WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

KINSHIP/RELATIVE HOME STUDY REQUEST AND SAFETY SCREEN

to be completed by the worker placing the child(ren) in the home

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Section I. Case Information

CASE INFORMATION	
Case name:	Case number:

INFORMATION ABOUT FAMILY TO BE ASSESSED				
Name of Applicant	Date of Birth	Social Security Number	Race	Marital Status

Telephone	Home:	Cell:	Work:
Address:			
Mailing address (if different):			
Directions to home:			

Children study is to be done for:

Name	Date of Birth

What is the family's relationship to child(ren)?		
Is assessment court ordered?	Yes:	No:
Is the assessment due to the court by a specific date?	Yes:	No:
If yes, what is the due date?		
Is the child(ren) already in the home?	Yes:	No:
If yes, what was the date of placement?		

Any behavioral or special needs of the child?

Other persons in the home:

Name:	Date of Birth:	Social Security Number:

Section II. Safety Screen

This section is required only when the children have already been placed.
If not already placed, skip to section III

☐ **CRIMINAL BACKGROUND CHECKS** (ALL ADULTS IN HOME)

Date obtained (if applicable):

Source of information (for example did the PA run a check; did you receive a verbal or written report, etc.):

Result:

* If worker finds any member of the household has a felony conviction, misdemeanor or felony conviction against a person, and/or two or more misdemeanor convictions, the child cannot be placed.

☐ **CHILD ABUSE/NEGLECT CHECK** (PAPER AND FACTS RECORDS, INCLUDING ANY OUT OF STATE CHECKS)

Date Completed:

Result (Include Investigation/Case numbers if found):

* If worker finds any member of the household has a CPS/APS substantiation, the children cannot be placed.

Section III. Home Environment

HOME ENVIRONMENT:

- ☐ **ANY SAFETY CONCERNS IN HOME**
- ☐ **ROOM TO ACCOMMODATE CHILD/CHILDREN** (BEDS FOR ALL CHILDREN)
- ☐ **CLEAN AND SANITARY**

POTENTIAL CARETAKER:

- ☐ **WILLING & ABLE TO TAKE NECESSARY ACTIONS TO PROTECT THE CHILD/CHILDREN**
- ☐ **CHILD/CHILDREN HAS A POSITIVE RELATINSHIP WITH KINSHIP/RELATIVE**
- ☐ **PHYSICALLY CAPABLE OF CARING FOR CHILD/CHILDREN**
- ☐ **MENTALLY/EMOTIONALLY CAPABLE OF CARING FOR CHILD/CHILDREN**
- ☐ **SUPPORTIVE OF PLACEMENT GOALS FOR CHILD/CHILDREN**
- ☐ **WILL NOT PERPETUATE THE SAME NEGATIVE FAMILY PATTERNS NECESSITATING THE REMOVAL FROM THE HOME**
- ☐ **ABLE TO PARTICIPATE WITH MDT, CASE PLANNING, HOME STUDY, CHILD/CHILDREN'S ASSESSMENT**
- ☐ **GEOGRAPHIC PROXIMITY OF PLACEMENT ALLOWS CONTINUED PLANNED INVOLVEMENT WITH CHILD/CHILDREN'S PARENTS**
- ☐ **WILLING TO COMPLY WITH THE DHHR'S DISCIPLINE POLICY**

The kinship/relative provider will comply with the discipline policy. Punishments of a physical nature, including hitting on the body in any manner, or any punishment that subjects a child to verbal abuse, ridicule, or intimidation is strictly prohibited. Children shall be disciplined with kindness and understanding. Discipline shall be related to the developmental stage of the child and in line with the child's abilities to comply.

The above issues have been addressed or discussed with the kinship/relative caretaker(s). The caretaker(s) understand that this placement is a temporary placement and that the child/children are in the custody of the DHHR. The caretaker(s) agree to cooperate and comply with the above mentioned issues, which were discussed with them. The caretaker(s) will also comply with any other reasonable requests made by the DHHR, MDT, court or service provider, which is made to promote the child/children's or family's progress towards Safety, Well-Being and Permanency. The caretaker(s) understands that this is an initial placement screen and that they will be required to cooperate with the home study process, unless granted a waiver, once the MDT determines the most appropriate placement for the child/children. If at any time it is determined that this placement cannot meet the needs of the child/children, the child/children will be placed in the most appropriate placement which can meet their needs.

_____	_____
Caretaker	Date
_____	_____
Caretaker	Date
_____	_____
Placement Worker	Date

Section IV. Worker Comments

Before submitting the Kinship/Relative Home Study Request and Safety Screen to the Regional Home Finding Supervisor, please provide any information home finding staff

should be aware of in completing this study. Please include any concerns or special circumstances:

_____

_____

_____

_____

_____

_____

_____

_____

_____ _____

Placement Worker Date

_____ _____

Supervisor Date

STATEMENT OF CRIMINAL RECORD

Facility/Provider: _____
Address: _____
_____

Name (print full name): _____
Maiden name and Aliases: _____
Social Security Number: _____

Authorization
I authorize the West Virginia Department of Health and Human Resources and/or the above named facility to conduct a criminal background check as a condition of my providing care for children and/or adults. I understand that criminal records in this state or any other state may be checked as well as records with the Federal Bureau of Investigation. I authorize the contents of the criminal background record to be shared between the facility named at the top of this form and the Department.

Declaration
I have/ have not *(circle one)* been convicted of any crime, pled guilty, or pled nolo contendere to any crime.

List crimes for which convicted: _____
(Attach additional sheet if needed) _____

I have/ have not *(circle one)* lived out of state after the age of 18.

List city and states where you have previously lived: _____
(Attach additional sheet if needed) _____

I am/am not *(circle one)* currently on probation or parole.
I am/am not *(circle one)* currently charged or indicted with any crime.
I will report any arrests to the facility named above or to the Department within 24 hours of the arrest.
I agree to cooperate with the Department in conducting a criminal history record check.

