



Office of Inspector General  
*Internal Audit*

Report No. AHCA-1617-02-A  
April 2018

## Employee Background Screening Process

### EXECUTIVE SUMMARY

As part of the Agency for Health Care Administration (Agency) fiscal year 2016-2017 audit plan, our office conducted an audit of the employee background screening process within the Division of Operations, Bureau of Human Resources (HR), Performance Planning, Background Screening, and Personnel Records Unit (BGS).

During our audit, we noted that, in general, the BGS Unit appeared to follow applicable laws, rules, and established procedures. We noted that staff is committed to pursuing and implementing process improvements. However, we also noted areas where improvement is needed to strengthen controls. Our audit disclosed the following:

- The Agency hires employees prior to the completion of level 2 background screening, increasing exposure to security, legal, reputational, and financial risks.
- Monitoring efforts need improvement to ensure timely follow-up and proper documentation of fingerprinting completion.

The Findings and Recommendations section provides details of the results of our audit.

### OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our engagement were to review and evaluate the employee background screening process, identify current best practices, and provide recommendations for improvement.

The scope included background screening for current and new Agency employees, students/interns, and volunteers for calendar year 2016. The scope was expanded to include independent contractors [performing the duties normally performed by an employee in an established full-time equivalent (FTE) position] in evaluating the background screening process.

To accomplish our objectives, we reviewed applicable laws and rules, policies, and procedures; interviewed appropriate Agency staff; reviewed samples of background screening files of new hires, five-year re-screenings, and criminal history records; and surveyed Governor's agencies on their background screening processes.

## BACKGROUND

Section 110.1127(2) (a), Florida Statutes, (F.S.), states, "Each agency shall designate those positions that, because of the special trust or responsibility or sensitive location, require security background investigations. All persons and employees in such positions must undergo employment screening in accordance with chapter 435, using level 2 screening standards, including fingerprinting, as a condition of employment and continued employment."

The Agency's Background Screening Policy, (Background Screening Policy) considers "all current and new employees, students/interns, volunteers, as well as independent contractors (performing the duties normally performed by an employee in an established FTE position) are in positions of special trust and responsibility in their affiliation with the Agency."

Therefore, all Agency personnel must undergo level 2 background screening and re-screening every five years as a condition of employment. Level 2 background screening includes fingerprinting for statewide criminal history records checks through the Department of Law Enforcement (FDLE), and national criminal history records checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.

The BGS Unit is responsible for the employee background screening process. Background screening duties were assigned to this unit in July 2015. The BGS Unit developed Procedures for Background Screening, which include instructions on new hires, re-screens, People First<sup>1</sup> data input, rejected fingerprints, criminal arrests or convictions (i.e. "hits") not previously revealed, invoice payments to FDLE and Fieldprint (the contracted fingerprinting vendor), and records of terminated employees.

Based on the Background Screening Policy, the Bureau of Human Resources is responsible for ensuring that all advertised positions contain the statement: "Successful completion of a criminal background investigation is a condition of employment." An applicant completes the State of Florida Employment Application, including the Background Information on criminal history. In addition, by signing, the applicant certifies that the statements made are true, correct, complete, and made in good faith and that information may be released for employment purposes. Furthermore, the Background Screening Policy requires supervisors to review the

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<sup>1</sup> People First is the State of Florida's self-service, secure, web-based Human Resource information system.

Background Information Verification form, acknowledging that if an applicant is selected, fingerprinting is a requirement, allowing the applicant to make changes to their State Application, if needed, and obtaining the applicant's signature on the form.

The background screening process begins after a person is hired. Upon receipt of an approved Personnel Action Request (PAR), the BGS Unit generates an email to the new employee's personnel liaison and supervisor. Instructions are provided that require the new hire to register with Fieldprint, and the Procedures for Background Screening require that this be done within five business days after their effective date of employment. Fieldprint, with offices throughout the state, utilizes "Live Scan" electronic technology<sup>2</sup> to collect and submit fingerprints directly to FDLE.

The user agreement between FDLE and the Agency establishes the terms, conditions, and compliance requirements with state and federal regulations relating to obtaining, use, dissemination, and retention of criminal history record checks. FDLE sends a result notification email to a BGS secure mailbox with a link to a secure FDLE web mail application with the screening results. The BGS Unit maintains separate and access-limited background screening files to protect confidentiality as required in the User Agreement.

The BGS Unit utilizes the fingerprint module in the People First information system to track fingerprint dates for FTE and Other Personal Services (OPS) employees. The data field, *Date Completed*, is the receipt date of the fingerprint reports from the secure FDLE email inbox. *Date Submitted* is the date the employee was fingerprinted. People First reports are run weekly to track the outstanding background screening results for new hires. Email reminders are sent to new hires, supervisors, personnel liaisons, and if necessary, to bureau chiefs. The BGS manager is responsible for ensuring the new hire and five year re-screening processes are complete. Interns and contract (augmented) employees are tracked in the Customer Response Management (CRM) Database.

