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A Report on

The Use of Criminal History Information by Texas State Agencies and Institutions of Higher Education

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The Use of Criminal History Information by Texas State Agencies and Institutions of Higher Education

Overall Conclusion

In an effort to determine how state agencies and higher education institutions¹ apply their statutory authority regarding criminal background checks², the State Auditor's Office compiled this report. Specifically, this report includes the results of two surveys, reviews of policies and procedures, and a benchmarking study of Texas statutory authority with the statutory authority of the four neighboring states.

The results of our surveys indicate that all but one higher education institution and half of the state agencies surveyed collect criminal history information on certain prospective and current employees, clients, students, or contractors. Additional information from our review shows the following:

Higher Education Institutions - Employee Criminal Background Checks

- Texas Government Code, Section 411.094, provides a broad definition for the term "security sensitive position" and authorizes higher education institutions to access criminal history information on applicants for these positions. Higher education institutions interpret and apply the term differently. Forty percent of the higher education institutions designate all positions as security sensitive, while others define that term more narrowly.
- Fifty-seven (98 percent) of 58 higher education institutions surveyed collect criminal history information on prospective or current employees.

Background

This report provides information on how 46 state agencies and 58 higher education institutions access and use criminal history information. This project supplements the information provided on 55 state agencies in *An Audit Report on State Agencies' Use of Criminal History Records*, (State Auditor's Office Report No. 06-049, July 2006).

For this project, the State Auditor's Office conducted two surveys: one was administered to state agencies and the other was administered to higher education institutions. All targeted agencies and higher education institutions responded to the surveys.

The State Auditor's Office also reviewed higher education institution and agency policies and procedures and identified best practices regarding criminal background checks embodied in those policies and procedures.

The office also benchmarked agency and higher education institution statutory authority with the statutory authority of the four neighboring states.

This project was a review; therefore, the information in this report was not subjected to all the tests and confirmations that would be performed in an audit.

¹ This does not include community and junior colleges.

² For the purpose of this project "accessing criminal history information" and "performing criminal background checks" are used interchangeably.

- Forty-nine (86 percent) of the 57 higher education institutions that collect criminal history information do so on all employees in the positions they identified as security sensitive.
- Forty-nine (86 percent) of the 57 higher education institutions have developed policies and procedures for performing criminal background checks on current and prospective employees.

Higher Education Institutions - Student Criminal Background Checks

- Thirty-one (65 percent) of the 48 higher education institutions that offer specific academic programs noted in our survey perform criminal background checks on students in majors that may lead to professions involving interaction with children, the elderly, patients, students, or people with disabilities.
- Fourteen (40 percent) of the 35 higher education institutions that offer education or teacher certification programs perform criminal background checks on teaching majors.
- Seventeen (55 percent) of the 31 higher education institutions that perform criminal background checks on students have developed policies and procedures for performing these criminal background checks.
- There is no state statutory requirement for higher education institutions to conduct criminal background checks on students.

State Agencies

- Twenty-one of the 46 state agencies surveyed perform criminal background checks on employees. Fourteen (67 percent) of those agencies perform checks on all types of critical positions they identified in our survey.
- Twenty-three of the 46 state agencies surveyed perform criminal background checks on employees, contractors, or clients. Seventeen (74 percent) of those agencies have developed applicable policies and procedures.

Higher Education Institutions and State Agencies

- Both agencies and higher education institutions rely largely on the less rigorous and less costly types of criminal background checks for employees, students, clients, and contractors. These types of criminal background checks include name-based checks, self-disclosure, and other methods such as using private vendors and searching public information databases.
- Agencies and higher education institutions do not always require contractors to perform criminal background checks on their employees.

In addition, results of our benchmarking indicate that Texas statutory requirements for authorizing the collection of criminal history information or requiring criminal background checks are more explicit and comprehensive than the statutes of four neighboring states.

Summary of Objective, Scope, and Methodology

The project objective was to provide descriptive information about the current authority and practices for performing criminal background checks by state agencies and higher education institutions and, if applicable, to identify items for consideration.

The scope of this project covered 58 higher education institutions and 46 state agencies not previously audited or surveyed by the State Auditor's Office regarding criminal history information.

Information regarding the authority and practices for obtaining criminal history information was obtained through the following:

- Surveying higher education institutions and state agencies not previously surveyed or audited on the subject.
- Benchmarking Texas statutory authority or requirements with statutes of four neighboring states.
- Reviewing applicable policies and procedures developed by higher education institutions and agencies.

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Detailed Results

Chapter 1

Literature Review

Recent Study on Use of Criminal History Information

According to *An Audit Report on State Agencies' Use of Criminal History Records* (State Auditor's Office Report No. 06-049, July 2006), any entity

Criminal History Record Information

According to Texas Government Code, Section 411.082, criminal history record information is "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions."

authorized by Texas statutes to access criminal history record information can obtain that information using one of the following three methods:

- The state name-based search. Using this method, a person's name is used to search in the Computerized Criminal History System--the Texas repository of criminal history data that local criminal justice agencies report to the Department of Public Safety. Name matches are the least accurate check, though it is also the least expensive (\$1 per check).
- The state fingerprint search. This type of search is run using the Automated Fingerprint Identification System (AFIS), which uses a biometric identification methodology that automates the processing of fingerprint cards reported to the Department of Public Safety. AFIS checks cost \$15 each and are considered more accurate than name-based checks.
- The Federal Bureau of Investigation fingerprint check. This type of search employs the Integrated Automated Fingerprint Identification System, which is the national criminal history and fingerprint system and contains over 47 million subjects. The Federal Bureau of Investigation system is the most comprehensive of the three types of checks, but it is also the most expensive (\$24 per check).

Texas Government Code, Chapter 411, authorizes some state agencies, as well as all higher education institutions, to access the Computerized Criminal History System at the Department of Public Safety. The authority on specific criminal background checks are often located in other parts of Texas statutes, some as permissive authority and some as mandatory authority. For example:

- The Department of State Health Services is required to conduct a criminal background check on license applicants for "a massage therapist, massage school, massage therapy instructor, or massage establishment" (Texas Occupations Code, Section 455.1525), while

Texas Government Code, Section 411.110, authorizes the agency to access criminal history record information.

- Texas Government Code, Section 411.094, and Texas Education Code, Section 51.215, specifically authorize higher education institutions to conduct checks on employment applicants for “security sensitive” positions.
- Though not listed in Texas Government Code, Chapter 411, the Texas Residential Construction Commission may conduct criminal background checks on builders’ applications with information from the Department of Public Safety, the Federal Bureau of Investigation, or other government entities (Texas Property Code, Section 416.002).

Any entity not statutorily authorized to access criminal history record information can require disclosure by the individuals it performs checks on, or it can purchase similar information from private companies, as long as the Fair Credit Reporting Act is followed. The Fair Credit Reporting Act requires consent of the person in question and imposes limits on the kind of information that can be reported (see Title 15, United States Code, Section 1681b-c).

Reports on Problems Associated with Criminal Background Checks

According to *An Audit Report on State Agencies’ Use of Criminal History Records*, (State Auditor’s Office Report No. 06-049, July 2006), agencies are not taking full advantage of their access to criminal history information. A survey conducted to supplement that audit report showed that criminal history information, especially Federal Bureau of Investigation information, has not been sufficiently used, even among agencies with authorized access. That survey found that 38 of the 54 agencies authorized under Texas Government Code, Chapter 411, to access criminal history information indicated they

performed checks on applicants for new licenses, permits, or certificates, and 20 of them performed fingerprint checks. Thirty-three agencies (61 percent) reported that they performed checks on employees and contractors. Of those 33 agencies, 10 ran applicants’ fingerprints through the Department of Public Safety or the Federal Bureau of Investigation fingerprint databases. Two agencies did not access criminal history information at all.

The July 2006 audit studied criminal background check practices of agencies explicitly authorized under Texas Government Code Chapter 411; this report focuses on practices of all higher education institutions and other agencies not covered in the July 2006 audit.

Definitions

For the purpose of this project,

- Criminal history record information (criminal history information) refers to records/information pertaining to an individual’s arrests, detentions, indictments, and other formal criminal charges and their dispositions.
- Criminal background check refers to the process of collecting criminal history for the purpose of ascertaining whether an individual is eligible to obtain or retain services or employment.
- Contracting means the practice of outsourcing with an outside entity, called the contractor, to provide a service or product that otherwise would be provided by the agency internally.

Chapter 2-A

Overview of State Agencies and Higher Education Institutions - Access Authority and Use of Criminal History Information

In September 2006, the State Auditor's Office surveyed 46 state agencies not covered by the July 2006 audit and all 58 institutions of higher education

Authority to Access Criminal History Information

All of the 54 agencies covered by the July 2006 audit are explicitly authorized under Chapter 411 of the Texas Government Code to access criminal history information at the Department of Public Safety.

In September 2006, the State Auditor's Office surveyed 46 state agencies not included in the July 2006 audit and all 58 institutions of higher education.

Twelve of these agencies have explicit authority to access criminal history information. Thirty-four agencies do not have explicit authority to access criminal history information, but they can access similar information by other means (for example, using private vendors or searching public information databases). All higher education institutions are explicitly authorized to access criminal history information on applicants for security sensitive positions.

regarding their authority and practices for criminal background checks (see Appendices 2 and 3 for the survey instruments and Appendix 4 for a list of agencies and higher education institutions that participated in the surveys).

Results of those surveys show the following:

- All but one of the 58 higher education institutions collect criminal history information on prospective and/or current employees.
- Half of the state agencies surveyed collect criminal history information on prospective employees, clients, or contractors.
- State agencies with explicit authority to obtain criminal history information are more likely to perform criminal background checks than those without this authority.

- Overall, of the 46 agencies surveyed, 21 (46 percent) indicated that they obtain criminal history information on prospective or current employees. Specifically, 11 of 12 agencies with explicit authority to obtain criminal history information perform criminal background checks on their current or prospective employees. In contrast, only 10 (29 percent) of the 34 agencies that do not have explicit authority³ perform checks on their employees.
- For comparison purposes, 61 percent of the 54 agencies surveyed in February 2006 were conducting checks on employees, contractors, or both.⁴
- While the February 2006 survey identified 70 percent of 54 agencies as performing criminal background checks on their clients (for example,

³ Explicit authority does not include general authority to access criminal history record information for information technology personnel specified in Texas Government Code, Section 411.1405.

⁴ The survey question asked in the July 2006 audit was: "When does your agency conduct criminal background checks on applicants for employment or contractors?" Therefore, establishing a breakdown between applicants and contractors is not possible for that survey. Survey respondents were free to include any type of contractors, so the contractor data from that survey does not directly compare with the data collected in September 2006.

applicants for licenses and permits), only three of the 12 agencies that have explicit authority indicated in the September 2006 survey they perform criminal background checks on clients.⁵ None of the 34 agencies without explicit authority perform criminal background checks on clients.

Table 1 summarizes agencies' and higher education institutions' access authority and use of criminal history information.

Table 1

State Agencies and Higher Education Institutions Access Authority and Use of Criminal History Information				
Individuals on Whom Criminal History Information is Obtained	Agency Survey Results ^a (February Survey 2006, N=54)	Agencies With Explicit Authority (September 2006 Survey, N=12) ^c	Agencies Without Explicit Authority (September 2006 Survey, N=34) ^c	Higher Education Institutions (September 2006 Survey, N=58)
Prospective/current employees	61% ^b (33)	91.7% (11)	29.4% (10)	98.3% (57)
Contractors' employees		8.3% (1)	11.8% (4)	44.8% (26)
Clients for agencies/ Students for higher education institutions	70% (38)	25.0% (3)	0.0%	53.4% (31)

^a Survey results are from *An Audit Report on State Agencies' Use of Criminal History Records*, State Auditor's Office Report No. 06-049, July 2006.

^b This percentage combines both agency employees and contractors.

^c Overall, 23 (50 percent) of the 46 state agencies surveyed in September 2006 conduct criminal background checks on current or prospective employees, contractors' employees, or clients.

⁵ Few respondents indicated they perform criminal background check on clients. This may be because many of the agencies surveyed do not issue licenses or permits. No conclusions were made on specific agency practices related to clients.

Higher Education Institutions - Criminal Background Checks on Security Sensitive Positions

Texas Government Code, Section 411.094, defines “security sensitive position”⁶ and authorizes higher education institutions to access criminal history information on applicants for those positions. The statute also allows the higher education institutions to access criminal history for positions in security sensitive areas designated by the institutions. To determine how the higher education institutions apply the term "security sensitive positions," the State Auditor’s Office asked whether they designate all, some, or none of their positions as security sensitive. We found that:

Security Sensitive Positions

Texas Government Code, Section 411.094, and Texas Education Code, Section 51.215, define a security sensitive position at a higher education institution as employment held by an employee who: (A) handles currency; (B) has access to a computer terminal; (C) has access to a master key; or (D) works in a location designated as a security sensitive area.

