



**Department of Criminal Justice Information Services
Policies and Procedures
for
Civil Fingerprinting for Municipal Licensing Applicants**

Purpose:

The purpose of this document is to establish uniform policies and procedures for the collection and submission of civil fingerprints by municipalities to screen applicants for certain municipal licenses and for the collection of fees associated with this process.¹

Policy:

Pursuant to Massachusetts General Law c.6, § 172B1/2 and Public Law 92-544, municipalities are now able to request fingerprint-based national criminal record checks on applicants for certain municipal licenses. However, before being permitted to submit fingerprint-based criminal record checks, a municipality must have in place a local bylaw or ordinance specifically requiring that fingerprint-based checks be done on certain license applicants. In addition, the bylaw or ordinance must have been approved by the Attorney General’s Office.

In addition to the bylaw/ordinance requirement, the municipality must also have a written Municipal Civil Fingerprinting Policy (“policy”) in place that includes, but is not limited to, provisions regarding: how and when applicants appear at the police department for fingerprint collection and processing (e.g., whether applicants are required to make appointments or whether applicants may appear at certain scheduled times for fingerprinting); the method of identity verification to be used; obtaining an applicant’s consent to conduct fingerprinting; informing applicants that their fingerprints are going to be searched against the State of Massachusetts fingerprint database and the Federal Bureau of Investigation (FBI) fingerprint database; the form of municipal fingerprint fee payment; storage and destruction of fingerprint-based national criminal history information; and how an applicant can correct his/her record. The Commonwealth of Massachusetts Model Municipal Civil Fingerprinting Policy for Occupational Licensing is available on the Department of Criminal Justice Information Services (DCJIS) web site at mass.gov/cjis. Each municipality is free to develop its own policy, but it must contain all of the provisions of the Model policy at a minimum.

The municipality must forward a copy of its civil fingerprinting policy to the DCJIS at DCJISprints@state.ma.us.

¹ For purposes of this policy, the term “municipality” shall include both cities and towns.

In addition to the above general policies, the municipality must also adhere to the following specific policies:

1. A municipal licensing authority shall use fingerprint-based state and national criminal history records solely for screening applicants for certain municipal licenses as defined in their respective by-laws or ordinances and approved by the FBI and for no other purpose, including municipal employment.
2. Fingerprint-based state and national criminal history records cannot be disseminated outside the municipality except to the person to whom the record pertains and to authorized law enforcement officials.
3. Municipal officials responsible for determining suitability for licensing must provide the applicant with the opportunity to challenge the accuracy or completeness of the FBI criminal history.
4. Municipal officials must advise the applicant of the procedures to change, correct, or update the record, which are set forth in Title 28 CFR 16.34. Information regarding these procedures is available at <http://www.fbi.gov/about-us/cjis/background-checks/order>. A copy of these procedures is included with this policy.
5. Municipal officials should not deny a license to an applicant based on information in a criminal record until the applicant has been afforded a reasonable time to correct or complete the information, or has declined to do so.
6. Licensing authorities are also subject to the requirements of 803 CMR 2.00 *et seq.* and, before taking adverse action against a license applicant based on the applicant's CORI, must comply with the requirements of 803 CMR 2.19 - 2.20.
7. Police departments and authorized municipal recipients shall store all criminal history record information received from the FBI for municipal licensing background check purposes in a secure location. Police departments shall restrict access to areas in which the information is processed and handled to authorized personnel in the performance of their duties. Recipients of fingerprint-based state and national criminal history information must provide a secure area, out of the view of the public and unauthorized personnel, for the handling and retention of the information.
8. When fingerprint-based state and national criminal history information is no longer needed, the licensing authority is responsible for its destruction. It shall be destroyed by burning, shredding, or other method rendering the information unreadable.

9. All entities that obtain or use fingerprint-based national criminal history to screen municipal occupational licensing applicants may be subject to audit.

