



## ADMINISTRATIVE DIRECTIVE

Title:	Storage and Handling of Fingerprints and Criminal History Records Information for Noncriminal Justice Purposes
Issuing Department:	Human Resources, Legal
Effective Date:	February 25, 2022
Approved:	Terry Rozema, Town Manager
Type of Action:	Original Release

### 1.0 PURPOSE

The purpose of this directive is to establish operating practices and procedures for submitting fingerprints and receiving criminal justice information and criminal history record information for noncriminal justice purposes to ensure compliance with state and federal law.

### 2.0 DEPARTMENTS AFFECTED

Parks and Recreation, Human Resources, Finance, Legal

### 3.0 REFERENCES

- 3.1 28 C.F.R. Part 20
- 3.2 28 C.F.R. 50.12(b)
- 3.3 28 C.F.R. 16.34
- 3.4 28 C.F.R. 20.33
- 3.5 28 USC § 534
- 3.6 A.R.S. § 41-1750 - A.R.S. § 41-1756
- 3.7 National Crime Prevention and Privacy Compact, 42 U.S.C. § 14616
- 3.8 Marana Town Code, Chapter 13-2: Fingerprinting and Criminal History Records Checks of Parks and Recreation Personnel and Volunteers
- 3.9 U.S. Public Law (Pub.L.) 92-544
- 3.10 Town of Marana Personnel Policies and Procedures, Policy 2-6: Reference Check and Background Investigation
- 3.11 Town of Marana Personnel Policies and Procedures, Policy 2-8: Fingerprinting
- 3.12 Town of Marana Personnel Policies and Procedures, Policy 5-5: Discipline System
- 3.13 Fair Credit Reporting Act (FCRA) 15 USC § 1681 *et seq*

## 4.0 DEFINITIONS

- 4.1 ACJIS (Arizona Criminal Justice Information System): A series of databases maintained by the Arizona Department of Public Safety (DPS) to be used by law enforcement and criminal justice practitioners.
- 4.2 Agency Security Contact (ASC): The main contact for the agency for noncriminal justice CHRI compliance purposes.
- 4.3 Authorized Personnel: All personnel who are authorized to view, handle, use, discuss, or dispose of criminal history.
- 4.4 Authorized Personnel List: A list of personnel authorized to view, handle, use, discuss, or dispose of criminal history.
- 4.5 CHRI (Criminal History Record Information): A subset of CJI consisting of notations written and electronic evidence of an arrest, detention, complaint, indictment, information or other formal criminal charge relating to an identifiable person. CHRI includes identifying information pertaining to the individual as well as the disposition arising from sentencing, correctional supervision, and release on any charges.
- 4.6 CJI (Criminal Justice Information): Data provided by FBI Criminal Justice Information Services necessary for law enforcement and civil agencies to perform their mission.
- 4.7 Contract employee or contractor: An individual who performs recreational instructor services as an independent contractor for the Parks and Recreation Department pursuant to a written contract with the Town.
- 4.8 Department of Public Safety (DPS): The Arizona state-level law enforcement agency.
- 4.9 DPS Access Integrity Unit (AIU): The unit responsible for system access control to the ACJIS/NCIC system and for quality control of the records within it.
- 4.10 NCIC (National Crime Information Center): A computerized index of documented criminal justice information concerning crimes and criminals of nationwide interest. NCIC stores information regarding open arrest warrants, stolen property, missing persons, etc.
- 4.11 NCJA (Noncriminal Justice Agency): An agency requesting criminal history record information for noncriminal justice purposes such as for employment, licensing, volunteers, etc.
- 4.12 Volunteer: An individual who is not an employee of the Town, but who performs services for the Town without pay, including without limitation all coaches and assistant coaches in Town sports leagues.
- 4.13 Vulnerable adult: An individual who is 18 years of age or older and who is unable to protect him or herself from abuse, neglect or exploitation by others because of a mental or physical impairment.

## 5.0 POLICIES AND PROCEDURES

- 5.1 General. The Town may use the Criminal Justice Information (CJI) or Criminal History Record Information (CHRI) obtained from the Arizona Department of Public Safety

(DPS) only for the specific purposes of evaluating the fitness for current or prospective licensees, employees, contract employees and/or volunteers pursuant to 28 C.F.R., Part 20 and A.R.S. § 41-1750. The Town shall ensure that CHRI and CHI the Town receives for noncriminal justice purposes is stored securely and that only Authorized Personnel view, handle, use, discuss or dispose of criminal history record information. CJI/CHRI may not be reused for any other purpose.

