

DEPARTMENT OF PUBLIC SAFETY

DEPARTMENT ADMINISTRATION POLICY AND PROCEDURES

EFFECTIVE DATE: | POLICY NO.: October 8, 2021

ADM.03.05

SUPERSEDES (Policy No. & Date): "NEW"

SUBJECT:

LIVE SCAN AND RECORD OF ARREST AND **PROSECUTION BACKGROUND SERVICE**

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1.0 PURPOSE

Live Scan will be used to assist the Department of Public Safety (PSD) Human Resources Office secure a criminal background check prior to employment, licensure or certification which provides an important resource in the evaluation and the suitability of a prospective staff member and continuous employment of its current staff members.

Record of Arrest and Prosecution Background (RAP Back) Service is an extension of a fingerprint based criminal history record check. It allows the Department to receive notification of subsequent criminal justice events so that the Department can make timely decisions on the suitability, license, or certification of prospective and current staff members.

2.0 SCOPE

This policy applies to all staff, prospective staff, contractors, and volunteers in all positions with the Department of Public Safety.

3.0 REFERENCES, DEFINITIONS & FORMS

.1 References

- Hawai'i Revised Statutes (HRS), §26-14.6, Department of Public Safety. а.
- b. HRS, §26-38, Powers and Duties of Heads of Departments.
- HRS, §353C-2, Director of Public Safety, Powers and Duties. C.
- d. HRS, 846-2.7 (b) Criminal History Records Check.
- Hawai'i Administrative Rules (HAR) § 23-10, Suitability Determinations e. for Staff Members and Prospective Staff Members.
- f. Criminal History Record Checks (CHRC) for Non-Criminal Justice Purposes Policy and Manual, Version 2.1, August 2019, Hawai'i Criminal Justice Data Center (HCJDC).

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g. Federal Bureau of Investigation Privacy Impact Assessment for the Next Generation (NGI) RAP Back Service, Issued by Ernest J. Babcock, December 15, 2016.

.2 Definitions

- a. Certification the action or process of providing someone with an official document attesting to a status or level of achievement.
- b. Criminal Background Check A process used to verify that a person is who they claim to be and provides an opportunity to check a person's criminal record, education, employment history, and other activities that happened in the past in order to confirm their validity.
- c. Licensure the granting or regulation of licenses, as for professionals.
- d. Live Scan Fingerprinting refers to both the technique and the technology used by law enforcement agencies and private facilities to capture fingerprints electronically.
- e. Next Generation Identification (NGI) provides the criminal justice community with the world's largest and most efficient electronic repository of biometric and criminal history information.
- f. Prospective Staff a person who is under final consideration for a position with PSD.
- g. Record of Arrest and Prosecution Background (hereafter "RAP Back") a subscription service that employers may use to continuously monitor their employee's criminal and arrest records by receiving alerts from the FBI if there are any additions to an employee's FBI records.
- h. Subscribed Individual can be any of the following -

Staff Member – Any person who is employed by PSD.

Volunteers and Contractors will be differentiated by a designation on their identification card.

Volunteer – An individual who donates time and effort on a recurring basis to enhance the activities and programs of the department.

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Contractor – A person who provides services on a recurring basis pursuant to a contractual agreement with the department.

.3 <u>Forms</u>

- a. PSD 1400 Rev.10/08/2021, Request, Consent and Notification for Fingerprint Clearance for State Civil Service, Non-Civil Service and Exempt Employment Forms Packet (attached).
 - 1. Fingerprinting Data (page 1)
 - 2. Applicant Data (page 3)
- b. Privacy Act Statement, as of 01/09/2020 (page 2) (attached).

4.0 POLICY

- .1 Criminal Background and Records Check is mandatory for employment and continued employment with the Department of Public Safety, the schedule is determined by statutory requirements and liability concerns for PSD.
- .2 A subscription to the RAP Back Service shall be established for continued noncriminal justice monitoring purposes.
- .3 All information received is confidential and only authorized staff shall be allowed access and/or to receive notification.
- .4 Authorized staff shall be as determined by the Criminal Justice Data Center (CJDC), Department of Public Safety (PSD), and Department of Human Resources Development (DHRD).

5.0 PROCEDURES

- .1 Live Scan
 - a. Prospective Staff

Each prospective staff member for whom an appointment is being processed shall be live scanned by authorized staff.