Understanding
I understand that pending charges or conviction of a felony offense or pending charges or conviction of more than one misdemeanor offense may result in denial of being a provider for the care of children or adults, or in the denial of employment with the above named facility.

Failure to disclose convictions, charges or indictments may result in denial of being a provider for the care of children or adults, or in the denial of employment with the above named facility.

Notice
All child and adult service providers in the state of West Virginia are subject to provisions of law creating a central abuse registry. Any person providing services for compensation to children or incapacitated adults, who is convicted of a misdemeanor or felony offense constituting abuse, neglect or misappropriation of property of a child or an incapacitated adult, is subject to listing on the central abuse registry. Listing on the registry may limit future employment opportunities. The facility/provider listed above is mandated to report all suspected instances of abuse, neglect or misappropriation of property to the proper authorities and will cooperate in the prosecution of these offenses.

_____
Signature

_____
Date

_____
Witness (Facility Director or WV DHHR staff)

WV DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Provider Tax Identification Reporting Form

Organization/Individual Name: _____

Federal Employer Identification Number (FEIN) or *Social Security Number*: _____

Business Address: _____

Payment Address: _____

Telephone Number ( ) _____ *Contact person:* _____

[_] *I wish to withdraw because:*

[_] *I wish to continue providing services (If you mark this box, you must complete the remainder of the form)*

Pursuant to Internal Revenue Service regulations, Providers must furnish their taxpayer identification number (TIN) *to the State. If this number is not provided, you may be subject to a 20% withholding on each payment.*

ENTER YOUR NAME AND ADDRESS EXACTLY AS YOU ENTER THEM ON YOUR IRS INCOME TAX FORMS

1099/Tax Name: _____

1099/Tax Address: _____

Federal Employer Identification Number (FEIN): _____ **or Social Security Number:** _____

List the Type of Service you are Approved/Licensed to provide:

TYPE	COUNTY (IF APPLICABLE)

Type of Business of Provider (Check One) [_] **Individual** [_] **Sole Proprietorship** [_] **Partnership**
[_] **Government/Non Profit** [_] **Corporation** [_] **Public Services Corporation** [_] **Estate Trust**

Other Tax Account Number(s) (if applicable): **State Sales Tax/Use Tax Number:** _____

State Unemployment Tax Number: _____ **State Corporation Income Tax Number:** _____

State Employers Withholding Tax Number: _____

Under penalties of perjury, I declare that I have examined this request and to the best of my knowledge and belief it is true, correct, and complete.

Name (Print): _____ **Signature:** _____

Date: _____ **Telephone: ( )** _____ **Title:** _____

Return to: WVDHHR
Bureau for Children & Families

W-9

Uniform Law Commission
Accuracy of Criminal Records Drafting Committee

Chair Robert J Tennessen's Opening comments at the First Meeting of the Accuracy of Criminal Records Drafting Committee held at The Dupont Circle Hotel, Washington DC on March 27, 2015

History of the Creation of This Committee

In 2008 our ABA advisor Steve Saltzburg, as Chair of the Criminal Justice Section, proposed that the ULC draft a "Uniform Law on Criminal Records Policy." He cited the increasing variation and lack of uniformity among the states regarding the many aspects of criminal records. Although his proposal was not accepted Professor Salztberg was invited to resubmit it at another time. He did along with Todd Belcore and Nicole Julal; and in January 2012 the Scope and Program and Executive Committees approved creation of a committee to study the feasibility of drafting a uniform act on accuracy of and access to criminal records.

The president appointed a study committee in the spring of 2012 and asked me to be the committee chair.

The study committee identified 30 potential stakeholders - organizations that might have an interest in the topic, and solicited their ideas, suggestions and participation. Nineteen individuals, representing themselves or organizations participated as observers. These include representatives from:

- the Office of General Counsel of the FBI,
- National Center for State Courts,
- Consumer Data Industry Association,
- National Conference of State Legislators,
- National Legal Aid and Defenders Association,
- National Association Attorney General's,
- National Federation of Independent Businesses,
- National Association of Criminal Defense Lawyers,
- International Association of Chiefs of Police, and
- Others.

During the course of its deliberations the committee decided to focus on *accuracy of criminal records* maintained by state and local governments and exclude consideration of *access*. This decision was made after considerable debate and thoughtful deliberation. Some committee members and observers had sought to retain *access* in the scope of the committee's work while some observers strenuously opposed appointment of a drafting committee altogether, even if

limited to issues of accuracy. The study committee unanimously recommended appointment of a committee to draft a uniform act on accuracy of criminal records, a decision with which I wholeheartedly agreed. The drafting committee did not conclude that issues of access are not significant or worth addressing.

The decision was made for the following reasons.

First, it concluded that access raises discrete issue quite separate from the accuracy of records created and maintained by states and local governments.

Second, combining accuracy and access is too substantial a task to be undertaken by one committee.

Third, access is partly regulated by the federal Fair Credit Reporting Act over which we have no control and there exists an extensive body of state law that varies greatly from state to state.

In January 2014 the Scope and Program and Executive Committees received and approved the study committee's recommended that **a Drafting Committee on Accuracy of Criminal Records be formed.** President Lansing appointed this committee last fall.

In October of last year the ULC former Executive Director John Sebert was able to persuade Professors Steve Chanenson and Jordan Hyatt to serve as Reporter and Associate Reporter respectively. Since then, they, John Sebert, Lindsay Beaver, more recently our new Executive Director Liza Karsai and I have had monthly conference calls to prepare for this first meeting.

Challenging Mission

Our mission is twofold; to draft an act that improves the accuracy of criminal records and one adoptable by the states. This is a daunting challenge. The issues are complex. Thousands of jurisdictions; police and sheriff departments, prosecutors, courts, corrections departments, central state repositories, probation and parole department and thousands of the employees of these offices participate in the creation and maintenance of criminal history records.

It is further complicated because the data is included in multiple data bases, both paper and electronic, that that may or may not mesh with each other.

