

	<b>GEORGIA DIVISION OF FAMILY AND CHILDREN SERVICES CHILD WELFARE POLICY MANUAL</b>			
	<b>Chapter:</b>	(14) Resource Development	<b>Effective Date:</b>	March 2015
	<b>Policy Title:</b>	Criminal Records Checks		
	<b>Policy Number:</b>	14.2	<b>Previous Policy #:</b>	1014.26 1014.27

### CODES/REFERENCES

O.C.G.A. § 35-3-30  
O.C.G.A. § 35-3-38  
O.C.G.A. § 49-2-14  
O.C.G.A. § 49-5-69.1  
Title IV-E of the Social Security Act Section 471(a) (20) (A) (i) & (ii)  
45 CFR Parts 1356.30 (b) & (c)

### REQUIREMENTS

*The Division of Family and Children Services (DFCS) and Child Placing Agencies (CPAs) shall conduct a check of national and state crime information databases (as defined in section 534(e)(3)(a) of title 28, United States Code) utilizing electronic fingerprinting (Live Scan) on any prospective foster and adoptive parent before the applicant may be finally approved for placement of a child, regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child. This includes all adults (age 18 and over) residing in the home (permanently or temporarily) who have access to children placed in the home.*

*DFCS shall not approve any prospective foster or adoptive parent or claim Federal Financial Participation (FFP) for any foster care maintenance or adoption assistance payment made on behalf of a child placed in a foster home operated under the auspices of a CPA or on behalf of a child placed in an adoptive home through a private adoption agency if DFCS finds (in any case involving a child on whose behalf such payments are to be made), via a criminal records check conducted in accordance with the above requirement, that a court of competent jurisdiction has determined that the prospective foster or adoptive parent has been **convicted of a felony** involving:*

- 1. Child abuse or neglect;*
- 2. Spousal abuse;*
- 3. A crime against a child or children (including child pornography); or*
- 4. A crime involving violence, including rape, sexual assault, or homicide (but not including other physical assault or battery).*

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accordance with the above requirement, that a court of competent jurisdiction has determined that the prospective foster or adoptive parent, **within the last five years**, has been **convicted of a felony** involving:

1. *Physical assault;*
2. *Battery; or*
3. *A drug or alcohol related offense.*

DFCS shall allow an exception to the fingerprinting requirement for persons with a physical disability that makes it impossible to obtain their fingerprints. In such instances, a national name-based or social security number-based criminal records check (CRC) must be completed. The exception does not apply to persons who can be printed, but the quality of the fingerprints is poor. A waiver is required from the DFCS Regional Director or the Foster Care Services Director for CPA exceptions and is for limited and case-specific situations, such as the following:

1. When the subject does not have fingers;
2. When a person trained to take fingerprints has documented that the subject's disabling condition prevents fingerprinting; or
3. When a qualified medical practitioner has documented that the subject's disabling condition prevents fingerprinting.

DFCS and CPAs shall ensure that fingerprint-based criminal records checks (CRC) are conducted every five years on all foster and/or adoptive parents.

DFCS must ensure a fingerprint-based CRC is only used for the purpose for which it was originally intended. Therefore, if a foster parent who was initially fingerprinted for the purpose of becoming a foster parent later decides to adopt a child, then a new fingerprint-based CRC must be completed for the purpose of adoption.

DFCS and CPAs must ensure that criminal records checks are conducted within 30 calendar days on any new household members age 18 and older, as well as any current household members who attain 18 years of age. DFCS will obtain the CRC on foster care youth who reach age 18 and do not "opt out" of foster care.

DFCS shall comply with Georgia Crime Information Center (GCIC) rules and regulations by adhering to all state and federal laws governing the use of Criminal Background Investigations. The Department of Human Services (DHS) Office of Inspector General (OIG) has the responsibility and authority for the enforcement of these laws.

DFCS County Offices shall continue to be responsible for the security and integrity of Criminal History Records Information (CHRI) received **before September 1, 2013**.

**NOTE:** Effective September 1, 2013, the OIG assumed responsibility for CHRI obtained for the purpose and use of DFCS.

DFCS **shall not** disseminate any Criminal History (CH) summaries outside of the Department of Human Services (DHS) or across state lines. If a CH summary is disseminated within DHS, the recipient must have successfully completed the GBI/GCIC Security and Integrity Training and also have a current GCIC Awareness Statement on file with his/her home office.