These statutes authorize higher education institutions to obtain the criminal history information of applicants for those positions.

- Generally, higher education institutions interpret and apply the term “security sensitive position” differently.
- Forty percent of the institutions, including five of nine health-related institutions, two-fifths of academic universities, one-half of system offices⁷, and one of the state and technical colleges, designate all positions as security sensitive. The remainder designate only some positions as security sensitive.

Table 2 summarizes the designation of security sensitive positions at higher education institutions.

Table 2

Designation of Security Sensitive Positions At Higher Education Institutions ^a					
Positions Designated Security Sensitive	Academic Universities (N=35)	Health-related Institutions (N=9)	System Offices (N=6)	State and Technical Colleges (N=7)	Totals (N=57)
All positions	40%	56%	50%	14%	40%
Some positions	60%	44%	50%	86%	60%
Totals	100%	100%	100%	100%	100%

^a The question on the designation of security sensitive positions was addressed only to higher education institutions.

⁶ For higher education institutions, the researchers used the term “security sensitive positions”; for state agencies, the term used was “critical positions.” The latter term was adopted from “Definition of Critical Elements For Use in University Background Check Policy Identified by Function,” *Human Resources, University of California – Irvine*, Revised December 4, 2000, <http://www.hr.uci.edu/consult/critical_elem_matrix.pdf> (September 18, 2006).

⁷ One system office indicated it does not perform any criminal background checks and did not answer the question on security sensitive positions.

For this survey, we listed 21 types of positions that appear to meet the definition of “security sensitive” and asked the higher education institutions to indicate which positions they have, which positions they consider security sensitive, and whether they require criminal background checks⁸ for those positions.

Based on the survey responses, we found that:

- Forty-nine (86 percent) of the 57 higher education institutions that perform criminal background checks do so on all employees in the positions they identified as security sensitive.
- Teaching and research positions are least likely to be designated as security sensitive; therefore, employees in these positions are the least likely to receive criminal background checks. More specifically:
 - Fifty higher education institutions have teaching positions, but only 28 designate them as security sensitive. Twenty-six of these institutions are performing criminal background checks on these positions.
 - Forty-three higher education institutions have research positions, but only 30 have designated them as security sensitive. Twenty-six of these institutions are performing criminal background checks on employees in these positions.
- Two higher education institutions have neither designated fiscal operation positions as security sensitive nor performed criminal background checks on personnel in these positions.
- Four higher education institutions do not designate information technology positions as security sensitive or perform criminal background checks on employees in these positions. Six higher education institutions do not designate academic computing positions as security sensitive or perform criminal background checks on employees in these positions. However, these positions most likely fall under the definition provided in Texas Government Code, Section 411.094.⁹

Table 3 summarizes higher education institutions’ criminal background check practices on security sensitive positions.

⁸ For the purpose of the project “accessing criminal history information” and “performing criminal background checks” are used interchangeably.

⁹ Six and seven higher education institutions, respectively, do not designate information technology and academic computing positions as security sensitive.

Table 3

Higher Education Institutions Designation of Security Sensitive Positions and Whether Criminal Background Checks Are Conducted ^a						
Position Description	Frequency Distribution (N=57)			Percentage Distribution		
	Positions Exist	Perform Criminal Background Check	Positions are Security Sensitive	Positions exist (N=57)	Perform Criminal Background Check ^b	Positions are Security Sensitive ^b
Academic computing positions	45	37	38	79%	82%	84%
Administrative support (i.e., human resources, purchasing, shipping/receiving, inventory)	57	50	53	100%	88%	93%
Child care positions	23	20	21	40%	87%	91%
Counseling positions	42	31	34	74%	74%	81%
Endowment or investment management positions	37	33	35	65%	89%	95%
Executive positions (i.e., Chancellor, Vice Chancellors, President, and Vice Presidents)	57	45	49	100%	79%	86%
Financial aid positions	50	41	44	88%	82%	88%
Fiscal operation (i.e., bursar's office, payroll, controller's office, cashier's office)	57	52	55	100%	91%	96%
Food services positions	20	16	16	35%	80%	80%
General institutional (i.e., legal and risk mgmt.)	48	39	42	84%	81%	88%
Information technology and data processing	56	49	50	98%	88%	89%
Internal auditors	39	35	38	68%	90%	97%
Laboratory support (i.e., lab technicians)	49	38	40	86%	78%	82%
Admissions, registrar, and student records	51	41	44	89%	80%	86%
Maintenance, custodial, grounds, security, campus police, transportation (drivers), utilities	52	51	52	91%	98%	100%
Research positions, including research fellows	43	26	30	75%	60%	70%
Student health services positions	39	31	33	68%	79%	85%
Teaching, including adjuncts and assistants	50	26	28	88%	52%	56%
Positions Unique to Health-related Institutions (N=9)						
Allied health (i.e., therapists, physician assist.)	7	7	7	78%	100%	100%
Insurance/billing positions	8	8	8	89%	100%	100%
Residency and clinical positions (i.e., medicine, nursing, pharmacy, and dentistry)	9	9	8	100%	100%	89%

^a Total surveyed = 58. One institution does not conduct criminal background checks.

^b Percentages for "Perform Criminal Background Check" and "Positions are Security Sensitive" are based on "Positions Exist."

Higher Education Institutions - Criminal Background Checks on Students

The survey listed 10 academic majors that may lead to professions for which graduates could interact with children, the elderly, patients, students, or people

Reasons Higher Education Institutions Obtain Criminal Background Information on Students

While most higher education institutions do not have specific authority to obtain criminal history information on students, they do:

- Obtain criminal history information in cooperation with affiliated organizations used by institutions to place their students for clinical rotation or practical training.
- Obtain criminal history information in compliance with recommendations of professional organizations (for example, the Association of American Medical Colleges).
- Use criminal history information to screen out students who may not qualify for the licensing or certification requirements to practice a profession.

Source: *NACUANOTES*, National Association of College and University Attorneys, March 10, 2006, p.2.

with disabilities. These are the programs for which higher education institutions are likely to conduct criminal background checks on students. Higher education institutions were asked to indicate which majors they offer, the majors for which checks are performed, and the types of checks they perform. They were also asked to identify other majors not listed and for which they require checks. We found that:

- No state statutory requirement exists for higher education institutions to conduct criminal background checks on students. Criminal background checks are performed mainly by the licensing authority for professions that require licenses, permits, or certificates that graduates of various majors may apply for (for example,

teacher certificates or licenses for nurses). Nevertheless, some higher education institutions do perform checks on students.

- Thirty-one (65 percent) of the 48 higher education institutions that have academic programs listed in the survey or identified by the respondents perform criminal background checks on students.
- Fourteen (40 percent) of the 35 institutions offering education or teacher certification programs indicated they conduct criminal background checks on teaching majors. Some higher education institution respondents indicated that it is the students' or the school districts' responsibility to obtain criminal history information.
- The fewest higher education institutions perform criminal background checks on students in programs that may not always lead to professions that require interaction with children, the elderly, patients, students, or people with disabilities (such as law and psychology). For example, not all psychology students end up working as licensed psychologists.

Higher education institutions rely on less rigorous and less costly forms of criminal background checks for students. Most checks performed are Department of Public Safety name-based checks, self-disclosure, and other checks through methods such as using private vendors and searching public information databases.

Table 4 summarizes the extent to which higher education institutions perform criminal background checks on students in various majors.

Table 4

Higher Education Institutions: The Majors on Which They Require Student Criminal Background Checks			
Majors Description	Whether the Institution Offers the Program (N=48) ^b	Number of Institutions that Indicate They Require Checks (N=48)	Percent of Institutions Requiring Checks
Medicine	7	7	100%
Criminal Justice, Law Enforcement, and Military ^a	7	7	100%
Allied Health	29	22	76%
Nursing	26	17	65%
Dentistry	4	3	75%
Pharmacy	8	4	50%
Education/Teacher's Certification	35	14	40%
Nutrition	13	5	38%
Social work	23	5	22%
Psychology	29	3	10%
Law	5	0	0%
Totals^c	186	87	
^a These majors were added to our survey by respondents ^b Of the 58 institutions surveyed, 50 have academic programs and 48 offer at least one of the majors indicated in the survey. Only 31 institutions perform the checks. ^c Total exceeds N due to multiple responses.			

Table 5 summarizes the types of criminal background checks that higher education institutions perform.

Table 5

Higher Education Institutions Types of Criminal Background Checks Performed on Students						
Majors ^a	Types of Criminal Background Checks (N=31)					
	FBI Fingerprint Check	DPS Fingerprint Check	DPS Name-based Check	Self-Disclosed Check	Other	Totals ^c
Allied Health	5	5	7	7	13	37
Dentistry			2	2	2	6
Education/Teacher's Certification	1	2	9	5	4	21
Criminal Justice, Law Enforcement and Military ^b	0	2	5	4	0	11
Medicine	0	0	3	2	6	11
Nursing	1	1	9	7	12	30
Nutrition	0	0	2	3	4	9
Pharmacy	0	0	2	2	4	8
Psychology	0	0	1	3	2	6
Social work	0	0	3	3	3	9
Totals	7	10	43	38	50	148

^a Law was one of the majors listed in the survey. Five institutions indicated they offer this major; however, none perform criminal background checks on law students.

^b These majors were not listed in the survey, but they were added by institutions that offer the programs and require criminal background checks on students.

^c Totals exceed the number of institutions that conduct criminal back ground checks (31) because of multiple responses.

Chapter 2-D

State Agencies - Criminal Background Checks on Employees

For the September 2006 survey, the State Auditor's Office identified 17 types of "critical positions" for which agencies are likely to obtain criminal history information on prospective or current employees. We asked the agencies that perform employee criminal background checks to identify the types of "critical positions" they have and whether they require checks on those positions. They were also asked to add any other types of positions that were not listed, but for which they require checks.

Overall, of the 46 agencies surveyed, 21 (46 percent) indicated that they obtain criminal history information on prospective or current employees.

Of the 21 state agencies that conduct criminal background checks on employees, 14 (67 percent) do so on all types of critical positions they identified in the survey.

Four (19 percent) of the 21 agencies that perform criminal background checks on employees indicated that they conduct checks on fewer than 40 percent of the types of critical positions they identified in the survey.¹⁰

Table 6 summarizes the extent to which state agencies perform criminal background checks on “critical positions.”

Table 6

State Agencies: Positions They Have and Positions for which They Perform Criminal Background Checks				
Type of Critical Positions	Frequency Distribution		Percentage Distribution	
	(N=21)		(N=21)	(N=Have Positions)
	Have Positions	Perform Checks	Have Positions	Perform Checks
Caseworkers, counselors	1	1	5%	100%
Cashiers	6	6	29%	100%
Correctional officers, security staff, game wardens, criminalists, park rangers	3	3	14%	100%
Investigators	4	4	19%	100%
Investment analysts, traders, portfolio staff	3	3	14%	100%
Nurses, pharmacists, physicians and other health care professionals or workers	1	1	5%	100%
Information technology personnel, including network specialists, database analysts, systems analysts	19	17	90%	89%
Other positions ^a	37	33	176%	89%
Internal auditors	8	7	38%	88%
Laboratory research staff, environmental, health and safety staff, and laboratory technicians	7	6	33%	86%
Executive director, senior executive officers	21	17	100%	81%
Contract specialists	15	12	71%	80%

¹⁰ Detailed comparison with the February 2006 survey is not possible because the questions in the previous survey were not position-specific.

State Agencies: Positions They Have and Positions for which They Perform Criminal Background Checks				
Type of Critical Positions	Frequency Distribution		Percentage Distribution	
	(N=21)		(N=21)	(N=Have Positions)
	Have Positions	Perform Checks	Have Positions	Perform Checks
Fiscal officers, purchasers, accounts payable staff, accountants, budget analysts	20	16	95%	80%
Inspectors	5	4	24%	80%
Property managers, custodians, housekeeping staff, or repair and maintenance staff	17	13	81%	76%
General counsels, attorneys	12	9	57%	75%
Human resource staff	19	14	90%	74%
^a Some agencies wrote in more than one "other" positions. For this report, those responses are combined.				