5.2 Authority. The Town has the authorization to submit fingerprints to the Arizona Department of Public Safety for Fee-Based State and Federal Criminal History Checks pursuant to Town of Marana Ordinance Nos. 96.25, 2000.06, 2010.10, 2011.01, 2017.009, 2019.012 and 2019.014, as well as A.R.S. § 41-1750.

5.3 Agency Security Contact. The Senior Assistant Town Attorney shall be the Town's ASC for DPS for noncriminal justice CHRI compliance purposes. The ASC is the point of contact with DPS through which all communication with DPS regarding audits, agency/personnel information changes and training and security are conducted. The ASC will maintain all authorized personnel training on the NCJA Training Documentation Form (Attachment A). This information will be available at the time of audit. The ASC can receive and disseminate communication updates from DPS.

5.4 Authorized Personnel. The Human Resources Department shall maintain a list of all Authorized Personnel.

5.4.1 All Authorized Personnel must sign an Acknowledgment Statement (Attachment B) wherein the individual acknowledges notification of the consequences for misuse of criminal history.

5.4.2 Upon termination of Authorized Personnel, the Human Resources Department will update with DPS within 2 business days. Upon termination, Authorized Personnel must return keys allowing access to CHRI. If a key is lost, Human Resources will have the office and filing cabinet re-keyed to prevent unauthorized access.

5.5 Privacy and Security Guidelines for Access, Use, Handling, Dissemination and destruction of CHRI.

5.5.1 Use of CHRI. CHRI can only be used for the purpose for which it is requested. The Town may use CHRI for the following noncriminal justice purposes:

5.5.1.1 For evaluating the fitness of prospective employees in the following positions to comply with Town of Marana Personnel Policy Section 2-8-1. The Town is authorized to receive CHRI for this purpose pursuant to Personnel Policy Section 2-8-2 and A.R.S. §41-1750.

5.5.1.1.1 Positions in which the employees' job duties include unsupervised contact with minor children.

5.5.1.1.2 All police department positions.

5.5.1.1.3 Positions in the Marana Municipal Court, in accordance with any applicable state law or Arizona Supreme Court administrative orders or directives.

5.5.1.1.4 Animal control officer positions.

5.5.1.1.5 All technology services department positions.

- 5.5.1.1.6 Senior Assistant Town Attorney.
- 5.5.1.1.7 Human Resources Director.
- 5.5.1.1.8 Employees who access, use, handle, disseminate or destruct criminal justice information or criminal history record information provided by the Department of Public Safety for noncriminal justice purposes.
- 5.5.1.2 For evaluating the fitness of current and prospective peddler licensees to comply with MTC Section 9-3-4. The Town is authorized to receive CHRI for this purpose pursuant to Marana Town Code (MTC) Section 9-3-5(A).
- 5.5.1.3 For evaluating the fitness of current and prospective Parks and Recreation Department employees, contract employees, and volunteers who work directly with children under the age of 18 or vulnerable adults. The Town is authorized to receive CHRI for this purpose pursuant to MTC Section 13-2-1 and A.R.S. §41-1750.
- 5.5.1.4 For evaluating the fitness of current and prospective massage establishment licensees to comply with MTC Section 9-5-9 and current and prospective massage establishment manager licensees to comply with MTC Section 9-5-10. The Town is authorized to receive CHRI for this purpose pursuant to MTC Section 9-5-12(C) and A.R.S. § 41-1750.
- 5.5.1.5 For evaluating the fitness of current and prospective sexually oriented business licensees and current and prospective sexually oriented business employee licensees to comply with MTC Section 9-7-5. The Town is authorized to receive CHRI for this purpose pursuant to MTC Section 9-7-5(J) and A.R.S. § 41-1750.