Procedure:

Below are the procedures that a municipality must follow to obtain approval to submit fingerprint-based state and national criminal history record check requests, as well as to submit fingerprint-based record checks to the State Identification Section:

1. A municipality must pass a bylaw or ordinance authorizing the use of fingerprint-based national and state criminal history information to screen applicants for certain municipal licenses.
2. Once passed or adopted by the municipality, the bylaw or ordinance must be submitted for approval to the Massachusetts Attorney General's Office.
3. Once the bylaw or ordinance has been approved by the Massachusetts Attorney General's Office, the municipality must send the ordinance by mail to the Commanding Officer, Massachusetts State Police, State Identification Section (SIS) at 59 Horse Pond Rd., Sudbury MA, 01776. A copy of the bylaw/ordinance must also be emailed to the DCJIS at DCJISprints@state.ma.us.
4. The SIS will submit the ordinance to the FBI Access Integrity Unit (AIU) for approval. Once approved, the FBI will add the ordinance to the FBI Massachusetts Approved Statute List. The SIS will also maintain a Massachusetts Approved Ordinance List.
5. Upon FBI AIU approval of the municipal ordinance, the SIS will notify the municipality. The SIS will also provide the municipality with detailed procedures for submitting fingerprint-based criminal record requests.
6. When an applicant appears at the police department for municipal license civil fingerprinting, the applicant shall complete a civil fingerprint consent form. This form is available on the DCJIS web site at mass.gov/cjis.
7. Before fingerprinting an applicant, the police department shall verify the applicant's identity in accordance with the municipality's civil fingerprinting policy.
8. Before being fingerprinted, the applicant shall provide the statutory fingerprint fee of thirty dollars (\$30.00). The statutory fingerprint fee payment may only be paid with a money order or bank check payable to the "Commonwealth of Massachusetts." A police department shall not fingerprint an applicant until the statutory fee has been

collected in full. In addition to a signature, the money order or bank check shall include the name of the applicant hand-printed in block letters.

9. The police department may collect the municipal fingerprint fee in accordance with the municipality's payment or collection policy.
10. The police department may manually or electronically fingerprint applicants. In either case, the "Reason Fingerprinted" block of the fingerprint submission form must contain the bylaw/ordinance number or correct city code citation as specified by the SIS. If the police department takes the applicant's prints on a live-scan device, it must print the fingerprint card. Electronic submissions are not allowed at this time.
11. When ready to submit civil applicant fingerprint cards, the police department must complete a "BA Civil Applicant Request for Fingerprint Search" form. Only one form is required for the entire batch of cards being submitted. The form is available at mass.gov/cjis. The police department must then mail the completed fingerprint card(s), the completed "BA Civil Applicant Request for Fingerprint Search" form, and each applicant's statutory fingerprint fee to: DCJIS, Attention: Civil Fingerprinting, 200 Arlington Street, Suite 2200, Chelsea, MA 02108.
12. Upon receipt, the DCJIS will verify the contents of the submission to ensure that the number of fingerprint cards submitted matches the number of cards listed on the "BA Civil Applicant Request for Fingerprint Search" form. It will also verify that the statutory fee for each fingerprint card is included. The fingerprint cards and the "BA Civil Applicant Request for Fingerprint Search" form will then be forwarded to the SIS for processing.

All fingerprint search results will be returned to the requesting police department via AFISR, a secure website managed by the DCJIS. Access to the AFISR application must be secured through the SIS.
13. If one or more arrest events are returned without a disposition, the submitting police department is responsible for gathering the missing disposition(s). The Criminal Justice Information System (CJIS) may be used to contact out-of-state agencies using the appropriate National Law Enforcement Telecommunications System (NLETS) message keys.
14. If the submitting police department is the licensing authority for the specific license, the police department is responsible for reviewing the results of the fingerprint-based state and national criminal history checks and determining the suitability of the license applicant.

15. When the licensing authority is a governmental entity within the municipality, the police department may forward only the results of the national (FBI) fingerprint-based criminal history check to that authority for a determination of suitability. Police departments may not forward any Massachusetts fingerprint-based criminal history record check results. Additionally, the police departments shall not disseminate Massachusetts juvenile information or sealed record information that may be contained within the national criminal history check results. The police department must record this “secondary dissemination” in its CORI Dissemination Log.
16. To obtain state criminal history information, a licensing authority that is a governmental entity must submit a separate record check request to the DCJIS via the iCORI Service. Before submitting record check requests through iCORI, the authority must register for an iCORI account at <http://icori.chs.state.ma.us/icori>.
17. Occupational licensing suitability determinations shall not be based on Massachusetts criminal history information that has been sealed pursuant to either M.G.L. c. 276, §100A or c. 276, §100C.
18. Occupational licensing suitability determinations shall not be based on Massachusetts juvenile information unless said juvenile information is categorized as CORI pursuant to M.G.L. c. 6, s. 167.