Chapter 2-E

Higher Education Institutions and State Agencies - Types of Criminal Background Checks They Perform

The State Auditor's Office asked agencies and higher education institutions which types of criminal background checks are being used for each type of position.

Both agencies and higher education institutions indicated that fingerprint checks, whether performed against Department of Public Safety or Federal Bureau of Investigation databases, are not widely used. Agencies and higher education institutions are relying on the less rigorous and less costly types of criminal background checks (for example, name-based checks, self-disclosure¹¹ and searches of public information or proprietary databases) for employees. For comparison purposes, the February 2006 survey showed that 23 (43 percent) of 54 agencies indicated they used Federal Bureau of Investigation or Department of Public Safety fingerprint checks.

Tables 7 and 8 outline the types of criminal background checks higher education institutions and state agencies perform, by type of positions.

¹¹ For the purposes of this project, requiring self-disclosure is considered one form of criminal background checks.

Table 7

Higher Education Institutions						
Type of Criminal Background Checks Performed, by Positions						
Type of Positions	Types of Checks (N=57)					
	FBI Fingerprint Check	DPS Fingerprint Check	DPS Name-based Check	Self-disclosure	Other	Totals ^a
Maintenance, custodial, grounds, security, campus police, transportation (drivers), utilities	4	5	45	23	15	92
Administrative support (i.e., human resources, purchasing, shipping/receiving, inventory)	0	0	45	23	14	82
Fiscal operation (i.e., bursar's office, payroll, controller's office, cashier's office)	0	0	47	22	13	82
Information technology and data processing	0	0	44	21	13	78
Executive positions (i.e., Chancellor, Vice Chancellors, President, and Vice Presidents)	0	0	40	18	13	71
Admissions, registrar, and student records	0	0	36	17	11	64
Financial aid positions	0	0	36	16	11	63
General institutional (i.e., legal and risk mgmt.)	0	0	34	15	11	60
Laboratory support positions (i.e., lab technicians)	0	0	33	17	10	60
Academic computing positions	0	0	32	17	10	59
Internal auditors	0	0	30	16	10	56
Counseling positions	0	0	26	16	8	50
Endowment or investment management positions	0	0	29	12	9	50
Student health services positions	0	0	26	14	9	49
Research positions, including research fellows	1	1	22	10	10	44
Teaching positions, including adjuncts and teaching assistants	0	0	20	10	12	42
Child care positions	0	0	16	7	8	31
Food services positions	0	0	14	8	6	28
Type of Positions Unique to Health-related Institutions (N=9)						
Residency and clinical positions (i.e., medicine, nursing, pharmacy, and dentistry)	0	0	8	2	4	14
Insurance/billing positions	0	0	7	2	4	13
Allied health (i.e., therapists, physician assist.)	0	0	6	2	3	11
Totals	5	6	596	288	204	
^a Totals exceed N because of multiple responses.						

Table 8

State Agencies					
Type of Criminal Background Checks Performed, by Positions					
Type of Positions	Types of Checks (N=21)				
	FBI ^a Fingerprint Check	DPS ^a Fingerprint Check	DPS Name- based Check	Self Disclosure	Other
Executive director, senior executive officers	2	3	11	6	4
Information technology personnel, including network specialists, database analysts, systems analysts	2	1	12	7	3
Fiscal officers, purchasers, accounts payable staff, accountants, budget analysts	1	1	11	7	3
Human resource staff	1	1	9	6	3
Property managers, custodians, housekeeping staff, or repair and maintenance staff	1		8	6	3
Contract specialists	1		8	5	3
General counsels, attorneys	1		5	5	2
Internal auditors	1		4	4	2
Correctional officers, security staff, game wardens, criminalists, park rangers	1	2	3	2	0
Cashiers			4	3	2
Laboratory research staff, environmental, health and safety staff, and laboratory technicians			5	3	1
Investigators			2	3	2
Investment analysts, traders, portfolio staff	1		1	2	2
Inspectors			2	2	1
Caseworkers, counselors				1	0
Other	1	1	23	20	5
Nurses, pharmacists, physicians and other health care professionals or workers				1	1

^a Six agencies use FBI and/or DPS fingerprint checks.

Higher Education Institutions and State Agencies - Criminal Background Checks on Contractors' Employees

The State Auditor's Office asked agencies and higher education institutions whether they require contractors to perform criminal background checks on their employees and the type of checks required. We found that:

- Only five state agencies and 26 higher education institutions require some or all contractors to perform criminal background checks on their employees. The majority of those that do checks use the less rigorous and less costly methods (for example, name-based checks).
- Two of the 5 agencies and none of the higher education institutions use Federal Bureau of Investigation or Department of Public Safety fingerprint criminal background checks.

Table 9 summarizes the scope of criminal background checks that state agencies and higher education institutions require contractors to perform on their employees.

Table 9

State Agencies and Higher Education Institutions Scope of Criminal Background Checks That Contractors Are Required to Conduct on Their Employees				
Scope of Background Checks	Frequency ^a		Percentage	
	Agency	Higher Education Institution	Agency	Higher Education Institution
	(N=46)	(N=58)	(N=5)	(N=26)
All employees assigned to work at the agency or higher education institution	1	13	20%	50%
Some employees assigned to work at the agency or higher education institution	4	7	80%	27%
Other. Varies within the same institution or agency depending on internal policies of each contractor and the type of services covered by the contract.	0	6	0%	23%
Totals	5	26	100%	100%
^a Percentage of respondents requiring contractors to check on their employees: agencies = 11%, higher education institutions = 45%.				

Table 10 summarizes the types of criminal background checks that state agencies and higher education institutions require contractors to perform on their employees.

Table 10

State Agencies and Higher Education Institutions Types of Criminal Background Checks that Contractors Are Required to Conduct on Their Employees				
Type of Background Checks	Frequency		Percentage	
	Agency	Higher Education Institution	Agency	Higher Education Institution
	(N=5)	(N=26)	(N=5)	(N=26)
FBI fingerprint checks	2	0	40%	0%
DPS fingerprint checks	1	0	20%	0%
DPS name-based checks of secured databases	1	9	20%	35%
Self-Disclosed	0	6	0%	23%
Other/varies	2	17	40%	65%
Totals ^a	6	32		

^a Totals exceed N because of multiple responses.

Chapter 2-G

Higher Education Institutions and State Agencies - Reasons for Not Performing Checks and Problems Encountered in Performing Checks

The State Auditor's Office asked the higher education institutions and agencies what problems, if any, they have encountered when obtaining criminal history information; and if they do not obtain criminal history data, why they do not do so. We found that:

- State agencies that do not perform criminal background checks indicated a variety of reasons for not doing so, including a lack of need or resources. Three-fifths of these agencies do not see any need for such information.
- Fifteen (65 percent) of the 23 state agencies and 26 (46 percent) of the 57 higher education institutions that obtain criminal history information indicated they encountered no problems. The remainder cited problems obtaining the information, such as lack of funding and lack of human resources.

Table 11 summarizes the reasons state agencies do not perform criminal background checks. Tables 12 and 13 summarize the problems state agencies and higher education institutions encounter when performing criminal background checks.

Table 11

State Agencies Reasons for Not Conducting Criminal Background Checks On Employees, Contractors' Employees, and Clients ^a		
Reasons	Frequency Distribution	Percentage Distribution (N=23)
Lack of human resources	8	34.8%
Lack of funding to perform checks	7	30.4%
Lack of statutory authority	6	26.1%
Does not need such information for employees, contractors, and clients served	14	60.9%
Other reasons	5	21.7%
Total	40	

^a The survey question was addressed only to the 23 agencies that indicated on the first survey question that they do not perform criminal background checks on employees, contractors and clients. Survey respondents could choose more than one reason.

Table 12

State Agencies Problems Encountered When Obtaining Criminal History Information On Employees, Contractors' Employees, and/or Clients ^a		
Reasons	Frequency Distribution	Percentage Distribution (N=23)
Lack of human resources	2	9%
Lack of funding to perform checks	2	9%
Other reasons	6	26%
No problems encountered	15	65%
Total	25	

^a The survey question was addressed only to the 23 agencies that indicated on the first survey question that they obtain criminal history information on employees, contractors, or clients. Survey respondents could choose more than one reason.

Table 13

Higher Education Institutions Problems Encountered When Obtaining Criminal History Information On Employees, Contractors' Employees, and/or Clients ^a		
Reasons	Frequency Distribution	Percentage Distribution (N=57 ^b)
Lack of human resources	12	21%
Lack of funding to perform checks	13	23%
Other reasons	21	37%
No problems encountered	26	46%
Total	72	

^a Survey respondents can choose more than one reason for this question.
^b One institution of higher education indicated it does not obtain criminal history information because it has few employees.

Chapter 2-H

Higher Education Institutions and State Agencies - Other Matters Related to Criminal Background Checks

The State Auditor’s Office also determined the following regarding agencies’ and higher education institutions’ criminal background check practices:

- Virtually all higher education institutions and agencies that do criminal background checks do not set up a flag in the Department of Public Safety’s Computerized Criminal History system to notify them of new arrests of any individuals on whom criminal history information has been previously obtained.¹²
- Seven higher education institutions and six agencies that perform checks obtain criminal history information from a non-citizen’s home country.
- Thirty-eight of 55 (69 percent) higher education institutions and 11 of 20 (55 percent) agencies that do checks in-house indicated their staff received training on collecting criminal history information in the previous year.

¹² Only one higher education institution and one agency have flags set up.

Agency and Higher Education Institutions: Policies and Procedures

To supplement the information obtained from the surveys, the State Auditor’s Office reviewed the policies and procedures developed by agencies and higher education institutions for conducting criminal background checks. Copies of those policies and procedures were obtained from the respondents or from

their Web sites. Tables 14 through 16 summarize the statistics on agencies and higher education institutions that perform criminal background checks and those that have related policies and procedures. Appendix 5 summarizes the typical elements contained in those policies and procedures.

<p>Policies and Procedures</p> <p>Written policies and procedures for criminal background checks help an organization:</p> <ul style="list-style-type: none"> ▪ Facilitate the achievement of stated goals. ▪ Mitigate associated risks. ▪ Ensure consistency with applicable laws, regulations and industry standards. ▪ Implement policies uniformly throughout the organization.
--

Overall, we found that:

- Forty-nine (86 percent) of the 57 higher education institutions have written policies and procedures and/or other informational publications regarding criminal background checks on prospective and current employees.
- Of the 31 higher education institutions that perform criminal background checks on students, only 17 (55 percent) have applicable policies and procedures and/or informational materials.
- Seventeen (74 percent) of the 23 agencies that conduct checks on employees, contractors, or clients have developed applicable policies and procedures.

Table 14

Higher Education Institutions - Employees	
Population	Total Higher Education Institutions
Total institutions surveyed	58
Total institutions requiring criminal background checks on prospective and/or current employees	57
Total institutions having policies and procedures for employee criminal background checks	49

Table 15

Higher Education Institutions - Students	
Population	Total Higher Education Institutions
Total institutions surveyed	58
Total institutions that have students	50
Total institutions that offer at least one of the majors listed in the survey that may likely require student criminal background checks	48
Total institutions that perform criminal background checks on students in certain majors	31
Total institutions that have policies and procedures for student criminal background checks	17

Table 16

State Agencies - Employees	
Population	Total Agencies
Total agencies surveyed	46
Total agencies conducting criminal background checks on employees, contractors, or clients	23
Total agencies that have policies and procedures for conducting criminal background checks	17

Benchmarking Texas Statutes with Those in Neighboring States

The State Auditor’s Office reviewed statutes of Arkansas, Louisiana, New Mexico and Oklahoma to determine how Texas statutes compare in terms of authorizing state agencies, higher education institutions, and other entities to access criminal history information and perform criminal background checks.

Overall, we found that Texas statutes that authorize or require the collection of criminal history information are more explicit and comprehensive than the statutes of the neighboring states in all areas reviewed.

Child Welfare Statutes

With regard to statutes pertaining to child welfare, Texas’s statutes are more explicit and comprehensive for identifying the type of checks required and on whom they must be conducted (see Table 17). Only New Mexico’s statutes are similar to Texas.¹³

Benchmarking Texas with Neighboring States

The purpose of this section is to provide information on how Texas compares to four neighboring states regarding the statutory authority provided to agencies and other entities to access criminal history information or perform background checks.

Limitations on Benchmarking

The results of this benchmarking are limited due to:

- The variability and complexity of statutory construction.
- The specificity of statutory language regarding the type of check to be performed and on whom.
- Differences in terminology (for example, among professions).
- Differences among the states in administering programs.

Additional research may be necessary to confirm certain conclusions or practices that have been identified through this research.

