# Licensed Child-Placing Agencies

# OFFICE OF BACKGROUND INVESTIGATIONS

## PROCEDURES FOR CONDUCTING BACKGROUND INVESTIGATIONS ON FOSTER AND ADOPTIVE PARENTS, ADULT HOUSEHOLD MEMBERS, RELATIVE PLACEMENTS, AND BIRTH PARENTS REQUESTED BY CHILD-PLACING AGENCIES (CPA) AS REQUIRED BY § 63.2-901.1 OF THE *CODE OF VIRGINIA*

**July 12, 2012**

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## I. OFFICE OF BACKGROUND INVESTIGATIONS (OBI)

### A. Hours of Operation:

The Office of Background Investigations (OBI) is staffed five business days per week from 8:30 a.m. to 4:00 p.m. Messages may be left on voicemail at other times and calls will be returned the next business day.

### B. Points of Contact:

General Background Questions
Debra Reynolds
Telephone: 804-726-7098

**Criminal Background Investigations**
Angela Pearson
Telephone: 804-726-7099
e-mail: angela.pearson@dss.virginia.gov

Marilyn Scott
Telephone: 804-726-7092
e-mail: marilyn.scott@dss.virginia.gov

Linda Jean-Pierre
Telephone: 804-726-7066
e-mail: linda.jeanpierre@dss.virginia.gov

**OFFICE FAX (CRIMINAL BACKGROUNDS)**: 804-726-7095

**Child Protective Services Central Registry Checks**
Betty Whittaker
Telephone: 804-726-7567
e-mail: betty.whittaker@dss.virginia.gov

**C. Emergency Point of Contact:**

Charlene Vincent, Director
Telephone: (804) 726-7097
E-mail: charlene.vincent@dss.virginia.gov

**D. Mailing Address:**

Virginia Department of Social Services
Office of Background Investigations
801 East Main Street, 6th Floor
Richmond, VA 23219

NOTE: Do not address mail to the Treasurer of Virginia.

## II. CPA POINT OF CONTACT

Each CPA must designate one criminal background investigation contact person. All correspondence and questions from the OBI will be directed to this contact. In order to keep contact lists and mailing labels current, any changes in the designated point of contact should be reported to the OBI by sending an email.

## III. ORDERING FINGERPRINT CARDS AND OTHER FORMS

**A.** Fingerprint cards can be requested by calling OBI or sending an e-mail request to Angela Pearson and/or Marilyn Scott:
angela.pearson@dss.virginia.gov
marilyn.scott@dss.virginia.gov

**B.** Procedures and forms including the "Request for Criminal Background Form" and "Child Protective Services Central Registry Release of Information Form" can be found at:
http://www.dss.virginia.gov/facility/lcpa.cgi

## IV. FORMS TO BE SUBMITTED AND FEES REQUIRED

**A. Criminal Background Investigation:** Each background investigation packet is to be forwarded to OBI and should include the following:

- One request for Criminal Background Investigation form
- One fingerprint card
  - Paperclip all information together, do not staple
  - Do not fold fingerprint cards
- Business check, cashier's check or money order, placed on top of the investigation requests, for the appropriate fee based on the following breakdown:

| Agency | Licensed CPA |
|---|---|
| | |
| FBI | $24 |
| State Police | 13 |
| OBI | 13 |
| | |
| **Total Fee Due For Each Background Investigation** | **$50** |

**Facility checks or money orders should be made payable to the *Treasurer of Virginia.*** Personal checks will not be accepted. If an incorrect fee is submitted, the entire package will be returned or the CPA will be contacted to obtain permission to retain any excess funds. The OBI does not have a system to "credit" accounts.

*(Please note Local DSS agencies do not include a fee).