## PROCEDURES

### **The County Department will:**

1. Ask individuals to sign the Consent for State Criminal Records Check for a GCIC/local name-based criminal records check only (as applicable).
2. Complete the Live Scan Application Form for a NCIC/GCIC fingerprint-based CRC and ensure:
  - a. All fields are completed;
  - b. A service authorization number is provided for internal accounting purposes;
  - c. A finance/UAS code is provided for Georgia Bureau of Investigation (GBI) billing and payment purposes;
  - d. The application form is authorized by the DFCS official; and
  - e. The applicant presents valid government issued photo identification.
3. Forward the completed and authorized Live Scan Application Form to the Electronic Fingerprint Technician (EFT). **The EFT is not authorized to capture fingerprints if all items in Numeral Two above are not completed.**
4. Make an appointment with the EFT to complete the applicant's Live Scan.
5. Carefully review the applicant's criminal history (CH) summary provided by the EFT to make a fitness determination.
  - a. Negative findings are reviewed with the Supervisor and County Director/Designee.
  - b. Any reported offenses are fully explored with the parties involved.
  - c. The decision to approve involves weighing issues related to the following:
    - i. Nature of the activity;
    - ii. When the activity occurred;
    - iii. Length of time since last occurrence;
    - iv. Specific circumstances involved;
    - v. Applicant's lifestyle in recent years; and
    - vi. Likelihood of recidivism, etc.
6. Upload CH summaries received from the OIG into External Documents in the Statewide Automated Child Welfare Information System (Georgia SHINES) utilizing the appropriate document type.
7. Only allow CHRI to be accessed by DFCS staff who have successfully completed GBI/GCIC Security and Integrity Training and have a current GCIC Awareness Statement on file in their home office. Current means within the last two years.
8. Maintain a log of CHRI received, shared, and destroyed.
9. Document a discussion of negative findings and justification for approval, if granted.
10. When applicable, provide a CPA with written confirmation that a CRC has been conducted on a youth who reaches 18 years of age while residing in the CPA foster home and be prepared to discuss negative findings that would impact the safety of anyone in the home.

### **The Electronic Fingerprint Technician (EFT) will:**

1. Capture and process fingerprints;
2. Transmit the fingerprints through a secure server to the GBI/Federal Bureau of Investigation (FBI) for the criminal history records check;
3. Receive each applicant's criminal history record;
4. Read and analyze CHRI and prepare a Criminal History (CH) summary;
5. Forward the CH summary via email to the DFCS authorized point of contact in PDF

format.

## **PRACTICE GUIDANCE**

### **Criminal History Record Information (CHRI)**

CHRI is information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments or other formal criminal charges and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, and release (GCIC Council Rule 140-1-02). The following documents are considered CHRI:

1. Criminal history fingerprint cards;
2. Final disposition reports;
3. Record of Arrest and Prosecution (“RAP sheet”), including Live Scan responses; and
4. Criminal history information received from the OIG Background Investigations Unit (BIU).

If an unfavorable report is received on a youth in foster care that impacts the youth’s placement, contact the office of the State Foster Care Services Director for assistance.

### **Georgia Crime Information Center (GCIC)**

GCIC is the division of the Georgia Bureau of Investigation (GBI) that maintains the database that contains Georgia Criminal History Records Information (CHRI). It is the access point for federal CHRI. GCIC is responsible for ensuring compliance with both state and federal rules for the use, security, and dissemination of CHRI. Failure to abide by federal and state laws, federal rules and regulations, and GCIC rules regarding access, use, and dissemination of information available via the Criminal Justice Information System (CJIS) Network may result in criminal prosecution by the DHS OIG and/or administrative sanctions by the GCIC.

### **National Crime Information Center (NCIC)**

The NCIC maintains the database that contains national criminal history records information.

### **Originating Agency Identifier (ORI)**

The ORI number is assigned by the FBI to non-criminal justice agencies (e.g., DFCS) authorized by Georgia and federal law to obtain a national criminal history records check. It is a unique identifier assigned to each County Office.

### **Georgia Applicant Processing Service (GAPS)**

The GBI has contracted with Cogent Systems, Inc. to provide electronic fingerprint submission services for applicants in the State of Georgia. This is utilized by CPAs, not DFCS. GAPS provides the ability for applicants to have fingerprint-based background checks processed electronically in a non-criminal justice environment (i.e., DFCS office). GAPS provides fixed office locations throughout the state so that Georgia residents will not have to travel more than 25 to 30 miles to a GAPS office. Search results of the fingerprint-based background check, as well as RAP sheets, are available for the agency to retrieve from the GAPS website within 24 to 48 hours after the applicant is fingerprinted and the transaction is submitted to GCIC for processing.

Any Georgia agency or business that holds an ORI or Georgia OAC number may participate in the GAPS program. However, the agency must enroll with Cogent Systems to utilize GAPS. Additional information can be found on the GAPS website at [www.ga.cogentid.com](http://www.ga.cogentid.com)

under the “General Information” tab and the link titled “Procedures for Using GAPS”.