Criminal History Background Checks - Uses

Criminal history background checks are a ubiquitous feature in present day America. Some are mandated by state and federal laws.[1] A person's criminal history information, commonly called

[1] *According to the National Task Force on the Criminal Backgrounding of America (NTFCBA), state have passed more than a thousand laws authorizing various employer groups to initiate federal criminal background checks of their employees and job applicants.*

a RAP sheet, is a chronology of the criminal justice systems actions regarding and that person. The information in a RAP sheet drives decision-making at every stage of the criminal procedure.

- Police use them when deciding to make an arrest,
- Prosecutors use them when charging,
- Judges use them when deciding bail and when sentencing,
- Employers, educational institutions, lenders, licensing authorities, and landlords' use them when deciding whether or not to grant an applicant's request.

The significance and importance of this committee's work is illustrated by the sheer number of U.S. residents who have a criminal record and the percentage of those records that contain errors. Over 65 million people In the United States have criminal history records. Some errors create a false positive and others a false negative. Either result has great consequences to the individual and to society.

The numbers are staggeringly large. Nationwide, law enforcement made an estimated 12,196,959 arrests in 2012.[2] As of August 2014 the FBI had 77.7 million individuals on file in its Master Criminal Data Base out of the total U.S. population of 311 million people. The FBI adds between 10,000 and 12,000 individuals per day to the MCDB. Nearly one third of all adults are in the FBI data base.[3]

The records at FBI's National Crime Information Center (NCIC) are accessed around the clock, every day of the year. Inquiries set a single day record of 12.2 million on July 2, 2012.[4]

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[2] **Crime in the United States,** FBI Criminal Justice Information Service, Uniform Crime Report http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/persons-arrested/persons-arrested For more information on arrests in prior years go to http://ojjdp.gov/ojstatbb/ezaucr/asp/ucr_display.asp

[3] The WSJ, August 18, 2014, *As Arrest Records Rise, Americans Find Consequences Can Last a Lifetime* Bary Fields and John R. Emshwiller. http://www.wsj.com/articles/as-arrest-records-rise-americans-find-consequences-can-last-a-lifetime-1408415402

[4] http://www.fbi.gov/about-us/cjis/ncic NCIC has operated under a shared management concept between the FBI and federal, state, local, and tribal criminal justice users since its inception. There are two facets to the shared management concept—policy and functional. The policy facet provides a means for user input on NCIC policy through the Criminal Justice Information Services (CJIS) Advisory Policy Board. The board enables NCIC users to make recommendations to the FBI Director for policy and operational enhancements to the system. The CJIS Division actively promotes the use of the system and its benefits through daily interaction with users—whether by phone, video teleconference, or e-mail; attendance at meetings and seminars; and via the advisory process. The functional facet provides a means for agencies to access NCIC. The FBI provides a host computer and telecommunication lines to a single point of contact in each of the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and Canada, as well as federal criminal justice agencies. Those jurisdictions, in turn, operate their own computer systems, providing access to nearly all local criminal justice agencies and authorized non-criminal justice agencies nationwide. The entry, modification, and removal of records are the responsibility of the agency that entered them. The CJIS Division serves as the custodian of NCIC records.

What percentage of criminal records or rap sheets contains errors?

We do not know for certain and we do not know the percentage of errors that have serious consequences.

In New York, in 2013, the Legal Action Center found that 30 percent of the RAP sheets reviewed contained at least one error. With nearly 7.1 million criminal records that translates to 2.1 million RAP sheets that contain errors. The City University of NY warns that this number could be even higher as a survey done by the Bronx Defenders found a 60% error rate among its clients. Other studies also suggest the number of errors is significant.[5]

What is the Consequence of errors to individuals and to society?

Errors matter to both. On a micro level they affect individuals and on a macro level all society.

To Michael DuCross the consequence of an error cost him five months in jail. "*[He] *was stopped for a routine traffic violation, when a check with the NCIC showed that he was AWOL from the Marine Corps. DuCross was arrested and held for five months before it was found that he had not been AWOL at all, but had been discharged legitimately.*"[6]

The macro effect on society affects all of us. According to an article in the Wall Street Journal[7], an analysis that it commissioned Prof. Tia Stevens Anderson of the University of South Carolina to perform of a 16 year long US Bureau of Labor Statistics Survey that tracked 7300 randomly selected people into their 20s. She found:

- that 40 percent of male subjects had been arrested at least once by the age of 23, with higher percentages for Black and Hispanics,
- that 47 percent of those arrested weren't convicted and that in more than a quarter of the cases the subjects were not even formally charged,

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[5] **The Human Cost of Computer Errors**, Michael McFarland S.J. Santa Clara University, Markkula Center for Applied Ethics. "These databases are used to make many critical decisions affecting peoples' lives. Someone can be arrested and detained or denied a mortgage or the use of a credit card based on the data stored in them. Yet the sheer size of these databases, as well as the procedures used to collect process and maintain the data in them, ensure that they will contain many inaccuracies. A study done by Kenneth Laudon for the Office of Technology Assessment (OTA) found that only 25.7 percent of the records sent by the FBI's identification division were "complete, accurate and unambiguous." A higher percentage, about 46 percent, of the criminal history records in the NCIC met these standards. When Laudon checked a sample of open arrest warrants on file with the FBI against records in the local court houses where they originated, he found that over 15 percent of them were invalid, either because there was no record at all of them or they had already been cleared or vacated. Thus 15 percent of the warrants on record put their subjects at risk of being arrested for no justifiable reason." http://www.scu.edu/ethics/practicing/focusareas/technology/internet/privacy/computer-errors.html

[6] https://www.coursehero.com/file/p6ch4n/Rogan-was-mistakenly-arrested-and-an-NCIC-file-was-made-about-him-The-file-was/

[7] The WSJ, August 18, 2014, *As Arrest Records Rise*

- that persons arrested but not convicted earned lower salaries than those who had not been arrested,
- that 95% of those without an arrest graduated from high school or earned an equivalent diploma verse 84.4% who were arrested but not convicted,
- And, for college degrees the disparity was 37% versus 14%.
- Other disparities also exist for households below the poverty line and for home ownership.

This suggests arrests stigmatize people even when no charges are filed, charges are dismissed or the person is found not guilty. They are disadvantaged in income, education, and housing.