**B. Child Abuse and Neglect Search:** A complete packet, which consists of the following, should be submitted to the Office of Background Investigations:

- Request for Search of the Central Registry and Release of Information Form
- $7 fee for each search

**Facility or cashier's check should be made payable to the Virginia Department of Social Services.**

**NOTE**: Personal checks are not accepted for the criminal background investigation or the central registry search. **Requests for criminal backgrounds requests and requests for the central registry searches may be sent together in one envelope** to the Office of Background Investigations as long as separate checks are written and the fees and forms for the central registry search should be separated from the criminal background requests:

- <u>one check for the criminal background investigation requests</u> made payable to the" Treasurer of Virginia" <u>and</u>
- <u>a second check for all the CPS central registry requests</u> made payable to the "Virginia Department of Social Services."

**C. Returned Check Fee:** There is a $50 charge on a check returned for insufficient funds. The CPA will be notified of a returned check by telephone and letter. The agency should take **immediate action** to have a replacement cashier's check (guaranteed funds) or money order issued to cover the background investigation fee and the returned check fee of $50.

**If a check is returned for insufficient funds, all future payments for background investigation requests must be accompanied by either a money order or a cashier's check.**

## V. IMPORTANT INFORMATION REGARDING FORMS

### A. REQUEST FOR SEARCH OF THE CENTRAL REGISTRY AND RELEASE OF INFORMATION FORM:

This form should be filled out completely and notarized or it will be returned. Please enter "N/A" for any items that are not applicable. If a record of a founded complaint is located, the Child Protective (CPS) representative will annotate the back of the form to that effect. You should contact the social services office noted on the form to obtain specific information about the complaint. Please contact your facility's regulator if you are unsure how the information you obtained will impact your hiring or retaining the individual concerned.

### B. Authority for Release of Information:

Courts, law enforcement agencies, and military departments may require this form before releasing missing dispositions and/or clarifying information regarding an arrest to the OBI. Some agencies require the release form to be notarized and other agencies require that their own release form be utilized. For those reasons, **DO NOT complete this form** for each applicant unless a request is made by the OBI.

**Note:** An applicant's signature on the fingerprint card gives the authority to conduct a criminal background check.

### C. Request for Criminal Background Investigation Form:

This form must be filled out completely and legibly or it will be returned. The form should be signed by the CPA's point of contact prior to submission to the OBI. **NOTE: A signature is required on each form.**

### D. Fingerprint Cards:

- Use only the fingerprint cards supplied by the OBI. Fingerprint cards from another agency cannot be used because each agency has its own identification number imprinted on the card and all results are returned to the agency identified on the card.

- Only one fingerprint card is to be submitted to the OBI to obtain Virginia and national criminal history checks. Fingerprint cards should be filled out completely and legibly or they will be returned.

- **It is mandatory that the CPA name, address, and identification number, as well as, the reason for being fingerprinted be typed on the card, typed on a label and adhered to the card, or printed legibly**.

- One of the following entries should be shown in the reason for being fingerprinted section:

    - **Foster Parent – VA Code § 63.2-901.1**
    - **Adoptive Parent – VA Code § 63.2-901.1**
    - **Adult Household Member – VA Code § 63.2-901.1**
    - **Birth Parent – VA Code § 63.2-901.1**
    - **Relative Placement – VA Code § 63.2-901.1**

  **NOTE: No other reason or comments should be shown in this section. *OBI DOES NOT conduct backgrounds for babysitters, daycares, overnight visits, or for placements when children are not in foster care custody.***

- Applicant's name and personal identifying information may be handwritten, but only if block-style printing is used. The full name of the person should be shown at the top of each fingerprint card. If the person does not have a middle name, enter "(NMN)" in that area. If the person has only an initial instead of a first or middle name, enter the initial followed by "(IO)" in that area. Include the parentheses in both cases.

- The applicant's prints should be affixed to the fingerprint card. Prints may be taken by any local law enforcement agency [§ 19.2-392 of the *Code of Virginia* sets a maximum fee of $10 for police authorities to provide this service] or a CPA employee or contractor who has received the necessary training and is qualified to take prints. The individual taking prints must verify the identity of the applicant. An official identification card bearing the applicant's picture can be used as verification. A valid driver's license is preferred.