1. Obtain written consent from the applicant to be live scanned (fingerprinted).

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- a) The prospective staff member shall consent, sign and date:
 - i. PSD 1400 Request, Consent, and Notification For Fingerprint Clearance For State Civil Service, Non-Civil Service and Exempt Employment Forms Packet
 - Applicant Data (pages 3 11)
- b) Staffing and Technical Services (STS) Recruitment Staff shall fill out:
 - Fingerprinting Data section
- b. Staff
 - 1. The consent to obtain and retain fingerprint data obtained when initially hired, or any subsequent update, is applicable for the duration of employment with PSD.
- .2 Fingerprinting Requirement (In accordance with HAR § 23-10-4)

Staff members and prospective staff members shall be fingerprinted for the purpose of complying with the criminal history records check. The department shall refuse to hire or shall terminate any person, who fails to comply or cooperate with fingerprinting requirements.

- .3 RAP Back Service
 - a. Subscriptions
 - 1. The authority to participate in the RAP Back Service subscription is based on HRS §846-2.7, with continuing authority to receive criminal history record information on the employee.
 - 2. The individual shall be actively employed by, volunteering with, or contracted by PSD.
 - 3. The subscription may only be created after the individual has successfully passed the initial suitability clearance.

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b. Triggering Events

The following are some of the possible triggering events, but are not limited to the following:

An email notification will be initiated when a staff member, volunteer or contractor is:

- 1. Arrested;
- 2. Disposition, updates of information on an existing criminal arrest;
- 3. NCIC Want/Immigration Violator;
- 4. NCIC National Sex Offender Registry;
- 5. Death, when the FBI receives a death notice and associates it with a subscribed individual.
- c. Notification

When a triggering event occurs on a "subscribed individual," the Departmental Human Resources Officer (DHRO) or their designee will be notified via email verifying current employment.

The DHRO or their designee will verify via email whether the subscribed individual is still employed by PSD or is a volunteer or a contractor with the department before the information can be sent.

- d. Validating a Subscription with the RAP Back Service
 - 1. The DHRO or their designee shall ensure all subscriptions be revalidated every five (5) years to ensure authorization to receive criminal history information on the subscribed individual.
 - 2. Subscriptions are automatically set to expire on the fifth-year anniversary of the subscription creation date.
 - 3. Failure to validate a subscription by the expiration date will result in the automatic cancellation of the subscription.

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e. Cancelling a subscription

FBI policy dictates that a subscription shall be cancelled within five (5) business days from acknowledgment that the individual is no longer volunteering with, contracting with, or employed by, PSD.

This will be accomplished electronically to the HCJDC Help Desk with a reply requested to confirm the request has been received and the action taken on the request.

f. Confidentiality

Information received from the RAP Back Service is considered confidential criminal history record information and held to the same security standards and policies of PSD.

g. Audits

All necessary documents and written policies shall be maintained to comply with State and FBI audits.

As previously stated, this policy applies to all staff, prospective staff, contractors, and volunteers in all positions with the Department of Public Safety.

APPROVAL RECOMMENDED:					
Deputy Director for Administration	<u>October 8, 2021</u> Date				
7					
	<u>October 8, 2021</u>				
Deputy Director for Corrections	Date				
Andton	October 8, 2021				
Deputy Director for Law Enforcement	Date				
APPROVED:					
MCA	October 8, 2021				
DIRECTOR	Date				



REQUEST, CONSENT AND NOTIFICATION FOR FINGERPRINT CLEARANCE FOR STATE CIVIL SERVICE, NON-CIVIL SERVICE AND EXEMPT EMPLOYMENT

