

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



December 30, 2003

ALL COUNTY LETTER NO. 03-55

TO: ALL COUNTY WELFARE DIRECTORS
ALL ELIGIBILITY SUPERVISORS
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
ALL COUNTY LICENSING PROGRAM MANAGERS
ALL CHIEF PROBATION OFFICERS

SUBJECT: RETENTION AND STORAGE OF CRIMINAL BACKGROUND AND CHILD
ABUSE CENTRAL INDEX CLEARANCE RESULTS

REFERENCE: 45 Code of Federal Regulations 74.53, Health and Safety Code Sections 1522
and 1522.1, Manual Policies and Procedures (MPP), Division 31, Sections 31-
075.3(j) and 31-075(s)(9)

The purpose of this letter is to inform all counties that they must retain criminal background and Child Abuse Central Index (CACI) clearance results obtained on foster parents and other individuals living in homes licensed and approved by county welfare departments **for at least three years after the home is no longer in use.**

Findings made in the recent federal Title IV-E Review indicated that some counties were destroying criminal background (i.e, California Law Enforcement Telecommunications System, Department of Justice (DOJ) and Federal Bureau of Investigation fingerprint checks) and CACI clearance results immediately following the issuance of a license or approval. Their decision to do this was based on a DOJ Information Bulletin dated December 19, 2002, which stated in part:

“Retention of CORI [Criminal Offender Record Information] is permissible if, after making its initial employment, licensing, or certification decision, the agency has a legitimate business need for the information and there are no statutory requirements to destroy such information...The DOJ recommends that agencies destroy CORI when the business need has been fulfilled.”

The Health and Safety Code Sections 1522 and 1522.1 require that as a condition of licensure individuals must undergo a criminal background and CACI clearance check. The federal Department of Health and Human Services, Administration for Children and Families has maintained that criminal background and CACI clearance information should be retained for at least three years after the home is no longer in use pursuant to 45 CFR 74.53.

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by
One or More Counties
- Initiated by CDSS

California Department of Social Services (CDSS) staff met with DOJ personnel to discuss this matter and was informed by DOJ that CDSS has the discretion to determine when there is no longer a business need for maintaining criminal background results. The actual intent of the DOJ Information Bulletin dated December 19, 2002, was to provide agencies with the option to set their own retention period based upon their own individual needs. Therefore, CDSS is requiring that all counties retain criminal background and CACI clearance results for at least three years after the home is no longer in use pursuant to 45 CFR 74.53.

STORAGE OF INFORMATION

According to MPP, Division 31, Sections 31-075(j) and 31-975(s)(9), counties may store criminal background and CACI clearance results of foster parents and other individuals licensed and approved by the county in the child's case file. Counties also have the option to store the information in the child's caregiver's licensing or approval file.

Files containing criminal background and CACI clearance results shall be located in a secure environment only to be accessed by authorized personnel and to be used for the performance of their official duties. Authorized personnel are those that have completed a fingerprint background/record check pursuant to California Code of Regulations, Title 11, Division 1, Sections 701 and 707(b). Files are to be locked outside of normal business hours. This storage policy was developed in conjunction with DOJ.

If you have any questions regarding this letter, please contact your Foster Care Eligibility representative at (916) 657-1912.

Sincerely,

Original Document Signed By:

SYLVIA PIZZINI
Deputy Director
Children and Family Services Division

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