	<b>CLERK OF THE COURT INTERNAL POLICY</b>	
	<b>Area: Administrative Services</b> <b>Document Number: POL-ADMIN-1010</b> <b>Subject: Noncriminal Justice Agency</b> <b>Fingerprint Compliance</b>	<b>Effective Date: 12/1/13</b>
<b>Page: 1 of 5</b>	<b>Revision Level: A</b> <b>Last Revised Date: 02/16/2016</b>	

**PURPOSE:**

Each agency authorized to receive criminal justice information and criminal history for the purpose of a non-criminal case must have an access agreement, list of authorized personnel and procedures adhering to the privacy, security and training requirements of handling this information as defined by the Department of Public Safety (DPS) and the Federal Bureau of Investigations (FBI). The purpose of this policy is to establish guidelines for compliance with the DPS program.


**POLICY:**

DPS implemented the Noncriminal Justice Fingerprint Compliance Program in January 2013 in response to changes in federal guidelines concerning the dissemination of criminal history record information.

Currently, the Clerk of the Superior Court (COSC) obtains this information for employment criminal background checks and as a "pass through agent" to the Superior Court on non-criminal court matters that require criminal history clearance.

**A. Authorized Use:**

1. The only personnel permitted to access, handle, disseminate or destroy fingerprint cards or criminal history information are those designated on the Authorized Personnel List which is provided to DPS and maintained by the COSC, Human Resources Department.
2. Obtaining criminal history information is only permitted for reviewing applications for employment with the COSC and for purposes required for adoptions, guardianships, conservatorships and process server registrations pursuant to ARS 41-1750, ARS 14-5304, ARS 14-5401 (C) and ARS 12-3301(B).
3. Authorized personnel may discuss the contents of the criminal history record with employment applicants in a private and secure place. They may not provide a copy of the criminal history to an applicant. If the applicant wants a copy of his/her own Arizona criminal history record, the applicant must contact the DPS Criminal History Records Unit at (602) 223-2222 to obtain a "Review and Challenge" packet. For a copy of a national criminal history record, the applicant will need to contact the FBI at (304) 625-3878.
4. Authorized personnel may not discuss the contents of the criminal history record with process server applicants or with individuals involved in court matters that require criminal history clearance.


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Page: 2 of 5	<b>Revision Level: A</b> <b>Last Revised Date: 02/16/2016</b>	

**B. Handling and Security:**

1. Criminal history information is to be handled only by authorized personnel and is only to be used for the specific purpose for which it was requested.
2. Fingerprint cards and criminal history information will be maintained in a secure, safe area as further detailed in separate procedures for each work unit.
3. Verbal or written communications regarding criminal history may only occur between authorized personnel and only if necessary to carry out the specific purpose for which the information was requested.
4. Criminal history information will not be emailed or sent electronically via cell phone or any other electronic devices. Employees will be advised that casual unauthorized release of information (social network, discussions with friends and family members) is strictly prohibited.
5. Criminal history information forwarded to Court Administration on non-criminal cases is considered secondary dissemination, however, when information is provided to them for the purposes in connection with the prescribed duties of the agency for suitability determination, it is considered to be specifically authorized for that purpose under the law (Arizona Revised Statute 41-1750(Q)). All secondary dissemination must be logged and the log retained for a minimum of five years.
6. Deliberate and inappropriate access or use with wrongful or criminal intent is grounds for disciplinary action or appropriate legal action. COSC holds each employee responsible for their participation in appropriate access to these records and may take disciplinary action, up to and including termination.

**C. Agency Security Contact (ASC):**

1. The user agreement with DPS requires a liaison that will be the primary contact for DPS and is responsible for coordinating the COSC's compliance with all federal and state laws and regulations. The Agency Security Contact (ASC) is also the first point of contact for DPS in the event of an allegation of misuse of information. The COSC designated ASC contact is the Human Resources Manager.
  - i. If the COSC appoints a new ASC, an ASC/CEO change form must be submitted to DPS within 30 days of change.
2. The ASC must submit an Authorized Personnel List on COSC letterhead and include the name, title and date of birth of all authorized personnel. An entire list must be resubmitted whenever any change is made to the list.

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<b>Page: 3 of 5</b>	<b>Revision Level: A</b> <b>Last Revised Date: 02/16/2016</b>	


3. The ASC is the person primarily responsible for maintaining COSC compliance with Security and Privacy requirements.
4. Compliance duties include:
  - i. Ensure an updated Authorized Personnel List is on file with DPS
  - ii. Ensure authorized personnel receive training and training documentation is current
  - iii. Ensure authorized personnel have signed the required Acknowledgement Statement
  - iv. Ensure the COSC has adequate policies/procedures related to the access, use, handling, dissemination and destruction of criminal history information