Table 17

Neighboring State Comparison Comparison of Statutory Authority or Requirement to Obtain Criminal History Information Child Welfare, Foster Care, Adoption, and Day Care										
	Texas		Arkansas		Louisiana		New Mexico		Oklahoma	
	Req.	Auth.	Req.	Auth.	Req.	Auth.	Req.	Auth.	Req.	Auth.
N=State name-based check; S=State fingerprint check; F=Federal (FBI) fingerprint check; T=Type not specified, but check authorized/required.)										
Child Welfare (General)^a										
Applicants	F		F		T		F			
Volunteers	F		F		T		F			
Facility Owners	F		F				F			
Foster Care										
Agency Employees ^b	F		F				F			
Facility Operators / Owners / Employees	F		F				F		F ^c	
Foster Parents	F		F		F		F		F	

¹³ The letters in all the tables in this section indicate the highest level of check required or authorized.

Neighboring State Comparison
Comparison of Statutory Authority or Requirement to Obtain Criminal History Information
Child Welfare, Foster Care, Adoption, and Day Care

	Texas		Arkansas		Louisiana		New Mexico		Oklahoma	
	Req.	Auth.	Req.	Auth.	Req.	Auth.	Req.	Auth.	Req.	Auth.
	N=State name-based check; S=State fingerprint check; F=Federal (FBI) fingerprint check; T=Type not specified, but check authorized/required.)									
Other Persons in Home	F		F		F		F		F ^d	
Adoption										
State Agency Employees ^b	F		F				F			
Adoptive Parents	F		F		F		F		F	
Other Household Members	F		F ^e		F		F		F ^f	
Child Day Care										
Center Employees	F						F		T	
Group Care Employees	F					T	F		T	
Family Home Employees	F					T	F		T	
^a Child Welfare (General) means overall care for a child in one of a number of facilities. ^b Criminal background checks required of agency employees who have direct contact with agency clients. ^c If a national fingerprint check has been performed in the past five years, only a state fingerprint check is required. ^d If the person is a resident for less than a year, a national check is required; if longer than a year, a state fingerprint check is required. ^e Required for persons in the household over 16 years of age. ^f A name-based check is performed immediately; within 5 days a state and national fingerprint background check is required.										

Adult Care Statutes

Texas statutes are also the most comprehensive and explicit for identifying the type of check required in the area of adult care (see Table 18). Arkansas's and Oklahoma's statutes are similar to Texas laws in this area.

Table 18

Neighboring State Comparison Comparison of Statutory Authority or Requirement to Obtain Criminal History Information Adult Care										
	Texas		Arkansas		Louisiana		New Mexico		Oklahoma	
	Req.	Auth.	Req.	Auth.	Req.	Auth.	Req.	Auth.	Req.	Auth.
	(N=State name-based check; S=State fingerprint check; F=Federal (FBI) fingerprint check; T=Type not specified, but check authorized/required.)									
Adult Long Term Care										
State Agency Employees	F		F						S ^a	
Long Term Care Facilities										
Applicants / Employers / Operators	F		F		T		F		S ^a	
Volunteers	F		F						S ^a	
Temporaries			F				F		S ^a	
Home Health Care										
Employers	F		F							
Employees	F		F		T		F		S ^a	
Volunteers	F									
Physical/Mental Disabilities										
State Agency Employees	F		F ^b						S ^a	
Applicants, Employers, Operators	F		F		T		F		S ^a	
Contract Staffing	F		F		T		F		S ^a	
Volunteers	F		F						S ^a	
^a Oklahoma Revised Statutes, Title 63, Article 19, Section 1950.1, references "any records maintained by the Oklahoma State Bureau of Investigation." ^b If the person is a resident for less than 5 years, a national check is required, otherwise a state fingerprint check is required.										

Public Schools

Texas statutes also compare favorably regarding the specificity of statutory citations for instructional and non-instructional positions at public schools (see Table 19).

Table 19

Neighboring State Comparison Comparison of Statutory Authority or Requirement to Obtain Criminal History Information Public Schools										
	Texas		Arkansas		Louisiana		New Mexico		Oklahoma	
	Req.	Auth.	Req.	Auth.	Req.	Auth.	Req.	Auth.	Req.	Auth.
	(N=State name-based check; S=State fingerprint check; F=Federal (FBI) fingerprint check; T=Type not specified, but check authorized/required.)									
Public Schools - Non-Instructional										
Employees		F	F		F ^a		F			F
Administrators		F			F		F			F
Principals		F			F		F			F
Fiscal Officers		F	F							F
Bus Drivers/Monitors/Aides		F	F		F		F			F
Librarians		F			F		F			F
Counselors		F			F		F			F
Volunteers		F	F							
Contractors		F					F			
Public Schools - Instructional										
Teachers		F	F		F		F		F ^b	
Substitute Teachers		F	F		F		F			F
Teacher Interns		F			F					
Teacher Trainees		F			F					
Educational Aides		F			F					F
Fine Arts Program Instructors		F			F		F			F
^a Employees reasonably expected to be placed in a position of supervisory or disciplinary authority over school children. ^b Oklahoma Revised Statutes, Title 70, Article 6, Section 190(B)(6), requires that beginning July 1, 2004, a temporary teaching certificate can be issued until background check is completed.										

Private Schools, Charter Schools and Institutions of Higher Education

Texas statutes are also more explicit and comprehensive pertaining to checks for private and charter schools in comparison to those of our neighboring states (see Table 20). Regarding higher education institutions, two items that may need further clarification are the higher education institutions' ability to

designate all positions as “security sensitive” (see also Chapter 2-B) and criminal background check requirements for nursing students or for students in other health-related professions.

Table 20

Neighboring State Comparison Comparison of Statutory Authority or Requirement to Obtain Criminal History Information for Selected Positions Private Schools, Charter Schools, and Higher Education										
	Texas		Arkansas		Louisiana		New Mexico ^d		Oklahoma ^d	
	Req.	Auth.	Req.	Auth.	Req.	Auth.	Req.	Auth.	Req.	Auth.
	(N=State name-based check; S=State fingerprint check; F=Federal (FBI) fingerprint check; T=Type not specified, but check authorized/required.)									
Private Schools										
Employees		F			F ^a					F
Bus Drivers/Monitors/Aides		F			F					F
Volunteers		F								
Contractors		F			F					
Commercial Transportation Employees		F ^b			F					
Charter Schools										
Any Person Principal to the School Proposal					T					
Governing Body		F								
Employees		F			F		F			
Bus Driver, Monitors, Aides		F			F		F			
Volunteers		F								
Contractors		F			F		F			
Commercial Transportation Employees		F ^a			F		F			
Higher Education										
All Employees						F				
Security Sensitive Positions		F ^c								
Nursing Students				T		F				
Students in Allied Health Programs				T		F				
^a Employees reasonably expected to be placed in a position of supervisory or disciplinary authority over school children. ^b Commercial Transportation Companies contract with schools to transport goods. ^c Defined by the Texas Government Code, Section 411.094. See Chapter 2-B for definition. ^d Explicit statutory authority for higher education institutions was not identified in Oklahoma and New Mexico; however, criminal background check requirements were identified on the Web sites of selected higher education institutions in each of those states.										

Various Professions

Compared to neighboring states, Texas statutes are more comprehensive for providing authority to perform checks on many professions (see Table 21). An item for statutory clarification is the authority to perform checks on professions not explicitly referenced, such as community service workers, personal care assistants, or home health aides.

Table 21

Neighboring State Comparison Comparison of Statutory Authority or Requirement to Obtain Criminal History Information for Selected Positions Various Professions										
	Texas		Arkansas		Louisiana		New Mexico		Oklahoma	
	Req.	Auth.	Req.	Auth.	Req.	Auth.	Req.	Auth.	Req.	Auth.
	(N=State name-based check; S=State fingerprint check; F=Federal (FBI) fingerprint check; T=Type not specified, but check authorized/required.)									
Health-Related Professions										
Community Services Workers										T
Personal Care Assistants			F		T					S
Home Health Aides			F		T					S
Health Care Practitioners					F					
Medical-Physicians		F	F		F		F			
Pharmacists		S	F							S
Registered Nurses		F	F		F		F			T
Practical Nurses		F	F				F			T
Nurse Aides		F ^a			T					T
Dentists		S			T					
Dental Hygienists		S			T					
Other Selected Professions										
Attorneys		F		F			F		F	
Hazardous Waste Facility Operators		S					F			
Firemen		F ^b				F ^b	F			
Law Enforcement ^c		F	I ^c		T		F			
^a Facilities are required to conduct the background checks on nurse aides in Texas. ^b In Texas and Louisiana, this includes municipal and volunteer firemen. In Louisiana, it also includes parish firemen. ^c New Mexico Statutes require Federal Bureau of Investigation criminal background checks for state patrol applicants.										

Items for Consideration

The following items are presented for further consideration:

- Overall, the higher education institutions and agencies with explicit statutory authority are performing criminal background checks on employees. This is positive because it mitigates these organizations' risk exposure and decreases the possibility of a person with questionable background accessing cash, sensitive data, or people needing protection (such as patients, minors, or the elderly). The Legislature may wish to consider whether explicit authority to access criminal history information should be extended to other agencies that currently do not have such authority.
- The broad statutory definition of the term "security sensitive positions" in Texas Government Code, Section 411.094, has resulted in many higher education institutions designating all positions at their institutions as security sensitive. The Legislature may wish to consider reviewing this definition to determine whether higher education institutions are performing the checks intended by the Legislature and whether the definition should be redefined.
- The Legislature may wish to consider reviewing criminal background check requirements on state contractors and students in certain majors (such as nursing students) and whether authority to access criminal history records should be extended.
- The Legislature may wish to consider whether there should be an explicit statutory requirement that criminal background checks be performed on certain professions such as community service workers, personal care assistants, or home health aides.
- The higher education institutions and agencies that have not adopted policies and procedures specific to criminal background checks may wish to consider reviewing the common elements that would constitute "best practices" for performing checks on employees, students, or clients (see Appendix 5 for the common elements).

It is important to note that these items and the other information in this report are based on self-reported data and literature review. The survey data has not been verified. Further study on criminal background check procedures may be needed to identify specific weaknesses in actual practices.

Appendices

Appendix 1

Objective, Scope, and Methodology

Objective

The objective of this project was to provide descriptive information about the current authority and practices for performing criminal background checks conducted by state agencies and higher education institutions and, when applicable, to identify items for consideration.

Sub-objectives included the following:

- Describe the authority and practices of performing criminal background checks among Texas state agencies and higher education institutions using data collected through surveys.
- Review pertinent policies and procedures developed by the higher education institutions and agencies to determine common themes and identify best practices consistent with applicable statutes, industry standards, and other requirements.
- Benchmark Texas statutes that authorize or require the performance of criminal background checks with the statutes of four neighboring states.

Scope

Scope for the Surveys and Review of Policies and Procedures

The two surveys and review of policies and procedures covered 58 higher education institutions and 46 agencies not included in a previous State Auditor's Office survey.

The higher education institution population consisted of 35 academic universities, 9 health-related institutions, 7 system offices, and 7 state and technical colleges.

Because the project focused on the executive branch of the state government, the following agencies were excluded from the survey:

- All legislative agencies except the State Auditor's Office.
- All state courts.
- Agencies surveyed or audited in February 2006, including those administratively under another agency that was surveyed (for example, all state schools and state hospitals).

- Agencies with fewer than 10 full-time equivalent (FTE) employees.

The agency population included seven service institutions affiliated with the Texas A&M University System; these institutions were asked to complete the agency survey because of their non-academic functions. Six trustee agencies and councils were jointly surveyed with their related agencies and, therefore, not included in the total count of agencies surveyed.

Scope of the Benchmarking of Statutes

The scope of the benchmarking effort included the statutory requirements of Texas and four neighboring states: Arkansas, Louisiana, Oklahoma, and New Mexico

Methodology

This project was descriptive-normative in nature. In addition to collecting descriptive information about the current authority and practices for performing criminal background checks, the project benchmarked Texas statutes on criminal background checks with the statutory authority of the four neighboring states and identified certain items for consideration, where appropriate.

Procedures and analyses included the following:

- Performed literature review.
- Surveyed state agencies and higher education institutions about their current authority and practices for performing and using criminal background checks.¹⁴
- Benchmarked Texas statutes on criminal background checks with statutes of four neighboring states.
- Reviewed pertinent policies and procedures developed by agencies and higher education institutions to determine (1) common practices and (2) consistency with applicable statutes, industry standards, and other requirements.

