

# California Department of Justice

Application for Authorization Pursuant to  
Penal Code Section 11105.3  
(Youth Organizations – Human Resources Agencies)



**Edmund G. Brown Jr.**  
**Attorney General**

Mail completed application, along with  
Live Scan Request Packet (available at)  
<http://ag.ca.gov/fingerprints/pdf/LiveScanPacketRev06.pdf>  
to:

Department of Justice  
Record Security Section  
P.O. Box 903387  
Sacramento, CA 94203-3870

For questions, please call:  
(916) 227-2928  
(916) 227-9508



BUREAU OF CRIMINAL INFORMATION AND ANALYSIS  
P.O. BOX 9033387  
SACRAMENTO, CA 94203-3870  
Telephone: (916) 227-2222  
Fax: (916) 227-4815  
(916) 227-3460

RE: Authorization for Criminal Record Information

California Penal Code Section 11105.3 provides that a human resource agency or an employer may request criminal record information from the Department of Justice for a person who applies for a license, employment, or volunteer position in the human services field. Information released by the Department of Justice is restricted to arrests resulting in conviction or arrests which are pending adjudication for the crimes as specified in Welfare and Institution Code Section 15660.

“Human resource agency” is defined as a public or private entity responsible for determining the character and fitness of a person applying for a license, employment, or as a volunteer within the human services field that involves the care and security of children, the elderly, the handicapped, or the mentally impaired.

“Employer” is defined as any nonprofit corporation or other organization specified by the Attorney General in which employees or volunteers have supervisory or disciplinary power over a minor or person under his or her care and are responsible for the care and security of these individuals.

Throughout this package, there is a reference to licensing. The Department of Justice is not a licensing agency and background checks pursuant to Penal Code section 11105.3 do not meet licensing background requirements.

In order for us to determine whether your organization meets the requirements to obtain state criminal history information pursuant to Penal Code section 11105.3, please complete and return the attached application package. Incomplete forms will be returned unprocessed. All forms should be directed to my attention at the above address. Please do not submit your fingerprint(s) until approval has been granted.

Sincerely,

KEITH DANN, Manager  
Record Access and Security Program  
Bureau of Criminal Information and Analysis

For EDMUND G. BROWN JR.  
Attorney General

# **Application for Authorization to Receive State Summary Criminal History Information Pursuant to Penal Code Section 11105.3 (Youth Organizations – Human Resources Agencies)**

Legal Name of agency/organization: \_\_\_\_\_

**Note: Agency/organization must have a physical address**

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Mailing Address (if different): \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone Number: ( ) \_\_\_\_\_ Fax Number: ( ) \_\_\_\_\_

Contact Person: \_\_\_\_\_ Custodian of Records: \_\_\_\_\_

Are you a non-profit organization? Yes \_\_\_\_\_ No \_\_\_\_\_

If **yes**, you must attach proof of non-profit status, e.g.: IRS letter 1045; 1050; FTB 4206 or photocopy of an IRS letter granting exemption under 501(c)(3) Internal Revenue Code); or a document from the Secretary of State that has been endorsed showing non-profit status.

**Penal Code 11105.3 does not apply to:**

1. Background checks on staff, pursuant to section 11105.3, do not meet state or local licensing agencies' background requirements.
2. Public schools must background non-certified personnel and volunteers pursuant to section 45125 of the Education Code.
3. Charter schools must background all non-certified personnel and volunteers pursuant to section 45125 of the Education Code.
4. Private schools must background all personnel, pursuant to section 44237 of the Education Code. Volunteers must be background pursuant to section 45125.(1) of the Education Code.
5. Contractors that provide services to public and/or private schools pursuant to 45125.(1) and/or 33192 of the Education code.

**Please describe the services your organization provides and the reason criminal record background checks will be conducted pursuant to Penal Code Section 11105.3.**

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# **Application for Authorization to Receive State Summary Criminal History Information Pursuant to Penal Code Section 11105.3 (Youth Organizations – Human Resources Agencies)**

This application is to conduct background checks for **(you must check one or more)**:

Employees: \_\_\_\_\_ Volunteers: \_\_\_\_\_ Employees and Volunteers: \_\_\_\_\_

Identify the recipients of your organization's services. **Please check all that apply.**

Children: \_\_\_\_\_ Elderly: \_\_\_\_\_ Handicapped: \_\_\_\_\_ Mentally Impaired: \_\_\_\_\_

1. Yes \_\_\_ No \_\_\_ Does your agency or organization provide direct services or use the services of volunteers/employees in positions that have immediate supervisory or disciplinary power over a minor or person under his or her care and are responsible for the care and security of these individuals?

