

DEPARTMENT OF LAW ENFORCEMENT
CRIMINAL HISTORY CHECKS AND
PRIOR AUDIT FOLLOW-UP

Operational Audit

July 2006 through February 2008



EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LAW ENFORCEMENT

Pursuant to Section 20.201(1), Florida Statutes, the Executive Director of the Department of Law Enforcement is appointed by the Governor with the approval of three members of the Cabinet and confirmation by the Senate. Gerald M. Bailey served as the Executive Director during the audit period.

The audit team leaders were Marcia Maheu, CPA, and Jacqueline York and the audit was supervised by Ben H. Cox, CPA. Please address inquiries regarding this report to David R. Vick, CPA, Audit Manager, by e-mail davidvick@aud.state.fl.us or by telephone (850-487-4494).

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DEPARTMENT OF LAW ENFORCEMENT

Criminal History Checks and Prior Audit Follow-Up

SUMMARY

Our operational audit of the Department of Law Enforcement (Department) focused on administrative issues relating to the Department's processing of criminal history checks. Our audit, covering the period July 2006 through February 2008, also included a follow-up on the status of actions taken by the Department to address prior audit findings. Our audit disclosed the following:

Criminal History Checks

DEPARTMENT COSTS

Finding No. 1: The Department had not developed and implemented a methodology to identify and summarize all direct and indirect costs related to the performance of criminal history checks.

RECEIPT PROCESSING

Finding No. 2: The Department's internal controls relating to the collection and processing of criminal history check revenues could be improved.

FIREARMS DEALERS

Finding No. 3: Firearms dealers were not always billed for criminal history checks processed by the Department.

SECURITY CONTROLS

Finding No. 4: Certain security controls related to the Financial Accounting Criminal History Tracking System (FACTS) needed improvement.

Criminal Justice Professionalism Program

PROGRAM COSTS

Finding No. 5: As similarly noted in audit report No. 2007-014, the Department had not implemented a cost allocation plan that identified and summarized all direct and indirect costs associated with the Criminal Justice Professionalism Program.

BACKGROUND

The Department, pursuant to law,¹ is authorized to maintain and disseminate criminal history information. The law defines criminal history information as information collected by criminal justice agencies on persons and consists of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges and the disposition thereof.

The Department provides various types of criminal history checks, and the fees for the criminal history checks are established by State law,² or in the case of national checks, by the Federal Government. **EXHIBIT A** provides a schedule of established fees by customer type. According to Department accounting records, criminal history check revenues totaled approximately \$113.4 million, for the period July 2006 through February 2008.

¹ Section 943.053, Florida Statutes.

² Sections 790.065(1)(b), and 943.053(3)(b), Florida Statutes

FINDINGS AND RECOMMENDATIONS

Criminal History Checks

Finding No. 1: Department Costs

State law³ stipulates that the fee for criminal history information shall be borne by the person or entity submitting the request, or as provided by law. As indicated under the BACKGROUND heading of this report, the State fee amount, or in some cases, the fee amount ceilings are specified by law. To allow the Department to keep the Legislature informed as to the sufficiency of the statutory fee amounts, Department decision makers should have information regarding the total (direct and indirect) cost associated with performing criminal history checks.

Our audit disclosed that the Department had not developed and implemented a methodology that identified and summarized all of the Department’s direct and indirect costs related to the performance of criminal history checks. In the absence of cost information, the Department lacks sufficient information to evaluate whether the State fees charged for performing criminal history checks are excessive, insufficient, or appropriate in amount.

Recommendation: We recommend that the Department develop and implement a methodology that identifies and summarizes all direct and indirect costs related to the performance of criminal history checks.

In response to this audit finding, the Department disagreed with our audit recommendation, indicating, in part, that the current budget situation would make its implementation neither necessary nor prudent. Although we acknowledge the Department’s budgetary concerns, the identification and summarization of the direct and indirect elements of Department costs associated with the provision of criminal history record checks would better facilitate informed decisions concerning both operational and budgetary matters.

Finding No. 2: Receipt Processing

As indicated above, according to Department records, criminal history check revenues totaled approximately \$113.4 million for the period July 2006 through February 2008. Approximately \$61 million of that amount was received by the Department via mail. Our review of the Department’s internal controls over the processing of criminal history check receipts disclosed the following weaknesses:

- Mail containing collections was initially handled and opened in the Department’s mail room. Employees in the mail room did not prepare at the time of receipt a listing or a log of the collections received to facilitate an independent reconciliation of amounts received to amounts processed and subsequently deposited.
- Checks received in the mail were not restrictively endorsed immediately to deter the potential for theft or other loss. Rather, checks were endorsed after they were transferred to the program areas.