**D. Training:**

1. COSC is responsible to ensure authorized personnel are in compliance with all training requirements. All staff named on the Authorized Personnel List are **REQUIRED** to complete **BOTH** the online security and awareness training provided by DPS **AND** training provided by the COSC.
2. Security and awareness training is available on the DPS website and must be completed within six (6) months of hire or assignment and must be repeated every two (2) years.
3. COSC's Training and Development Department will provide additional training which will include a review of policies and procedures surrounding access and handling of criminal history information. This training must be taken a minimum of every two (2) years by all individuals designated on the Authorized Personnel List.
4. A specified form acknowledging notification of the penalties for misuse of the Criminal History Information must be signed by all authorized personnel. (See attached)

**E. Destruction:**

1. COSC requires destruction of fingerprint cards where no record was found six (6) months after the employee's date of hire or rehire. When a criminal history report is returned to COSC, it must be destroyed one (1) year after the employee's date of hire or rehire.
2. Criminal history information will be secured until it is no longer needed for its original

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<b>Page: 4 of 5</b>	<b>Revision Level: A</b> <b>Last Revised Date: 02/16/2016</b>	


purpose and will then be shredded and destroyed by authorized personnel.

**F. Technical/Digital Security:**

1. Current procedures only provide for the scanning of criminal history in adoption and adoption certification cases. Electronic access to scanned documents in these cases is extremely limited and only available for viewing by the named parties of record and by authorized personnel for authorized purposes.

**G. Federal Disclosures**

1. Information obtained by the COSC often contains information obtained by an FBI records check. Therefore the following provisions apply:
  - i. UNDER PROVISIONS SET FORTH IN TITLE 28, CODE OF FEDERAL REGULATIONS (CFR), SECTION 50.12, BOTH GOVERNMENTAL AND NONGOVERNMENTAL ENTITIES AUTHORIZED TO SUBMIT FINGERPRINTS AND RECEIVE FBI IDENTIFICATION RECORDS MUST NOTIFY THE INDIVIDUALS FINGERPRINTED THAT THE FINGERPRINTS WILL BE USED TO CHECK THE CRIMINAL HISTORY RECORDS OF THE FBI. IDENTIFICATION RECORDS OBTAINED FROM THE FBI MAY BE USED SOLELY FOR THE PURPOSE REQUESTED AND MAY NOT BE DISSEMINATED OUTSIDE THE RECEIVING DEPARTMENT, RELATED AGENCY OR OTHER AUTHORIZED ENTITY. IF THE INFORMATION ON THE RECORD IS USED TO DISQUALIFY AN APPLICANT, THE OFFICIAL MAKING DETERMINATION OF SUITABILITY FOR LICENSING OR EMPLOYMENT SHALL PROVIDE THE APPLICANT THE OPPORTUNITY TO COMPLETE OR CHALLENGE THE ACCURACY OF THE INFORMATION CONTAINED IN THE FBI IDENTIFICATION RECORD. THE DECIDING OFFICIAL SHOULD NOT DENY THE LICENSE OR EMPLOYMENT BASED ON THE INFORMATION IN THE RECORD UNTIL THE APPLICANT HAS BEEN AFFORDED A REASONABLE TIME TO CORRECT OR COMPLETE THE INFORMATION, OR HAS DECLINED TO DO SO. AN INDIVIDUAL SHOULD BE PRESUMED NOT GUILTY OF ANY CHARGE/ARREST FOR WHICH THERE IS NO FINAL DISPOSITION STATED ON THE RECORD OR OTHERWISE DETERMINED. IF THE APPLICANT WISHES TO CORRECT THE RECORD AS IT APPEARS IN THE FBI'S CJIS DIVISION RECORDS SYSTEM, THE APPLICANT SHOULD BE ADVISED THAT THE PROCEDURES TO CHANGE, CORRECT OR UPDATE THE RECORD ARE SET FORTH IN TITLE 28, CFR, SECTION 16.34.

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Page: 5 of 5	<b>Revision Level: A</b> <b>Last Revised Date: 02/16/2016</b>	

**APPLICABILITY:**

This policy applies to all employees of the COSC.

**DEFINITIONS:**

**Authorized Personnel:** Individuals designated on the Authorized Personnel List maintained by the COSC Human Resources Department to access, use, handle, disseminate or destroy criminal history information.

**Criminal History Information:** Information as defined in Arizona Revised Statue 41-1750(Y)(5), including fingerprint cards submitted by the COSC to DPS for a criminal history background check and the information that is returned to the COSC from DPS, the FBI, or other law enforcement agencies.

**REVISION HISTORY:**

Revision Number	Issuing Authority	Summary of Changes	Approval Date
-	N/A	Document Origination	12/1/13
A	Christine Kelly	Updated to Controlled Document Index	2/16/16

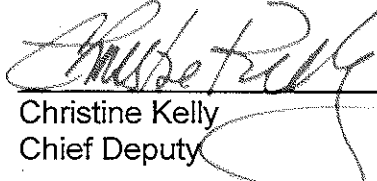
**AUTHORIZED SIGNATURES:**

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