2. Yes \_\_\_ No \_\_\_ Is your organization/agency responsible for the conduct and determining the fitness of the volunteer/employee while providing the services? If no please explain: \_\_\_\_\_

3. Yes \_\_\_ No \_\_\_ Are the employees/volunteers referred by your agency/organization to other entities where they provide your services?

Schools:          Residential Homes:          Care Centers:          Other:  
\_\_\_\_\_

4. Yes \_\_\_ No \_\_\_ Does your agency/organization pay the employees? If other than your agency/organization please explain:  
\_\_\_\_\_  
\_\_\_\_\_

5. Yes \_\_\_ No \_\_\_ Are the individuals you want to background subject to licensing where fingerprinting and a criminal background check are a requirement of a state or local agency? Example: Commission on Teachers Credentialing, Board of Nursing, Department of Social Service. If yes, please give name of licensing agency. \_\_\_\_\_

6. Yes \_\_\_ No \_\_\_ Is your organization a non-public school or non-public agency that has an affidavit on file with the State Department of Education?

**I declare under penalty of perjury that the foregoing is accurate to the best of my knowledge.**

Please print name and title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**CALIFORNIA DEPARTMENT OF JUSTICE  
CALIFORNIA JUSTICE INFORMATION SERVICES DIVISION  
CRIMINAL OFFENDER RECORD INFORMATION SECURITY REQUIREMENTS  
Use of Applicant Criminal Offender Record Information  
*Custodian of Records must sign and return this document***

**CUSTODIAN OF RECORDS DUTIES**

1. The information provided by the Department of Justice (DOJ) to this agency is **confidential** and shall not be disseminated to any other person or agency not authorized by law. A violation of this section is a misdemeanor. (Penal Code Section 11142)
2. All personnel/individuals with access to Criminal Offender Record Information (CORI) will have a fingerprint background clearance record check completed through the DOJ as required by the California Code of Regulations Section 703 (d) prior to the submission of fingerprints for employment, licensing, certification or volunteer purposes. (\$32 processing fee)
3. All personnel/individuals with access to CORI will have a signed "Employee Statement Form" on file acknowledging an understanding of laws prohibiting its misuse. (**See Employee Statement**)
4. All personnel/individuals with access to CORI will be trained in the secure handling, storage, dissemination and destruction of CORI.
5. My agency/organization will have a written policy for securing access, storage, dissemination and destruction of criminal record information. This policy will include the steps to be taken to prevent unauthorized access to CORI maintained in our agency files. (**See Criminal Offender Record Information Policy**)
6. The Department of Justice may conduct audits of the authorized persons or agencies using CORI to ensure compliance with state laws and regulations. (Section 702 (c) California Code of Regulations)
7. The information provided by the Department of Justice will be maintained in a secured area/locked cabinet separate from the employees personnel file and be used only for the purpose for which it was acquired.
8. Our agency/organization will notify the Department of Justice with regard to any change of agency name, address, telephone number, fax number, Custodian of Records and contact person.
9. The "No Longer Interested Notification Form" will be sent to DOJ, when applicable.
10. Our agency/organization will send an updated Live Scan Subscriber Agreement form to DOJ signed by our new agency official, when applicable.

**On behalf of our agency/organization, I hereby acknowledge that I have read and agree to the above.**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Agency/Organization Name:** \_\_\_\_\_

**Agency Mailing Address:** \_\_\_\_\_

**Physical Address:** \_\_\_\_\_

**CALIFORNIA DEPARTMENT OF JUSTICE  
CALIFORNIA JUSTICE INFORMATION SERVICES DIVISION  
EMPLOYEE STATEMENT**

**Use of Applicant Criminal Offender Record Information**

**All personnel with access must sign this form which is kept by the Custodian of Records**

As an employee/volunteer of: \_\_\_\_\_,

You may have access to confidential criminal record information which is controlled by state and federal statutes. Misuse of such information may adversely affect the individual's civil rights and violate constitutional rights of privacy. Penal Code Section 502, prescribes the penalties relating to computer crimes. Penal Code Sections 11105 and 13300, identify who has access to criminal history information and under what circumstances it may be disseminated. Penal Code Sections 11140 - 11144 and 13301 - 13305, prescribe penalties for misuse of criminal history information. Government Code Section 6200, prescribe felony penalties for misuse of public records. Penal Code Sections 11142 and 13300 state:

**“Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person not authorized by law to receive the record or information is guilty of a misdemeanor.”**

Civil Code Section 1798.53, Invasion of Privacy, states:

**“Any person who intentionally discloses information, not otherwise public, which they know or should reasonably know was obtained from personal or confidential information maintained by a state agency or from records within a system of records maintained by a federal government agency, shall be subject to a civil action, for invasion of privacy, by the individual.”**

**CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:**

- \*Penal Code Section 11141: DOJ furnishing to unauthorized person (misdemeanor)
- \*Penal Code Section 11142: Authorized person furnishing to other (misdemeanor)
- \*Penal Code Section 11143: Unauthorized person in possession (misdemeanor)
- \*California Constitution, Article I, Section 1 (Right to Privacy)
- \*1798.53 Civil Code, Invasion of Privacy
- \*Title 18, USC, Sections 641, 1030, 1951, and 1952

Any employee who is responsible for such misuse may be subject to immediate dismissal. Violations of this law may result in criminal and/or civil action.

**I HAVE READ THE ABOVE AND UNDERSTAND THE POLICY REGARDING MISUSE OF CRIMINAL RECORD INFORMATION.**

Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_ Title \_\_\_\_\_

Name of Organization/Agency \_\_\_\_\_

**CALIFORNIA JUSTICE INFORMATION SERVICES DIVISION  
CRIMINAL OFFENDER RECORD INFORMATION POLICY  
Use of Applicant Criminal Offender Record Information**

**Head of organization/agency must sign and return document**

This policy has been developed to meet the requirements of the State of California, Department of Justice, Division of California Justice Information Services, for any agency that receives Criminal Offender Record Information (CORI).

To ensure the suitability of individuals accessing confidential criminal history records, anyone with access to CORI shall be fingerprinted and processed through the California Department of Justice.

The overall responsibility for the administration of this rests with the agency head or person in charge.

- A. Record Security: Any questions regarding the release, security and privacy of Criminal Offender Record Information (CORI) are to be resolved by the agency head or person in charge.
- B. Record Destruction: It is recommended that the state summary of CORI obtained for employment, licensing or certification purposes be destroyed once a decision is made to employ, license or certify the subject of the record. Retention beyond this time, should be based on legitimate business need or statute.
- C. Record Dissemination: CORI shall be used only for the purpose for which it was requested.
- D. Record Storage: CORI shall be securely maintained and accessible only to the agency head and any others designated by the agency head committed to protect CORI from unauthorized access, use, or disclosure.
- E. Record Reproduction: CORI shall not be reproduced for secondary dissemination.
- F. Training: **The agency head shall:**
  - 1. Understand and enforce this policy.
  - 2. Be fingerprinted and have a criminal history clearance.
  - 3. Have on file a signed copy of the attached *Employee Statement Form* (which is itself a part of this policy) which acknowledges an understanding of laws prohibiting misuse of CORI.
- G. Penalties: Misuse of CORI is a criminal offense. Misuse of CORI may result in criminal or civil prosecution and/or administrative action up to and including loss of access to information maintained by the Department of Justice.

**I HAVE READ THE ABOVE AND UNDERSTAND THE POLICY REQUIREMENTS.**


**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Agency/Organization Name:** \_\_\_\_\_

**Agency Mailing Address:** \_\_\_\_\_

**Physical Address:** \_\_\_\_\_

<p>California Department of Justice DIVISION OF CALIFORNIA JUSTICE INFORMATION SERVICES Nick L. Dedier, Chief Information Officer</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i></p> <p><b>Retention of Criminal Offender Record Information</b></p>	<p><i>No.</i></p> <p>02-17-BCII</p>	<p><i>Contact for information:</i></p> <p>George Renfroe, Manager Communications Admin. Program (916) 227-3863</p>
	<p><i>Date:</i></p> <p>12-19-02</p>	

**TO: ALL APPLICANT AGENCIES**

The purpose of this Information Bulletin is to clarify the responsibilities of applicant agencies regarding the use and retention of criminal offender record information (CORI).

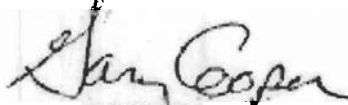
Section 11105 of the Penal Code authorizes the Department of Justice (DOJ) to furnish criminal record information to various agencies/entities to assist them in fulfilling their employment, licensing, and certification responsibilities. The agency's use of the record information shall be restricted to the sole purpose for which it was requested. The information may not be reproduced for secondary dissemination to any other employing or licensing entity.

Retention of CORI is permissible if, after making its initial employment, licensing, or certification decision, the agency has a legitimate business need for the information and there are no statutory requirements to destroy such information. Any record information that is retained by the applicant agency must be stored in a secure and confidential file. Access to the information must be restricted to the Records Custodian and/or hiring authority charged with determining the suitability for employment, licensing, or certification of an applicant. The DOJ recommends that agencies destroy CORI when the business need has been fulfilled. Applicant agencies should always retain the State Identification (SID) number for the purpose of notifying the DOJ when they are no longer interested in receiving subsequent arrest notifications pursuant to section 11105.2 of the California Penal Code.

Your assistance and cooperation is greatly appreciated.

If you have any questions regarding these instructions, please contact George Renfroe, Manager, Record Security Section at (916) 227-3863.

Sincerely,



GARY COOPER, Bureau Chief  
Bureau of Criminal Identification and Information

For **BILL LOCKYER**  
Attorney General

**CONTRACT FOR SUBSEQUENT ARREST NOTIFICATION SERVICE**

BCII 8049 (orig.12/98;rev.10/04)

Department of Justice  
Bureau of Criminal Identification and Information  
P.O. Box 903417  
Sacramento, CA 94203-4170

The agency listed below is authorized to receive state summary criminal history information from the files of the Department of Justice for employment, licensing or certification purposes. This agency further requests that fingerprint transactions submitted for this purpose be retained in Bureau files for **California** only subsequent arrest notification service pursuant to Section 11105.2 of the California Penal Code. **Fingerprint submissions received before the effective date of this contract will not be retained by the Department of Justice.**

AGENCY NAME: \_\_\_\_\_

AGENCY ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP: \_\_\_\_\_

ORI NUMBER: (if  
Applicable) \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_

**Please retain the following authorized categories:**

ALL EMPLOYEES       ALL LICENSES, CERTIFICATIONS OR PERMITS

OTHER (specify): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This agency certifies that to its knowledge, there is no statute or regulation prohibiting this notification, that all requirements for criminal record security and privacy of individuals will be met. This agency will notify the Bureau of Criminal Identification and Information when it no longer has a legitimate interest in a subject, as required by Section 11105.2 of the California Penal Code. The agency agrees to immediately return any subsequent arrest notification received from DOJ for any person unknown to the agency. The agency understands that disposition information will only be provided by the DOJ if such information is available in the DOJ's records at the time the subsequent arrest notification is made to the agency.

**APPROVED:** (Department of Justice area only)

\_\_\_\_\_  
Signature of Agency Representative  
Date

\_\_\_\_\_  
Signature of DOJ Representative  
Applicant Processing Program  
Bureau of Criminal Identification and Information

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title of Agency Representative

\_\_\_\_\_  
Effective Date

## **No Longer Interested Notification**

California Penal Code section 11105.2 (d) states, in part, that any agency which submits the fingerprints of applicants for employment or approval to the Department of Justice (DOJ) for the purpose of establishing a record of the applicant to receive notification of subsequent arrests, shall immediately notify the department when employment is terminated or the applicant is not hired.

It is the responsibility of the hiring/approving authority to notify the Department of Justice, Bureau of Criminal Identification and Information when employment has been terminated or when an applicant or volunteer is not actually retained in the position for which they applied.

The DOJ No Longer Interested Form is available at:

<http://ag.ca.gov/fingerprints/forms/nli.pdf>

## California Penal Code Section 11105.3

**11105.3** (a) Notwithstanding any other law, a human resource agency or an employer may request from the Department of Justice records of all convictions or any arrest pending adjudication involving the offenses specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code of a person who applies for a license, employment, or volunteer position, in which he or she would have supervisory or disciplinary power over a minor or any person under his or her care. The department shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(b) Any request for records under subdivision (a) shall include the applicant's fingerprints, which may be taken by the requester, and any other data specified by the department. The request shall be on a form approved by the department, and the department may charge a fee to be paid by the employer, human resource agency, or applicant for the actual cost of processing the request. However, no fee shall be charged to a nonprofit organization. Requests received by the department for federal level criminal offender record information shall be forwarded to the Federal Bureau of Investigation by the department to be searched for any record of arrests or convictions.