### **When Fingerprinting Should Take Place**

Prospective foster or adoptive parents may not be approved for placement of children until the results of National (NCIC) and State (GCIC) criminal history searches have been obtained and reviewed by the County DFCS. The fingerprint process should be initiated following the information session or initial in-home consultation. A fingerprint-based criminal records check (CRC) is required for all household members 18 years of age and older within 30 days, including foster or adoptive children residing in the home. Only DFCS may obtain the screening of youth who turn 18 while residing in a CPA foster home. Approved caregivers must complete a new fingerprint-based check every five years. A fingerprint-based CRC may only be used for the purpose for which it was intended at the time it was completed. Therefore, if a foster parent initially fingerprinted for the purpose of becoming a foster parent later decides to adopt a child, then a new fingerprint-based CRC must be completed for the purpose of adoption.

### **General Guidelines for Accessing and Handling CHRI**

1. GCIC Security and Integrity Training is computer-based training required for all personnel directly associated with accessing, maintaining, processing, disseminating or destroying CHRI. The training provides employees with a working knowledge of federal and state regulations and laws governing the security and integrity of CHRI. Pertinent staff must also have a completed fingerprint-based CRC on file with OIG and a signed GBI Awareness Statement on file in the assigned county office. The **GBI/GCIC Security & Integrity Training and the GCIC Awareness Statement must be completed every two years.** New DFCS employees must complete the training within the first 60 days of employment.
2. CHRI (not CH summaries provided by OIG as of 09/01/1013) must be stored under lock and key in a secured room. Areas in which the information is stored, processed, and handled shall be restricted to authorized personnel in the performance of their duties.
3. A CHRI Log should be maintained in each DFCS office and have a unique sheet for each criminal history record currently maintained in the secured location. The log should be stored with other secured CHRI files.
4. CHRI related to a DFCS case must be stored in a separate file from other documents.
5. For GBI/FBI audit purposes, CHRI must be maintained for **a minimum of three years.**
6. Emergency Placement inquiries (i.e., those ran after normal business hours) require the use of Purpose Code X. The individual whose criminal history record was requested **MUST BE FINGERPRINTED** within five business days.
7. A completed Live Scan application is required and must be presented by the applicant to the Electronic Fingerprint Technician prior to the fingerprint-based CRC being initiated.
8. Staff can only request criminal history records related to the work of the unit to which they are assigned.
9. Staff must ensure that the appropriate consent form is used for each criminal record check (CRC) and maintained in the case record.
  - a. Consent for Criminal Records Check is used for local/Georgia name-based CRC (GCIC only)

- b. The Life Scan Application Form provides consent for a national fingerprint-based CRC (NCIC & GCIC)

**NOTE:** If a criminal history record inquiry is returned with a response noted on the consent form or inquiry itself, such as “No criminal history,” the document must be considered official CHRI; therefore, it must be treated as such, and all GBI /GCIC security and integrity measures become applicable.

- 10. Each Child Protective Services (CPS) CHRI inquiry must be linked to an official investigation involving child neglect, abuse, or exploitation; therefore, a copy of the initial CPS report related to the specific inquiry must be provided to OIG at the time of the request.

### **Managing CHRI**

Each County Office should designate an agency representative to receive and safeguard the results of each records search. This designee must have successfully completed the required GBI/GCIC Security and Integrity training within the past two years and have a signed GCIC Awareness statement on file with the County Office. CHRI must be kept in a secure location under lock and key. CHRI must be signed in and signed out when physically transferred to another DFCS office. The person receiving the CHRI at the other DFCS office must also have successfully completed the GBI/GCIC Security and Integrity training within the past two years and have a signed GCIC Awareness Statement on file in their home County Office. The person receiving CHRI from another DFCS office must sign it in on their log. During an audit, DFCS must be able to clearly show the tracking of CHRI as it changes location.

When a fingerprint-based check is requested, the results must be sent to the DFCS office whose ORI number was used on the request. After it is received and logged in at that office, the results may then be signed out to another office using the required security and integrity procedures.

### **Destruction of CHRI**

When no longer required, all documents containing CHRI must be destroyed to prevent access by unauthorized persons. Record destruction must be conducted in a secure manner under the supervision of authorized persons. The only GCIC approved method of disposal or destruction of CHRI is to shred it using a cross-cut shredder. The destruction of any CHRI must be noted in the CHRI log. The GBI #, FBI #, date, time, and name of person disposing/destroying the records must be specifically noted on the individual log sheet for each record.

### **DHS Office of Inspector General (OIG) Background Investigations Unit (BIU)**

The OIG has Live Scan operators available across the state of Georgia to complete fingerprinting for DFCS (including after hours) seven days a week. The after hours contact number is **404-798-0217**. Any report provided after business hours will be a verbal report based on a name-only search. Therefore, **fingerprinting must occur within five business days**. Before providing a verbal report of CHRI, the OIG will review its training records to ensure the person receiving the report has completed the required GBI/GCIC Security and Integrity Training within the past two years.

<b>FORMS AND TOOLS</b>
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[Consent for State Criminal Records Check](#)

Live Scan Application Form