5.5.2 Access to CHRI

- 5.5.2.1 The Human Resources Department will manage fingerprint cards and CHRI for employees, contract employees and volunteers.
- 5.5.2.2 The Finance Department will manage fingerprint cards and CHRI for applicants for applicable business licenses.
- 5.5.2.3 Human Resources staff, Legal staff, Parks and Recreation staff, and Finance staff that may come into contact with criminal history information will be given access to view/handle criminal history information. The Authorized Personnel will be personnel in the following positions:
  - 5.5.2.3.1 Finance Director
  - 5.5.2.3.2 Finance Deputy Director
  - 5.5.2.3.3 Revenue and Customer Service Manager
  - 5.5.2.3.4 License and Tax Specialist
  - 5.5.2.3.5 Human Resources Director
  - 5.5.2.3.6 Human Resources Deputy Director
  - 5.5.2.3.7 Human Resources Executive Assistant
  - 5.5.2.3.8 Human Resources Senior Analysts and Analysts

- 5.5.2.3.9 Parks and Recreation Director
  - 5.5.2.3.10 Parks and Recreation Deputy Director
  - 5.5.2.3.11 Parks and Recreation Superintendent
  - 5.5.2.3.12 Deputy Town Attorney
  - 5.5.2.3.13 Senior Assistant Town Attorney
- 5.5.3 Maintaining CHRI in a secure manner. CHRI shall be maintained in a secure manner wherein only Authorized Personnel have access to the CHRI.
- 5.5.3.1 CJI and CHRI shall be stored in a locked file drawer located in the Human Resources File Room. Only Authorized Personnel will be issued a key to the file drawer. The only personnel authorized to access, discuss, use, handle, disseminate, file and destroy CJI/CHRI are the persons listed on the most current Authorized Personnel List on file with the Arizona Department of Public Safety Access Integrity Unit and the Human Resources Department. The public, all outside persons and entities, terminated personnel and personnel not listed on the most current Authorized Personnel list are prohibited from handling or having any access to the CJI/CHRI for any reason. CJI and CHRI is not stored electronically.
  - 5.5.3.2 Communication regarding CHRI can only be among Authorized Personnel. Before communicating with someone in the Town regarding CHRI, employees shall ensure that the other employee's name is on the Authorized Personnel list. If there is a disqualifying factor on the CHRI, then it can be discussed only with the Authorized Personnel.
  - 5.5.3.3 Fingerprint Results from DPS are only opened by Authorized Personnel in the Human Resources Department and distributed only to other Authorized Personnel.
  - 5.5.3.4 Authorized Personnel may discuss contents of the criminal history with the applicant in a private and secure place and extreme care should be taken to prevent overhearing, eavesdropping or interception of communication. The applicant may not be given a copy of the record or allowed to take a picture of it with an electronic device. The record is for the Town's use only. The applicant should be informed that if he/she wishes to challenge the content of the record, a Review and Challenge packet for Arizona criminal history can be obtained from DPS Criminal History Records. Information on challenging an FBI record can be obtained by contacting the FBI. The Town provides all applicants the right to review and challenge his/her criminal history record if they deem the information has been inaccurately reported. Each applicant will be provided five business days upon notification to provide the Town authentic documentation that reports the criminal history information accurately and completely. This information must be provided prior to determination of suitability for employment, license, contracting or volunteering.
    - 5.5.3.4.1 For a copy of an Arizona criminal history record contact the DPS Criminal History Records Unit at 602-223-2222 to obtain the fingerprint card and a review and challenge packet.

- 5.5.3.4.2 For a copy of an FBI criminal history record contact the FBI at 304-625-5590. More information can be found at <https://www.fbi.gov/services/cjis/identity-history-summary-checks>.
- 5.5.3.5 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 is requested. CHRI is not allowed to be emailed or sent electronically. CHRI cannot be further disseminated to any other agency or individual.
- 5.5.3.6 CJI/CHRI received is not shared nor is it released in any form to the public. Employees will not confirm or deny the existence of an individual's criminal history record to the public or to any unauthorized individual or agency.
- 5.5.4 Proper retention and destruction of CHRI
- 5.5.4.1 CHRI must be destroyed when the purpose for which it was requested has been fulfilled. If the applicant, employee, licensee, contracted employee, or volunteer appeals, when the appeals hearing is completed and the final disposition is determined, Authorized Personnel will shred the CHRI and document the destruction on the Fingerprint and CHRI Tracking and Destruction Log (Attachment C). CHRI must be shredded by Authorized Personnel, not by any non-authorized personnel or outside contractor. Shredding by a contracted shredding company is only acceptable if observed by Authorized Personnel.
- 5.5.4.2 Secondary dissemination of CHRI is not allowed.
- 5.5.4.3 Any violation of this administrative directive is grounds for disciplinary action, up to and including termination, as set forth in the Town of Marana Personnel Policies and Procedures Section 5-5-5(S).
- 5.6 Process for obtaining fingerprints from potential and current employees, contractors, volunteers, and licensees and submission to the Arizona Department of Public Safety.
- 5.6.1 Fingerprinting should be conducted at the Marana Police Department (MPD). If fingerprinting is not conducted at the Marana Police Department, fingerprinting should be conducted in accordance with section 5.8.3 below.
- 5.6.2 Prior to submission of a fingerprint card to the FBI via DPS, applicants submitting fingerprints must be notified in writing that the fingerprints will be used to check the criminal history records of the FBI. Every applicant must be given a copy of the document entitled FBI Notification of Applicant Privacy Rights (Attachment D). Applicants must be informed that they have five days to complete and challenge the accuracy of a criminal history record. Applicants shall be notified regarding how to obtain a copy of the FBI Record. Guidelines for these procedures are contained in 28 CFR 16.34.
- 5.6.3 Fingerprint cards submitted to Arizona Department of Public Safety shall identify the applicable OCA:
- 5.6.3.1 For current and prospective Town employees, contractors or volunteers, the OCA is XX011505E.