Survey procedures included the following:

- Designed and administered two separate online surveys, one for higher education institutions and the other for agencies, in September 2006.
- Reviewed survey responses automatically entered into a Microsoft Access database for consistency and completeness.

¹⁴ Questions in the two surveys were constructed similarly to provide comparisons between agencies and higher education institutions. The surveys differed slightly due to the different functions, organizations, and populations served.

- Followed up on inconsistent and incomplete answers and manually corrected answers in the database.
- Analyzed data (mostly nominal or categorical) using frequency and percentage distributions.
- Compared results with the results of the February 2006 survey, when applicable

The steps for reviewing agency and higher education institution policies and procedures included the following:

- Developed three model checklists of policies and procedures for performing and using criminal background checks: (1) agency policies and procedures for employee/client checks, (2) higher education institution policies and procedures for employee checks, and (2) higher education institution policies and procedures for student checks. Each checklist contains the elements of policies and procedures that may constitute best practices, such as purposes and specific procedure steps for conducting criminal background checks.
- To ensure consistency of the model checklists with statutes and industry standards, the checklists were developed based on statutory guidelines and standards or recommendations made by accrediting and professional organizations.
- Reviewed each agency's and higher education institution's policies and procedures and other published informational materials against the appropriate checklist to identify elements common to these organizations.
- Finalized the three sets of best-practice policies and procedures for performing checks.

The procedure for benchmarking the Texas statutory authority with the statutory authority of the four neighboring states (Arkansas, Louisiana, Oklahoma, and New Mexico) included the following:

- For neighboring states, used statutory citations from Criminal Background Checks for Non-Criminal Justice Purposes: National Overview to establish baseline statutory references for each state.
- Performed two online statutory searches on each of the four states, using the terms "background check" and "criminal history."¹⁵

¹⁵ Certain limitations exist due to the variety of terms used by the states. For example, certain statutes referenced terms such as "investigations" or "checks." For purposes of this comparison, a judgment was made regarding whether to interpret these cites as background check statutes.

- Reviewed all statutory citations for relevancy and downloaded the statutes.
- Reviewed, extracted, and grouped appropriate references into a matrix.

Project Information

This project started in April 2006 and ended in Dec. 2006. This project was a review; therefore, the information in this report was not subjected to all the tests and confirmations that would be performed in an audit.

The following members of the State Auditor's staff participated in the project:

- Carmelita Lacar, CIA, CGAP (Project Manager)
- Julie Leung (Assistant Project Manager)
- Dennis Ray Bushnell, CPA (Quality Control Reviewer)
- Daniel Wattles, MPAff, CPM (Manager)

Copy of Survey of Institutions of Higher Education: Criminal History Record Information

Below is the survey instrument the State Auditor’s Office used to survey higher education institutions in September 2006.

Survey of Institutions of Higher Education: Criminal History Record Information	
Definition of terms: For the purpose of this survey, Criminal history record information (or criminal history information) refers to records pertaining to an individual's arrests, detentions, indictments, and other formal criminal charges and their dispositions. Criminal background check refers to the process of collecting criminal history information for the purpose of ascertaining whether an individual is eligible to obtain or retain services/employment.	
1. Does your institution obtain criminal history record information (criminal history information) on employment applicants, employees (faculty or staff), students, or other individuals?	
<input type="checkbox"/>	Yes
<input type="checkbox"/>	No
2. Who obtains criminal history information for your institution? Select all that apply.	
<input type="checkbox"/>	Designated human resource staff
<input type="checkbox"/>	Campus police department
<input type="checkbox"/>	Designated staff at hiring department
<input type="checkbox"/>	Another department in your institution. Please specify: _____
<input type="checkbox"/>	Other. Please specify: _____
<input type="checkbox"/>	Third-party vendor. Please specify: _____ (skip question 2a if checking ONLY this option)
<input type="checkbox"/>	No staff designated for obtaining criminal history information. (skip question 2a)
2a. Approximately how many hours of training did each of your designated staff receive on how to collect criminal history information last year?	
<input type="checkbox"/>	0 hours per employee
<input type="checkbox"/>	1-4 hours per employee
<input type="checkbox"/>	5-8 hours per employee
<input type="checkbox"/>	9 hours or more per employee
<input type="checkbox"/>	I'm skipping this question
3. Which of the following statements about security-sensitive positions applies to your institution?	
<input type="checkbox"/>	All positions are considered security
<input type="checkbox"/>	Only selected positions are considered security

Survey of Institutions of Higher Education: Criminal History Record Information

The following questions pertain to criminal background checks performed on employees, students, and contractors.

4. We are interested in knowing whether you perform criminal background checks for positions or on students. For each item listed below, please indicate:

- a) whether your institution has these positions/offers the specified major;
- b) whether criminal background checks are performed on these employees/students; and
- c) whether positions are considered security-sensitive.

Many survey questions on subsequent pages will depend on your responses here.

Employees by Category & Position

NOTE: You may ignore the third column ("Positions are considered security-sensitive") if answering "All positions..." to Question 3.

Institutional Support

Position	Institution has at least one of these positions	Criminal background checks are performed	Positions are considered security-sensitive
Executive positions (e.g., Chancellor, Vice Chancellors, President, and Vice Presidents)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fiscal operation positions, including those at bursar's office, payroll, controller's office, cashier's office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internal auditors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Administrative support positions (such as human resources, purchasing, shipping/receiving, inventory control)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Endowment or investment management positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General institutional positions (such as legal and risk management)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information technology & data processing positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Academic

Position	Institution has at least one of these positions	Criminal background checks are performed	Positions are considered security-sensitive
Teaching positions, including adjuncts and teaching assistants	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Research positions, including research fellows	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Academic Support

Position	Institution has at least one of these positions	Criminal background checks are performed	Positions are considered security-sensitive
Academic computing positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Laboratory support positions (e.g., lab. technicians)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Survey of Institutions of Higher Education: Criminal History Record Information

Student Services			
Position	Institution has at least one of these positions	Criminal background checks are performed	Positions are considered security-sensitive
Financial aid positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Positions in admissions, registrar, and student records	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Counseling positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Student health services positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Food services positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child care positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plant Operation/Maintenance			
Position	Institution has at least one of these positions	Criminal background checks are performed	Positions are considered security-sensitive
Positions in maintenance, custodial, grounds, security, including campus police, transportation (drivers), utilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Students by Major			
Major	Institution offers this major	Criminal Background checks are performed	
Nursing	<input type="checkbox"/>	<input type="checkbox"/>	
Medicine	<input type="checkbox"/>	<input type="checkbox"/>	
Pharmacy	<input type="checkbox"/>	<input type="checkbox"/>	
Dentistry	<input type="checkbox"/>	<input type="checkbox"/>	
Nutrition	<input type="checkbox"/>	<input type="checkbox"/>	
Allied Health*	<input type="checkbox"/>	<input type="checkbox"/>	
Education/Teacher's Certification	<input type="checkbox"/>	<input type="checkbox"/>	
Social work	<input type="checkbox"/>	<input type="checkbox"/>	
Psychology	<input type="checkbox"/>	<input type="checkbox"/>	
Law	<input type="checkbox"/>	<input type="checkbox"/>	
Other major requiring criminal background checks: _____			
Other major requiring criminal background checks: _____			
Other major requiring criminal background checks: _____			
*Including but not limited to medical technology, physical therapy, occupational therapy, speech therapy, and physician's assistant.			
5. Does your institution require contractors for outsourced services to perform criminal background checks on their employees? (Outsourcing means the practice of contracting with an outside entity, called the contractor, to provide a service or product that otherwise would be provided by the institution internally.)			
<input type="checkbox"/>	Yes, on all employees the contractor assigns to provide the contracted services.		
<input type="checkbox"/>	Yes, but not on all employees assigned to provide the contracted services.		
<input type="checkbox"/>	Other. Please Specify: _____		
<input type="checkbox"/>	No, contractors are not required to perform criminal background checks on their employees assigned to provide the contracted services.		

Survey of Institutions of Higher Education: Criminal History Record Information

The following questions pertain to the employee positions and/or student majors for which you indicated your institution conducts criminal background checks.

6. On the table below, please indicate each type of criminal background check that is conducted on employees within each position. Select all that apply.

Institutional Support					
Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Executive positions (e.g., Chancellor, Vice Chancellors, President, and Vice Presidents)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Fiscal operation positions, including those at bursar's office, payroll, controller's office, cashier's office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Internal auditors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Administrative support positions (such as human resources, purchasing, shipping/receiving, inventory control)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Endowment or investment management positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
General institutional positions (such as legal and risk management)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Information technology & data processing positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Academic					
Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Academic computing positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Laboratory support positions (e.g., lab. technicians)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Survey of Institutions of Higher Education: Criminal History Record Information

Student Services					
Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Financial aid positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Positions in admissions, registrar, and student records	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Counseling positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Student health services positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Food services positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Child care positions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Plant Operation/Maintenance					
Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Positions in maintenance, custodial, grounds, security, including campus police, transportation (drivers), utilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Please note any exceptions regarding criminal background check practices for any positions listed above:

7. When does your institution perform criminal background checks on prospective and current employees? (Select all that apply.)

<input type="checkbox"/>	When an applicant is considered for a regular/contract/temporary position requiring a criminal background check.
<input type="checkbox"/>	Before an employee is transferred from a position not requiring criminal background check to a regular/contract/temporary position that requires a criminal background check.
<input type="checkbox"/>	After it is determined that criminal background data has not been previously obtained for a current employee in a regular/contract/temporary position that requires a criminal background check.
<input type="checkbox"/>	Other. Please specify: _____

Survey of Institutions of Higher Education: Criminal History Record Information

8. On the table below, please indicate (a) each type of criminal background check that is conducted for each major (select all that apply), as well as (b) when such checks are performed.

Students by Major

Major	(a) Type of Criminal Background Check Performed					(b) When is the check performed?
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-Reported by Student	Other (Please specify)	
Nursing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	For each major, respondents were asked to select one of the following: <ul style="list-style-type: none"> ▪ Before Admission to Degree Program ▪ Before Enrollment in First Clinical/Practicum Course ▪ Before Internship
Medicine	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
Pharmacy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
Dentistry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
Nutrition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
Allied Health*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
Education/Teacher's Certification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
Social work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
Psychology	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	

Please note any exceptions regarding criminal background check practices on any majors listed above:

9. For each category, how often does the institution repeat criminal background checks on the same employee? (A year equals a period of any 12 consecutive months.)

Category	At least once a year	Less than once a year	Each Time the Individual's Position or Job Responsibilities Change	Only After Institution Becomes Aware of an Arrest	Other. (Please specify):	No repeat checks
Institutional Support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Academic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Academic Support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Student Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Plant Operation/Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>

Survey of Institutions of Higher Education: Criminal History Record Information

10. How often does your institution repeat criminal background checks on the same student? (A year equals any period of 12 consecutive months.)

- At least once a year
- Less than once a year
- Each time student changes major
- Only when the institution is made aware of an arrest
- Other. Please specify: _____
- No repeat checks on students

11. What type of conviction(s) or deferred adjudication(s) could prevent an individual from obtaining or retaining employment with your institution? (Select all that apply.)

Employees by Category of Position

Category	Type of Disqualifying Convictions/Deferred Adjudications						
	Felony of 1st degree	Felony of 2nd degree	Felony of 3rd degree	State Jail Felony	Misdemeanor	Deferred Adjudication	No specific guideline.**
Institutional Support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Academic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Academic Support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Student Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plant Operation/Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

** Institution evaluates criminal history record on a case-by-case basis in relation to job responsibilities. (Please explain below.)

11a. If answering "No specific guideline" to any position category, please explain the factors you consider in evaluating the relevance of an applicant's/employee's criminal history record to job responsibilities (e.g., type of offense, age when offense was committed, time elapsed since conviction/deferred adjudication, etc.). Or enter additional comments regarding disqualifying convictions or deferred adjudications by employees in the following text box.

Survey of Institutions of Higher Education: Criminal History Record Information

12. What type of conviction(s) or deferred adjudication(s) could prevent a student from admission to/continuing in each program? Select all that apply.

Students by Major

Major	Type of Disqualifying Convictions/Deferred Adjudications						
	Felony of 1st degree	Felony of 2nd degree	Felony of 3rd degree	State Jail Felony	Misdemeanor	Deferred Adjudication	No specific guideline**
Nursing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Medicine	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pharmacy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dentistry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Nutrition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Allied Health*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Education/Teacher's Certification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Psychology	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Including but not limited to medical technology, physical therapy, occupational therapy, speech therapy, and physician's assistant.

**Institution evaluates criminal history record on a case-by-case basis in relation to the degree programs. (Please explain below.)

12a. If answering "No specific guideline" to any major, please explain the factors you consider in evaluating the relevance of a student's criminal history record to the degree program. (e.g., type of offense, age when offense was committed, time elapsed since conviction/deferred adjudication, etc.). Or enter additional comments regarding disqualifying convictions or deferred adjudications by students in the following text box.

Survey of Institutions of Higher Education: Criminal History Record Information

The following three questions pertain to criminal background checks related to contractors for outsourced services.

13. What type(s) of criminal background checks does your institution require contractors to perform? (Please check all that apply.)

<input type="checkbox"/>	FBI fingerprint check
<input type="checkbox"/>	State fingerprint check through the Department of Public Safety
<input type="checkbox"/>	Name based search through the Department of Public Safety
<input type="checkbox"/>	Self-reported by the contractor's employee
<input type="checkbox"/>	Other. Please specify: _____

14. How often does your institution require contractors to repeat criminal background checks on the same employees assigned to perform the contracted services? (A year equals a period of any 12 consecutive months.)

<input type="checkbox"/>	At least once a year
<input type="checkbox"/>	Less than once a year
<input type="checkbox"/>	Each time the contract is renewed
<input type="checkbox"/>	Only when the contractor becomes aware of a subsequent arrest of the employee
<input type="checkbox"/>	No repeat criminal background check is required
<input type="checkbox"/>	Other. Please specify: _____

15. Under the contract, what type of conviction(s) or deferred adjudication(s) could prevent a contractor's employee from working at your institution? (Check all that apply)

<input type="checkbox"/>	Felony of 1st degree
<input type="checkbox"/>	Felony of 2nd degree
<input type="checkbox"/>	Felony of 3rd degree
<input type="checkbox"/>	State Jail Felony
<input type="checkbox"/>	Misdemeanor
<input type="checkbox"/>	Deferred Adjudication
<input type="checkbox"/>	No specific guideline.**

**Institution evaluates criminal history record on a case-by-case basis in relation to job responsibilities. (Please explain below.)

15a. If answering "No specific guideline", please explain the factors you consider in evaluating the relevance of the criminal history record of a contractor's employee to the job responsibilities (e.g., type of offense, age when offense was committed, time elapsed since conviction/deferred adjudication, etc.). Or enter additional comments regarding disqualifying convictions or deferred adjudications by contractors' employees in the following text box.

Survey of Institutions of Higher Education: Criminal History Record Information

The following questions pertain to criminal background checks on employees, students, and/or contractors.

16. Are "flags" set up in the Department of Public Safety's (DPS) Computerized Criminal History system that will notify your institution of new arrests of any individuals on whom criminal history information has been previously obtained?

Yes

No (skip Question 16a)

16a. If Yes to Question 16, how does your institution follow up on the information received on new arrests? (Check all that apply)

FBI fingerprint check

State fingerprint check through Department of Public Safety

Name-based search through Department of Public Safety

Check with individual to whom information pertains

Other. Please specify: _____

Do not follow up

17. For an individual who is not a U.S. citizen, does your institution also obtain criminal history information from the individual's home country?

Yes

No

18. What problem(s), if any, have you encountered when obtaining criminal history information? Select all that apply.

Lack of human resources

Lack of funding to perform checks

Other. Please specify: _____

No problems encountered

Survey of Institutions of Higher Education: Criminal History Record Information

19. Your institution is authorized to obtain criminal history information under Texas Government Code, Section 411.094, and Texas Education Code, Section 51.215. Please identify other authority/requirements, if any, for obtaining criminal history information. (Enter all that apply.)

<input type="checkbox"/>	No other authority/requirement
Other Texas statutes:	1. Texas _____ Code, Chapter _____, Section _____ 2. Texas _____ Code, Chapter _____, Section _____ 3. _____ (for non-codified sections)
Federal statutes:	1. U.S. Code Title _____, Section _____ 2. U.S. Code Title _____, Section _____ 3. U.S. Code Title _____, Section _____
Federal regulations:	1. Code of Federal Regulations, Title _____, Section _____ 2. Code of Federal Regulations, Title _____, Section _____ 3. Code of Federal Regulations, Title _____, Section _____
Requirement(s) by an accrediting entity:	Please specify the name of the accrediting entity and the specific requirements, including chapters and/or sections: <div style="border: 1px solid black; height: 40px; width: 200px; margin: 0 auto;"></div>
Other authority/requirement:	Please specify chapters and/or sections: <div style="border: 1px solid black; height: 40px; width: 200px; margin: 0 auto;"></div>

20. Please provide us with a copy of your written policies and procedures for obtaining criminal history information, if available.

<input type="checkbox"/>	Available online at _____ (Please provide a specific URL, not the home page of your institution.)
<input type="checkbox"/>	Will email a copy to research@sao.state.tx.us
<input type="checkbox"/>	Will mail a copy to: State Auditor's Office, Attn: Audit Research and Legislative Coordination, P. O. Box 12067, Austin, TX 78711-2067
<input type="checkbox"/>	Do not have written policies and procedures

21. Please provide any other comments or feedback about the practice of criminal background checks that is not addressed above.

Copy of Survey of State Agencies: Criminal History Record Information

Below is the survey instrument the State Auditor's Office used to survey state agencies in September 2006.

Survey of State Agencies: Criminal History Record Information		
<p>Definition of terms: For the purpose of this survey, Criminal history record information (criminal history information) refers to records pertaining to an individual's arrests, detentions, indictments, and other formal criminal charges and their dispositions. Criminal background check refers to the process of collecting criminal history for the purpose of ascertaining whether an individual is eligible to obtain or retain services/employment. Outsourcing means the practice of contracting with an outside entity, called the contractor, to provide a service or product that otherwise would be provided by the agency internally.</p>		
1. Does your agency obtain criminal history information on any of the following individuals?		
Individuals	Yes	No
Prospective and/or current employees	<input type="checkbox"/>	<input type="checkbox"/>
Employees of contractors for outsourced services	<input type="checkbox"/>	<input type="checkbox"/>
Clients served	<input type="checkbox"/>	<input type="checkbox"/>
2. Who obtains criminal history information for your agency? Select all that apply.		
<input type="checkbox"/>	Designated human resource staff	
<input type="checkbox"/>	Designated staff at hiring department	
<input type="checkbox"/>	Another department in your agency. Please specify: _____	
<input type="checkbox"/>	Other. Please specify: _____	
<input type="checkbox"/>	Third-party vendor. Please specify: _____ (skip question 2a if checking ONLY this option)	
<input type="checkbox"/>	No staff designated for obtaining criminal history information. (skip question 2a)	
2a. Approximately how many hours of training did your designated staff receive on how to collect criminal history information last year?		
<input type="checkbox"/>	0 hours per employee	
<input type="checkbox"/>	1-4 hours per employee	
<input type="checkbox"/>	5-8 hours per employee	
<input type="checkbox"/>	9 hours or more per employee	
<input type="checkbox"/>	I'm skipping this question	

Survey of State Agencies: Criminal History Record Information

3. Your agency is authorized to obtain criminal history information under Texas Government Code, Section 411.1405. Please identify other authority/requirements, if any, for obtaining criminal history information. (Enter all that apply.)

<input type="checkbox"/>	No other authority/requirement
Other Texas statutes:	1. Texas _____ Code, Chapter _____, Section _____ 2. Texas _____ Code, Chapter _____, Section _____ 3. _____ (for non-codified sections)
Texas Administrative Code	1. Texas Administrative Code Title _____, Section _____ 2. Texas Administrative Code Title _____, Section _____ 3. Texas Administrative Code Title _____, Section _____
Federal statutes:	1. U.S. Code Title _____, Section _____ 2. U.S. Code Title _____, Section _____ 3. U.S. Code Title _____, Section _____
Federal regulations:	1. Code of Federal Regulations, Title _____, Section _____ 2. Code of Federal Regulations, Title _____, Section _____ 3. Code of Federal Regulations, Title _____, Section _____
Other authority/requirement:	Please specify chapters and/or sections: <div style="border: 1px solid black; height: 40px; width: 200px; margin: 10px auto;"></div>

Survey of State Agencies: Criminal History Record Information

The following questions pertain to criminal background checks performed on employees.

4. When does your agency perform criminal background checks on prospective and current employees? (Select all that apply.)

<input type="checkbox"/>	When an employment applicant is considered for a position requiring a criminal background check.
<input type="checkbox"/>	Before an employee is transferred from a position not requiring a criminal background check to a position that requires a criminal background check.
<input type="checkbox"/>	After it is determined that criminal history information has not been previously obtained for a current employee in a regular/contract/temporary position that requires a criminal background check.
<input type="checkbox"/>	Other. Please specify: _____

5. We are interested in knowing the positions for which your agency performs criminal background checks.

In the table below, please indicate:

1. Which positions exist in your agency, and
2. Whether criminal background checks are performed on these employees

Many survey questions on subsequent pages will depend on your responses here.

Employees by Category of Critical Position

Executive

Position	Agency has at least one of these positions	Criminal background checks are performed
Executive director, senior executive officers	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>

Those with extensive authority to commit the financial resources of the agency

Position	Agency has at least one of these positions	Criminal background checks are performed
Fiscal officers, purchasers, accounts payable staff, accountants, budget analysts	<input type="checkbox"/>	<input type="checkbox"/>
Contract specialists	<input type="checkbox"/>	<input type="checkbox"/>
Investment analysts, traders, portfolio staff	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>

Those with access to cash

Position	Agency has at least one of these positions	Criminal background checks are performed
Cashiers	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>

Internal auditing

Position	Agency has at least one of these positions	Criminal background checks are performed
Internal auditors	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>

Survey of State Agencies: Criminal History Record Information

Those with access to personnel information		
Position	Agency has at least one of these positions	Criminal background checks are performed
Human resource staff	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Decision makers on legal issues		
Position	Agency has at least one of these positions	Criminal background checks are performed
General counsels, attorneys	<input type="checkbox"/>	<input type="checkbox"/>
Judges	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Those ensuring legal, regulatory, and other compliance		
Position	Agency has at least one of these positions	Criminal background checks are performed
Inspectors	<input type="checkbox"/>	<input type="checkbox"/>
Investigators	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Law enforcement		
Position	Agency has at least one of these positions	Criminal background checks are performed
Correctional officers, security staff, game wardens, criminalists, park rangers	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Those with access to key secured data		
Position	Agency has at least one of these positions	Criminal background checks are performed
Information technology personnel, including network specialists, database analysts, systems analysts	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Those with direct contact with at-risk individuals (e.g., minors, senior citizens, or people with disabilities)		
Position	Agency has at least one of these positions	Criminal background checks are performed
Caseworkers, counselors	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>

Survey of State Agencies: Criminal History Record Information

Those with direct responsibility for the care/safety of individuals

Position	Agency has at least one of these positions	Criminal background checks are performed
Nurses, pharmacists, physicians and other health care professionals or workers	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>

Those holding master keys or who have direct access/ responsibility for state property of a significant value

Position	Agency has at least one of these positions	Criminal background checks are performed
Property managers, custodians, housekeeping staff, or repair and maintenance staff	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>

Those with direct access to controlled substances or bio-hazardous/toxic materials

Position	Agency has at least one of these positions	Criminal background checks are performed
Laboratory research staff, environmental, health and safety staff, and laboratory technicians	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>

If your agency conducts criminal background checks on positions within a category not listed above, please list those category(ies) and position(s) below. We may be following up with additional questions.

Survey of State Agencies: Criminal History Record Information

The following question pertains to criminal background checks performed on clients.

6. We are interested in knowing the type of clients on which your agency performs criminal background checks.

For each category of clients listed below, please indicate:

1. Whether your agency serves that category of clients,
2. The specific type of clients your agency serves, and
3. Whether you perform background checks on that category of clients.

Many survey questions on subsequent pages will depend on your responses here.

Clients Served by Category

Category of Clients the Agency Serves	Agency serves this category of clients.	Please specify the type of clients served. (e.g., the electrician's license applicants for the Dept. of Licensing and Regulation)	Criminal background checks are performed
Applicants for new license/certificate/permit	<input type="checkbox"/>	_____	<input type="checkbox"/>
Current holder of license/certificate/permit applying for renewal	<input type="checkbox"/>	_____	<input type="checkbox"/>
Clients applying for services (e.g., legal services)	<input type="checkbox"/>	_____	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	_____	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	_____	<input type="checkbox"/>

The following questions pertain to the employee positions for which you indicated your agency conducts criminal background checks.

7. On the table below, please indicate each type of criminal background check that is conducted on employees within each position. Select all that apply.

Executive

Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Executive director, senior executive officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Survey of State Agencies: Criminal History Record Information

Those with extensive authority to commit the financial resources of the agency

Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Fiscal officers, purchasers, accounts payable staff, accountants, budget analysts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Contract specialists	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Investment analysts, traders, portfolio staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Those with access to cash

Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Cashiers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Internal auditing

Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Internal auditors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Survey of State Agencies: Criminal History Record Information

Those with access to personnel information

Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Human resource staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Decision makers on legal issues

Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
General counsels, attorneys	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Judges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Those ensuring legal, regulatory, and other compliance

Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Inspectors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Investigators	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Survey of State Agencies: Criminal History Record Information

Law enforcement					
Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Correctional officers, security staff, game wardens, criminalists, park rangers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Those with access to key secured data					
Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Information technology personnel, including network specialists, database analysts, systems analysts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Those with direct contact with at-risk individuals (e.g., minors, senior citizens, or people with disabilities)					
Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Caseworkers, counselors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Survey of State Agencies: Criminal History Record Information

Those with direct responsibility for the care/safety of individuals

Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Nurses, pharmacists, physicians and other health care professionals or workers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Those holding master keys or who have direct access/ responsibility for state property of a significant value

Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Property managers, custodians, housekeeping staff, or repair and maintenance staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Those with direct access to controlled substances or bio-hazardous/toxic materials

Position	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Laboratory research staff, environmental, health and safety staff, and laboratory technicians	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Please note any exceptions regarding criminal background check practices for any positions listed above:

Survey of State Agencies: Criminal History Record Information

8. For each category, how often does the agency repeat criminal background checks on the same employee? (A year equals a period of any 12 consecutive months.)

Category	At least once a year	Less than once a year	Each Time the Individual's Position or Job Responsibilities Change	Only After Agency Becomes Aware of an Arrest	Other. (Please specify):	No repeat checks
Executive	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Those with extensive authority to commit the financial resources of the agency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Those with access to cash	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Internal auditing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Those with access to personnel information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Decision makers on legal issues	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Those ensuring legal, regulatory, and other compliance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Law enforcement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Those with access to key secured data	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Those with direct contact with at-risk individuals (e.g., minors, senior citizens, or people with disabilities)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Those with direct responsibility for the care/safety of individuals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Those holding master keys or who have direct access/responsibility for state property of a significant value	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Those with direct access to controlled substances or bio-hazardous/toxic materials	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>

Survey of State Agencies: Criminal History Record Information

9. What type of conviction(s) or deferred adjudication(s) could prevent an individual from obtaining or retaining employment with your agency? (Select all that apply.)

Employees by Category of Position

Category	Type of Disqualifying Convictions/Deferred Adjudications						
	Felony of 1st degree	Felony of 2nd degree	Felony of 3rd degree	State Jail Felony	Misdemeanor	Deferred Adjudication	No specific guideline.**
Executive	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Those with extensive authority to commit the financial resources of the agency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Those with access to cash	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internal auditing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Those with access to personnel information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decision makers on legal issues	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Those ensuring legal, regulatory, and other compliance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Law enforcement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Those with access to key secured data	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Those with direct contact with at-risk individuals (e.g., minors, senior citizens, or people with disabilities)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Those with direct responsibility for the care/safety of individuals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Those holding master keys or who have direct access/responsibility for state property of a significant value	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Those with direct access to controlled substances or bio-hazardous/toxic materials	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

** Agency evaluates criminal history record on a case-by-case basis in relation to job responsibilities. (Please explain below.)

9a. If answering "No specific guideline" to any position category, please explain the factors you consider in evaluating the relevance of an applicant's/employee's criminal history record to job responsibilities (e.g., type of offense, age when offense was committed, time elapsed since conviction/deferred adjudication, etc.). Or enter additional comments regarding disqualifying convictions or deferred adjudications by employees in the following text box.

Survey of State Agencies: Criminal History Record Information

The next four questions pertain to criminal background checks related to contractors of outsourced services. (In this section, outsourcing means the practice of contracting with an outside entity, called the contractor, to provide a service or product that otherwise would be provided by the agency internally.)

10. What is the extent of criminal background checks you require contractors to perform on their employees?

<input type="checkbox"/>	Require that criminal background checks be performed on all employees the contractor assigns to the contracted services.
<input type="checkbox"/>	Require that criminal background checks be performed on some employees the contractor assigns to the contracted services.
<input type="checkbox"/>	Other. Please specify: _____

11. What type(s) of criminal background checks does your agency require contractors to perform? (Select all that apply.)

<input type="checkbox"/>	FBI fingerprint check
<input type="checkbox"/>	State fingerprint check through the Department of Public Safety
<input type="checkbox"/>	Name based search through the Department of Public Safety
<input type="checkbox"/>	Self-reported by the contractor's employee
<input type="checkbox"/>	Other. Please specify: _____

12. How often does your agency require contractors to repeat criminal background checks on the same employees assigned to perform the contracted services? (A year equals a period of any 12 consecutive months.)

<input type="checkbox"/>	At least once a year
<input type="checkbox"/>	Less than once a year
<input type="checkbox"/>	Each time the contract is renewed
<input type="checkbox"/>	Only when the contractor becomes aware of a subsequent arrest of the employee
<input type="checkbox"/>	No repeat criminal background check is required
<input type="checkbox"/>	Other. Please specify: _____

13. Under the contract, what type of conviction(s) or deferred adjudication(s) could prevent a contractor's employee from working at your agency? (Select all that apply)

<input type="checkbox"/>	Felony of 1st degree
<input type="checkbox"/>	Felony of 2nd degree
<input type="checkbox"/>	Felony of 3rd degree
<input type="checkbox"/>	State Jail Felony
<input type="checkbox"/>	Misdemeanor
<input type="checkbox"/>	Deferred Adjudication
<input type="checkbox"/>	No specific guideline.**

**Agency evaluates criminal history record on a case-by-case basis in relation to job responsibilities. (Please explain below.)

13a. If answering "No specific guideline", please explain the factors consider in evaluating the relevance of the criminal history record of a contractor's employee to the job responsibilities (e.g., type of offense, age when offense was committed, time elapsed since conviction/deferred adjudication, etc.). Or enter additional comments regarding disqualifying convictions or deferred adjudications by contractors' employees in the following text box.

Survey of State Agencies: Criminal History Record Information

The following questions pertain to the clients for which you indicated your agency conducts criminal background checks.

14. On the table below, please indicate each type of criminal background check that is conducted on clients within each category of clients served. (Select all that apply.)

Category of Clients the Agency Serves	Type of Criminal Background Check Performed				
	FBI Fingerprint Check	State Fingerprint Check through Dept. of Public Safety	Name-based Search through Dept. of Public Safety	Self-reported by the Party Concerned (e.g., employee, employment applicants, etc.)	Other (Please specify)
Applicants for new license/certificate/permit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Current holder of license/certificate/permit applying for renewal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Clients applying for services (e.g., legal services)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Please note any exceptions regarding criminal background check practices for any clients listed above:

15. For each category of clients selected, how often does the agency repeat criminal background checks on the same individual? (A year equals a period of any 12 consecutive months.)

Category	At least once a year	Less than once a year	Each Time the Individual's Position or Job Responsibilities Change	Only After Agency Becomes Aware of an Arrest	Other. (Please specify):	No repeat checks
Applicants for new license/certificate/permit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Current holder of license/certificate/permit applying for renewal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Clients applying for services (e.g., legal services)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>

Survey of State Agencies: Criminal History Record Information

16. For each category of clients selected, indicate the type of conviction(s) or deferred adjudication(s) that could prevent an individual from obtaining services from your agency. (Select all that apply.)

Category of Client	Type of Disqualifying Convictions/Deferred Adjudications						
	Felony of 1st degree	Felony of 2nd degree	Felony of 3rd degree	State Jail Felony	Misdemeanor	Deferred Adjudication	No specific guideline.**
Applicants for new license/certificate/permit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Current holder of license/certificate/permit applying for renewal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clients applying for services (e.g., legal services)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**The agency evaluates criminal history records on a case-by-case basis in relation to the type of clients applying for a license/certificate/permit or other services from the agency. (Please explain below.)

16a. If answering "No specific guideline" to any category of clients, please explain the factors you consider in evaluating the relevance of a client's criminal history record to services available (e.g., type of offense, age when offense was committed, time elapsed since conviction/deferred adjudication, etc.). Or enter additional comments regarding disqualifying convictions or deferred adjudications by clients in the following text box.

Survey of State Agencies: Criminal History Record Information

The following questions pertain to criminal background checks performed on employees, contractors, and clients.

17. Are "flags" set up in the Department of Public Safety's (DPS) Computerized Criminal History system that will notify your agency of new arrests of any individuals on whom criminal history information has been previously obtained?

- Yes
- No (skip Question 17a)

17a. If Yes to Question 17, how does your agency follow up on the information received on new arrests? (Select all that apply)

- FBI fingerprint check
- State fingerprint check through Department of Public Safety
- Name-based search through Department of Public Safety
- Check with individual to whom information pertains
- Other. Please specify: _____
- Do not follow up

18. For an individual who is not a U.S. citizen, does your agency also obtain criminal history information from the individual's home country?

- Yes
- No

19. What problem(s), if any, have you encountered when obtaining criminal history information? (Select all that apply)

- Lack of human resources
- Lack of funding to perform checks
- Other. Please specify: _____
- No problems encountered

20. Please provide us with a copy of your written policies and procedures for obtaining criminal history information, if available.

- Available online at _____ (Please provide a specific URL, not the home page of your agency.)
- Will email a copy to research@sao.state.tx.us
- Will mail a copy to: State Auditor's Office, Attn: Audit Research and Legislative Coordination, P. O. Box 12067, Austin, TX 78711-2067
- Do not have written policies and procedures

21. Please indicate the reason(s) your agency does not obtain criminal history information.

- Lack of human resources
- Lack of funding to perform checks
- Lack of statutory authority
- Does not need such information for employees, contractors, and clients served
- Other. Please specify: _____

22. Please provide any other comments regarding your agency's practice of obtaining criminal history information that is not addressed above.

State Agencies and Higher Education Institutions That Participated in the State Auditor's Office's Survey

Table 22 lists the state agencies that participated in the State Auditor's Office's September 2006 survey regarding criminal background checks.

Table 22

State Agencies Participating in Survey		
Agency Number	Agency Name	Explicit Authority to Access Criminal History Record Information?
212	Court Administration, Texas Judicial Council Office of	No
213	Prosecuting Attorney, Office of the State	No
243	Law Library, State	No
301	Governor, Office of the	No
302	Attorney General, Office of the	Yes
303	Building and Procurement Commission	No
305	General Land Office	No
308	Auditor's Office, State	Yes
313	Information Resources, Department of	No
323	Teacher Retirement System of Texas	No
325	Fire Fighters' Pension Commissioner	No
327	Employees Retirement System	Yes
333	State-Federal Relations, Office of	No
338	Pension Review Board	No
347	Finance Authority, Public	No
352	Bond Review Board	No
356	Ethics Commission, Texas	No
357	Rural Community Affairs, Office of	No
359	Insurance Counsel, Office of Public	No
360	Administrative Hearings, State Office of	No
370	Residential Construction Commission, Texas	Yes
403	Veterans Commission	No
409	Jail Standards, Commission on	No
448	Office of Injured Employee Counsel	No
455	Railroad Commission	No
469	Credit Union Department	No
473	Utility Commission of Texas, Public	No

State Agencies Participating in Survey		
Agency Number	Agency Name	Explicit Authority to Access Criminal History Record Information?
475	Utility Counsel, Office of Public	No
477	Emergency Communications, Commission on State	No
479	Risk Management, State Office of	No
527	Cancer Council	No
529	Health and Human Services Commission	Yes
554	Animal Health Commission	No
555	Cooperative Extension, Texas	Yes
556	Agricultural Experiment Station, Texas	Yes
557	Veterinary Medical Diagnostic Laboratory, Texas	Yes
576	Forest Service, Texas	Yes
580	Water Development Board	No
592	Soil & Water Conservation Board	No
712	Engineering Experiment Station, Texas	Yes
716	Engineering Extension Service, Texas	Yes
727	Transportation Institute, Texas	Yes
781	Coordinating Board, Texas Higher Education	No
802	Parks and Wildlife Department	No
808	Historical Commission	No
813	Arts, Commission on the	No
Total Number of State Agencies that Participated		46

Table 23 lists the higher education institutions that participated in the State Auditor's Office's September 2006 survey regarding criminal background checks.

Table 23

Higher Education Institutions Participating in Survey	
Institution Number	Institution
System Administration Offices	
710	Texas A&M University System Administration and General Office
758	Texas State University System Administration
768	Texas Tech University System Administration
720	The University of Texas System Administration

Higher Education Institutions Participating in Survey	
Institution Number	Institution
783	University of Houston System Administration
769	University of North Texas System Administration
719	Texas State Technical College System Administration
Academic Universities	
737	Angelo State University
734	Lamar University - Beaumont
735	Midwestern State University
715	Prairie View A&M University
753	Sam Houston State University
755	Stephen F. Austin State University
756	Sul Ross State University
713	Tarleton State University
761	Texas A&M International University
711	Texas A&M University
751	Texas A&M University - Commerce
760	Texas A&M University - Corpus Christi
764	Texas A&M University - Texarkana
718	Texas A&M University at Galveston
732	Texas A&M University-Kingsville
717	Texas Southern University
754	Texas State University - San Marcos
733	Texas Tech University
731	Texas Woman's University
736	The University of Texas - Pan American
714	The University of Texas at Arlington
721	The University of Texas at Austin
747	The University of Texas at Brownsville
738	The University of Texas at Dallas
724	The University of Texas at El Paso
743	The University of Texas at San Antonio
750	The University of Texas at Tyler
742	The University of Texas of the Permian Basin
730	University of Houston
759	University of Houston - Clear Lake
784	University of Houston - Downtown
765	University of Houston - Victoria
752	University of North Texas

Higher Education Institutions Participating in Survey	
Institution Number	Institution
757	West Texas A&M University
741	Sul Ross State University Rio Grande
Health-related Institutions	
709	Texas A&M University System Health Science Center
739	Texas Tech University Health Science Center
785	The University of Texas Health Center at Tyler
744	The University of Texas Health Science Center at Houston
745	The University of Texas Health Science Center at San Antonio
723	The University of Texas Medical Branch at Galveston
729	The University of Texas Southwestern Medical Center at Dallas
506	The University of Texas, M.D. Anderson Cancer Center
763	University of North Texas Health Science Center at Forth Worth
State Colleges & Technical Colleges	
789	Lamar Institute of Technology
787	Lamar State College - Orange
788	Lamar State College - Port Arthur
923	Texas State Technical College - Harlingen
926	Texas State Technical College - Marshall
925	Texas State Technical College - Waco
924	Texas State Technical College - West Texas
Total number of higher education institutions that participated	58

Best Practices for Performing Criminal Background Check: Policies and Procedures

Table 24 lists the typical elements of the policies and procedures that higher education institutions have developed for performing criminal background checks on their employees.

Table 24

Typical Elements of Higher Education Institutions' Policies and Procedures For Performing Criminal Background Checks on Employees		
Typical Elements	Total Number of Higher Education Institution Policies and Procedures that Have the Specific Element (N=49) ^a	Examples/Sources of Support for the Policies and Procedures
Purposes		
To protect the institution, employees, and students' assets from loss due to fraud, abuse or misuse by employees.	19	Best business practice. ^b
To promote safe working environment or safe campus.	21	Best business practice.
To provide the institution with defense against negligent hiring lawsuits.	1	Best business practice.
Specific Policies and Procedures		
Specify security sensitive positions requiring criminal background checks in job descriptions and advertisements for the positions.	49	Texas Education Code, Section 51.215 (c).
Specify the type of checks required for each position.	20	Texas Education Code, Section 51.215 (c); Texas Government Code, Section 411.087; Texas Government Code, Section 411.135.
Require the employer to obtain the applicant/employees' informed consent before conducting the background check.	31	Best business practice and Fair Credit Reporting Act.
Specify the consequences of refusing to submit to criminal background check or falsifying information on applications.	23	Texas Education Code, Section 51.215 (a).
Protect individuals' rights. ^c	42	Equal Employment Opportunity Commission Guidance on Race and Color Discrimination and Texas Government Code, Section 411.087(d)(3).
Allow individuals to review results of criminal background check and to request correction, if necessary.	7	Title 28, Code of Federal Regulations, Sections 50.12 and 16.34 and the Fair Credit Reporting Act.
Protect individuals' privacy rights by establishing procedures for using, storing, disclosing, and destroying criminal history information.	42	Texas Government Code, Sections 411.084- 411.085, regarding use and disclosure of criminal history information from the Department of Public Safety and Title 28, Code of Federal Regulations, Section 20.33 regarding FBI checks.

Typical Elements of Higher Education Institutions' Policies and Procedures For Performing Criminal Background Checks on Employees		
Typical Elements	Total Number of Higher Education Institution Policies and Procedures that Have the Specific Element (N=49) ^a	Examples/Sources of Support for the Policies and Procedures
Specify parties responsible for performing key responsibilities related to criminal background checks.	40	Best business practice by assigning specific responsibilities to employees and Texas Government Code, Section 411.094(e) (regarding destruction of criminal history information).
<p>^a The State Auditor's Office surveyed 58 higher education institutions. Of those institutions, 57 perform checks on employees and 49 have applicable policies and procedures.</p> <p>^b Best business practice of proactively identifying business risks and mitigating those risks by implementing appropriate guidelines and actions.</p> <p>^c Protect individuals' rights against discrimination by developing and implementing policies and procedures for performing criminal background checks that are consistent with statutory guidelines before making hiring decision.</p>		

Table 25 lists the typical elements of the policies and procedures that higher education institutions have developed for performing criminal background checks on students.

Table 25

Typical Elements of Higher Education Institutions' Policies and Procedures For Performing Criminal Background Checks on Students		
Typical Elements	Total Number of Higher Education Institution Policies and Procedures That Have the Specific Element (N=17) ^a	Examples/Sources of Support for the Policies and Procedures
Purposes		
To abide by the policies and requirements of affiliated organizations. ^b (The end purpose may be to screen out from a degree program those students who may not meet the requirements for a license to practice a profession.)	13	Policies and requirements of affiliated organizations.
To implement the standards or recommendations promulgated by professional organizations such as: the Association of American Medical Colleges (AAMC) and the Accreditation Council for Pharmacy Education (ACPE). ^c	0	AAMC's recommendation for medical schools to conduct checks on admitted applicants (The Association of American Medical Colleges, August 26, 2005). ACPE accreditation standards require pharmacy schools to publish a criminal background check policy. ACPE requires pharmacy colleges and schools that do not yet have a statement or policy on criminal background checks to develop one by July 2007 to be in compliance with the standards. (American Association of

**Typical Elements of Higher Education Institutions' Policies and Procedures
For Performing Criminal Background Checks on Students**

Typical Elements	Total Number of Higher Education Institution Policies and Procedures That Have the Specific Element (N=17) ^a	Examples/Sources of Support for the Policies and Procedures
		Colleges of Pharmacy, November 2006)
When Checks are Conducted		
During the process of admission to a degree program (e.g., after making the admission decision but before informing the student of such decision).	9	Suggested by the National Association of College and University Attorneys (March 10, 2006, p. 3).
Before starting the first major course that requires background check (e.g., practicum, clinical rotation).	10	Policies and requirements of affiliated organizations.
Specific Policies and Procedures		
Inform applicants about degree programs requiring criminal background checks.	18	Best business practice and Texas Education Code, Section 51.805(d). ^d
Specify disqualifying criminal history.	11	Best business practice and Texas Education Code, Section 51.805(d).
Specify the cost of the criminal background check and who pays for it.	17	Best business practice and Texas Education Code, Section 51.805(d).
Specify consequences of significant findings of criminal background checks and/or falsification of information on the application form.	8	Best business practice and Texas Education Code, Section 51.805(d).
Obtain student's informed consent prior to conducting a criminal background check.	9	Best business practice; Fair Credit Reporting Act.
Allow students to review the results of criminal background checks and to request correction if necessary.	9	Family Educational Record Privacy Act.
Allow student to appeal unfavorable admission decision due to criminal background check results.	8	Best business practice.
Protect students' privacy rights particularly with regard to use, storage, disclosure, and destruction of criminal history information.	8	Family Educational Record Privacy Act.
<p>^a The State Auditor's Office surveyed 58 higher education institutions. Of those institutions, 50 have academic programs and 31 conduct student criminal background checks; however, only 17 have applicable written policies and procedures.</p> <p>^b Affiliated organizations are those used by institutions to place their students for practical training. Policies and requirements of those organizations regarding student criminal background checks are usually driven by statutes and industry standards. For example, school districts have increasingly required checks on prospective employees and volunteers (including students) based on their authority under Texas Education Code, Section 22.083, and Texas Government Code, Section 411.097. Similarly, hospitals and other health facilities have increasingly required checks on employees and volunteers in keeping with standards set by the Joint Commission on Accreditation of Health Organizations (JCAHO) and their authority to conduct criminal background checks under Texas Government Code, Section 411.136.</p> <p>^c The recommendation by the Association of American Medical Colleges is relatively recent (August 26, 2005), which may be a reason it is not yet reflected in the higher education institutions' policies and procedures we reviewed. Similarly, the accreditation standard regarding criminal background checks on students, promulgated by the Accreditation Council for Pharmacy Education, was adopted only on January 15, 2006 (Accreditation Council for Pharmacy Education, January 2006).</p> <p>^d Texas Education Code, Section 51.805(d), requires the publication of factors considered in making admission decisions, not later than one year before the date the applications are considered.</p>		

Table 26 lists the typical elements of the policies and procedures that state agencies has developed for performing criminal background checks on employees and clients.

Table 26

Typical Elements of State Agencies' Policies and Procedures for Performing Criminal Background Checks on Employees and Clients		
Typical Elements of Policies and Procedures	Total Number of Agency Policies and Procedures That Have the Specific Element (N=17) ^a	Examples/Sources of Support for the Policies and Procedures
Purposes^b		
Protect an agency's assets from loss (due to fraud, abuse, or misuse by agency employees).	5	Best business practice.
Promote safe environment for both employees and clients.	5	Best business practice.
Provide the agency with defense against negligent hiring lawsuits or negligence in the conduct of licensing, permitting, or certifying process. ^c	0	Best business practice.
Specific Procedures		
Specify the positions requiring criminal background checks or the individuals subject to criminal background checks usually in job advertisements or requirements for license, permit, or certification.	17	Various statutes. ^d
Specify the type of criminal background checks required of individuals (usually depending on the position or license applied for and the individual's previous residence).	14	Various statutes. ^d
Specify part(ies) responsible for performing key actions/responsibilities related to criminal background checks.	11	Best business practice.
Protect individuals' rights against discrimination through proper timing of the criminal background checks and appropriate review of the criminal history information using statutory guidelines.	15	Equal Employment Opportunity Commission Guidance on Race and Color Discrimination and Texas Government Code, Section 411.1405(e).
Obtain the written consent of the individual subject to a criminal background check.	7	Best business practice, Fair Credit Reporting Act.
Specify the consequences of the individual's (1) refusal to submit to criminal background check and/or (2) falsification of criminal history information.	10	Various statutes. ^d
Protect individuals' privacy rights by establishing procedures for using, storing, disclosing, and destroying criminal history information.	13	Texas Government Code, Sections 411.084-411.085, and various agency-specific statutes.
Allow individuals to review the results of criminal background checks and to request correction, if necessary.	9	Fair Credit Reporting Act and Title 28, Code of Federal Regulations, Section 50.12 if FBI checks.
^a The State Auditor's Office surveyed 46 agencies, 23 of which indicated they perform criminal background on employees, contractors, or clients. Of those 23, 17 (74 percent) have developed policies and procedures for conducting criminal background checks.		

**Typical Elements of State Agencies' Policies and Procedures
for Performing Criminal Background Checks on Employees and Clients**

Typical Elements of Policies and Procedures	Total Number of Agency Policies and Procedures That Have the Specific Element (N=17) ^a	Examples/Sources of Support for the Policies and Procedures
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^b Although we did not review the policies and procedures of the 54 agencies surveyed in February 2006, it may be noted that 70 percent of those agencies perform criminal background checks on their clients, (e.g., applicants for initial issuance or renewal of a license, permit, or certificate).

^c None of the agency policies and procedures we reviewed included this purpose for performing criminal background checks. Nevertheless, it is included here for consideration by agencies that may have high risk exposure to negligence lawsuits due to the nature of their functions and services.

^d Texas has various statutes authorizing state agencies to access criminal history information as identified in Chapter 4 of this report. A number of those statutes also provide guidelines for management and use of information obtained.

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