The absence of a collection listing at the initial point of receipt and the lack of an immediate restrictive endorsement of checks increases the risk that fraud or errors may occur and go undetected.

Recommendation: We recommend that the Department implement procedures to record receipts at the initial point of collection and immediately restrictively endorse all checks when received.

³ Section 943.053(12), Florida Statutes.

Finding No. 3: Firearms Dealers

The Department provides criminal history checks to licensed firearms dealers who make requests on behalf of gun purchasers. The fee for this service is \$5 and is collected from the gun purchaser by the firearms dealer. The Department invoices firearms dealers on a monthly basis for the criminal history checks processed in the previous month. The firearms dealers are then required to transmit payment to the Department of Revenue (DOR) for deposit into a Department account. Department records indicated that, for the 2006-07 fiscal year, \$2,005,383 was collected from the firearms dealers and deposited by DOR into the Department's account. The Department expended \$1,472,305 of these funds and, at June 30, 2007, the balance in the Department's account was \$3,461,333.

The Department uses the FACTS database to generate invoices that are sent to firearms dealers. The auto-invoicing function within FACTS included various edit functions to assist the Department in verifying firearms dealer information prior to producing an invoice. One of the edit functions was designed to suspend the invoicing process for firearms dealer transactions with no associated billing address.

Our audit disclosed that the Department did not have a process in place to review transactions held in suspense, and suspended transactions had been accumulating since August 1, 2000.

On May 6, 2008, in response to audit inquiry, the Department indicated that transactions for a total of 7,248 criminal history checks performed for 17 different firearms dealers, with related uncollected fees totaling \$39,504, had been suspended and, therefore, had not been invoiced.

Timely invoicing of firearms dealers would better ensure that all amounts due are collected and made available for the purposes stipulated by State law.⁴

Recommendation: We recommend that the Department establish procedures to ensure that all firearms dealers are timely invoiced for all criminal history checks performed by the Department.

Finding No. 4: FACTS Security Controls

Security controls are intended to protect the integrity, confidentiality, and availability of data. During our audit, we identified certain Department security controls related to FACTS that needed improvement. Specific details of these issues are not disclosed in this report to avoid the possibility of compromising Department data and information technology resources. However, appropriate Department staff have been notified of the deficiencies. Without adequate security controls, the integrity, confidentiality, and availability of Department data may be compromised, increasing the risk that Department data may be subject to unauthorized disclosure, destruction, or modification.

Recommendation: The Department should implement appropriate security controls to ensure the continued integrity, confidentiality, and availability of Department data.

Criminal Justice Professionalism Program

Finding No. 5: Program Costs

In audit report No. 2007-014, we recommended that the Department implement cost allocation methodologies that identify and summarize all direct and indirect costs of the Criminal Justice Professionalism Program (CJPP). Such

⁴ Section 790.065, Florida Statutes.

methodologies are necessary to demonstrate that costs allocated by the Department to the CJPP are appropriately based on the actual costs of CJPP activities.

As part of our audit, we evaluated the actions taken by Department management to implement such methodologies. We noted that, although the Department indicated in September 2007 that an initial cost allocation plan had been developed, as of February 2008, the Department had not implemented the plan.

Recommendation: We again recommend that the Department implement cost allocation methodologies that identify and summarize all direct and indirect costs of the CJPP.

PRIOR AUDIT FOLLOW-UP

As part of our audit, we determined that Department management had corrected, or was in the process of correcting, the applicable findings in audit report Nos. 2007-014, 2007-059, 2007-076 and 2007-087, except as noted above.

OBJECTIVES, SCOPE, AND METHODOLOGY

This operational audit focused on administrative issues regarding the Department's processing of criminal history checks and included a follow-up on prior audit findings. The overall objectives of the audit were:

- To evaluate the effectiveness of established internal controls in achieving management's control objectives in the categories of compliance with controlling laws, administrative rules, and other guidelines; the economic, efficient, and effective operation of State government; the validity and reliability of records and reports; and the safeguarding of assets.
- To evaluate management's performance in achieving compliance with controlling laws, administrative rules, and other guidelines; the economic, efficient, and effective operation of State government; the validity and reliability of records and reports; and the safeguarding of assets.
- To determine whether management had corrected, or was in the process of correcting, all deficiencies disclosed in audit reports Nos. 2007-014, 2007-059, 2007-076, and 2007-087.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

We conducted this operational audit in accordance with applicable Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit included examinations of various records and transactions (as well as events and conditions) occurring during the period July 2006 through February 2008. In conducting our audit we:

- Interviewed selected Department Staff.
- Obtained an understanding of selected relevant IT controls, assessed the risks of those controls, evaluated whether selected general and application IT controls were in place, and tested the effectiveness of the controls for FACTS. We did not evaluate the completeness or accuracy of criminal history data maintained within the various electronic databases maintained by the Department.
- Obtained an understanding of other relevant internal controls and tested key processes and procedures.
- Evaluated Department processes and record systems for identifying and reporting direct and indirect costs associated with performing criminal history checks.