- If an amputation or deformity makes it impossible to print a finger, it is recommended by the FBI that one of the following handwritten notations be made in the individual finger block:

    - Amp (Use this abbreviation if amputated)
    - Tip-Amp (Use this abbreviation if tip is amputated)
    - Missing at Birth
    - Cut-Off
    - Shot-Off
    - Deformed
    - Missing

If some physical condition makes it impossible to obtain perfect impressions, submit the best that can be obtained with a memo stapled to the card explaining the circumstances.

**If an agency is aware of a disability, it is recommended that they give the individual 2-3 cards to take to the police official and have 2 different officials take the prints-the agency can hold the extra cards for processing if the prints reject.**

- A CPA is encouraged to take the steps necessary to ensure the individual taking prints is qualified to do so. All prints must be taken in proper order and be legible, fully rolled and classifiable. All data called for is essential. When a fingerprint card contains any accidental or additional markings or overlapping fingerprints, the scanning equipment will attempt to read the markings as fingerprint minutiae. The State Police recommends that a new card be completed. Due to the scanning process, print-over tabs should not be used and reprints may not be done on the reverse side of the card. Smudged or other unacceptable prints cannot be processed and will be returned to the CPA.

- All aliases must be listed on the fingerprint card. This includes maiden name, former married name, other previous names used, etc. If an applicant has a change of name during the background investigation process, any subsequent fingerprint cards should show the name **initially used** to avoid confusion between a name entered in the database and a name used by the State Police or FBI for billing purposes. When there has been a recent name change, the current name should be shown in the **aliases section** of the fingerprint cards.

- Citizenship entries of fingerprint cards must indicate the country of citizenship such as "US." **Do not enter yes or no.** It is not necessary to list alien registration numbers on any paperwork submitted to the OBI. NOTE: Individuals with "Green Cards" are not U.S. citizens, but have been granted permanent U.S. residency.

- Staples, labels, or markings of any kind cannot appear in the "LEAVE BLANK" areas of fingerprint cards. Do not fold the fingerprint cards. Failure to follow these procedures will result in processing delays according to the FBI. (Do not fold cards when mailing).

- The race categories provided by the FBI **must** be utilized:

| Race | Code |
|---|---|
| American Indian or Alaskan Native | I |
| Asian or Pacific Islander | A |
| Black | B |
| White | W |

If race is Hispanic, other, or any other category not listed, then it should be entered with the race code most closely representing the applicant.

- **Miscellaneous Number section of fingerprint cards should be left blank.**

- Fingerprint cards from other agencies should not be used as each agency has its own identification number imprinted and the result of the fingerprint check is returned to the agency whose name and identification number are shown on the card.

- The reason fingerprinted shown on the fingerprint cards should match the reason printed on the Background Request Form.

- The agency identification number should be shown on the fingerprint cards and request forms.

**The fingerprint is a legal document. White out should never be used on the card. If an error is made that can be corrected, place a line through the information and write the correct information above or beside the field.**

**Fingerprint cards that have previously been processed should not be submitted again. If fingerprints were taken and the card was never submitted or processed, the prints are valid for one year from the date they were taken. (This is based on guidance from the Virginia State Police).**

## VI. PROCESSING OF BACKGROUND INVESTIGATIONS BY THE OBI

Background investigation packets for both criminal and central registry background investigations are reviewed to determine if they are complete. Incomplete or unreadable background investigation packets will be returned to the facility for completion or correction unless the problem(s) can be resolved with a telephone call or simple correction.

## VII. FINGERPRINT PROCESSING BY STATE POLICE AND FBI

The State Police processes one scanned fingerprint card for investigation through Virginia's Central Criminal Records Exchange (CCRE). The State Police then forward the scanned fingerprint card to the FBI for conducting an investigation through the National Crime Information Center (NCIC).

## VIII. REJECTED FINGERPRINT CARDS

If a fingerprint card is rejected by the State Police or by the FBI, a different person/official should attempt to obtain good prints. Having a different person take the prints is necessary if a facility wishes to obtain permission to

discontinue further reprints. Local authorities and the State Police have scanning equipment to take prints which may increase the quality for a resubmission.