The data field, *Background End Date*, is the *Date Submitted*, plus five years in the re-screening process. For example, the *Background End Date* from 2011 was used to identify employees due for the five-year re-screening in 2016. Monthly People First reports are used to identify employees due for re-screening. The BGS Unit sends emails by division, listing employees due for re-screening to the employees' supervisors, and their personnel liaisons. The email includes instructions for fingerprinting to be completed within five days. Reminders are emailed to employees, supervisors, and to the bureau chief, if necessary.

When background screening or re-screening results disclose a criminal history, this results in what is known as a criminal history hit. An employee may be given up to 30 days to furnish copies of police reports, arrest reports, and court records indicating disposition of the offense. HR will review the Background Information section of the

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<sup>2</sup> Section 435.04(1)(b), F.S., requires that fingerprints on or after July 1, 2012, must be submitted to FDLE electronically.

employment application and determine if the information is consistent with the report from FDLE and FBI. If information was misrepresented or omitted, the employee may be disqualified from employment consideration and, if already working, may be subject to disciplinary action, up to and including dismissal. BGS staff also contacts the Clerk of Court, Sheriff's Office, or the Police Department associated with the hit. Details on the employee's criminal record are obtained through a public records request. BGS staff review documents received from the records request and meet with the HR Bureau Chief. This review is documented with a memorandum to the file. If any charge is determined to prohibit a person from working in their current position, the HR Bureau Chief works with General Counsel's office and applicable division head to resolve the issue. An FTE or OPS employee who is retained must submit a corrected employment application.

FDLE retains applicant fingerprints at the State level, based on the Agency's participation in the Applicant Fingerprint Retention and Notification Program (AFRNP). Beginning in 2014, fingerprints of new hires and re-screened employees are enrolled automatically in the program at the time of fingerprinting. When an enrolled employee's fingerprints are identified from an incoming Florida arrest, FDLE notifies the BGS Unit through a secure email. Information on arrests in other states and by the federal government is available only during initial and rescreening fingerprint submission to FDLE, which is forwarded to the FBI. In addition, employees hired before the agreement with FDLE in February 2014, are not yet in the FDLE AFRNP.

The Background Screening Policy requires employees to notify their supervisor of any arrest or conviction within two business days. This policy is posted on the Agency intranet portal and the Employee Handbook also addresses Reporting Arrests and Convictions. In addition, new employees are informed of this requirement at the New Employee Orientation. They also sign an acknowledgement, which states, "I have received, read and understand the Agency Background Screening Policy and my signature verifies that statement."

## FINDINGS AND RECOMMENDATIONS

### Finding 1: The Agency hires employees prior to the completion of level 2 background screening.

<b>Finding Statement</b>	The Agency hires employees prior to the completion of level 2 background screening, increasing exposure to security, legal, reputational, and financial risks.
<b>Criteria</b>	<p>The Background Screening Policy considers all current and new employees, students/interns, volunteers, and independent contractors (performing the duties normally performed by an employee in an established FTE position) to be in positions of special trust or responsibility in their affiliation with the Agency. As such, they are required to undergo level 2 background screening in accordance with Section 110.1127, F.S., and as a condition of employment and continued employment.</p> <p>Level 2 screening standards set forth in Section 435.04 F.S., requires: “security background investigations as a condition of employment and continued employment which includes, but need not be limited to, fingerprinting for statewide criminal history records checks through the Department of Law Enforcement, and national criminal history records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.”</p> <p>In addition, there is a presumption against negligent hiring when an employer conducts a background investigation of a prospective employee. Pursuant to Section 768.096, F.S., in the case of an intentional tort, an “employer is presumed not to have been negligent in hiring an employee if before hiring the employee, the employer conducted a background investigation of the prospective employee and the information did not reveal any information that reasonably demonstrated unsuitability of the prospective employee for the work to be performed or for the employment in general.” The background investigation must include a criminal background investigation.</p> <p>Section 435.06(2)(a), F.S., states, “An employer may not hire, select, or otherwise allow an employee to have contact with any vulnerable person that would place the employee in a role that requires background screening until the screening process is completed and demonstrates the absence of any grounds for the denial or termination of employment.”</p>

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### Condition

Background screening begins after a person is hired.

Applicants provide criminal history information on the Background Information section of the State of Florida Application. By signing, the Application is certified as "true, correct, complete, and made in good faith." The Background Information Verification Form is reviewed during the interview process and the applicant is informed that a criminal record check will be conducted. The applicant agrees to revise the State Application if necessary. The applicant and interviewer both sign the form.