Both individuals and society pay the price for errors.

Individuals are denied opportunities and society is denied the greater educational attainment and earning power these individuals would otherwise achieve for themselves and their families. The societal cost is also paid because of the greater proportional impact on Blacks and Hispanics.

What are the errors? Here are a few examples.

Lack of Disposition Information. Arrests are supposed to be recorded and forwarded by a state central repository to the FBI for inclusion in its *Interstate Identification Index (III or "Triple-I").* It is an index of federal and state offenders, records of persons arrested for felonies or misdemeanors under either federal or state law.[8] At the time of the U.S. Attorney General's Report in 2005 only 50% of III arrest records had a final disposition. This means that a state's central repository either did not submit disposition information or that it did not submit biometric information sufficient to associate a disposition with an arrest record.

Records may have improved since the 2005 report but disposition information from both the courts and prosecutors is still frequently missing. According to the February 2015 report to *Congressional Requesters the GAO* stated that in 2012 10 states reported that 50% or less of their arrest records had final dispositions. This results from prosecutors and courts failing to report decisions to not charge, dismissals, acquittals or other dispositions to central repositories.[9]

Some rap sheets contain erroneous information. *Inaccurate data can arise from simple data entry errors, from sloppy data collection at the source, or from the misunderstanding or misinterpretation of information, either at its origin or where it is used.*

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[8] The Attorney General's Report on Criminal History Background Checks, DOJ, June 2006 p.15

[9] Improving Access to and Integrity of Criminal History Records by Peter M Brien, Bureau of Justice statistics, July 2005. http://www.bjs.gov/content/pub/pdf/iaichr.pdf

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Data can also be erroneous or misleading because it is incomplete. Sometimes the basic facts that are stored in the database may be accurate, but some critical supporting material is left out, either because it was neglected or unknown or because it did not fit into the database design.

*Another source of error is fraud. "Identity theft," in which malefactors collect enough personal information about victims to be able to masquerade as them****[10]

Some RAP sheets contain information that does not pertain to the person.

Correcting an error is easier said than done.

"There is a myth that if you are arrested and cleared that it has no impact," says Paul Butler, professor of law at Georgetown Law. "It's not like the arrest never happened."[11]

The burden to seek correction of a criminal record is on the individual, not the government. It is costly and time consuming. No one person or office is responsible for making corrections.

In October 2012 **Jose Gabriel Hernandez** was arrested at his home for sexually assaulting two teenage girls. It was a case of mistaken identity and the prosecutor dropped the charges. Hernandez assumed that the authorities would correct the record. But he learned it was necessary to hire a lawyer and seek expungement. He did not have the money to do so. He and his wife were paying the non-refundable $22,500 paid to a bail bondsman to secure a $150,000 bond enabling him to be released from jail.[12]

Precious Daniels of Detroit was rejected for a temporary job with the Census Bureau in 2010 and told that a criminal background check turned up a red flag. She and others had been arrested at a protest and released on posting $50.00 bail. She was never charged. The Census Bureau gave her 30 days to obtain the records to prove that her case was resolved without conviction. She went to the court and was told that no record of her arrest existed. She did not get the job.[13]

In 2013 Barbara Ann Finn, a 74-year-old great-grandmother and a resident of the area since 1985, applied for apart-time job as a cafeteria worker in a Maryland school system. The school system notified her that the FBI check matched her prints to a 1963 arrest of someone with a name she did not recognize. She thought the incident may have occurred when she and another girl were arrested in Philadelphia. She said the police took both of them in custody and that she

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[10] (_____) Missing the source reference
[11] The WSJ, August 18, 2014, *As Arrest Records Rise,*
[12] The WSJ, August 18, 2014, *As Arrest Records Rise,*
[13] The WSJ, August 18, 2014, *As Arrest Records Rise,*

was released without any action. The record of her arrest does not exist.[14] She can neither show that no charges were brought nor seek expungement of a record that does not exist.

A "hanging arrest" problem bedeviled Kevin Cleare, who spent five years in prison for attempted robbery and discovered, as he tried to re-enter society, that three arrests that were erroneously listed on his rap sheet as open and pending — even though he was in custody when the arrests supposedly took place.

According to an article in the NY Daily News of March 10, 2015 it took *Cleare seven years to get the mattered cleared up, with help from a paralegal and a senior attorney from the nonprofit Legal Action Center. The odyssey included a trip to the Manhattan precinct where he'd been arrested (the cops threw him out); a visit to One Police Plaza (same treatment); an unanswered letter to the NYPD's Deputy Commissioner for Legal Affairs; and a meeting with the Manhattan District Attorney's Office, which finally sent a letter to the state Dept. of Criminal Justice Services confirming that the open arrests didn't belong on Cleare's rap sheet.*[15]

Other efforts to reform the criminal justice system are underway.

Efforts to improve reentry and reduce recidivism are underway across the country. These efforts take many forms. State criminal codes are being revised in states to correct the excesses of the 'war on crime' of a prior era.

Improving the accuracy of criminal records is one part of a broader effort to improve criminal justice.

Since 1995 the National Criminal History Improvement Program has granted almost $600 million to the states to improve the quality, timeliness and accessibility the States' criminal history records. This has resulted in some improvement in states reporting through their central repository.[16] [17]

Need for State Action

Historically, law enforcement has been primarily a state responsibility in our system of federalism. The work of ULC supports the states' federalism responsibilities by drafting uniform acts that recognize a state's uniqueness while simultaneously supporting uniformity where it is necessary or beneficial. States have a responsibility and a critical role in improving the accuracy of criminal records. This committee's responsibility is to draft an act that enables states to fulfill their responsibility in our federal system.

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[14] The WSJ, August 18, 2014, *As Arrest Records Rise,*
[15] http://www.nydailynews.com/opinion/errol-louis-rap-sheets-riddled-errors-article-1.2143329
[16] http://www.bjs.gov/index.cfm?ty=tp&tid=4
[17] http://www.bjs.gov/index.cfm?ty=tp&tid=471#Funding

Obligations

Citizens have an obligation to obey the law. Governments have a moral and political imperative to provide justice by correcting errors.