**Reprints must be submitted <u>within two weeks after receiving the rejection notification</u> in order to complete the background investigation process and thus be in compliance with the state law.**

**Note: If an individual is no longer under consideration by the CPA, it is mandatory that OBI be notified in order to close the case.**

A check or money order for the appropriate fee must accompany the re-submission of a fingerprint card. The fees are based on the following breakdown:

| Agency | Licensed CPA |
|---|---|
| | |
| FBI (1st Re-submission) | $ 0 |
| FBI (Covers 2nd & 3rd Re-submission ) | 24 |
| State Police | 0 |
| Processing Fee | 0 |

**<u>Request to Discontinue Reprints</u>**

If fingerprints continue to reject by the Virginia State Police or by the FBI then a request to discontinue form may be submitted to the OBI once the following has occurred:

- Prints have **rejected three** times by the **Virginia State police** or
- Prints have **rejected two times** by the **FBI**, (this scenario is if the Virginia State Police has processed/cleared the prints and only the FBI is rejecting).

This form will initiate a national name search. Once the request is approved and the name check has been completed, a final screening letter will be sent to the facility for retention in the facility's file. If the request to discontinue prints is denied a letter will be sent to the facility indicating this information). **(See procedures and form for conducting a request to discontinue on the OBI website).**

## IX. <u>PROCESSING OF FINGERPRINT RESULTS BY THE OBI</u>

The OBI will process the investigation results and the CPA will receive one of the following notifications:

- **"Eligible"** which means the applicant:
  - Does not have a criminal record; or

- Has not been convicted of any barrier crime listed in the state law; or
- Has a barrier crime conviction listed in §63.2-1719 and meets the criteria to be approved based on the exceptions listed in the *Code of Virginia*.

- **"Not eligible"** which means the applicant:

  - Has been convicted of a barrier crime listed in § 63.2-1719;

- "**Adequate information is not available/Unable to determine"** which means the applicant:

  - Was, at some time, either **charged or arrested** with a crime listed in the state law and the OBI was unable to obtain a disposition or the OBI was unable to determine the nature of the charge or arrest. The OBI researches through all available state and local record-keeping systems to determine whether the applicant was convicted of the crime. However, adequate information to make a determination may not be available when:

    - The disposition has not been reported by the court to the State Police/FBI; or
    - The record has been purged or destroyed by the court; or
    - The OBI is unable to comply with the court's requirements for researching its records and releasing the disposition; (the individual may or may not have been convicted) or
    - The OBI was unable to determine if a listed arrest/conviction is a barrier offense because of lack of information shown on the arrest history and inability to obtain clarifying information from courts and law enforcement agencies.

- **"Administratively Closed Case"** which means the applicant:

  - Is no longer under consideration by the CPA/process discontinued; or
  - Case has been in-active for 90 days.

**As a <u>general</u> rule, if the Virginia State Police fingerprint check resulted in a no record or the arrest history did not list any barrier crimes, the arrest(s) that caused one of the above letters to be issued was reported by another state or possibly a federal agency (including the military). On rare occasions, an arrest is not listed on either the state police or FBI arrest records but is developed during the investigation through another source, i.e. court or police.**

## X. REQUESTING A COPY OF THE CRIMINAL HISTORY RECORD:

**Effective September 2011, the Virginia State Police advised OBI that if the individual is requesting a copy of the criminal record from the Local DSS or Private Child Placing Agency, the agency can provide that individual a copy of their record. Records should not be disseminated further.**

### A. FBI:

If an individual wants to request a copy of their FBI criminal history record, they can visit the FBI website at:

http://www.fbi.gov/about-us/cjis/background-checks/background_checks
or
www.fbi.gov

### B. VIRGINIA STATE POLICE:

If an individual wants to request a copy of their Virginia criminal history record, they can visit the Virginia State Police website at:

http://www.vsp.state.va.us/CJIS_Criminal_Record_Check.shtm
or
www.vsp.virginia.gov

## XI. CHALLENGING BACKGROUND RESULTS

### A. FBI:

If an individual is denied because of information appearing on the individual's FBI record **and** it comes to the individual's attention that **he is not the person of the record, the individual may initiate a challenge** of the information contained in the record. The facility is required by state and federal laws to provide the individual with a copy of the challenge procedures. The challenge procedures can be found at:

http://www.fbi.gov/about-us/cjis/background-checks/challenge-of-a-criminal-record

### B. Virginia State Police:

In instances where it comes to an individual's attention that his name or other descriptive information is a matter of record in the CCRE and **he is not the person of the record, then the individual may initiate a challenge** of the information contained in the record. An individual should report this information to a local sheriff, police or State Police Headquarters and request to be fingerprinted for the purpose of challenging a criminal record.

The individual to be fingerprinted must show personal identification. The official taking the fingerprints must document on letterhead paper that he has reviewed the individual's personal identification and obtained the fingerprints. This letter and the fingerprints are to be mailed to the following address:

Manager
Central Criminal Records Exchange
Virginia Department of State Police
P. O. Box 27472
Richmond, VA 23261-7472
www.vsp.virginia.gov
(804) 674-2000

Within five workdays, the individual who initiated the challenge will receive written confirmation of the fingerprint search results, whether he is or is not the person of the record, and record modification(s) taken, if applicable.

It is the policy of the CCRE to correct or otherwise modify a criminal record after receiving notification from the contributor of the record of the change to be initiated. Upon receipt of information that a record is in error, CCRE staff will initiate an audit of the record and coordinate corrections or modifications directly with the contributing agency. The time to complete this process varies depending on how expeditiously CCRE is officially advised by the contributor that a change to a record is appropriate. CCRE will not accept corrections or changes to a criminal record from sources other than the criminal justice agency (contributor) that submitted the record.

Reports to a facility from the OBI can be modified only after the individual challenges his record, it is corrected by the court or law enforcement agency, and the correction reported by the court/agency to the State Police or FBI. The CPA should then submit a request for a new background investigation along with a new fee to the Office of Background Investigations (OBI) in order to obtain an accurate record.

**If an applicant admits having a barrier conviction or pending barrier charge, he is not entitled to proceed with the challenge procedure. In addition, § 63.2-1726 of the *Code of Virginia* does not contain any provision for an appeal or challenge.**

**Applicants should not be told to contact the Office of Background Investigations for more information. The agency should provide the individual with a copy of the barrier crimes and refer them to either the State Police or FBI website to request a copy of their criminal record.**

## XII. SAFEGUARDING AND DOCUMENTATION TO BE RETAINED BY CPA

State and federal laws prohibit secondary dissemination of criminal history records by CPA. A CPA is permitted to let an individual see his letter indicating the results of the State Police and FBI fingerprint checks, but is not permitted to furnish copies to anyone. Fingerprint cards can be shredded once the screening process is complete.

A CPA is responsible for safeguarding the background results. The following information is to be maintained in the applicant's file

- Copy of Request for Criminal Background Investigation Form, indicating date submitted to the OBI
- Sworn Disclosure Statement
- Letters transmitting results of the State Police and FBI fingerprint checks
- If necessary, the State Police record can be maintained for documentation.

**Effective September 2011, the Virginia State Police advised OBI that if the individual is requesting a copy of the criminal record from the Local DSS or Private Child Placing Agency, the agency can provide the individual a copy of their record. Records should not be disseminated further.**

## XIII. PROHIBITED

A CPA is reminded that background investigations conducted under § 63.2-901.1 of the *Code of Virginia* can legally be conducted only on individuals requesting approval as a foster or adoptive parent, all adult household members in the home of the individual, relative placements, and birth parents.

## XIV. OFFICE OF BACKGROUND INVESTIGATION WEB SITE

Information regarding the Office of Background Investigations (OBI) may be found at http://www.dss.virginia.gov/facility/lcpa.cgi

This site contains answers to frequently asked questions. In addition, all OBI forms and procedures are on this site.