

DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS -
PUBLIC SAFETY SERVICES
OFFICE OF STATE POLICE
BACKGROUND CHECK FEE REQUIRED UNDER
LOUISIANA REVISED STATUTE 40:1300.52



FINANCIAL AUDIT SERVICES
INFORMATIONAL AUDIT
ISSUED MAY 21, 2014

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

May 21, 2014

The Honorable John A. Alario, Jr.,
President of the Senate
The Honorable Charles E. "Chuck" Kleckley,
Speaker of the House of Representatives

Dear Senator Alario and Representative Kleckley:

This informational audit report provides the results of our procedures relating to the collection of fees for the background checks requested by authorized agents through the Office of State Police - Bureau of Criminal Identification and Information relating to the employment of non-licensed health care providers and licensed ambulance personnel and the related impact of those actions. Our objective was to determine if the Office of State Police collected the background check fees required by R.S. 40:1300.52. Management's response is included in Appendix A to the report. The scope of our audit was significantly less than an audit conducted in accordance with *Government Auditing Standards*. I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to the management and staff of the Department of Public Safety and Corrections - Public Safety Services, Office of State Police - Bureau of Criminal Identification and Information.

Sincerely,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/ch

DPS BACKGROUND CHECKS 2014

Louisiana Legislative Auditor

Daryl G. Purpera, CPA, CFE



Department of Public Safety and Corrections -
Public Safety Services, Office of State Police
Background Check Fee Required Under La. R.S. 40:1300.52

May 2014

Audit Control # 80140053

Introduction

The Department of Public Safety and Corrections - Public Safety Services (DPS), Office of State Police (OSP) - Bureau of Criminal Identification and Information (bureau) provides background check information to authorized agents and collects fees for the searches regarding criminal histories relating to employment of non-licensed health care providers and licensed ambulance personnel. An "Authorized Agent" is defined as a private entity authorized by OSP to conduct criminal history checks. Act 270 of the 2013 Regular Session was established to enact Louisiana Revised Statute (R.S.) 40:1300.57 which provides for the application and requirements for approval as an authorized agent and related matters.

According to R.S. 40:1300.52, an employer shall obtain the criminal history record from the office of state police for a non-licensed person or any licensed ambulance personnel offering to provide nursing care, health-related services, or supportive services to any individual. R.S. 40:1300.52(B)(2) states that an employer or authorized agency shall pay a fee of twenty-six dollars to the OSP for a search of the OSP's criminal history files on an applicant for employment.

R.S. 40:1300.52 was initially enacted in Act 594 of the 1993 legislative session. In that act, the fee for the background check was set at \$10. The statute was amended in Act 118 in the First Extraordinary Session of 2002 to increase the fee to \$26.

**OBJECTIVE: Determine if the OSP collected the background check fees required by
R.S. 40:1300.52.**

Overall, we found that prior to July 1, 2013, the OSP bureau did not charge the \$26 fee required by R.S. 40:1300.52 when the requests were submitted through a sheriff's office. Between April 2012 and June 2013, there were 123,549 background checks conducted through sheriffs' offices that were not billed resulting in lost revenues of \$3,212,274 during that time period. In addition, while we did not identify exceptions related to the invoicing and collection of the fees after July 1, 2013, we noted that the OSP bureau does not have written procedures for the billing and collection of these fees.

Appendix A contains DPS's response to this report, Appendix B summarizes relevant background information, and Appendix C provides our scope and methodology.

Objective: Determine if the OSP collected the background check fees required by R.S. 40:1300.52.

Background checks may be requested in two ways by authorized agents: Option (1) the Agent can request the background check via the Internet directly from the OSP Bureau of Criminal Identification and Information, or Option (2) the Agent can request a background check through a sheriff's office. The sheriff's office accesses the Department of Public Safety and Corrections' criminal history database to provide the background information to the Agent.

For Option (1), based on the documentation provided by OSP, between April 2012 and June 2013, there were 73 background checks conducted for authorized agents initiated through Option 1 and from July 1, 2013 through December 31, 2013, 355 background checks were initiated through Option 1. When using Option 1, a payment of \$26 is remitted at the time of request via credit/debit card. If the credit/debit card is declined at the time of the request, the background check request will not process.

However, for Option (2), prior to July 1, 2013, the OSP bureau did not charge the authorized agents the \$26 fee when the requests were submitted through a sheriff's office.

Based on discussions with management, DPS's interpretation of the statute from 1993 through 2013 was that the fee should be charged by the OSP bureau only when the bureau performed the background check services.