Applicant's Full Nar	ne:			
	Last		First	Middle
Division/Branch:		Position	Title:	Posn #
Initial Probation	New Probation	Exempt	🗌 89-Days Hire	TAOL Temporary
		FINGERPRINT be completed by the f		
Type of ID checked	:	vt-issued ID Card, US	I.D. # Military card, US/foreign pas	sport, Permanent resident card, etc)
	· · · · · · · · · · · · · · · · · · ·			
Signature:	nch/Section Representative/F			Date:
(DPS- Facility/Bra	nch/Section Representative/F	Recruiter or Fingerprir	t Agency Representative)	
Fingerprinting Agen (Pi	ICY:	esentative name &/or	Pho Dept company stamp here)	one Number:
	EL	ECTRONIC D	ATA SEARCH	,
	(To be completed by the	e Dept. of Public Safe	ty/Hawai'i Criminal Justice D	ata Center)
Completed By:			1	Date:
(for Dep	ot. of Public Safety, Suitability))		
			DF SUITABILITY Dept of Human Resources I	Development)
🔲 Suitable – Appli	cant recommended _			
Undetermined –	Applicant put in abe	yance		
A				
Approved By:	or Dept of Public Safety, Staffi	ing & Technical Svcs)	Date	
):
(DI	PS DHRO &/or DPS DIR &/or	DHRD)		



Privacy Act Statement

This privacy act statement is located on the back of the FD-258 fingerprint card.

Authority: The FBI's acquisition, preservation, and exchange of fingerprints and associated information is generally authorized under 28 U.S.C. 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Pub. L. 92-544, Presidential Executive Orders, and federal regulations. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

Principal Purpose: Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based background checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

Routine Uses: During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited to, disclosures to: employing, governmental or authorized non-governmental agencies responsible for employment, contracting, licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or publicsafety.

As of 01/09/2020

Signature

Print or Type Name

Date Signed



REQUEST, CONSENT AND NOTIFICATION FOR FINGERPRINT CLEARANCE FOR STATE CIVIL SERVICE, NON-CIVIL SERVICE AND EXEMPT EMPLOYMENT

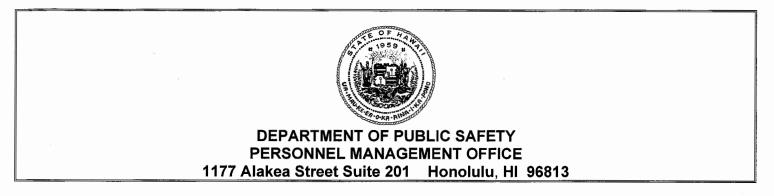
APPLICANT DATA

Applicant – Please print (black ink) or type all requested information. This information is now REQUIRED from each applicant for which fingerprints are submitted to the Hawai'i Criminal Justice Data Center (HCJDC) and the Federal Bureau of Investigation (FBI). Carefully read the certification statement, relevant section of the Code of Federal Regulations, and Privacy Act Statement, then sign and date page 4.

Pursuant to HRS §78-2.7, HRS §353C-5 and HAR §23-10, the State of Hawaii and/or Dept. of Public Safety are required to ensure the reputable and responsible character of applicants and employees, which shall include a criminal history record check. To determine a selectee's prospective or continued employment suitability, the Department of Human Resources Development (DHRD) and/or Public Safety (DPS) shall conduct an evaluation, which may include reviewing information from the FBI National Crime Information Center (NCIC), US Dept. of Justice National Sex Offender Public Registry (NSOPW), HCJDC and the Judiciary Information Management Systems (JIMS).

Any Alias(es) / Previous name(s), including Maiden Name:

Last	First	Middle	Last	First	Middle
Social Security Number:	Height (Feet, Inches):		Place of Birth: (City, State of	r Town, Village, Province &	Country)
	ft.	inches			
Date of Birth:	Weight (lbs.)		Citizenship (Name of Counti	ry)	
Sex:	Eye Color:		Race:	Hair Color:	
M 🗌 F 🗌 X 🗌					
Address:	idence; do not list PO Box	_ City:	Sta	te: Zip Coo	le:
Flace of Nes					
Phone Numbers: Primary:			Alternate:		
E-mail Address:					



APPLICANT'S PERSONAL HISTORY QUESTIONNAIRE

Please fill out this questionnaire completely and accurately. **Failure to do so may result in a delay of your background investigation.** Please type or print clearly in black ink.

All statements in this questionnaire ARE SUBJECT TO VERIFICATION. Any misstatements or omissions of material facts herein may cause disqualification from the employment process and forfeiture of all rights to any employment in the service of the State of Hawai'i &/or Dept. of Public Safety. If the space provided here is inadequate, use additional sheet(s) as necessary.

1. PRIOR ADDRESSES

List all **physical residences** beginning with your current to eighteen (18) years of age.

