

MENTAL RETARDATION BULLETIN



COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF PUBLIC WELFARE

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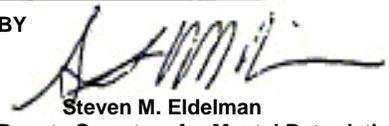
NUMBER

00-88-07

SUBJECT

OBTAINING CRIMINAL CLEARANCES ON
PROSPECTIVE EMPLOYEES

BY


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SCOPE:

County Mental Health/Mental Retardation Administrators
Base Service Unit Directors
Adult Day Care Center Directors
Vocational Facility Directors
Community Residential Mental Retardation Facility Directors

PURPOSE:

The purpose of this Bulletin is to recommend procedures to be used by County Mental Health/Mental Retardation Administrators and providers of licensed and funded community mental retardation services regarding the pre-employment screening of prospective employees for history of criminal acts. The purpose of the pre-employment screening is to protect the health, safety and well-being of our vulnerable citizens who receive community mental retardation services.

BACKGROUND:

On July 1, 1985, Act 33 of 1985 was signed into law requiring that prospective employees of child care services obtain child abuse and criminal record clearances prior to employment. Act 33 of 1985 became effective January 1, 1986.

Act 33 of 1985 applies to all facilities serving primarily children that are licensed, approved, certified, or registered by the Department of Public Welfare and all programs serving primarily children that are provided through a contract with the Department of Public Welfare or a county social service agency. Primarily means that more than 50% of the people served in the facility or program are children.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:
APPROPRIATE REGIONAL MENTAL RETARDATION PROGRAM MANAGER.

The Department wants to insure, that in facilities and programs that serve 50% or fewer children (not under the scope of Act 33 of 1985), our vulnerable citizens are also protected from abuse.

APPLICABILITY:

These recommendations apply to providers of licensed and funded community mental retardation services and County Mental Health/Mental Retardation Program Staff. A criminal history records check is recommended only for prospective employees hired after the effective date of this bulletin.

CRIMINAL HISTORY RECORDS CHECK:

The Department recommends that a criminal history records check be completed for all full, part-time, and temporary employees, including persons who will not be providing direct care to clients. If a prospective employee is hired by an agency on a contract basis, a criminal history records check is not recommended. The Department recommends that a criminal history records check be completed prior to:

- (a) the person's first day of employment or start date, or,
- (b) within 30 calendar days for Pennsylvania residents, or 90 calendar days for out-of-state residents after the date of employment or start date as long as conditions for provisional hiring as specified in Act 80 of 1987 are met. (Refer to Mental Retardation Bulletin # 6000-88-02, titled mandatory Child Abuse and Criminal History Clearances, dated May 31, 1988.)

A criminal history records check is needed to investigate past criminal convictions.

A request should be made to the Pennsylvania State Police in order to obtain a criminal history records check. A copy of the Pennsylvania State Police form that must be used is attached. The facility or agency may contact the Pennsylvania State Police facility to request additional copies of the criminal records check forms.

The State Police charge \$10.00 for the criminal history records check. A personal check, cashier's check or certified check or money order made payable to "The Commonwealth of Pennsylvania" should accompany the request.

The estimated processing time from the date of receipt for the criminal history records check is 21 days.

If the prospective employee resides outside of Pennsylvania, a Federal FBI check is needed in addition to the Pennsylvania criminal records check. A copy of the FBI form that must be used is attached. The charge for an FBI report is \$14.00.

The Pennsylvania State Police do not maintain criminal information on persons under 18 years of age. If a prospective employee is hired under 18 years of age, a criminal history records check is not recommended. However, once the employee turns 18, these guidelines recommend that a criminal history check be conducted.

The criminal history record check should be completed no more than one year prior to the hiring of the new employee. If the date of a clearance exceeds one year prior to hire, a new clearance should be obtained prior to hire.

CONSIDERATION FOR EMPLOYMENT:

If it has been found that a prospective employee has committed any of the following offenses under Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses) as listed in Act 33 of 1985, due consideration should be given the criminal history in light of all relevant factors, including the seriousness of the crime, recency of the crime, evidence of responsible conduct since the crime, and nature of the position within the agency:

- 1) Chapter 25 (relating to criminal homicide).
- 2) Section 2702 (relating to aggravated assault).
- 3) Section 2901 (relating to kidnapping).
- 4) Section 2902 (relating to unlawful restraint).
- 5) Section 3121 (relating to rape).
- 6) Section 3122 (relating to statutory rape).
- 7) Section 3123 (relating to involuntary deviate sexual intercourse).
- 8) Section 3126 (relating to indecent assault).
- 9) Section 3127 (relating to indecent exposure).
- 10) Section 4303 (relating to concealing death of child born out of wedlock).
- 11) Section 4304 (relating to endangering welfare of children).
- 12) Section 4305 (relating to dealing in infant children).
- 13) A felony offense under Section 5902(b) (relating to prostitution and related offenses).
- 14) Section 5903 © or (d) (relating to obscene and other sexual materials).
- 15) Section 6301 (relating to corruption of minors).
- 16) Section 6312 (relating to sexual abuse of children).

ATTACHMENTS:

Attachment A – Sample State Police Criminal History Records Check Form

Attachment B – Sample FBI Criminal History Records Check Form