies receive a “fitness determination”
  ◦ “Federal law precludes the DOJ from disseminating federal criminal history information to non-governmental entities. Had the crime occurred in California it would have been disseminated.”
Subsequent Notification

Pursuant to section 11105.2 of the California Penal Code:

(a) The Department of Justice may provide subsequent state or federal arrest or disposition notification to any entity authorized by state or federal law to receive state or federal summary criminal history information to assist in fulfilling employment, licensing, certification duties, or the duties of approving relative caregivers, nonrelative extended family members, and resource families upon the arrest or disposition of any person whose fingerprints are maintained on file at the Department of Justice or the Federal Bureau of Investigation as the result of an application for licensing, employment, certification, or approval.

- Arrests
- Convictions
- Dispositions

Today, California only
CORI Security and Confidentiality

“Need to know”
- The necessity to obtain CORI in order to execute official responsibilities

“Right to know”
- The right to obtain CORI pursuant to court order, statute or decisional law

Agency designated custodian of records (COR)

Secure storage

Confidential destruction

No 3rd party dissemination
Agency Responsibility

Pursuant to 11102.2, every authorized agency must designate at least one Custodian of Records

- (a) (1) As used in this section, “custodian of records” means the individual designated by an agency as responsible for the security, storage, dissemination, and destruction of the criminal records furnished to the agency and who serves as the primary contact for the Department of Justice for any related issues.

As the DOJ contact, the Custodian of Records role/responsibility is to ensure the CORI Security Policy is administered

Ensure all CORI responses are maintained in a secured area

Notify the DOJ of any change to the agency’s information

Notify the DOJ when the agency no longer has an “interest” in the applicant
Conclusion

Points of Clarification

Questions?

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