It is evident that these mutual obligations are not always satisfied. Some citizens commit crimes and pay the price - acquiring a criminal record. Some acquire an arrest record but have not committed a crime. When criminal records are in error it is the duty of the government to correct the record and remediate the consequences of the inaccuracy.

As one of the observers to the study committee wrote "We applaud the Study Committee for discussing accuracy issues because accurate records are in everyone's best interest."

Expectations of this meeting

Identify resources, issues, and sense of direction the committee members wish to pursue.

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Crime Identification Bureau (CIB) Background Checks

Bureau for Children and Families
Policy Manual
Chapter 2000

Effective March 15, 2015

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1. Introduction

The evaluation and background investigation of facilities and people who care for adults and children is one of the most important functions of the West Virginia Department of Health and Human Resources. The Department uses a number of processes for this: licensing, certification, registration, approval, funding and contracting. Standards and policies used for evaluations and investigations cover a range of potential problems in an effort to protect those in care and to assure adequate care.

The care provider and others in the home or facility are of primary concern in any investigation, since they determine the type of care offered. Although a difficult task, policies and standards require that a provider's reputation and character be assessed. Generally, a provider is evaluated through interviews, references, discussions with those in care, development of ongoing relationships, and an assessment of the total program. These are excellent methods and their use will be continued.

West Virginia Code, Chapter 49 (Child Welfare), Article 2B, Section 8 requires a check of personnel criminal records for licensed, certified and registered child welfare and child caring agencies. The Adoption and Safe Families Act requires criminal background checks on all individuals and agency staff providing care for foster children or for prospective adoptive parents to whom adoptive assistance payments are made. West Virginia Code, Chapter 15 (Public Safety), Article 2C, allows for home care service providers not otherwise licensed to be registered so they may access information established by the Central Abuse Registry. With emphasis being placed on screening criminal records of providers, the value of such record checks must be kept in perspective. It is one method for assessing a provider's suitability to care for children and adults.

The policy contained herein is to be used by all programs operated through the West Virginia Department of Health and Human Resources, and licensed, certified or approved Adult or Child Welfare agencies and Child Caring agencies. These include Foster Care, Adoption, Adult Family Care, Adult Emergency Shelter Care, licensed or approved Child Placing agencies, licensed or approved Residential Child Care facilities, licensed or approved Child Care Centers, Family Child Care Facilities, registered Family Home Child Care providers, any other program which utilizes providers under the auspices of the Bureau for Children and Families. Each program operates under a set of policies or promulgated rules separate from this one. Legislative rules that have been promulgated have the effect of law and take precedence over policy. If the two conflict, staff shall follow the legislative rule in lieu of policy. The policy set forth here is to be used in conjunction with program policies and requirements.

2. Definitions

2.1 **Adult Household Member**: Anyone age 18 years or older who lives in the home or is in the home on a continuing basis while care is being provided.

2.2 **Applicant**: Owner, operator or director, paid staff person, uncompensated staff person, volunteer, student intern, substitute, respite provider, foster parent or potential adoptive parent, or transportation provider in a Department licensed, certified or approved child welfare agency. Also, any caregiver, adult household member, volunteer, substitute, respite provider, or transportation provider in an adult care home, prospective adoptive home, foster family home, family child care home, in-home care provider or an MR/DD home. Any person applying to fill or currently filling these named positions.

2.3 **Clearance to Work**: Approval given from the Office of the Deputy Commissioner of Operations for an individual to become employed or used following a criminal background fingerprint scan.

2.4 **Contracted staff:** Persons who are contracted by a licensed or certified agency to provide a direct service to children or adults at the facility or as part of the facility's services.

2.5 **Denial for Employment or Use:** Rejection by the Department's program staff for an individual to become employed or used following a criminal background fingerprint scan revealing (1) criminal convictions for one or more crimes listed in Section 5 which are not eligible for a waiver, or (2) two or more misdemeanor crimes that would require a waiver.

2.6 **Department:** West Virginia Department of Health and Human Resources, and staff employed by the West Virginia Department of Health and Human Resources.

2.7 **Facility or agency**: any place or residence, including personnel, used for the care of a child(ren) or adult(s) on a residential or other basis for any number of hours a day in any structure maintained for that purpose. The terms facility or agency may be used interchangeably.

2.8 **Volunteer:** an individual who, without pay or compensation, is expected by the facility or home to provide a direct service to children or adults for two or more hours per week on a scheduled basis.

2.9 **Student Intern:** an individual who, with or with out compensation, as part of completing an educational degree, is expected by the facility or home to provide a direct service to children or adults for two or more hours per week on a regularly scheduled basis.

2.11 **Program Staff**: Individuals employed by the Department of Health and Human Resources who are assigned to specific, specialized areas and who hold knowledge allowing them to make independent decisions regarding their area of expertise.

2.12 **Dual Provider:** an individual who provides service for more than one program at a time, such as Socially Necessary Services (ASO), Foster/Adoptive Care, Adult Family Care, Family Emergency Shelter Home Care, Child Care, Specialized Family Care, and Specialized Foster/Adoptive Care. All of these programs are vitally important programs within the Department, and each requires a great deal of time and energy on the part of the provider, so it is generally not encouraged for a provider to become a dual provider.

2.13 **Waiver**: A written declaration that a specific criminal conviction may be treated as inapplicable when considering the applicant for employment or use (See Section 9). A waiver is required when the criminal background scan reveals two or more convictions for crimes that are not listed in Section 5.

3. Persons Required to Have a Criminal Record Check

3.1 A Criminal Identification Bureau (CIB) record check shall be completed on all applicants. Applicants who have completed a CIB check within the last twelve (12) month and has been cleared for employment, may choose to provide the Department or Agency with a copy of his or her clear CIB.

3.2 Contracted staff and/or dual providers must have a CIB record check or provide a record check that has been completed within twelve (12) months of the initial contract and every five years thereafter.