	From	То	Address
a.		PRESENT	Street Address
			City, State, Zip Code
b.			Street Address
C.			City, State, Zip Code
0.			Street Address
d.			City, State, Zip Code
			Street Address City, State, Zip Code
e.			Street Address

City, State, Zip Code



Prior Addresses: List all physical residences (continued) From То Address f. _____ _____ Street Address City, State, Zip Code g._____ Street Address City, State, Zip Code h. _____ Street Address City, State, Zip Code i. _____ Street Address City, State, Zip Code j._____ Street Address City, State, Zip Code _____ k. Street Address City, State, Zip Code . I. Street Address City, State, Zip Code m. _____ Street Address

City, State, Zip Code



2. MILITARY SERVICE

3.

Branch of Service:	Service No.
Last Rank Held:	Type of Discharge
Service Dates (From & To)	Member of a Guard or Reserve Unit?
	YES NO
ATTAC	CH A COPY OF YOUR DD-214
EDUCATION: List all High Schools and Colleg	ges attended, beginning with the most recent.
a Complete Name of School	Field of Study:
Street Address	Degree Earned:
City/State/Zip Code	Year Attended (From & To):
b Complete Name of School	Field of Study:
Street Address	Degree Farned
City/State/Zip Code	Year Attended (From & To):
C Complete Name of School	Field of Study:
Street Address	Degree Earned:
City/State/Zip Code	Year Attended (From & To):
d.	Field of Study:
Complete Name of School	Degree Earned:
City/State/Zip Code	Year Attended (From & To):
	IONAL SHEETS IF SPACE IS NEEDED



4. <u>REFERENCES</u>

Please provide references with complete names, physical addresses, daytime phone numbers and email addresses.

Non-Relatives: List 3 persons willing to provide personal/professional character information: DO NOT LIST FORMER / CURRENT SUPERVISORS AND EX-SPOUSES / PARTNERS.

a.		Relationship:
	First, Middle, Last Name	
		Phone No.: ()
	Number, Street, City, State, Zip Code	
		Email Address:
b.	First, Middle, Last Name	Relationship:
		<u>-</u> , , , , ,
	Number, Street, City, State, Zip Code	Phone No.: ()
		Email Address:
c.		Relationship:
	First, Middle, Last Name	
		Phone No.: ()
	Number, Street, City, State, Zip Code	
		Email Address:



PERSONAL DECLARATIONS.

If you answer "yes", please explain in the space provided. Use additional sheet(s) as necessary. (if the job you are being hired for does not require the use of a firearm, please check Not Applicable, N/A for A & B and answer C - F below.

A.	This job requires you to carry a firearm. Do you have any reasons or beliefs, which would prevent you from fully performing your duties?
В.	If it becomes necessary to take a human life in the course of your duties, do you have any reasons or beliefs, which would prevent you from doing so?
C.	Have you ever belonged to, or associated with anyone belonging to any gang or similar organization, past or present, that would place the integrity of the Department in question? (For example: USO, MS-13, Crips, Bloods, outlaw motorcycle gang, other gang member group, organized crime, etc.)
D.	Do you have any family members or close non-relatives incarcerated in any of our prisons/facilities?
E.	Do you know of an inmate that has/had caused any injury / harm (physical, verbal or suggested) to you, your family or friends?
F.	In accordance with HRS §134-7(d) – If you are under the age of 25 years old, have you been adjudicated (there was a formal finding and a decision or judgement was rendered in a judicial civil or administrative proceeding) by the family court to have committed (1) a felony, (2) two or more crimes of

T YES

□ N/A

violence or (3) an illegal sale of any drug?



CONVICTION(S) OF ANY LAW VIOLATIONS / OFFENSE(S)

Convictions shall not necessarily bar you from employment. Factors such as the age at the time of the offense, date of the offense, seriousness and nature of the offense, and rehabilitation may be taken into account, provided that the conviction bears a rational relationship to the duties and responsibilities of the position. You **MUST** report any: county, state, out-of-state, federal, military, international and other convictions.