The Background Screening Policy does not address disallowing an employee from having direct contact with vulnerable persons or granting access to systems with Protected Health Information (PHI), sensitive, or confidential personal information prior to the completion of the screening process.

We noted that the Division of Information Technology requires certain contractors to complete background screening prior to hiring and also requires certain employees to complete background screening prior to granting access to Agency information processing facilities, or system, database, developer, network, or other administrative capabilities for systems, applications, or servers.

We surveyed Governor's agencies on their background screening processes, 12 of 12 or 100 percent of those responding, reported that their agencies performed level 2 background screening before hiring. Survey responses were compared to the Agency's Background Screening policy as shown in Table 1 below.

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Table 1 Responses from Other State Agencies				
Survey Question	Responses	Total	Percent	AHCA Policy
Is background screening performed for new employees before or after hiring?	Before	12/12	100%	After
Does your agency require a level 2 background screening on <u>all</u> employees?	Yes	8/12	67%	Yes
Is agency enrolled in fingerprint retention programs at FDLE?	Yes	6/12	50%	Yes
Does agency re-screen employees periodically?	Yes	6/12	50%	Yes
<b>Cause</b>	The Background Screening Policy does not require an employee to be screened prior to beginning work. It requires that a new employee register for "fingerprint scanning within five business days of starting."			
<b>Effect</b>	The Agency is primarily responsible for the State's estimated \$25.2 billion Medicaid program, housing confidential personal information and PHI of over 4 million Medicaid recipients. It also regulates Medicaid Providers, including Statewide Medicaid Managed Care Plans and licenses the State's 48,500 health			

## FINDINGS AND RECOMMENDATIONS

	<p>care facilities with access to sensitive and protected health care and financial information.</p> <p>The risks associated with these responsibilities make the Agency potentially vulnerable to security breaches of its confidential and protected data. It also opens the door to reputational and legal risks not only from external actors, but from employees as well as certain independent contractors hired by the Agency.</p> <p>Relying on the accuracy and completeness of the State Application and the Background Information Verification Form during the period from employment start date until fingerprint results are received and evaluated only increases the Agency's risk exposure to hiring individuals with criminal records gaining access to health care facilities and Agency maintained confidential information.</p>
<p><b>Recommendation</b></p>	<p>We recommend the following:</p> <ol style="list-style-type: none"> <li>1. Prospective hires should complete level 2 background screening before being hired and granted access to facilities, information systems, and confidential data. Implementation of this recommendation should eliminate the issues related to monitoring fingerprint registration delays for new hires addressed in Finding 2.</li> <li>2. Amend the Background Screening Policy to add this requirement.</li> </ol>
<p><b>Management Response</b></p>	<p>We are in agreement with the recommendation to require prospective hires to complete level 2 background screening before being hired and gaining access to facilities, information systems, and confidential data. The BGS Unit in the Bureau of Human Resources will develop an implementation plan outlining action items needed for a smooth transition.</p>
<p><b>Anticipated Completion Date</b></p>	<p>Completion date is unknown at this time and will be dependent upon the completion of the implementation plan.</p>



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### Finding 2: Monitoring efforts need improvement to ensure timely follow-up and proper documentation of fingerprinting completion.

<b>Finding Statement</b>	Monitoring efforts need improvement to ensure timely follow-up and proper documentation of fingerprinting completion.
<b>Criteria</b>	<p>Background Screening Policy, places the responsibility on the supervisors to provide new employees with Fieldprint fingerprinting instructions and to ensure new employees register for fingerprinting within five business days of starting work. The Policy also requires employees to report any arrest or conviction to their supervisor within two business days. The BGS Unit is responsible for tracking the fingerprinting and screening process.</p> <p>Procedures for Background Screening include the following:</p> <ul style="list-style-type: none"> <li>• For a new employee, an email is generated by an approved PAR to a new employee’s supervisor and personnel liaison informing them of the policy that new employees are required to register and make an appointment to be fingerprinted within five business days after their effective date of employment.</li> <li>• For Five Year Re-screen for Current Employees, an email is sent to the personnel liaison and supervisor with a list of employees who need to have their five year re-screen completed within five business days of the email.</li> <li>• For criminal record hits revealed by the background screening results; the Clerk of Court, Sheriff’s Office, or the Police Department associated with the hit is contacted and documents are requested. Documents are reviewed and recommendations are provided to the HR Bureau Chief. The results of the determination are documented in a memo to the file.</li> </ul>
<b>Condition</b>	<p><b>New Hires</b></p> <p>We tested background screening for 105 newly hired employees from May 1, 2016 through October 31, 2016. We found that fingerprinting was completed within five business days for 82 percent (86 out of 105) of the files reviewed.</p> <p>Further testing on a sample of 25 new hires, chosen from the population of 105 described above, including a review of timeliness and supporting documentation indicated:</p>