3.3 This policy applies to all categories of persons named in the previous sections unless otherwise stated in a specific program policy or promulgated rule.

3.4 All applicants for the foster care program will also be required to have a National Crime Information Center (NCIC) check as well as a CIB.

4. Criminal Background Record Checks

4.1 Process for Conducting Criminal Background Record Checks

4.1.1 This policy shall be discussed during the application process for all applicants.

4.1.2 Each Bureau for Children and Families' program must address, through descriptive policies, the ability to utilize an applicant prior to notification from the CIB/NCIC regarding the applicant's criminal background. Provider agencies may use this policy as part of their personnel policies.

4.1.3 All licensed Child Placing agencies, licensed or certified Residential Child Care facilities and licensed or approved Child Care Centers shall obtain their live scan fingerprints as directed by the **West Virginia DHHR Bureau for Children and Families Background Check Guide.** This will enable provider agencies to avoid a CIB fee (they will only pay the NCIC fee) and the fingerprint card fee. In this way, faulty scans can be tracked by the Bureau for Children and Families, verifying that at least two faulty scans have been obtained in order to complete a name-based check.

4.1.4 The applicant must have two FBI rejections and two CIB rejections in order to obtain a name-based check.

4.1.5 In order for the State Police or FBI to conduct a name search, the rejections must fall within the following time frame: Rejection dates must be within a year of each other, with one rejection being within the last 90 days. The FBI Name Search Request Form is attached and should be used when two FBI rejections fall within the required time frame. This form must be sent to the Office of Deputy Commissioner of Operations, CIB Unit, 350 Capitol Street, Room Sixth Floor, Charleston, WV 25301. . The FBI will only respond to request sent from our designated fax

4.1.6 For Departmental foster/adopt homes, Adult Family Care Homes, Family Child Care Homes and Family Child Care Facilities, the fingerprint scans will occur as directed through the **STANDARD OPERATING PROCEDURE: BCF Field Office Operating Procedure for Operation of Livescan.**

4.1.7 The Office of the Deputy Commissioner of Operations will send via USPS, written notification to licensed or certified providers when a background

check comes back with no charges or convictions, indicating that the person can be employed or utilized.

4.1.8 When a criminal background check is received with any charges or convictions, The Office of the Deputy Commissioner of Operations will notify the Bureau's program staff by sending a copy of the results through the US Postal Service to the program staff assigned for review.

4.1.9 If the criminal background check results reveal any charges or convictions that may be waived, the program staff will be notifying the provider that a waiver must be requested and approved by the Bureau before the person can be employed or utilized. **Program staff shall not provide copies of results or verbally share the results of the criminal background check to a provider agency or applicant, except during a grievance (see section 12).** The provider agency will make a determination as to whether they will request a waiver for the criminal background check after discussing it with the applicant and reviewing the Statement of Criminal Record. The individual may have to obtain their own criminal background check in order to review with the potential employer.

4.1.10 If the criminal background check results reveal any charges or convictions that cannot be waived, the program staff will notify the provider that a waiver is not possible and that the applicant cannot be employed or utilized.

4.1.11 For foster parents utilized by the Bureau for Children and Families, the waiver review can occur once the program staff has received the results of the criminal background check since there is no private provider involved.

4.2 Initial Background Check

4.2.1 Applicants shall complete a signed Statement of Criminal Record form as outlined in Section 8 of this policy (see West Virginia DHHR Bureau for Children and Families Background Check Guide) which provides for a self-disclosure of the individual's criminal past and a notification of rights statement. The applicant's signed Statement of Criminal Record shall be considered as true pending the outcome of the criminal background check and clearance or denial to work. The Statement of Criminal Record must be completed prior to the applicant's providing care or being engaged for

employment. All agencies must retain a signed copy in the employee's records and provide a signed copy to the applicant.

4.2.2 Providers must be instructed to notify the Department or the agency, as applicable, within 72 hours when a new household member requiring a background check has been added. The Statement of Criminal Record and fingerprint card/scan on the new member must be completed within 30 days unless otherwise directed by program policy or rule.

4.2.3 A national criminal background check through the National Crime Information Center (NCIC) shall be completed on an applicant if the applicant has ever lived outside of the state of West Virginia. For all prospective and current foster parents, regardless of whether or not he or she has lived outside of West Virginia, an NCIC check must be completed. The Department may conduct an NCIC check on any applicant if given cause by a reliable source to believe a national check should be completed.

4.2.4 When a prospective employee resides in a bordering state and obtains employment with a West Virginia agency, an NCIC check and a state check from the individual's resident state must be obtained unless the resident's state does not have a law or policy allowing for fingerprint checks to be conducted.

4.2.5 There may be specific situations when fingerprints cannot be successfully captured due to physical disability, occupational injury or age. A fingerprint scan must be attempted three times before permission can be granted to conduct a name-based NCIC check.

4.3 Subsequent Checks

An applicant or employee shall complete a Statement of Criminal Record every two (2) years after the initial submission to the respective agency or Department. A subsequent CIB check shall be completed at least every five (5) years, but may be submitted at any point if there is an indication that the CIB information may have changed. The same process as described in this policy shall be applied to subsequent checks. Foster parents must complete subsequent NCIC checks at least every five (5) years. Other applicants may be required to complete subsequent NCIC checks. The CIB check will be documented in FACTS according to each program's individual policies and procedures, ensuring that no specific detail regarding the history is captured.

4.4 Reporting Criminal Charges While Awaiting Results or After Employment

An applicant or employee shall report any criminal arrests, charges, or indictments to the facility or the Department within 24 hours. Any applicant or employee convicted of a criminal offense shall report the conviction to the facility or the Department within 24 hours. Upon the applicant's report, a facility shall notify the Department's program staff within 24 hours.

5. Convictions

5.1 The applicant shall not be approved, employed, utilized nor considered for a waiver if ever convicted of:

5.1.1 Abduction;

5.1.2 Any violent felony crime including but not limited to rape, sexual assault, homicide, malicious wounding, unlawful wounding, felonious domestic assault or battery;

5.1.3 Child/adult abuse or neglect;

5.1.4 Crimes which involve the exploitation of a child or an incapacitated adult;

5.1.5 Misdemeanor domestic battery or domestic assault;

5.1.6 Felony arson;

5.1.7 Felony or misdemeanor crime against a child or incapacitated adult which causes harm;

5.1.8 Felony drug related offenses within the last ten (10) years;

5.1.9 Felony DUI within the last ten (10) years;

5.1.10 Hate crimes;

5.1.11 Kidnapping;

5.1.12 Murder/homicide;

5.1.13 Neglect or abuse by a caregiver;

5.1.14 Pornography crimes involving children or incapacitated adults including but not limited to, use of minors in filming sexually explicit conduct, distribution and exhibition of material depicting minors in sexually explicit conduct or sending, distributing, exhibiting, possessing, displaying or transporting material by a parent, guardian or custodian, depicting a child engaged in sexually explicit conduct;

5.1.15 Purchase or sale of a child;

5.1.16 Sexual offenses including but not limited to incest, sexual abuse, or indecent exposure.

5.2 The applicant shall not be approved, employed, utilized nor considered for a waiver if on parole or probation for a felony conviction.

5.3 An applicant shall not be approved, employed, nor utilized if convicted of a felony not listed in 5.1 above unless a waiver is requested and approved.

5.4 An applicant shall not be approved, employed, nor utilized if convicted of two or more any misdemeanors unless a waiver is requested and approved.

5.5 An applicant shall not be approved, employed, nor utilized if he/she failed to report convictions to the Department or agency unless a waiver is requested and approved.

6. Nolo Contendere Pleas:

6.1 If an applicant's criminal background check indicates a "nolo contendere plea" for a crime against a person, as specified under section 5.1 of this policy, the applicant shall not be approved, employed, utilized nor considered for a waiver.

6.2 If an applicant's criminal background check indicates a "nolo contendere plea" that is not a crime against a person as specified under section 5.1 of this policy, the applicant's plea will be evaluated by the Regional or State Office CIB committee for approval or denial. In reviewing a "nolo contendere plea," the Regional or State Office CIB committee will evaluate the crime, plea, and circumstances surrounding the crime in relation to the person's character.

6.3 The "nolo contendere plea" cannot be considered as a conviction.

7. Indictments or Charges

7.1 A new applicant currently under indictment or charged with any crime, except those listed in section 5.1 which are not eligible for waiver, shall not be permitted to care for or have contact with children or adults in care until such time as the charges are resolved or a request for a waiver is made and approved. The care of children or adults during the time period in which the waiver is being considered must be determined on a case-by-case basis.

7.2 Any individual, previously having no convictions on their CIB, covered under this policy who is indicted or charged with any offense named in Section 5.1 shall not be permitted to care for or have contact with children or adults in care until such

time as the charges are resolved. Each program policy must address the provision of care for the children or adults in this event. The Department must be notified immediately to determine if a waiver is indicated.

7.3 Any individual providing care who is indicted or charged with any crime, except those named in 5.1 shall not be permitted to care for or have contact with children or adults in care until such time as the charges are resolved or a request for a waiver is made and approved. The care of children or adults during the time period in which the waiver is being considered must be determined on a case-by-case basis.

7.4 Any applicant with unresolved charges (no disposition listed on the criminal background check results) will be asked to obtain a copy of his or her criminal background check results before discussion can occur. At such a time that the applicant obtains and reviews his or her own results, he or she will be instructed to provide written documentation, through court records, dismissal orders or other verifiable legal means, that indicates the charges have been resolved. At that time, a decision will be made regarding the applicant's ability to be employed or utilized.

8. Waiver

8.1 Waiver Submissions

8.1.1 The director of the agency who has reviewed the criminal history obtained by the potential employee and wants to hire applicant must submit a waiver request and statement of support.

8.1.2 No waivers will be considered for convictions listed in Section 5 of this policy. All other crimes, regardless of age, require a waiver before employment or use can occur,

8.1.3 A waiver approval is not transferable from one agency to another. If an individual, for whom a waiver had been approved, moves from one agency to another, a new waiver request must be submitted with a letter of support from the new agency. It is not the intent of this policy to require an agency to hire or utilize an applicant based upon a previous approval for a waiver.

8.1.4 The waiver request must be submitted within 30 working days of the receipt of the Denial for Work decision. A licensed or certified agency will be cited if the applicant remains employed or used as a provider without an approved waiver.

8.2 Waiver Request

8.2.1 Related to each conviction.

The waiver request must include the following information related to each conviction, indictment or charge:

a. A copy of the signed and witnessed Statement of Criminal Record;

b. The crime committed or alleged;

c. The date(s) of the crime;

d. The date of conviction, indictment or charge.

8.2.2 Information for consideration and justification

The waiver request must include information which will be used in considering potential risk to children and adults in care should the request be approved. The applicant must provide justification for the waiver and include the following supportive documentation:

A. The Waiver Request must include The Waiver Form with the following supporting documentation:

1.) Description of the circumstances surrounding the crime

2.) If there was a victim of the crime and, if so, the age of the victim and the physical, emotional or financial harm to the victim. The victim is not to be identified

3.) Dates of incarceration;

4.) Statement or document from the probation or parole officer, or an officer of the court that the sentence has been successfully completed.

5.) If the crime or alleged crime is driving or vehicular related, a driving record and copy of a current, valid driver's license must be submitted

6.) A statement regarding how circumstances have changed since the commission of the crime and the individual's motivation towards rehabilitation;

7.) In the case of an individual seeking a waiver to remain during the time a charge or indictment is being resolved, a statement from the employer or head of the household that there is a plan in place which will reasonably assure the safety of children or adults in care;

B. The Waiver Request may also include:

1.) Letter of recommendation from a probation or parole officer, or an officer of the court;

2.) Employment, training and education history;

3.) Documentation of participation in therapy or counseling programs;

4.) Character references or statements of Family support;

5.) Documentation of involvement in community, religious, or volunteer activities;

6.) Any other information the applicant would like to have considered.

