

Introduction

Noncriminal justice outsourcing incorporates the process of a third party contractor to perform noncriminal justice administrative functions (i.e. making fitness determinations/recommendations, obtaining missing dispositions, archival and off-site storage of fingerprint submissions and corresponding criminal history record results, or the submission of fingerprints and the receipt of corresponding criminal history records) related to the processing of criminal history record information (CHRI) maintained in the Interstate Identification Index (III) System, subject to appropriate controls, when acting on behalf of the governmental or authorized agency. The III is the system of federal and state criminal history records maintained by the Federal Bureau of Investigation (FBI).

The Outsourcing of Noncriminal Justice Administrative Functions Guide for State Agencies (State Guide) was developed by the National Crime Prevention and Privacy Compact Council (Council) in consultation with the FBI's Criminal Justice Information Services (CJIS) Division. The State Guide is designed to provide resources to **state agencies** that engage in and authorize the outsourcing of noncriminal justice administrative functions. The information contained in the State Guide may be used as a resource. States are encouraged to continue to build upon this information to enhance its outsourcing program. Federal or regulatory agencies should contact the FBI Compact Officer for information pertaining to the outsourcing of noncriminal justice administrative functions.

The State Guide is broken down into several sections. Topics include an outline of responsibilities for engaging in a contract or agreement for Non-Channeling and Channeling; samples of contract language and outsourcing requests; audit methodologies; and a variety of checklists. The State Guide also contains a list of frequently asked questions, common definitions relating to the outsourcing of noncriminal justice administrative functions, and additional on-line resources.

Background

The National Crime Prevention and Privacy Compact Act of 1998 (Compact) (Title 42, United States Code [U.S.C.], Sections 14611-14616) provides a legal framework for the cooperative exchange of criminal history records between federal and state entities for noncriminal justice purposes. The Compact was signed by President Clinton on October 9, 1998, and became effective on April 28, 1999, when ratified by two states. As of December 2014, 30 states and the federal government have ratified the Compact. States that have ratified the Compact are referred to as “party states.”

The Compact established a fifteen-member Council, whose members are appointed by the United States (U.S.) Attorney General (AG), to promulgate rules, procedures, and standards governing the use of the III System and CHRI for noncriminal justice purposes and to ensure the protection of an individual’s privacy while facilitating the nationwide automated exchange of CHRI. Pursuant to the Compact, each party state is required to appoint a State Compact Officer (SCO) who shall ensure that the Compact provisions, rules, procedures, and standards established by the Council are complied with in his/her respective state.

The Council published the "Outsourcing of Noncriminal Justice Administrative Functions" Interim Final Rule (IFR) and two "Security and Management Control Outsourcing Standards" (Outsourcing Standards) in the *Federal Register* on December 16, 2004. The IFR is attached as *Appendix A*. The Council adopted the IFR as a Final Rule (Rule) and published a combined Outsourcing Standard in the FR on December 15, 2005, which is attached as *Appendix B*. The Rule permits an Authorized Recipient (AR) of CHRI to outsource noncriminal justice administrative functions relating to the processing of CHRI to a third party, subject to appropriate controls.

The Outsourcing Standard established minimum requirements to ensure that security and privacy controls are in place when conducting national criminal history record checks for noncriminal justice purposes. The contracting parties may not reduce these minimum standards; however, more restrictive requirements may be adopted by the contracting parties. Additionally, the Outsourcing Standard identified responsibilities for adequate security controls between the AR and the Contractor in order to maintain the security and integrity of the III System and CHRI. The security program shall address site security, dissemination restrictions, personnel security, system security, and guidelines for documentation of security events.

To ensure agencies follow the minimum standards, the Rule states that contracts or agreements providing for authorized outsourcing "shall incorporate by reference a security and management control outsourcing standard approved by the Compact Council after consultation with the United States Attorney General." In November 2009, to clarify the roles, the Council bifurcated the Outsourcing Standard to create one strictly for Channeling (Outsourcing Standard for Channelers) [*Appendix C*] and the other for Non-Channeling (Outsourcing Standard for Non-Channelers) [*Appendix D*]. The Council periodically updates the Outsourcing Standards and the most current versions may be found on the web at <www.fbi.gov/about-us/cjis/cc>.