- Tested Department compliance with Section 943.053 Florida Statutes, which sets the fee amount charged for the performance of criminal history checks.
- Tested Department compliance with Section 790.065(1)(b), Florida Statutes, which requires that the fees collected from potential firearms buyers be segregated from all other funds, accounted for separately, and used only for the purposes stipulated by Section 790.065, Florida Statutes. That statute also requires the Department to annually make a full accounting of the collections and expenditures to the President of the Senate, the Speaker of the House of Representatives, and other legislative leadership.
- Evaluated Department actions taken to implement recommendations included in audit report Nos. 2007-014, 2007-059, 2007-076, and 2007-087. Specifically, we reviewed the sufficiency of changes made by the Department to applicable policies, procedures, and forms and inquired as to the extent to which the Department utilized the MyFloridaMarketPlace (MFMP) system. The results of our survey of Department MFMP utilization will be disclosed in our operational audit report issued on the Department of Management Services.
- Tested 60 criminal history check transactions to determine whether the appropriate amounts were charged and that collections were properly accounted for and deposited.
- Tested 30 Firearms Purchase Program criminal history checks to determine whether the appropriate amounts were charged, billings were properly made, and that receipts were properly accounted for and deposited.
- Performed analytical procedures and reconciliations to determine whether the amounts recorded in the Department’s FLAIR accounting records were in material agreement with the amounts recorded in FACTS and the amounts recorded in the Department of Financial Services Central Accounting Component.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.

AUTHORITY

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a biennial basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



David W. Martin, CPA
Auditor General

MANAGEMENT’S RESPONSE

In a letter dated October 24, 2008, the Executive Director provided a response to our preliminary and tentative audit findings. The Executive Director’s response is included at the end of this report as Exhibit B.

**EXHIBIT A
CRIMINAL HISTORY CHECKS
SCHEDULE OF FEES**

CUSTOMER TYPE	State Fee	Federal Fee HARD CARD	Federal Fee ELECTRONIC	State Fee + Federal Fee HARD CARD	State Fee + Federal Fee ELECTRONIC
Department of Children and Family Services, Department of Juvenile Justice, and Department of Elder Affairs vendors (examples include, day care center employees, juvenile treatment center employees, etc.)	\$ 8.00	\$30.25	\$19.25	\$38.25	\$27.25
Department of Agriculture and Consumer Services (examples include, concealed weapon permit applicants, security guards, etc.)	\$15.00	\$30.25	\$19.25	\$45.25	\$34.25
Criminal Justice Applicants (examples include, law enforcement officers, corrections officers, corrections probation officers)	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
All other applicant-required checks (examples include, realtors, insurance agents, school employees, Florida Bar applicants, foster care providers, doctors, nursing home employees, Medicaid providers, seaport employees, etc.)	\$23.00 (1)	\$30.25	\$19.25	\$53.25	\$42.25
Employees (individuals who are not specifically required to undergo a criminal history check as another customer type and who are employees of a qualified entity that provides care to children, elderly, or disabled persons)	\$23.00 (1)	\$30.25	\$19.25	\$53.25	\$42.25
Volunteers (individuals who are not specifically required to undergo a criminal history check as another customer type and who are volunteers of a qualified entity that provides care to children, elderly, or disabled persons)	\$18.00	\$15.25	\$15.25	\$33.25	\$33.25
Requests from private citizens, companies, and governmental entities (employee screening services, grocery stores, human resource offices, alarm companies, etc.)	\$23.00 (1)	N/A	N/A	N/A	N/A
Requests from licensed firearms dealers, manufacturers, and importers in Florida who sell firearms to persons who are not licensed dealers.	\$ 5.00	N/A	N/A	N/A	N/A

(1) Effective July 1, 2008, the fee changed to \$24.00, pursuant to Chapter 2008-112, Laws of Florida.

Source: Department records and Sections 790.065 and 943.053, Florida Statutes.

EXHIBIT B
MANAGEMENT RESPONSE



Florida Department of
Law Enforcement

Gerald M. Bailey
Commissioner

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Charlie Crist, *Governor*
Bill McCollum, *Attorney General*
Alex Sink, *Chief Financial Officer*
Charles H. Bronson, *Commissioner of Agriculture*

October 24, 2008

Mr. David Martin, CPA
Auditor General
G74 Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Mr. Martin:

Reference the preliminary findings and recommendations from:

Operational Audit of the Florida Department of Law Enforcement,
Criminal History Checks and Prior Audit Follow-Up,
for the period July 2006 through February 2008

Finding No. 1, Department Costs: The Department had not developed and implemented a methodology to identify and summarize all direct and indirect costs related to the performance of criminal history checks.