8.3 Waiver Process

8.3.1 Each Region within the Department will establish written operating procedures for a local or regional review of waiver requests which must be performed in a timely manner in accordance with specific program polices.

8.3.2 The State Office CIB Committee will review waiver requests made by Licensed Child Placing and Residential Child Care Agencies. The Child Care Center Licensing Unit will review waiver requests of applicants in a licensed Child Care Center.

8.3.3 The Waiver Committees review the waiver requests and accompanying documentation to make a determination as to whether a waiver can be provided for the charges/convictions.

8.3.4 A determination must be made on the requests within 30 working days.

8.3.5 Waiver approvals must be documented in FACTS according to each program's policies and procedures.

8.3.6 The staff person responsible for the applicant's or agency's record must inform the applicant or the agency in writing of the decision within five working days.

8.3.7 It is critical that staff involved in the waiver process carefully review all evidence submitted by providers prior to making a determination to grant or deny a waiver. This ensures a fair and equitable decision based on facts that balance the need for protection of vulnerable adults and children and the rights of the applicant to be gainfully employed.

9. Criminal Background Check Results Dissemination and Storage

9.1 The Office of the Deputy Commissioner of Operations staff will maintain original criminal background check results, providing hard copies through the US Postal Service to the Bureau for Children and Families' program staff.

9.2 All original and hard copies of criminal background check results must be in locked file cabinets.

9.3 No criminal background check results are to be emailed under any circumstances, regardless of whether or not the email recipient is located within the Bureau for Children and Families or outside the agency. Sharing criminal background checks results among waiver review committee members must occur through the US Postal Services. In emergency situations, criminal background check results may be faxed through the Bureau for Children and Families' fax machine system, as long as the intended recipient of the fax is aware of its transmittal ahead of time and can be at the fax machine to retrieve it upon arrival.

9.4 No criminal background check results are to be stored in FACTS or any other electronic media under any circumstances. You may store copies of self-disclosures signed by the applicant, such as the Statement of Criminal Record.

9.5 Any hard copies of criminal background check results that are outdated or no longer needed for the Bureau for Children and Families' purposes shall be shredded using cross-cut shredding machines.

9.6 During the appeal process, which may occur due to a denial for work or use, criminal background check results may be viewed by the applicant in a DHHR building. No copies are to be given to the applicant of his or her criminal background check results. If the applicant wishes to obtain a copy of his or her results, he or she will need to visit the Morpho Trust site nearest them for the fingerprint scan.

10. Confidentiality

Statements of criminal records are not to be disclosed to unauthorized persons. Those authorized are Department staff responsible for carrying out this policy. The applicant acknowledges by signing the Statement of Criminal Record that the information will be disclosed only to authorized persons. These records are to be kept in a secure confidential file. All other laws regarding confidential records and Department confidentiality policies apply.

11. Publication of Criminal Record Check Requirements

All Bureau for Children and Families program policies shall refer to this policy as it applies to providers for the specific program. All approved, licensed and certified facilities shall reflect in personnel policies the requirement for a criminal history background check.

12. Grievance/Appeals

An applicant may appeal a decision made by the Department through the grievance procedures for clients and providers of service found in the Common Chapters Manual, Hearings, Appendix C.

12.1 Challenging criminal record information

If a Denial for Work is received for the applicant, it will be necessary for the applicant to obtain a personal finger-print scan. If, after reviewing the identification record, the applicant believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, the applicant should make application directly to the agency which contributed the questioned information. The applicant may contact the West Virginia State Police, Criminal Identification Bureau, at (304) 746-2179 and/or the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306. The FBI will forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI CJIS Division will make any changes necessary in accordance with the information supplied by that agency.

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Earl Ray Tomblin
Governor

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Karen L. Bowling
Cabinet Secretary

Court Summary
03/31/16
DHHR Worker: Eric W. Davis

Client Name: Jacob Bleigh
Case Name: Bleigh
Attorney: Kasey Fields

Date of Birth: 09/08/98 (17)
Judge: Chiles
Court Case Number: 16-JS-24

Summary: Jacob is a 17 year old male from Barboursville, West Virginia. Jacob is in the custody of his mother, Michelle Bleigh, but spends the majority of his time at his grandmother's in Huntington, West Virginia to be eligible to go to Huntington High School. Jacob is appearing before The Honorable Christopher Chiles as a result of a Truancy Petition filed by Cabell County Schools. This is the second Truancy Petition filed since 02/14/15. On 09/24/15, The Honorable Christopher Chiles dismissed 15-JS-51. This Worker received this petition on 03/25/16 and was able to contact Ms. Bleigh. Ms. Bleigh did not deny and admitted Jacob has missed school. Ms. Bleigh reported Jacob was having issues with anxiety as a result of being bullied. Ms. Bleigh reported most of the issues were in Jacob's science class. Ms. Bleigh reported the other students broke his cell phone and put his jacket and book bag in the sink. Ms. Bleigh reported Jacob was enrolled, beginning of March 2016, in Prestera Center for Mental Health Services' InnerChange Program. This Worker contacted InnerChange and staff reported Jacob's attendance has been excellent and he is participating in individual therapy and groups. Staff reported they are looking for a way to extend his time at Innerchange until the end of the school year. If not, Jacob will be discharged at the end of April 2016.

Education: According to documentation from Cabell County Schools, between the dates of 08/10/15 and 02/17/16, Jacob has 26 unexcused absences. Since the being of March 2016, Jacob has attended Prestera Center for Mental Health Services' Innerchange Program and has attended daily. In regards to grades while at Huntington High School, Jacob earned the following Mid-Term 3 grades: Ceramic/Pottery (100%), Cont Studies (51%), Math III (31%), English 11 (9%), and Forensic Science (100%).

Recommendations/Requests: This Worker recommends/requests:

- The Court finds it is in the best interest for Jacob to remain in his home and remain at Prestera Center's InnerChange.

- The Court finds it is in the best interest of Jacob to be placed on Probation.

Eric W. Davis, BA, PLSW
Date: 03/25/2016