Based on the documentation provided by OSP, between April 2012 and June 2013, there were 123,549 background checks conducted for authorized agents initiated through sheriffs' offices that were not billed the \$26 fee resulting in lost revenues of \$3,212,274. (See Exhibit 1 for breakdown by authorized agents.)

We did not obtain data on the number of background checks conducted prior to April 2012 because OSP bureau personnel told us that retrieval of that data from archives would be labor intensive for the department.

Exhibit 1
Authorized Agents Background Check Requests
Made Through Sheriffs' Offices

Authorized Agents	Total Background Checks	Total Lost Revenues
Accuscreen	12,567	\$326,742
All the Facts	4,562	118,612
Cardinal Information Services	2,126	55,276
Castillo Investigative	22,174	576,524
Confidential Research	491	12,766
E.F. Research LLC	21,712	564,512
ERMS Special Investigations	8,155	212,030
Global Data Fusion LLC	494	12,844
Lagniappe Research	19,402	504,452
Lagniappe & Castillo Investigative & Research	7,803	202,878
Nation Investigative & Protection Agency	615	15,990
Paige One Medical LLC	848	22,048
Powell's Back Tracking	167	4,342
Proactive Fraud Investigations	182	4,732
Southern Research	21,193	551,018
Tenstar	459	11,934
Wallace	599	15,574
Total	123,549	\$3,212,274

Recommendation 1: Management should seek a legal opinion as to whether it can now collect the uncollected fees. Management concurred with the recommendation (see Appendix A).

Starting July 1, 2013 through December 31, 2013, the OSP bureau conducted 40,564 background checks and billed the authorized agents \$1,054,664 for this service that was initiated through the sheriffs' offices. (See Exhibit 2 for breakdown by authorized agents.)

Exhibit 2
Collections for Option (2)
July 1, 2013 through December 31, 2013

Authorized Agents	Total Background Checks	Total Billed Revenues
Accuscreen	4,079	\$106,054
All the Facts	1,548	40,248
Cardinal Information Services	936	24,336
Comprehensive Screen Solutions	6	156
E.F. Research LLC	8,942	232,492
ERMS Special Investigations	3,048	79,248
Global Data Fusion LLC	242	6,292
Lagniappe & Castillo Investigative & Research	14,277	371,202
Paige One Medical LLC	600	15,600
Proactive Fraud Investigations	269	6,994
Southern Research	6,459	167,934
Tenstar	158	4,108
Total	40,564	\$1,054,664

We judgmentally selected October 2013, November 2013, and December 2013 to determine if the background checks requested by the authorized agents were billed appropriately and if the correct amounts were collected. We obtained and reviewed data from the Department of Public Safety and Corrections - Public Safety Services' Office of Management and Finance relating to invoices and payments for background checks. We did not identify any exceptions related to the invoicing and collection of fees for background checks during these months.

However, we noted that the OSP bureau did not have written procedures for the billing and collection of these background check fees. The absence of formal written policies increases the risk that proper procedures will not be communicated to those employees responsible for collecting department revenues, especially during times of employee turnover due to retirements, promotions, resignations, etc. In addition, there is an increased risk of employees not performing their duties in a consistent manner which may lead to errors or noncompliance with laws and regulations.

Recommendation 2: Management should establish formal written policies and procedures that define management's expectations relating to billing and collection of fees for the searches requested by authorized agents for criminal histories relating to employment of non-licensed health care providers and licensed ambulance personnel. Management concurred with the recommendation and developed written procedures (see Appendix A).

APPENDIX A: MANAGEMENT'S RESPONSE



State of Louisiana
Department of Public Safety and Corrections
Public Safety Services

May 13, 2014
DPS-02-1675

Mr. Daryl G. Pupera, CPA, CFE
Louisiana Legislative Auditor
P. O. Box 94397
Baton Rouge, LA 70804-9397

RE: Office of State Police Informational Audit
Background Checks

Dear Mr. Pupera,

Please allow this response to serve as the official response for the Informational Audit letter in reference to the findings concerning background check fee required under Louisiana Revised Statute 40:1300.52.

- Recommendation 1: Management should seek a legal opinion as to whether it can now collect the uncollected fees.

Due to complex facts and conflicting jurisprudence on relevant issues, further research must be conducted.

- Recommendation 2: Management should establish formal written policies and procedures that define management's expectations relating to billing and collection of fees for the searches requested by authorized agents for criminal histories relating to employment of non-licensed health care providers and licensed ambulance personnel.

We agree written procedures were not formalized at the time of the audit. Written procedures have since been developed and incorporated into the Bureau of Criminal Identification and Information procedure manual. Such procedures were provided to the Legislative Auditor's Office prior to the completion of this report.