Recommendation 1: We recommend that the Department develop and implement a methodology that identifies and summarizes all direct and indirect costs related to the performance of criminal history checks.

FDLE Response: *Disagree.* Until this year, Section 943.053, Florida Statutes provided that the fee for criminal history information should approximate the cost of producing the criminal history information. However, criminal justice information services have been expanded and FDLE has absorbed enhancements to programs without corresponding resources. The Legislature has utilized revenue from the criminal history checks to shift substantial Operating Trust Fund dollars to address shortfalls and to fund other functions within the Department.

Further, during this difficult economic period, the Department will most likely undergo significant budget cuts and will not have the resources to develop the recommended methodology. Therefore, we believe that implementing a methodology is neither necessary nor prudent.

EXHIBIT B
MANAGEMENT RESPONSE (Continued)

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Finding No. 2, Receipt Processing: The Department's internal controls relating to the collection and processing of criminal history check revenues could be improved.

Recommendation 2: We recommend that the Department implement procedures to record receipts at the initial point of collection and immediately restrictively endorse all checks when received.

FDLE Response: *Agree.* Since the audit was performed, the User Services Bureau (USB) has improved its processing of criminal history check revenues:

- Criminal history record check requests with payment enclosed are opened, endorsed and the request processed within the USB.
- USB mail is delivered and processed within a secure, locked area with access limited by electronic swipe cards to authorized members only.
- Checks are restrictively endorsed immediately upon removal from envelopes.
- A detailed protocol has been implemented to "batch" process incoming checks. (See Appendix "A")

Finding No. 3, Firearms Dealers: Firearms dealers were not always billed for criminal history checks processed by the Department.

Recommendation 3: We recommend that the Department establish procedures to ensure that all firearms dealers are timely invoiced for all criminal history checks performed by the Department.

FDLE Response: *Agree.* The firearms dealer invoice procedure has been changed to include the running of a report to show any transactions that were not uploaded into the FACTS program for invoicing. The 17 firearms dealers referenced in the audit have been invoiced. Each of the invoices have been paid in full with the exception of one dealer who currently has an unpaid balance of \$8390, but has been making monthly payments.

Finding No. 4, FACTS Security Controls: Certain security controls related to the Financial Accounting Criminal History Tracking System (FACTS) needed improvement.

Recommendation 4: The Department should implement appropriate security controls to ensure the continued integrity, confidentiality, and availability of Department data.

FDLE Response: *Agree.* Based on this recommendation, additional controls to further strengthen the security controls in FACTS as noted in the confidential finding will be implemented by November 30, 2008.

EXHIBIT B
MANAGEMENT RESPONSE (Continued)

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Finding No. 5, Program Costs: As similarly noted in audit report No. 2007-014, the Department had not implemented a cost allocation plan that identified and summarized all direct and indirect costs associated with the Criminal Justice Professionalism Program (CJPP).

Recommendation 5: We again recommend that the Department implement cost allocation methodologies that identify and summarize all direct and indirect costs of the CJPP.

FDLE Response: *Disagree.* The legislative budget request for fiscal year 2009-2010 includes potential budget cuts for the Criminal Justice Professionalism Program. If the cuts are made, this would impact any cost allocation methodology. Following the known impact of the current budget situation, FDLE will be in a better posture to reevaluate the issue.

The recommendations in your audit report are appreciated. If you require further information regarding the actual or proposed corrective actions, please contact me or Inspector General Al Dennis at 410-7225.

Sincerely,



Gerald M. Bailey
Commissioner

GMB/ALD/dkk

EXHIBIT B
MANAGEMENT RESPONSE (Continued)

Appendix A

Since members of USB are trained to process certain types of criminal history requests, the requests and checks are sorted by type into batches for processing. A batch cover sheet is created that includes the total number of checks in the batch and the total amount of all checks within that batch. The batch cover sheet is then initialed by the member creating the batch. Within the secure area, a second member picks up the batch for processing, enters the request and check information in FACTS, and prints a cash receipt list. The batch number created by FACTS is then recorded on the batch cover sheet; the batch cover sheet is initialed by the second member so that the batch can be traced through the completion of the request and mailing the results to the customer.

While the batch cover sheet is not an itemized detail record of each check, it does provide accountability until the checks are recorded in FACTS. To make a record of receipts at the time mail is opened would require additional financial resources which, due to the current economic situation, are limited. Currently, the criminal history record request and check information are entered at the same time which ties a payment to a request. Additional programming and workload would be required to enter the receipt first and then tie it to a request entered at a later time.