(c) (1) Where a request pursuant to this section reveals that a prospective employee or volunteer has been convicted of a violation or attempted violation of Section 220, 261.5, 262, 273a, 273d, or 273.5, or any sex offense listed in Section 290, except for the offense specified in subdivision (d) of Section 243.4, and where the agency or employer hires the prospective employee or volunteer, the agency or employer shall notify the parents or guardians of any minor who will be supervised or disciplined by the employee or volunteer. A conviction for a violation or attempted violation of an offense committed outside the State of California shall be included in this notice if the offense would have been a crime specified in this subdivision if committed in California. The notice shall be given to the parents or guardians with whom the child resides, and shall be given at least 10 days prior to the day that the employee or volunteer begins his or her duties or tasks. Notwithstanding any other provision of law, any person who conveys or receives information in good faith and in conformity with this section is exempt from prosecution under Section 11142 or 11143 for that conveying or receiving of information. Notwithstanding subdivision (d), the notification requirements of this subdivision shall apply as an additional requirement of any other provision of law requiring criminal record access or dissemination of criminal history information.

(2) The notification requirement pursuant to paragraph (1) shall not apply to a misdemeanor conviction for violating Section 261.5 or to a conviction for violating Section 262 or 273.5. Nothing in this paragraph shall preclude an employer from requesting records of convictions for

violating Section 261.5, 262, or 273.5 from the Department of Justice pursuant to this section.

(d) Nothing in this section supersedes any law requiring criminal record access or dissemination of criminal history information. In any conflict with another statute, dissemination of criminal history information shall be pursuant to the mandatory statute. This subdivision applies to, but is not limited to, requirements pursuant to Article 1 (commencing with Section 1500) of Chapter 3 of, and Chapter 3.2 (commencing with Section 1569) and Chapter 3.4 (commencing with Section 1596.70) of, Division 2 of, and Section 1522 of, the Health and Safety Code, and Sections 8712, 8811, and 8908 of the Family Code.

(e) The department may adopt regulations to implement the provisions of this section as necessary.

(f) As used in this section, "employer" means any nonprofit corporation or other organization specified by the Attorney General which employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

(g) As used in this section, "human resource agency" means a public or private entity, excluding any agency responsible for licensing of facilities pursuant to the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500)), the California Residential Care Facilities for the Elderly Act (Chapter 3.2 (commencing with Section 1569)), Chapter 3.01 (commencing with Section 1568.01), and the California Child Day Care Facilities Act (Chapter 3.4 (commencing with Section 1596.70)) of Division 2 of the Health and Safety Code, responsible for determining the character and fitness of a person who is: (1) Applying for a license, employment, or as a volunteer within the human services field that involves the care and security of children, the elderly, the handicapped, or the mentally impaired. (2) Applying to be a volunteer who transports individuals impaired by drugs or alcohol. (3) Applying to adopt a child or to be a foster parent.

(h) Except as provided in subdivision (c), any criminal history information obtained pursuant to this section is confidential and no recipient shall disclose its contents other than for the purpose for which it was acquired.

## **Excerpts from the California Penal Code and California Code of Regulations**

### **California Penal Code**

**11142.** Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person who is not authorized by law to receive the record or information is guilty of a misdemeanor.

**11143.** Any person, except those specifically referred to in Section 1070 of the Evidence Code, who, knowing he is not authorized by law to receive a record or information obtained from a record, knowingly buys, receives, or possesses the record or information, is guilty of a misdemeanor.

**11076.** Criminal offender record information shall be disseminated, whether directly or through any intermediary, only to such agencies as are, or may subsequently be, authorized access to such records by statute.

**11079.** The Attorney General may conduct such inquiries and investigations as he finds appropriate to carry out functions under this article. He may for this purpose direct any agency that maintains, or has received, or that is eligible to maintain or receive criminal offender records to produce for inspection statistical data, reports, and other information concerning the storage and dissemination of criminal offender record information. Each such agency is authorized and directed to provide such data, reports, and other information.

### **California Code of Regulations**

#### **702. Compliance with State Regulations**

(c) The California Department of Justice shall conduct audits of authorized persons or agencies using criminal offender record information to insure compliance with the State regulations.

#### **703. Release of Criminal Offender Record Information**

(d) Record checks shall be conducted on all personnel hired after July 1, 1975, who have access to criminal offender information.

#### **708. Destruction of Criminal Offender Record Information**

(a) When criminal offender record information is destroyed, the destruction shall be carried out to the extent that the identity of the subject can no longer reasonably be ascertained. When criminal offender record information is destroyed outside of the authorized agency, a person designated by the agency shall witness the destruction.