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	<ul style="list-style-type: none"> <li>Eight were fingerprinted within five business days.</li> <li>Eleven were fingerprinted within 7-10 business days; however, follow-up explanations were noted on each.</li> <li>Three employees were fingerprinted within 17, 30, and 32 days of hire and no follow-up emails or explanations were included in the file.</li> <li>Three were fingerprinted prior to being hired.</li> </ul> <p>We also noted that of the 25 new hires, hits were returned on the fingerprint reports of three. None of the three indicated criminal history on the State Application or Background Information Verification forms. Although each was subsequently analyzed and resolved as non-disqualifying offenses, the Agency was still potentially at risk during the review period. For one of the employees tested, the period was 35 working days from the date of hire to the date of the memo resolution.</p> <p><b>Re-screens</b> The Five Year Re-screen process generally was timely, accurate and in accordance with Procedures for Background Screening. However, for one of eight tested, fingerprints were not obtained for 349 business days and HR was unable to provide documentation that an email reminder was sent.</p> <p><b>Hits</b> The hit files in HR were generally in accordance with the Procedures for Background Screening. The hit files for New Hires and Re-screens supported the HR compliance memos stating the criminal history sections on State Applications were properly completed.</p> <p>Although our testing of seven sample items on the AFRNP noted a reportable arrest hit, HR proactively notified the employee's supervisor the day notification was received and prior to the two business day notification policy requirement. The employee cooperated with the supervisor and HR, and the issue was resolved and documented.</p>
<b>Cause</b>	<p>Although the Procedures for Background Screening outline the timing requirements, monitoring efforts need improvement to help ensure timeliness and complete documentation of background screenings for new hires and re-screens.</p>

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<b>Effect</b>	<p>The Agency is primarily responsible for the state's estimated \$25.2 billion Medicaid program and licensure of the state's 48,500 health care facilities. The risks associated with these responsibilities make the Agency vulnerable to potential security breaches of its confidential data.</p> <p>The Agency will continue to have increased risk exposures from its new hires until background screenings are completed prior to hiring. For re-screens, risk exposures will continue until monitoring is improved to help ensure timely follow-up and proper documentation.</p>
<b>Recommendation</b>	<p>We recommend the following:</p> <ol style="list-style-type: none"> <li>1. Increase monitoring efforts including implementing a quality review process to help ensure timely and proper documentation of background screenings.</li> <li>2. Continue to implement proactive supervisor notification for retention hits as standard practice, and amend Procedures for Background Screening to reflect proactive notification accordingly.</li> <li>3. Periodically remind Agency employees of the two-day arrest/conviction notice requirement in the HR newsletters and the annual Keep Informed employee training.</li> </ol>
<b>Management Response</b>	<p>We agree with the recommendations above.</p> <p>The BGS Unit within the Bureau of Human Resources will develop and implement a quality review process that will address the timely and proper documentation of background screenings.</p> <p>The BGS Unit will accelerate issues involving employees who are not responding to notifications for fingerprinting in a timely manner to the applicable Division Director and the Agency Head.</p> <p>The BGS Unit will include an article once a year in the Human Resource Newsletter regarding the two-day arrest/conviction notice requirement as a reminder. The annual Keep Informed training will also be updated to include a statement about this requirement.</p>

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	The BGS Unit will develop an implementation plan outlining action items needed for a smooth transition, which will include the development of a pre-hire letter and the necessary changes to the interview process.
<b>Anticipated Completion Date</b>	Completion date is unknown at this time and will be dependent upon the completion of the implementation plan.

## **ADDITIONAL COMMENTS**

Internal Audit wants to recognize the BGS Unit's commitment to process improvement and the comprehensive development and documentation of the background screening process. HR has indicated that the two-day arrest or conviction notification requirement may be added to future HR monthly newsletters and the required annual Keep Informed Training curriculum as reminders to employees.

## **PROJECT TEAM**

Beth Jones, CPA, conducted the audit under the supervision of Pilar Zaki, Audit Director, JD, CIGA, and Mary Beth Sheffield, Inspector General, CPA, CIA, CFE, CIG.

## **FINAL COMMENTS**

The Office of the Inspector General, Internal Audit would like to thank the management and staff of the Agency's Bureau of Human Resources, Performance Planning, Background Screening, and Personnel Records Unit for assistance and cooperation extended to us during this engagement.

The Agency for Health Care Administration's mission is  
Better Health Care for All Floridians.

The Inspector General's Office conducts audits and reviews of Agency programs to assist the Secretary and other agency management in fulfilling this mission.

This engagement was conducted pursuant to Section 20.055, Florida Statutes, and in accordance with the *International Standards for the Professional Practice of Internal Auditing* as established by the Institute of Internal Auditors. Please address inquiries regarding this report to the AHCA Audit Director at (850) 412-3990.

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