5.6.3.2 For current and prospective massage establishment licensees, current and prospective massage establishment manager licensees, or current or prospective peddlers, the OCA is XX010150E.

5.6.3.3 For current and prospective sexually oriented business licensees and current and prospective sexually oriented business employee licensees, the OCA is XX010037E.

5.7 Training. All training must be documented on the Training Documentation Form.

5.7.1 CJIS Online Training must be completed within six months of hire or appointment to Authorized Personnel List and repeated every two years.

5.7.2 Internal training for Authorized Personnel regarding policies/procedures for handling CHRI must be completed every two years.

5.8 Fingerprinting Quality Assurance.

5.8.1 Applicants are identified using valid, unexpired photo identification as primary proof of identity. Town employees shall use the National Crime Prevention and Privacy Compact Council's *Identity Verification Program Guide* best practice recommendations.

5.8.2 When fingerprinting is conducted at the Marana Police Department, MPD staff will ensure that after fingerprinting is conducted, the fingerprint card is distributed to Authorized Personnel in the Finance Department or Human Resources Department.

5.8.3 If fingerprinting cannot be done at the Marana Police Department, the applicant will be either mailed or given a packet that contains the following:

5.8.3.1 Pre-filled fingerprint card with the employer's address, reason for fingerprint (authorization and purpose) and OCA number.

5.8.3.2 A sealable envelope pre-labeled with the employer's address and a space marked with an X on the back of this envelope for the fingerprint technician to sign on the line provided.

5.8.3.3 Applicant FBI Privacy Rights Notification.

5.8.3.4 Instructions for the applicant on how to handle and return the fingerprint card in the provided envelope.

5.8.3.5 Fingerprint technician instructions.

5.8.3.6 If the envelope shows evidence of opening or tampering, the applicant will be asked to provide another fingerprint card and authorized personnel will repeat the procedures to issue a new fingerprint card.

5.8.4 Authorized Personnel shall retain all fingerprint cards. Fingerprint cards shall not be returned to the applicant.

## 6.0 RESPONSIBILITIES

6.1 The Human Resources Department and Finance Department are responsible for maintaining any and all returned noncriminal justice fingerprints and CHRI received from DPS in a confidential manner and for ensuring that only Authorized Personnel have

access to the fingerprints and information for authorized purposes. Fingerprints shall be maintained at least as long as they may be re-used pursuant to DPS protocols.

- 6.2 The Human Resources Department is responsible for maintaining an Authorized Personnel List and ensuring that the Authorized Personnel attend both the CJIS Online Training and Internal Training required by this Directive.
- 6.3 The Parks and Recreation Department is responsible for ensuring that annual criminal history records checks are completed in a timely manner in accordance with Chapter 13-2 of Marana Town Code and the “Fingerprinting and Criminal History Records Checks of Parks and Recreation Department Personnel, Contractors, and Volunteers” Administrative Directive.
- 6.4 The Human Resources Department is responsible for paying fees charged by DPS for conducting criminal history record information checks for prospective employees upon initial hire. The Parks and Recreation Department is responsible for paying fees charged by DPS for conducting criminal history record information checks for annual resubmission of fingerprints.

## 7.0 ATTACHMENTS

- 7.1 Attachment A - Training Documentation Form
- 7.2 Attachment B - Authorized Personnel Acknowledgment Statement
- 7.3 Attachment C - CHRI Tracking Log
- 7.4 Attachment D - FBI Notification Document



**REVISION HISTORY**

	<i>DESCRIPTION OF CHANGE</i>	<i>DATE</i>
<b>OR</b>	Original Release	2/25/22

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