Please contact me with any additional concerns or more information is required at (225) 925-6032.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jill P. Boudreaux".

Jill P. Boudreaux
Undersecretary

"An Equal Opportunity Employer"

OFFICE OF MANAGEMENT & FINANCE, P.O. BOX 66614, BATON ROUGE, LOUISIANA 70896
(225) 925-6032

APPENDIX B: BACKGROUND

Since the OSP bureau does not have formal written procedures for the execution of background checks requested by authorized agents for non-licensed health care providers and licensed ambulance personnel, the following information was obtained through inquiries of Department of Public Safety and Corrections - Public Safety Services personnel.

Background checks may be requested in two ways by authorized agents: Option (1) the Agent can request the background check via the Internet directly from the OSP Bureau of Criminal Identification and Information, or Option (2) the Agent can request a background check through a sheriff's office. The sheriff's office accesses the Department of Public Safety and Corrections' criminal history database to provide the background information to the Agent.

Option 1 - Internet Background Check (IBC)

OSP has a system that allows authorized agents to initiate name-based criminal background checks online. To use the IBC, authorized agents must register and create an account by accessing the Louisiana State Police Internet Background Check website. Once registration is complete and approved by the OSP Criminal Records Office, authorized agents can begin submitting requests for background checks. Once a request for a background check is submitted, a response is usually generated within one working day. In the event that a match based on the descriptors provided cannot be made or a possible criminal history exists, the authorized agent will be directed to submit fingerprints for positive identification.

If fingerprints are required, the individual for whom the background check is being requested can either obtain prints through his/her local sheriff's office and submit a copy to OSP along with documentation that fingerprints are warranted at no charge, or the individual can visit OSP for fingerprinting for which a \$21 fee will apply. No background information will be released until fingerprints have been submitted. In addition, an authorization form and an appropriate disclosure form must be returned with fingerprints to avoid an additional processing fee.

If no matches result based on the descriptors provided, the IBC response is that "No disqualifying information was found that would preclude the employment of the applicant." IBC responses will be available for retrieval for only 14 days. After 14 days, responses will no longer be available.

When using IBC, payment of \$26 is remitted at the time of request via credit/debit card. If the credit/debit card is declined at the time of the request, the background check request will not process.

Option 2 - Sheriff's Office

When requesting background check information from the sheriff's office, authorized agents enter the client name into the OSP database used by authorized agents. Once the name is entered into the database, an audit number is assigned to the person for whom the background check is being requested. The number generated would be used to identify the authorized agent that should be billed for the background check requested. The audit number is then input on the attention line/field of all correspondence/computer screens relating to the background check once requested through the sheriff's office. If matches are generated for the name given, it is the authorized agent's responsibility to determine whether the match is the positive identification of the individual requested.

The Sheriff's office can charge an authorized agent a reasonable processing fee of not more than \$15 per inquiry according to R.S. 15:587(D).

In addition to the processing fee charged by the sheriff's office, OSP will bill the authorized agent on the 15th of each month for all background checks requested from the authorized agency database during the previous month at a charge of \$26 per request/audit number. For example, if as a result of searching an individual's background, three matches result, the authorized agent will only be billed for \$26 (based on one request/audit number). This process, as described, did not begin until July 1, 2013.

If an authorized agent becomes delinquent on payments, generally more than 30 days past due, the OSP bureau contacts the authorized agent to determine the cause of the delay and when payment will be remitted. If payment is not remitted timely, access to the database is disabled until full payment is received by the department.

APPENDIX C: SCOPE AND METHODOLOGY

We conducted procedures for this informational audit to provide information to the Legislature on the required fees for background checks relating to Louisiana Revised Statute (R.S.) 40:1300.52 - Employment of non-licensed persons (health care providers) and licensed ambulance personnel. The scope of our audit was significantly less than an audit conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. Our procedures focused on the fees associated with R.S. 40:1300.52. The objective was the following:

Determine if the Office of State Police (OSP) - Bureau of Criminal Identification and Information (bureau) collected background check fees required by R.S. 40:1300.52.

To achieve our objective, we reviewed relevant information and performed the following steps:

- Interviewed OSP bureau management and obtained information relating to the procedures for the background checks conducted by authorized agents and the related fees associated with the requests.
- Interviewed OSP bureau management and obtained information relating to the number of background checks conducted by authorized agents from April 2012 through December 2013.
- Interviewed OSP bureau management and staff to determine the number of authorized agents that were invoiced during fiscal year 2014.
- Obtained and reviewed data from the department's Office of Management and Finance relating to invoices and payments for background checks conducted by authorized agents during fiscal year 2014.