Note: In answering this question, you need **NOT** report the following:

- A) Convictions which were annulled or expunged.
- B) Offenses for which you were tried as a minor or juvenile (under 18 yrs. old)
- 1. Have you ever been convicted of any violation / offense of law? Yes No

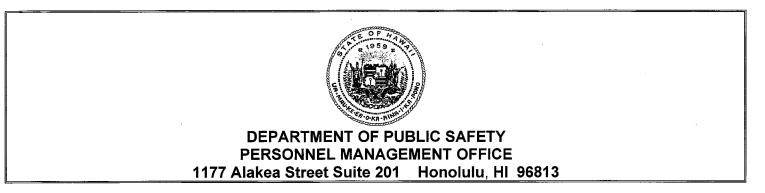
If you answered "Yes" to the above question, fill in the table:

Date of Offense	*Arrest & Charge (Describe)	Disposition: (Guilty, Not Guilty, No contest, etc.)	Sentence: (court requirements, example: Paid \$100.00 fine, 60-days License suspended)

*(If multiple Arrests & Charges, attach a separate sheet if necessary)

I, the undersigned, hereby authorize the Department of Public Safety to submit a set of my fingerprints to the HJCDC and the FBI for the purposes of accessing and reviewing state and national criminal history records that may pertain to me. I understand that my fingerprints will be retained by the HCJDC and the FBI for all purposes and uses authorized for fingerprint submissions, which may include participation in the state and national RAP Back program.

I understand that I have the right to challenge the accuracy and completeness of the results of my fingerprintbased criminal history record check. I may obtain a copy of my criminal history record by submitting fingerprints and fees directly to the HCJDC and/or FBI. I understand that the procedures for obtaining a change, correction, or updating of my criminal history record are set forth in Title 28, Code of Federal Regulations, Section 16.34.



I acknowledge that I have read, understand, and agree to the FBI Privacy Act Statement.

I also certify that all answers and statements made on this PSD 1400 form are true correct to the best of my knowledge, and I agree and understand that any misstatements of material facts herein may cause forfeiture of all rights to any employment in the State of Hawai'i &/or Dept. of Public Safety including, but not limited to, disqualification from employment consideration.

Applicant's Signature:	Date:
Applicant 5 Signature.	Date.

STATE OF HAWAII DEPARTMENT OF PUBLIC SAFETY

APPLICANT'S CONSENT, AUTHORIZATION AND REQUEST TO RELEASE INFORMATION AND WAIVER

I hereby give my consent and authorize the release of any and all records, information, and opinions regarding my background, education, employment, criminal history, character and reputation needed by the Department of Human Resources Development and/or the Department of Public Safety, in order to determine my fitness and suitability for employment with the State of Hawai'i.

In connection with my background investigation, I hereby consent and authorize any representative of the Department of Human Resources Development and/or the Department of Public Safety bearing this authorization and request to release information, or copy thereof, within one year of its date, to obtain any information in your files concerning me, or any information or opinion pertaining to my background, education, employment history, personal history, criminal history, character, and reputation, including but not limited to information concerning my education, academic achievement, attendance, work performance, disciplinary records, grievance records, professional and vocational licenses, financial, criminal history records information in Hawai'i and all other jurisdictions (including probation and parole records), and military records.

I hereby direct you to release and provide such information upon request of the bearer. This release is executed with full knowledge and understanding that the information will be used in connection with the determination of my fitness and suitability for employment and dissemination by the Department of Human Resources Development and/or the Department of Public Safety will be limited to those individuals or agencies directly involved in this determination. Further, I release from liability and promise to hold harmless from any liability under any and all possible causes of legal action the Department of Human Resources Development and/or the Department of their officers, employees, and agents, from actions taken hereunder.

I hereby release you as my employer, former employer or representative of either of them, any school, college, university, or other educational institution, including its officers, employees, or related personnel, and any other person having knowledge regarding my background, education, employment, criminal history, character, or reputation, both individually and collectively, from any and all liability for damage of whatever kind, which may at any time result to me, my heirs, or my assigns because of compliance with this authorization and request to release information, or any attempt to comply with it, and specifically waive any right to hold liable those persons for providing information or opinions which they believe to be accurate reflections of my personal background, education, employment, criminal history, character or reputation.

I have read and understand the foregoing consent, authorization and request for information and waiver. (I understand that I have the right to receive a copy of this authorization and acknowledge that I have received a copy). Should there be any questions as to the validity of this release, you may contact me as indicated below.

Witnessed by:	Signature
Signature	Print Name:
Print Name:	Last 4-digits of SSN:
	Address:
Date:	
	Phone No.:
	Date: