



Background Checks Feasibility Study

Report to the Legislature | Section 130(17), Chapter 297, Laws of 2022

Prepared for the Office of Financial Management

June 1, 2023

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Executive Summary

This study evaluates opportunities for greater agency coordination to improve background check processes for the individuals and agencies involved in the approximately 167,000 fingerprint-based background checks that the Washington State Patrol (WSP) conducts annually for individuals seeking jobs, volunteer positions, licenses, or child placements that grant unsupervised access to vulnerable populations. (We refer to individuals seeking these roles or licenses as “impacted individuals.” See page 4 for a definition of “vulnerable populations.”)

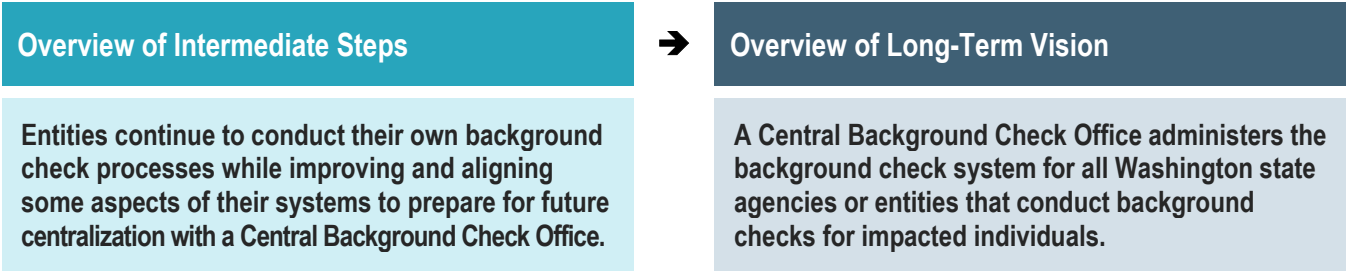
The current background check system aims to balance tensions among three system goals: (1) minimizing risk to vulnerable populations, (2) offering and advancing equity for impacted individuals, and (3) functioning efficiently for agencies and individuals (see *System Goals* for more info). This tension leads to challenges for some individuals, agencies, and employers (see *Current System Problem Statements* for more info). These challenges vary by agency and individual circumstances, but overall disproportionately impact people with low incomes, who may be less able to wait for an employment decision due to the process timeline, and people who are Black or Hispanic, who are disproportionately represented in the criminal justice system. Addressing these challenges without upsetting the balance of risk, equity, and efficiency requires careful consideration.

In an effort to address this issue, the Legislature directed several State agencies involved in relevant background checks to convene as a Work Group to provide a feasibility study and implementation plan for establishing a State office to centrally manage background check processes. The Work Group, comprised of representatives from eight agencies, convened seven times to discuss options and guide supporting research. This Work Group identified three desired overarching improvements to the system:

- Facilitate more equitable outcomes for individuals.
- Minimize the number of individuals who choose to pursue other roles due to a lengthy or challenging background check process.
- Support agencies in hiring a workforce that reflects the population served.

Given these motivations, the Work Group developed a long-term vision for Washington should the Legislature choose to pursue background check system centralization. This full vision is not immediately feasible given current constraints, so this study also offers an implementation plan in the form of intermediate steps that would offer incremental improvements and progress toward system centralization. Exhibit 1 offers a high-level summary of the long-term vision and intermediate steps. (See *Proposed Long-Term Vision and Intermediate Steps: A Centralized System* for details on both.)

Exhibit 1. Intermediate Steps and Long-Term Vision



Source: BERK, 2023.

While centrally managing background check processes cannot be achieved immediately, this report outlines a potential path to doing so.

Introduction

[Section 130 \(17\), Chapter 297, Laws of 2022](#) directed the Office of Financial Management (OFM) to contract with a third-party facilitator to convene an interagency Work Group charged with “review[ing] existing requirements and processes for conducting applicant background checks for impacted individuals, and to provide a feasibility study and implementation plan for establishing a state office to centrally manage criminal background check processes for impacted individuals.” See the textbox at right for a definition of “impacted individuals.”

OFM contracted with BERK Consulting to help the Work Group conduct the study, which included reviewing current processes and researching the proviso questions to understand future system options. An implementation plan is part of this final report.

Project Background

A background check is a general term for a search into an individual’s past actions and records. Many entities, including state and local agencies, state and local contractors, and private employers, are required by federal and/or state law to conduct fingerprint-based background checks for individuals seeking certain jobs, volunteer positions, licenses, or child placement, which we collectively refer to as “roles or licenses.” See the textbox at right for a definition of “roles or licenses.”

The primary objective of conducting such background checks is to protect the financial security, privacy, and physical safety of the public, especially vulnerable populations including children, older adults, people with disabilities, and people who are incarcerated. See the textbox at right for a definition of “vulnerable populations.”

This study evaluated opportunities to (1) improve the fingerprint background check process for individuals seeking roles or licenses by ensuring equitable access and providing predictable and efficient process, while (2) maintaining the system’s focus on safety and security for members of the public. There were three primary motivations to improve the process in this way:

1. **Facilitate more equitable outcomes.** Current inequities in the background check process can create barriers to licensure or positions that disproportionately impact people with low incomes, who may be less able to wait for an employment decision due to the process timeline, and people who are Black or Hispanic, who are disproportionately represented in the criminal justice system.
2. **Minimize the number of individuals who choose to pursue other roles due to a lengthy or challenging background check process.** Some agencies that conduct background checks report that prospective employees or volunteers may abandon the hiring process due to a lengthy or challenging background check process. This is an especially significant concern in fields with a tight labor market like childcare or behavioral health.

Key term: “impacted individuals”

Impacted individuals include applicants for state employment, current state employees, and individuals for whom an applicant background check is required as a condition of employment or to provide state services, including but not limited to individuals subject to RCW 26.44.240, 28A.400.303, 43.43.830 through 43.43.845, 43.101.095, 43.216.270, 74.15.030, and 74.39A.056. Throughout this report, we often use the term “individuals” as shorthand for impacted individuals.

Key term: “roles or licenses”

Throughout this report, we collectively refer to jobs, volunteer positions, licenses, or child placements – including serving as a foster or adoptive parent – that require a fingerprint-based background check as “roles or licenses.”

Key term: “vulnerable populations”

Vulnerable populations include children, older adults, people with disabilities, people who are incarcerated, and adults of any age who lack the functional, mental, or physical ability to care for themselves.

3. **Support agencies in hiring a workforce that reflects the population served**, which may include relevant lived experience such as having a criminal record. Hiring individuals with a criminal record can require additional process to adequately protect the safety and security of members of the public. This additional process can create barriers to hiring these individuals.

Study Scope

Per the instigating legislation, this study focuses on **civil fingerprint-based background checks conducted for jobs, volunteer positions, licenses, or child placements that grant unsupervised access to vulnerable populations**. Background checks for these roles or licenses are required by federal and/or State law.

Fingerprint-based checks use an individual's fingerprints to search for matches in one or more fingerprint databases administered by the FBI, an interstate group, or the state. A fingerprint-based check is effectively inclusive of a name-based check for law enforcement agencies (see *Out-of-Scope Background Checks*), as it uses both (1) the individual's fingerprints and (2) the individual's name and date of birth to search for relevant information in one or more databases.

Out-of-Scope Background Checks

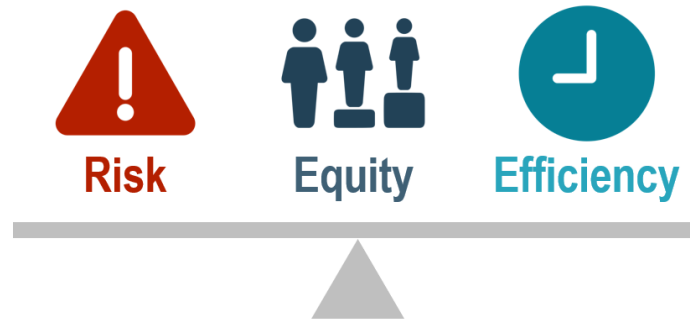
Types of background checks that are outside the scope of this study include:

- **Name-based background checks for the public.** Any member of the public can conduct a background check on an individual through the State or through a private background check agency. Such a background check will only return publicly available information about the individual, such as conviction information or inclusion on a sex- or kidnap offender registry. Name-based background checks use the individual's full legal name and date of birth to search for relevant information in one or more databases. An individual's social security number may also be used in a background check, if they provide it to the requesting agency. Name-based checks can be less accurate because some databases include multiple individuals with the same name and date of birth combination. One common use of name-based checks is discretionary employment-related checks that some employers conduct for prospective employees.
- **Name-based background checks for law enforcement agencies.** Law enforcement agencies (i.e., Washington State Patrol and the Washington State Department of Corrections) have access to non-conviction criminal history record information (CHRI), and so can conduct more thorough name-based background checks than the public can. This type of background checks includes background checks for firearms.
- **Criminal background checks.** A criminal background check is conducted because an individual has been detained by a law enforcement agency under suspect of having committed a crime.

System Goals

The Work Group identified that any proposed background check process improvements would need to balance the tensions among the three goals of the system: risk, equity, and efficiency, as illustrated in Exhibit 2.

Exhibit 2. Goals of the Background Check System



Sources: Caution icon by Thengakola; equity icon by Laura Amaya; time icon by iceloid, all from Noun Project (CCBY3.0); BERK, 2023.

⚠ Risk. Agencies have an obligation to protect the safety of vulnerable populations through their hiring, placement, and licensing decisions and this comes with great responsibility. Notably, a background check only considers past behavior but cannot predict future behavior. Currently, Washington state does not allow Rap Back services, which provide ongoing monitoring of arrests and could help address public safety risk by alerting agencies if an individual who has unsupervised access to vulnerable populations has potentially engaged in new criminal activity. However, these services also come with equity considerations (see Appendix G: Rap Back for more discussion).

👥 Equity. A speedy process reduces the time until an individual is notified of the results of their background check. This supports equity for those who can least afford to wait for employment or licensure, especially individuals with low incomes. However, when an individual has criminal history that requires agencies to conduct additional research or a Character, Suitability and Competence (CS&C) assessment (see Step 3A in *Current System Overview*), agencies need more time to ensure a balance between access to opportunity and risk to populations served.

🕒 Efficiency. An efficient system supports agencies and individuals in serving populations with vulnerable populations. However, an overemphasis on efficiency, particularly on speed, can reduce equity and increase risk in the following ways:

- **Decrease equity.** Speed could come at the expense of the process to avoid unnecessarily foreclosing employment opportunities for impacted individuals.
- **Increase risk to vulnerable populations.** Speed could come at the expense of conducting thorough background checks.

Study Methodology

Study methodology included two primary approaches: (1) facilitation of a Work Group, and (2) research, including engagement.

Work Group

OFM designated Ross Hunter, Secretary at the Washington State Department of Children, Youth, and Families (DCYF) to chair the Work Group, which included representatives from the five agencies named in the proviso:

- DCYF
- Department of Corrections (DOC)
- Department of Social and Health Services (DSHS)
- Office of Superintendent of Public Instruction (OSPI)
- Washington State Patrol (WSP)

OFM, as the project lead, also participated in the Work Group.

We also invited the Health Care Authority (HCA) and Washington Technology Solutions (WaTech) to participate due to their roles with background checks regarding impacted individuals and technology systems, respectively. Together, these Work Group agencies account for most of the fingerprint-based criminal background checks conducted for state employment or licensure. See *Current System Overview* for more details.

BERK conducted an initial interview with staff from each Work Group agency to understand their current processes, reasons for conducting background checks, and challenges with and opportunities for the process.

The Work Group met seven times between July 2022 and May 2023 to discuss system observations, research and engagement findings, and potential options. A subgroup consisting of representatives from DCYF, DOC, DSHS, OFM, and WSP spent an additional two meetings developing the long-term vision.

Research and Engagement

Research and engagement included the following components:

- **Agency interviews and document review.** Through Work Group agency interviews and document review, BERK gathered information about the current landscape and information to address the proviso questions.
- **Other state research and interviews.** BERK researched other states' background check systems to identify potentially promising solutions. Through this research and the recommendations of Work Group members, BERK identified the states of Arizona, Florida, Georgia, Idaho, and Oregon for interviews. See *Appendix F: Profiles of Other States* for more details on the findings of each of these interviews.
- **FBI query.** On behalf of the Work Group, WSP sent an inquiry to the FBI to understand whether and how current rules and regulations would allow for a truly centralized process in which multiple state agencies could be considered related for the purposes of sharing information, consolidated under a single statute. The FBI's response clarified that while such centralization would not be possible under

Work Group Members

DCYF: Ross Hunter (Chair), Chris Parvin, and Genevieve Stokes, and Meryl Stride

DOC: Joyce Covey, Melena Thompson

DSHS: Monika Vasil, Lori Manning

HCA: Maureen Bailey, Michael Brown

OFM: Max Brown and Robyn Williams

OSPI: Jennifer Simmonds

WaTech: Bill Moneer

WSP: Deborah Collinsworth

PL 92-544, some state agencies could potentially share CHRI pursuant to other authorities such as the National Child Protection Act/Volunteers for Children Act (NCPA/VCA).

- **Impacted individual interviews.** BERK conducted interviews with 25 individuals who had recently undergone a hiring or licensure process, primarily with DSHS and DCYF, to better understand how individuals experience the current process.

Current System Overview

FBI Role and Rules

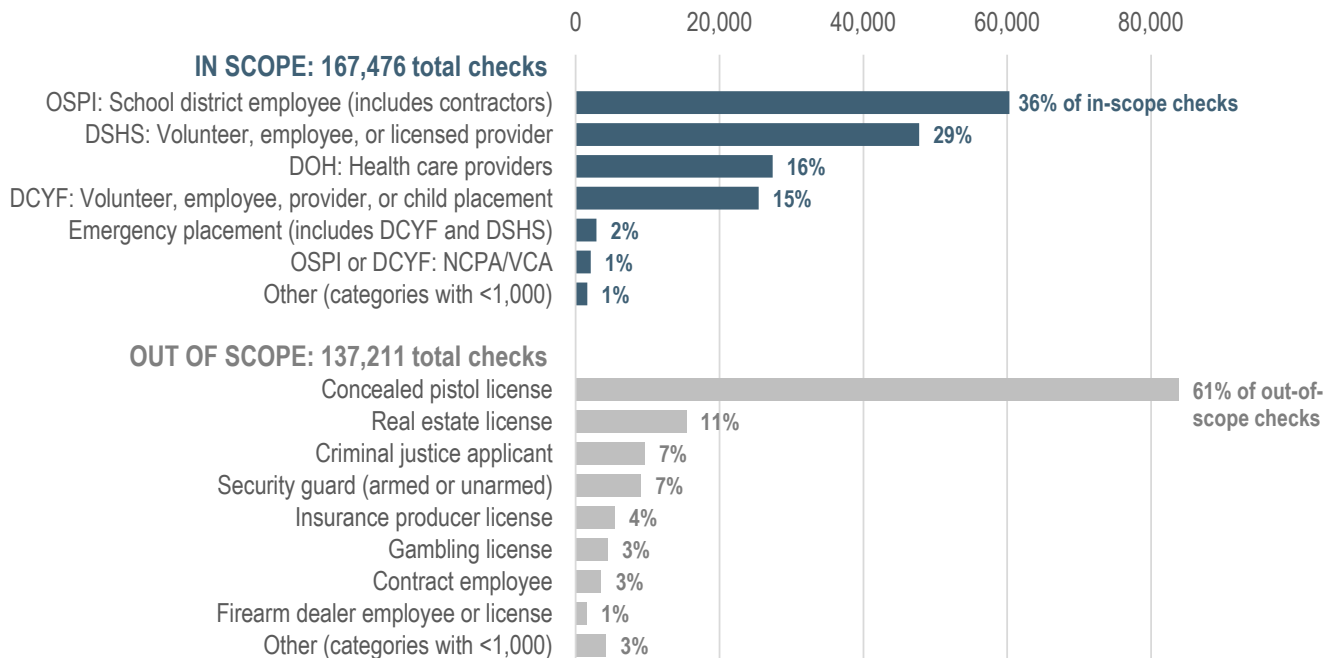
Under PL 92-544, any fingerprint-based background check must be authorized by a state statute. Fingerprint-based checks are conducted by the FBI to provide a national criminal history records search. The FBI requires the following for all fingerprint-based checks:

- **All fingerprint-based checks must be conducted for a defined purpose.** Any fingerprint-based check must be conducted for a defined purpose per the *Noncriminal Justice Access to Criminal Record History Information (CHRI) Policy Reference Guide*. The results of background checks conducted for one purpose cannot be shared with parties that require checks for another purpose.
- **All fingerprint-based checks must be initiated by an originating entity (OE).** Only select parties, called OEs, can collect fingerprints to submit to the FBI via WSP (the State Identification Bureau) for fingerprint-based checks.

Volume

Exhibit 3 shows the purposes and their proportional volumes for all fingerprint-based background checks that WSP processed for originating entities for role- or license-related purposes in Washington in 2021. Note that the agencies with the highest volumes align with the agencies included in the Work Group for this study: DCYF, DSHS, and OSPI collectively accounted for over 82% of the total fingerprints received by WSP for purposes related to the scope of this study.

Exhibit 3. Types of In-Scope and Out-of-Scope Fingerprint-Based Background Checks for Roles and Licenses with more than 1,000 prints, as a percentage of all Background Checks WSP Processed in 2021



Notes: The counts in this chart are lower than the agency counts shown in [Appendix D: Agency Summaries](#). This is because agencies process some background checks that do not reach WSP. For example, an agency may initiate a background check process for an individual, but if that individual does not show up for their fingerprint collection appointment, the background check process will not reach WSP.

DSHS's BCCU facilitates all DCYF checks and a portion of DOH's checks.

Source: WSP, 2022; BERK, 2023.

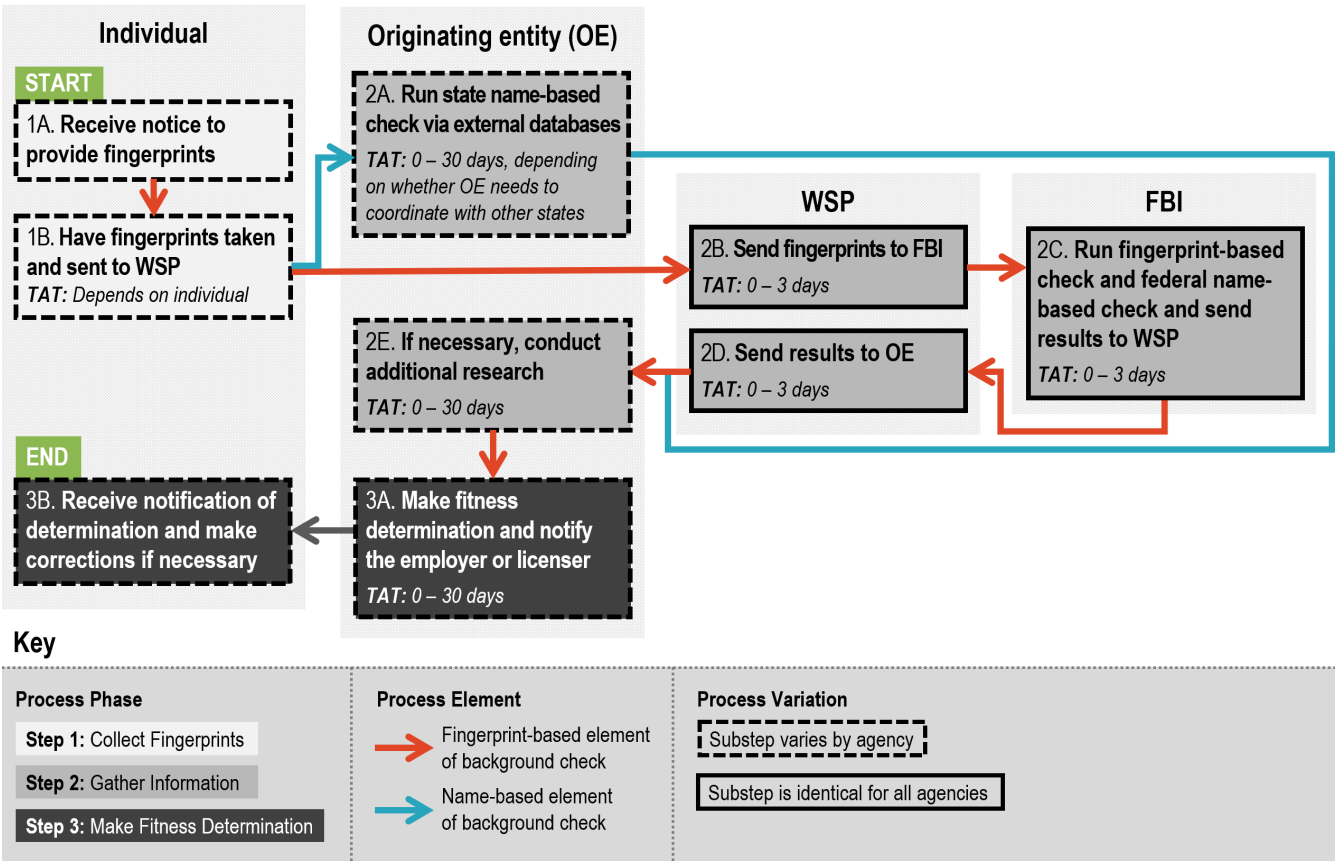
Current System Process

The detailed process of conducting a background check differs by originating agency. However, all originating agencies follow the same high-level sequence of three steps:

- **Step 1: Collect Fingerprints.** The first step involves gathering the individual’s information and fingerprints that will be used to conduct the background check.
- **Step 2: Gather Information.** With the individual’s information and fingerprints obtained, the OE runs a state name-based check using state databases while the FBI conducts a fingerprint check. WSP transmits the FBI’s results back to the OE immediately upon receipt from the FBI. If needed, the OE conducts additional research into the individual’s CHRI.
- **Step 3: Make Fitness Determination.** The OE uses the results of the background check to determine if the individual should be approved for their desired role or license. As described in the sections below, this can be a quick and simple step or lengthy and involved process, depending on the results of the individual’s background check.

Below, we describe in detail the substeps involved in each step of the process, also shown in Exhibit 4.

Exhibit 4. Fingerprint-Based Background Check Process



Notes: Turnaround times (TAT) vary significantly by originating entity and other external factors.

2A. Some, but not all, agencies run state name-based checks. For example, DCYF does, but DSHS does not.

2E. WSP does not send fingerprint results directly to DCYF, but instead sends to DSHS’s BCCU, which facilitates all background checks for DCYF. According to DCYF, this additional step can add TAT for DCYF background checks.

Source: BERK, 2023.

Step 1: Collect Fingerprints

- 1A. **Individual receives notice from prospective employer, current employer, or OE to provide fingerprints.** If the individual has applied for a job or volunteer position, the prospective employer or OE will typically notify the individual that they need to provide fingerprints for a fingerprint-based background check when offering the job or position to the individual, contingent upon an acceptable background check. In such cases, some individuals may begin work immediately upon condition of a future acceptable background check, while others must wait to begin work until the OE has received background check results and made a hiring determination (see substep 3A).
- 1B. **Individual has their fingerprints collected and sent to WSP.** The individual makes an appointment to provide their fingerprints at a fingerprint collection location such as an OE's office, a law enforcement location, an agency's office such as an Educational Service District, or a fingerprint collection vendor. See *Fingerprint Collection Vendors* for vendor fingerprint collection locations. The individual's fingerprints may be collected in one of two ways:
- **Electronically**, using a Live Scan machine and submitted electronically to WSP. There are two primary advantages to this method: (1) Immediate submission (i.e., no delay for mail), and (2) Live Scan machines will flag poor-quality fingerprint imaging, which minimizes the likelihood that WSP will reject fingerprints upon receipt. If WSP or the FBI rejects fingerprints, this can add inconvenience (i.e., the individual needs to make a new appointment and visit a location to provide their fingerprints) and time to the process.
 - **Manually**, using paper cards and ink that are mailed to WSP. Manual collection is an essential option because a skilled manual collector can collect some individuals' prints that are unable to be read using a Live Scan machine. Such individuals include some older adults or some people who have regularly worked with solvents.

At the same time, the individual also provides thirteen demographic identifiers, including their place and date of birth, citizenship, and social security number, to support the background check process.

If the individual has their fingerprints taken at a location other than an OE's office, the fingerprint collection location forwards the individual's fingerprints and information to WSP, which, as the State

USER INTERVIEWS

BERK conducted interviews with 25 individuals who had recently undergone a hiring or licensure process that included a background check. Eleven interviewees had participated in fingerprint-based background checks, and the remainder had participated in name/date-of-birth checks. DSHS or DCYF conducted most interviewees' background checks. Key findings from interviewees who participated in fingerprint-based checks include:

- **Fingerprint collection:** Fingerprint collection was primarily conducted with IDEMIA **IdentoGO**, including IdentoGo locations collocated with local small businesses like shipping services and notaries. Almost all **interviewees recounted a positive fingerprint collection experience**, noting it was **simple, easy, and quick**. Nine of eleven found it easy to get an appointment, seven said the fingerprint collection location was convenient, and nine said that operating hours were convenient.
- **Communication:** Most interviewees said they were provided with **clear instructions** and **treated with respect**. Several interviewees noted they would have preferred more updates during the process.
- **Timeline:** Most interviewees were **dissatisfied or had neutral or mixed feelings regarding the total length of time the hiring process took**, which included initial interviews and process before the background check process. Once the background check process was initiated, more than half received **notification of hiring/licensure decision after 15 or more business days**, and the remainder received results **within seven business days**.

Identification Bureau, is the sole processor of the state's records on individuals' criminal histories and the sole entity authorized to submit fingerprints to the FBI for background checks. See the Glossary for more detail.

Step 2: Gather Information

- 2A. **Some OEs run state name-based check on the individual.** The OE conducts a name-based background check using publicly available external databases such as WSP's Washington Access To Criminal History (WATCH) database, Child Protective Services' Child Abuse and Neglect (CAN) database, and the Sex Offender Registry. In some cases, the OE will begin this process before Step 1 is complete.
- 2B. **WSP sends fingerprints electronically to the FBI.** Upon receipt of an individual's fingerprints, WSP forwards the individual's fingerprints to the FBI.
- 2C. **FBI runs background checks and sends their findings electronically to WSP.** Upon receipt of an individual's fingerprints, the FBI runs a fingerprint-based background check on the individual and returns the results to WSP.
- 2D. **WSP sends the FBI's findings to OE.** Upon receipt of an individual's background check results from the FBI, WSP forwards the results to the OE. WSP does not send fingerprint results directly to DCYF, but instead sends them to DSHS's BCCU, which facilitates all background checks for DCYF.
- 2E. **If necessary, OE conducts additional research.** In some cases, the OE will conduct additional research upon receipt of an individual's background check results from WSP. Additional research can include reaching out to courts to understand dispositions, requesting additional information from the individual, or reaching out to other states if the individual's CHRI includes crimes or negative actions from other states, where conviction classifications may not align with Washington's classifications.

Step 3: Make Fitness Determination

3A. **OE makes a fitness determination.** The OE reviews findings from the background checks and additional research, if applicable. There are three possible scenarios:

- **SCENARIO A – Pass:** Individual has no record or negative actions. *Fitness determination: individual is fit for the desired role or license.*

In such a case, the individual is determined fit for the desired role or license.

- **SCENARIO B – CS&C Assessment:** Individual has a record or one or more negative actions that do not include a disqualifying crime or action, requiring a CS&C assessment. *Fitness determination: depends on the CS&C assessment.*

The OE will conduct a CS&C Assessment (see textbox) to determine the individual's fitness for the role or license.

- **SCENARIO C - Fail:** Individual has a record or negative action that includes an automatic disqualifier. *Fitness determination: individual is not fit for the desired role or license.*

Individuals with some crimes or negative actions are precluded from obtaining a given role or license per the agency director's rules or other state or federal requirements. If an individual has a disqualifying crime or action in their record, they are deemed unfit for the given role or license.

CS&C Assessment

If an individual's CHRI contains one or more crimes or negative actions that do not include a disqualifying crime or action, the OE's fitness determination process for this individual will include a CS&C assessment. To conduct the CS&C assessment, the OE considers the individual's CHRI with respect to the Green Factors to determine whether the individual's unique record should preclude them from holding their desired role or license. Criteria for the determination vary by OE and role or license, based on a mix of agency policy and State and federal requirements. CS&C determination processes are agency-specific, and in some cases are trauma-informed, focused on hiring individuals with lived experience, or oriented towards providing "second chance employment."

In a hiring situation, if the employer is different than the OE, the OE notifies the employer of the results of the fitness determination.

3B. **Individual receives notification of determination and makes corrections to record if necessary.**

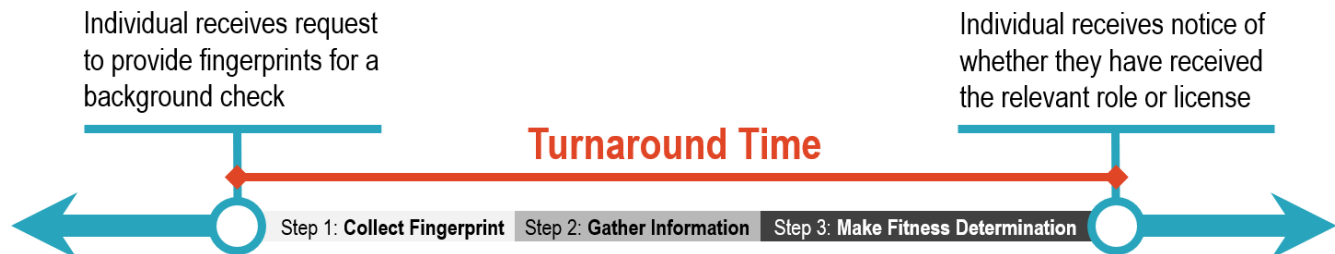
The OE or employer notifies the individual of the determination for the given role or license. Some OEs also provide the individual with a copy of the individual's CHRI, whereas other OEs notify the individual of how they can acquire that information through WSP. If the individual disputes the fitness determination, their next steps are as follows:

- **If an individual believes that there is an error in their record,** the OE provides the individual with information about how to correct that error with WSP and/or FBI. Typically, if the individual is seeking a job, this correction process may not be completed within a reasonable timeframe for the individual to still obtain the desired job.
- **If an individual disputes the fitness determination but does not find an error in their record,** each OE has a process by which the individual can appeal the results of their determination. This process differs by OE. In some cases, an internal applicant could complete an appeal process on a timeline that could potentially allow them to obtain their desired role if the determination were reversed. In other cases, especially for external applicants, the appeals process cannot be completed quickly enough for the given hiring timeline, and any determination reversal would apply to future applications.

Turnaround Times

We define the turnaround time (TAT) as the period between when an individual receives a request to provide fingerprints for a fingerprint-based background check and when they are notified of whether they have received the relevant role or license. We illustrate this period in Exhibit 5.

Exhibit 5. Definition of a Background Check Turnaround Time



Source: BERK, 2023.

Factors Impacting Turnaround Times

Aspects of all three steps of the background check process can impact TAT, including:

Step 1: Collect Fingerprints

- **The length of time until the next available appointment at the nearest fingerprint collection location.** Contracts with IDEMIA, the fingerprint collection vendor used by DCYF, DSHS, and HCA in Washington (see *Contract Overview* for more information), require that appointments are available at each IDEMIA IdentoGO fingerprint collection location within five business days or less. However, some IdentoGO locations have limited opening hours – such as one that is only open one day every other week – which could cause delays in the TAT.
- **The alignment of the individual's schedule with the available appointments at the fingerprint collection location and, if needed, the individual's ability to travel to alternate fingerprint collection locations with other scheduling options.** Even if the nearest fingerprint collection location offers several appointments within a few days, the individual may be unable to make these appointments due to their work schedule, childcare responsibilities, or other commitments. Some fingerprint collection locations also have occasional closures that can impact an individual's access and/or require an individual to reschedule an appointment. In some cases, an individual may be able to find more suitable appointment times at an alternate nearby fingerprint collection location, but in other cases, no other fingerprint collection location will be located within a reasonable distance of the individual's residence (see *Locations and Drive Time* for more information).
- **The amount of time the individual takes to schedule their fingerprint collection appointment.** Some individuals may immediately schedule an appointment, while others may not attempt to schedule for several days or more.

Step 2: Gather Information

- **Whether the originating entity has a background check backlog.** Some originating entities may face background check staffing vacancies or shortages that impact their ability to promptly process fingerprints and state name-based background checks.

- **Whether the originating entity has a slower, manual process or a more efficient process.** The background check process differs by agency, and some may be more prepared to efficiently process background checks than others.
- **Whether the individual's record requires further research.** Some individuals' CHRI requires additional research, such as requesting additional information from the individual or conducting outreach to another state to understand how the individual's out-of-state CHRI translates to Washington law and policies (see substep 2E of *Current System Process* for more information). This process can add time to the TAT if there are delays in response time to the OE's request for more information.

Step 3: Make Fitness Determination

- **Whether the individual's record requires further research and/or a CS&C determination:** The specifics of the individual's CHRI impact the TAT:
 - **Fast – No CS&C determination required.**
 - **No record (SCENARIO A** in substep 3A of *Current System Process*). If the individual has no record or negative actions, there is no further action required for the background check and the individual is quickly approved for the desired role or license.
 - **CHRI includes automatic disqualifiers (SCENARIO C** in substep 3A of *Current System Process*). If the individual's record includes an automatic disqualifier, the individual is quickly rejected for the desired role or license.
 - **Slow – further research required. (SCENARIO B** in substep 3A of *Current System Process*). If the individual has CHRI that is not an automatic disqualifier, a CS&C determination is required to determine if their CHRI would impact their ability to carry out the duties and responsibilities associated with that role or license. This process and the length of time it takes varies based on individual circumstances and between OEs and can take up to a month or longer in particularly complex cases.
- While one of the system goals is efficiency, the longer amount of time in these cases enables agencies to balance the other two system goals:
- **Risk.** Conduct a process that maintains public safety (i.e., protect vulnerable populations by conducting a thorough background investigation).
 - **Equity.** Do not unduly foreclose on role or license opportunities for these individuals (i.e., do not automatically disqualify them due to their CHRI).

Typical Turnaround Times

While many factors can impact the TAT for a given individual's background check, OEs report that the background check process is relatively quick for most individuals for Steps 2 and 3 of the background check process, which are the two steps that the OEs can directly influence. This finding was confirmed by our stakeholder interviews. The proportion of individuals who experience shorter and longer TATs is as follows:

- **~80% of individuals experience a short process for steps 2 and 3.** Approximately 80% of individuals have CHRI that is simple for agencies to collect and review. In such cases, it takes as little as a few hours for an agency to process an individual's fingerprints and make a decision.
- **~20% of individuals experience a longer process for steps 2 and 3.** For the remaining 20% of individuals who have CHRI that requires additional research or a CS&C assessment, the background check process can take up to 30 days. This may be longer than some individuals, particularly those with

low incomes, can wait for a role or license, but as noted above, this time enables agencies to balance risk and equity factors alongside the need for efficiency.

Exhibit 6 shows the minimum, average, and maximum TATs for each step of the process.

Exhibit 6. Minimum, Average, and Maximum Turnaround Times for Each Step of the Background Check Process

Step	TAT		
	Minimum	Average	Maximum
Step 1: Collect Fingerprints	0 – 1 day	5 – 7 days	N/A*
Step 2: Gather Information	0 – 1 day	No additional research needed: 3 – 5 days Additional research needed: Varies significantly	30 days
Step 3: Make Fitness Determination	0 – 1 day	No CS&C required: 1 – 3 days CS&C required: Varies significantly	30 days

**This step must be taken by the individual. Some submit their fingerprints quickly, while others may take longer or not do so at all.*

Source: BERK, 2023.

Fingerprint Collection Vendors

All originating entities that contract with a third-party vendor to provide fingerprint collection services in Washington and were included in the Work Group currently contract with IDEMIA for their IdentoGO services, which has locations around the state in UPS stores and other locations. Many, if not all, IdentoGO locations are collocated with other businesses or functions.

IDEMIA has provided fingerprint services to DSHS and DCYF since 2008. All DCYF background checks are covered under the DSHS contract, except background checks for childcare providers, which are covered under a separate DCYF contract. HCA recently issued an RFP for a fingerprint vendor and also selected IDEMIA. Contracting was underway during the study period.

Contract Overview

Below are selected highlights from the DCYF and DSHS contracts with IDEMIA to provide electronic fingerprint collection services via Live Scan equipment.

- Contract terms are five years, through 2027, with up to two one-year amendments.
- IDEMIA must provide statewide coverage (within 30-mile drive), including with service partners. See *Locations and Drive Time* for an analysis of drive times.
- IDEMIA must offer exceptional customer service, including 24-hour response times, help desk services, web portal, phone scheduling, and appointments within 5 business days or less.
- IDEMIA must transmit fingerprints to WSP within one hour of capture (i.e., send fingerprints as collected not in batches).
- No more than 3% of fingerprint submissions can be rejected for processing by WSP and FBI.
- IDEMIA will notify DSHS' Background Check Central Unit (BCCU), DCYF, and affected individuals of any unexpected site closures within one hour of the closure, explaining the length of the closure, and rescheduling affected individuals to alternative sites within Washington State and within a 30-mile

radius of their residence, or place of employment, or as negotiated for specific areas with geographic and demographic limitations.

- IDEMIA must maintain a crosswalk table with configuration of ORI, Reasons for Fingerprinting, and Service Codes for all individuals fingerprinted.
- IDEMIA must maintain confidentiality of personal information, including encryption and destruction of information, and protect individuals' data security.
- Agencies pay a fixed cost of \$10.75 for WA residents and \$17.95 for out-of-state residents. IDEMIA is responsible for all other costs (one-time and recurring) and any prints that are rejected and need resubmission.
- Contract-related records must be retained for 6 years.

Locations and Drive Time

Many individuals need to arrange for their own fingerprint collection at in-person locations.¹ BERK evaluated the drive time for residents across the state to reach existing IDEMIA IdentoGO locations around Washington. Exhibit 7 shows the count and share of Washington residents who live within each of three drive time brackets of an IdentoGO location. As noted previously, the DSHS and DCYF contracts with IDEMIA specify, "[IDEMIA] Must provide statewide coverage (within 30-mile drive), including with service partners."

Exhibit 7. Estimated Number and Proportion of Washington Residents within Three Drive Times of IDEMIA IdentoGO Locations

Drive Time	# of Residents who Live within the Drive Time	% of Total WA Population
0 - 30 min	7,049,689	89.6%
31 - 60 min	673,265	8.6%
61+ min	141,445	1.8%
Total WA Pop. (2022)	7,864,400	100%

Sources: OFM Small Area Estimates, 2022; BERK, 2023.

On the following pages, we show the IDEMIA IdentoGO locations and drive times in Exhibit 9. Compare this map to the map of Washington's population density in Exhibit 10.

BERK also compiled information about each location's hours of operation, shown in Exhibit 8. Just under half of locations offer service for 20 or more hours each week, and just over half of locations offer services for less than 20 hours per week.

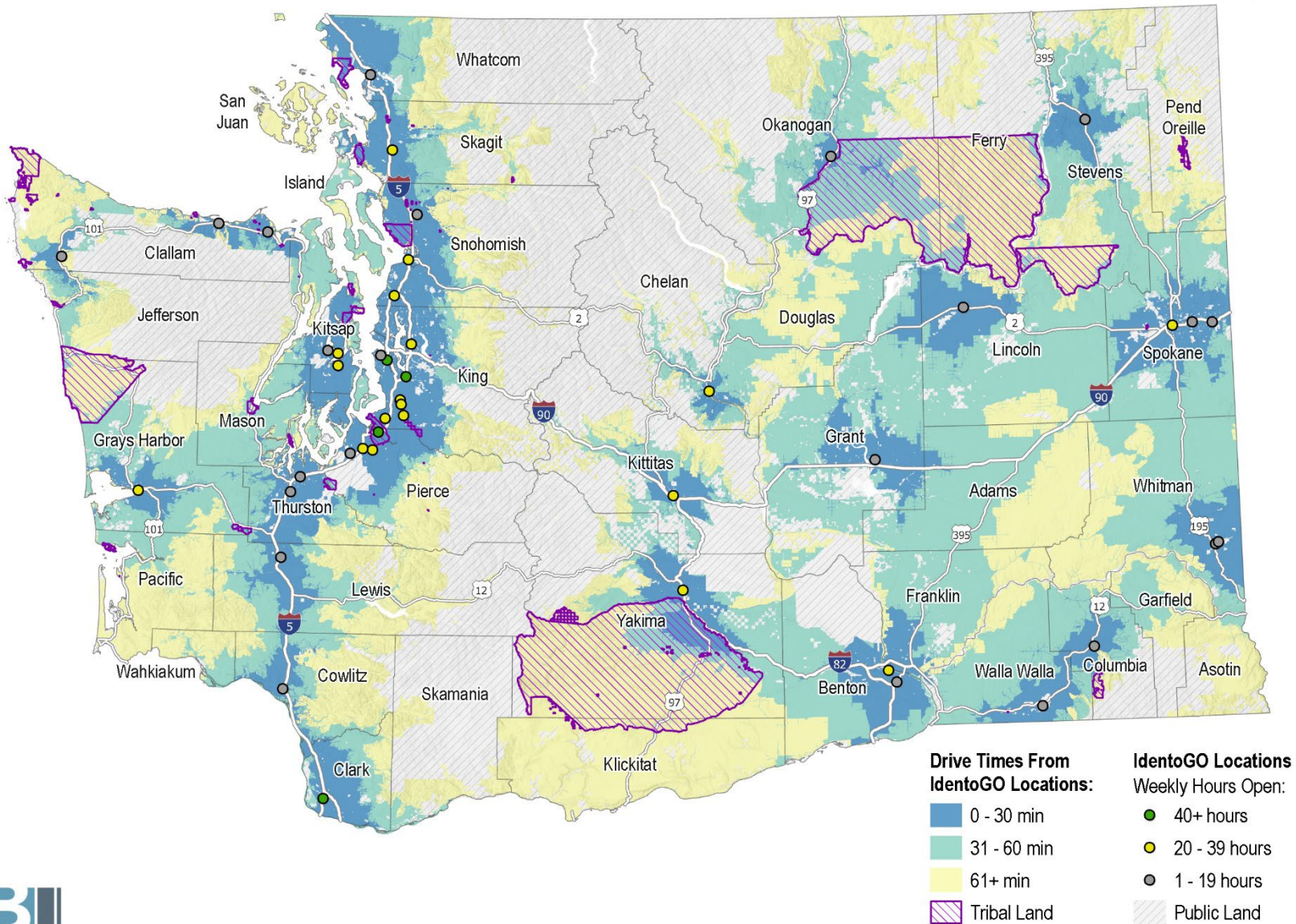
¹ An exception is individuals seeking employment with DOC. DOC collects individuals' fingerprints at onboarding and individuals may begin work immediately upon condition of an acceptable future acceptable background check. DOC collects fingerprints at this late stage in the hiring process because it is a criminal justice agency and therefore has access to non-conviction CHRI using a quick, preliminary name-based check that returns reliable results before the fingerprint-based background check process is complete. In contrast, agencies like DCYF, DSHS, or HCA do not have the ability to conduct such in-depth name-based checks and do not collect fingerprints at onboarding.

Exhibit 8. Estimated IDEMIA IdentoGO Locations by Weekly Hours of Operation, as Reported on IDEMIA's IdentoGO Website

Weekly Hours of Operation	# of Locations	% of Locations
1 - 19	23	51%
20 - 39	18	40%
+40	4	9%
Total Number of Locations	45	

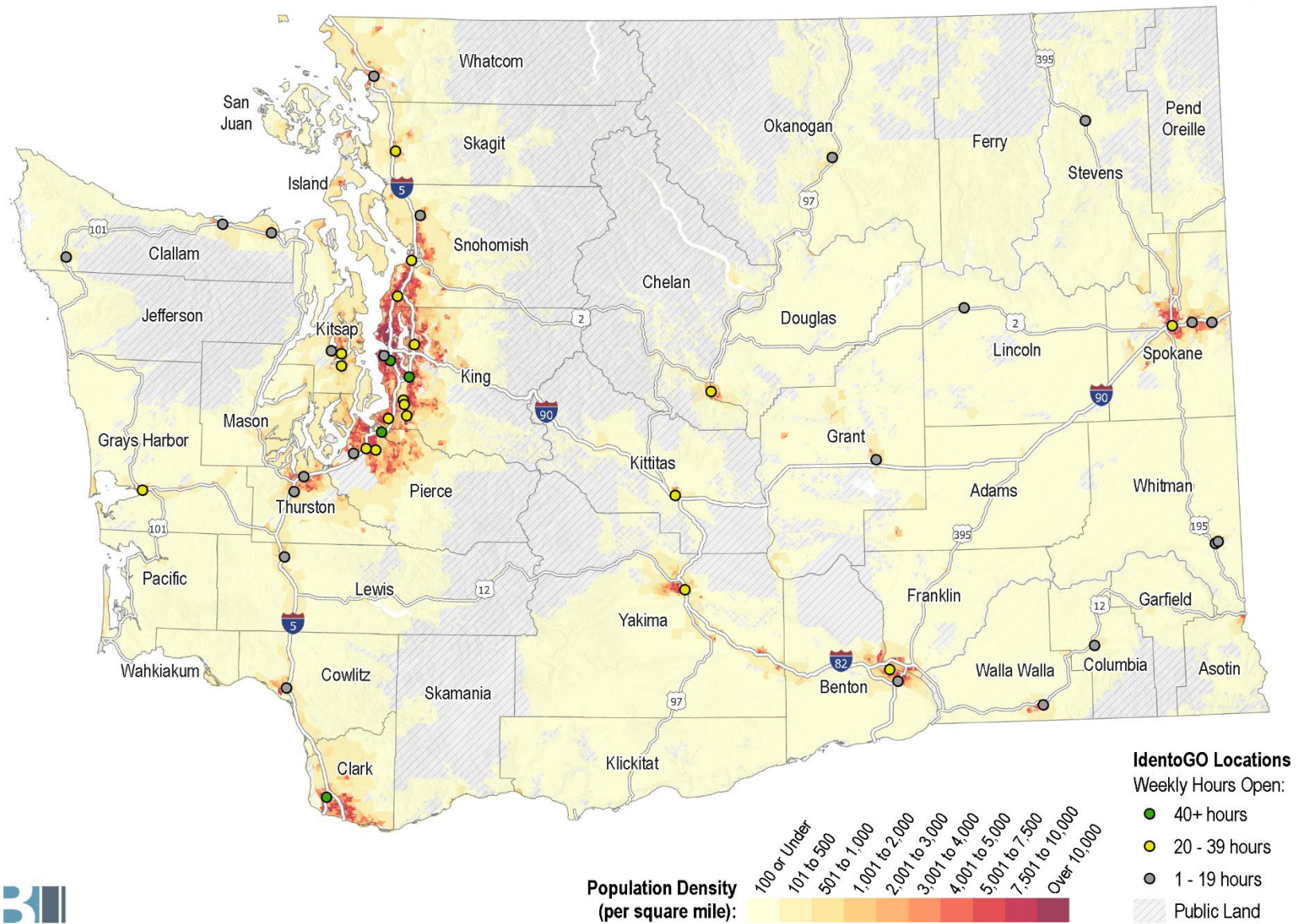
Sources: IDEMIA, 2023; BERK, 2023.

Exhibit 9. Drive Time to IDEMIA IdentoGO Fingerprint Collection Locations, February 2023



Sources: IDEMIA, 2023; BERK, 2023.

Exhibit 10. Population Density in Washington State



Sources: US Census, 2020; BERK, 2023.

Costs of Applicant Background Checks for Agencies and Individuals

Agencies

The total cost to an agency to conduct a background check varies by agency, although several components of the cost are equal regardless of agency. As an example, Exhibit 11 shows the internal costs for DSHS per background check and notes which line items would be the same at other agencies. We use DSHS as our example because this agency conducts the highest volume of background checks of any agency in Washington.

Exhibit 11. DSHS Costs of Fingerprint-Based Background Checks

Component	Cost	Notes	Same or Variable by Agency
DSHS staff time	\$27.80	Calculated at 20 minutes per background check and \$1.39 per minute	Variable
Fingerprint collection vendor	\$10.75 (in-state) <i>or</i> \$17.95 (out-of-state)	Out-of-state applicants cost \$17.95	Same for agencies using IDEMIA
WATCH check	\$1.00	DSHS pays \$1 due to system integration; other agencies pay \$11	Variable (see note)
WSP fingerprint	\$21.00 (electronic) <i>or</i> \$58.00 (hard cards)		Same
FBI processing	\$13.25		Same
Total per background check		\$73.80 - \$118.00	

Source: BERK, 2023.

Individuals

Some individuals pay the costs of a background check for each job or license they pursue. The cost differs by originating entity, shown in Exhibit 12. Notably, DCYF and DSHS cover background check costs for all individuals when these agencies conduct the background check.

Exhibit 12. Individual Costs of Fingerprint-Based Background Checks by Example Agency

Originating Entity	Cost to Individual	Notes
DCYF	\$0	DCYF pays for all background checks for all impacted individuals
DSHS	\$0	DSHS pays for all background checks all impacted individuals
OSPI	\$45.25	\$11 to OSPI, \$34.25 to WSP and FBI

Source: BERK, 2023.

Current System Problem Statements

Our evaluation of the current system reveals several problems for both the individual applying for a role or license and for agencies and employers.

Challenges to the Individual Applying for Employment or Licensure

The current system presents three main challenges to the individual applying for a role or license. Some individuals, particularly those with lower incomes, may be less able to absorb these challenges, leading to inequitable outcomes.

- **Fingerprint collection locations and hours.** As described in *Locations and Drive Time*, many individuals need to arrange for their own fingerprint collection at in-person locations, which may only be available for limited operating hours. While nearly 90% of Washington residents live within a 30-minute drive of an IdentoGO fingerprint collection location, 9% must drive between 31-60 minutes and nearly 2% must drive more than 60 minutes to reach an IdentoGO location. Opening hours or the number of available time slots also affect the accessibility of a location for an individual and can add time to the process.
- **Time.** As described in *Turnaround Times*, approximately 20% of individuals experience background check processes that can take up to 30 days. This may be longer than some individuals, particularly those with low incomes, can wait for a role or license. Given that some components of conducting a thorough background check are out of agencies' controls (e.g., out-of-state research), there are limited opportunities to shorten the background check turnaround time for these 20% of individuals without compromising the State's public safety or equity values.
- **Duplicative fingerprinting requirements.** As described in *FBI Role and Rules*, a background check must be conducted for a defined purpose and the results of that check typically cannot be shared beyond the OE. Currently, an individual seeking a role or license with more than one employer or agency is typically required to provide fingerprints for a background check multiple times – once for each employer or agency – within a short period of time, even if those background checks are conducted for the same purpose.

Challenges to Agencies and Employers

The current system presents two main challenges to agencies and employers.

- **Lost candidates.** Some individuals may abandon a potential role or license due to the above-mentioned challenges. This is a particular challenge for agencies and employers facing a tight labor market.
- **Cumbersome administration.** Some agencies report challenges with complex administrative structures and inadequate tracking and reporting systems, including manual processes with room for error.

Evaluative Criteria: Objectives for a Solution

Based on the problem statements with the current system (see *Current System Overview*) and the system goals (see *System Goals*), we established the evaluative criteria shown in Exhibit 13 as a tool to assess whether a proposed solution would meet the goals of the background check system and address problems with the current system.

Exhibit 13. Evaluative Criteria for a Solution to the Background Check System and the System Goals they Support

Evaluative Criteria	System Goal(s) each Criterion Addresses		
	Risk	Equity	Efficiency
1. Protect public safety, financial security, and privacy.	✓		
2. Changes to the system should have a net positive impact on protected classes.		✓	
3. Result in no disparate impact on protected classes.		✓	
4. Minimize total time to complete an individual background check.		✓	✓
5. Minimize barriers to obtaining a fingerprint due to operating hours and site location.		✓	✓
6. Minimize costs to the individual where applicable.		✓	
7. Enhance portability of results.		✓	✓
8. Offer a technology solution with customizable permissions for participating agencies.			✓
9. Offer an external portal for impacted individuals to submit applications, review results, and see status updates on background check processes.		✓	✓
10. Maximize ease of use and administrative efficiency for participating agencies.			✓
11. Be feasible with respect to staffing, scope, costs, fiscal impact, and public outreach.			✓
12. If the entity making the suitability determination and the entity with the liability for hiring or licensure are different, ensure alignment between both entities.	✓		
13. Meet all rules and regulations per the FBI and federal and state law.	✓		

Source: BERK, 2023.

We use these criteria to evaluate Washington’s current system and establish a baseline against which we can measure proposed solutions. See Exhibit 14 for the results of the evaluation.

Exhibit 14. Evaluation of Washington's Current System

Evaluation Criteria	Score	Current System Notes
1. Protect public safety, financial security, and privacy.	1	Background checks are comprehensive, but lack of Rap Back Services means there is no ongoing monitoring of individuals holding roles or licenses with unsupervised access to vulnerable populations.
2. Changes to the system should have a net positive impact on protected classes.	N/A	Criterion only relevant for evaluating a change to the system.
3. Result in no disparate impact on protected classes.	1	Fitness determination offers flexibility, but process inefficiencies may create barriers to people with low incomes.
4. Minimize total time to complete an individual background check.	1	Varies by agency and by individual case. TATs can be quick for individuals with no record or with automatic disqualifiers, but long for individuals whose CHRI requires a CS&C assessment or additional research.
5. Minimize barriers to obtaining a fingerprint due to operating hours and site location.	1	Limited locations and operating hours at fingerprint collection locations creates barriers.
6. Minimize costs to the individual where applicable.	1	Many applicants pay for background checks for each role or license. DSHS and DCYF pay for all background checks they conduct for impacted individuals.
7. Enhance portability of results.	0	No portability except in rare cases.
8. Offer a technology solution with customizable permissions for participating agencies.	1	Some, but not all, agencies have systems to report and track background check status and results.
9. Offer an external portal for impacted individuals to submit applications, review results, and see status updates on background check processes.	0	Most individuals do not have access to an external portal.
10. Maximize ease of use and administrative efficiency for participating agencies.	1	Different agencies have disparate experiences based on staffing resources, volume of checks, and process requirements.
11. Be feasible with respect to staffing, scope, costs, fiscal impact, and public outreach.	1	Additional staff could support more efficient processes.
12. If the entity making the suitability determination and the entity with the liability for hiring or licensure are different, ensure alignment between both entities.	N/A	Criterion only relevant for a central system.
13. Meet all rules and regulations per the FBI and federal and state law.	2	Currently meets all rules and regulations.

Legend	0 – Does not meet criteria	1 – Somewhat meets criteria	2 – Meets or exceeds criteria
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Source: BERK, 2023.

Proposed Long-Term Vision and Intermediate Steps: A Centralized System

We reviewed practices in other states to understand potential models for a future background check system in Washington. For more information on these models, see *Appendix F: Profiles of Other States*. We found that in the two states with the most promising outcomes – Arizona and Florida – some level of centralization or a central background check office (CBCO) served as a key component of each state’s model.

Barriers to Centralization in Washington

While some level of system centralization or creation of a CBCO holds promise for Washington, the following barriers exist to implementing this solution.

- **An applicant’s criminal history record information (CHRI) cannot be shared among agencies unless it is for the same purpose.** Federal regulations prevent this kind of sharing.
- **Agencies that conduct background checks differ in their approach,** including with respect to:
 - **Automatic disqualifiers.** Different agencies have different automatic disqualifiers based on the relevance of previous crimes or negative actions to an applicant’s ability to carry out the duties associated with a given role or license. These disqualifiers are determined by a combination of federal requirements, state statute, and agency policy. Therefore, it would be challenging to completely standardize these disqualifiers, especially while adequately balancing the system goals of risk (i.e., maintaining protections for vulnerable populations) and equity (i.e., not unduly foreclosing on role or license opportunities for individuals with crimes or negative actions in their CHRI, which disproportionately includes people who are Black or Hispanic).
 - **Character, Suitability, and Competence (CS&C) determination.** Each agency has its own process for conducting a CS&C determination for an individual with past crimes or negative actions. The CS&C determination depends on the manager in charge of the role or license, the role or license an applicant seeks, and the opportunity for lived experience in the criminal justice system to strengthen an individual’s ability to carry out duties associated with their desired role or license. Agencies view this flexibility as a benefit, as it supports the system goal of equity.
 - **Access to information.** Criminal justice agencies (i.e., DOC and WSP) have access to more information than many other agencies that conduct background checks (e.g., DCYF or DSHS). Any centralization would need to support different agencies in accessing the maximum amount of information available to them.
- **Some agencies find their existing background check systems to be effective and may not desire centralization at this time.** For example, OSPI does not report challenges with their current background check process, which is primarily decentralized among individual school districts.
- **Implementing Rap Back would be an essential component of any centralization that allows for portability, and there are significant political barriers to doing so.** The Washington State Legislature would need to pass legislation authorizing WSP, the State Identification Bureau, to retain an individual’s fingerprints for noncriminal justice purposes. The most recent effort to establish Rap Back in Washington (HB 2080 Nursing Care QA Commission – 2017) was unsuccessful due to concerns related to privacy, scope creep, and misidentification expressed by a diverse range of stakeholders. See *Appendix G: Federal Rap Back* for more information.

Any viable proposal to achieve some level of background check system centralization in Washington would need to address these barriers.

Long-Term Vision and Intermediate Steps for Washington

This section describes a long-term vision for Washington should the Legislature choose to pursue background check system centralization. Based on other states' successes with system centralization, our long-term vision has a central background check office (CBCO) as its foundation. This full vision is not immediately feasible given current constraints. Instead, it serves as a “north star” to guide incremental improvements in the system should the Legislature choose to pursue background check system centralization. In this section, we also identify intermediate steps that could be possible under existing conditions and that would advance the overall background check system toward the long-term vision.

Our long-term vision and intermediate steps address four components of the background check system:

- **Individual experience.** Individuals' experiences with having their backgrounds checked, including time, cost, fingerprint collection, and access to information.
- **Entities conducting background checks.** The roles of participating agencies and Tribes that conduct background checks for roles or licenses.
- **Background check processes.** Key components of the background check process, including automatic disqualifiers, CS&C determinations, and portability.
- **Administration and technology.** Creation of the CBCO and methods to ensure smooth functioning of the background check system.

Exhibit 15 provides a narrative overview of the intermediate steps and long-term vision. The following sections describe the details of each, categorized into the four components described above. In these sections, we use the terms “agencies” or “each agency” to include the agencies involved in the Work Group, though some agencies may be involved at different levels. Some steps may require additional support, including Legislative action or funding. We note the types of additional support needed using the following symbols:

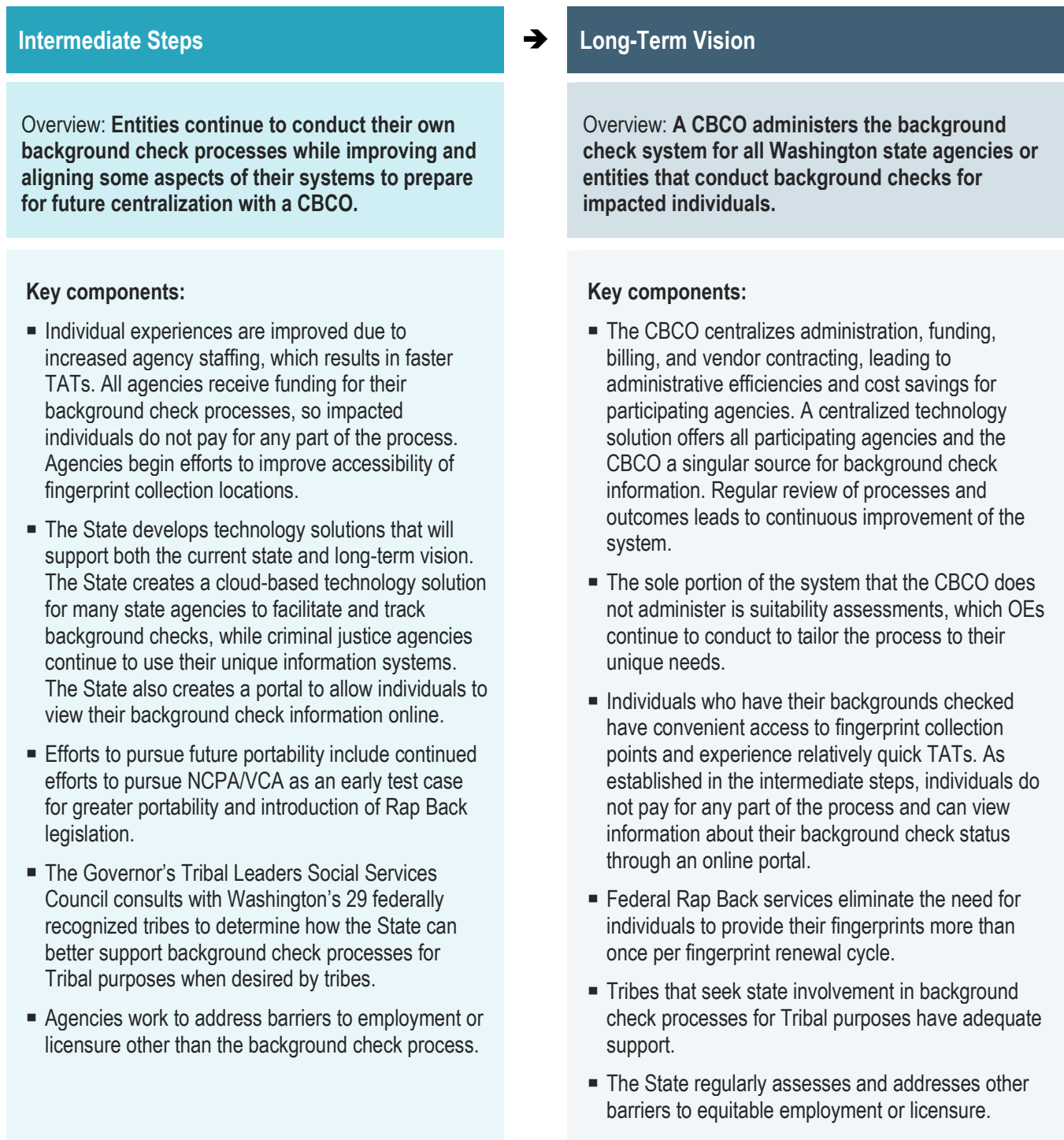


Legislative action required








Funding required via allocation of new funds or reallocation of existing funds

Exhibit 15. Overview of the Intermediate Steps and Long-Term Vision





Source: BERK, 2023.

Individual Experience

Intermediate Steps	→	Long-Term Vision
 Time. Ensure adequate levels of background check staffing and administrative staffing at agencies to handle volume and minimize turnaround times (see also Administration in <i>Administration and Technology</i>).	→	Time. On average, individuals experience the following timelines for step 2 of the background check process: <ul style="list-style-type: none">■ For individuals with no record: 1 business day.■ For individuals with a record requiring no or limited additional research: 3 business days.■ For individuals with a record requiring significant or out-of-state research: 7 business days. Additional time would be required for a CS&C assessment if applicable.
 Cost. Cover the cost of background checks for all roles and licenses that serve vulnerable populations.	→	 Cost. Impacted individuals will not pay for background checks.
Fingerprint collection. Use drive-time and opening hours analyses to identify locations where the State could supplement private services through fingerprint collection at existing state offices or mobile units.	→	 Fingerprint collection. Vendor(s) offer fingerprint collection to 95% of state residents at locations within a 30-minute drive of home, open evenings and weekends. Based on analyses of drive time and hours of operation, state offices supplement fingerprint collection services in rural areas and near Tribal lands through existing offices or mobile units.
 External portal. State creates a portal to allow individuals to complete their background check application electronically, review results, and create a user ID to store their information for future applications.	→	External portal. Individuals have access to an online portal where they can update their personal information and access information about their pending background check processes, past background check results, current Rap Back status, and future fingerprint renewal dates.

Entities Conducting Background Checks

Intermediate Steps	→	Long-Term Vision
Participating agencies. All agencies participating in this Work Group determine whether they desire to continue participation in efforts toward the long-term vision.	→	Participating agencies. Any agency or entity that conducts background checks may participate in the CBCO.
 Tribes. Charge the Governor's Tribal Leaders Social Services Council to partner with Washington's 29 federally recognized tribes to determine how the State can better support background check processes for Tribal purposes when desired by tribes.	→	 Tribes. Tribes that seek state involvement in background check processes for Tribal purposes have adequate support.

Background Check Processes

Intermediate Steps

CS&C process. Every agency that conducts background checks for licensure or roles ensures they have an established CS&C process.

Continuous improvement of fitness determination processes. All agencies develop or maintain a means to review trends in determination outcomes and consider opportunities to ensure consistent decision-making.



Automatic disqualifiers. Agencies collaborate to standardize some automatic disqualifiers to create efficiencies for a future CBCO to evaluate individuals. This will eventually enable a future CBCO to conduct an initial review of all background check results, and only involve OEs in the fitness determination process if a CS&C is required. Agencies begin by working with the Office of Equity to review all automatic disqualifiers, outline a plan for standardizing these to the extent allowable according to federal funding streams or other rules and regulations, and recommend necessary changes and funding needed for implementation.



Portability. Agencies continue pursuit of NCPA/VCA as an early test case for greater portability for individuals seeking employment with vulnerable populations and includes all necessary language in the statute.



Rap Back Services. Consider introducing legislation to allow federal Rap Back services in Washington. As noted in *Appendix G: Federal Rap Back*, there are political barriers to implementing Rap Back services. Nonetheless, we include Rap Back services as a component of our long-term vision because we anticipate that participation in federal Rap Back services would be a condition of the FBI's approval for a centralized system in Washington, as it was in Florida (see *Appendix F: Profiles of Other States*).



Long-Term Vision



CS&C process. Agencies continue to conduct CS&C assessments for individuals with criminal records or negative actions, maintaining a relatively high level of individual consideration to provide people with relevant lived experiences opportunities to obtain employment/licensure.



Continuous improvement of fitness determination processes. CBCO regularly assesses fitness determination data to understand which requirements most often prevent individuals from obtaining roles or licenses. CBCO uses the data to identify and recommend potential improvements to agencies' processes.



Automatic disqualifiers. CBCO conducts initial review of each individual's background check for one of the three following scenarios:

- **SCENARIO A – Pass:** No OE participation required in the fitness determination.
- **SCENARIO B – CS&C Assessment:** Individual's background check is sent to the OE, which conducts the CS&C Assessment.
- **SCENARIO C - Fail:** No OE participation required in the fitness determination.

See substep 3A of *Current System Process* for more details on each scenario.



Portability. CHRI collected for a given purpose is portable across agencies that would use it for the same purpose.



Rap Back Services. CBCO manages participation in the federal Next Generation Identification Rap Back system, which reduces the need for collecting duplicative fingerprints and eliminates requirements to renew fingerprints. Individual agencies notification about new criminal charges against individuals holding roles or licenses and are responsible for maintaining up-to-date lists of all individuals holding active roles or licenses.

Administration and Technology

Intermediate Steps	→	Long-Term Vision
\$ Creation of a CBCO. Agencies continue preliminary discussion about placement, scope, and resources for a future CBCO.	→	\$ Creation of a CBCO. A CBCO is established with adequate resources and a clear scope.
\$ Administration. All agencies continue to administer their own background checks. Adequate levels of administrative staffing and funding ensure that there is support for the needed improvements (see also Time in <i>Individual Experience</i>).	→	Administration. CBCO administers all background checks for impacted individuals, creating administrative efficiencies that lead to long-term cost savings for participating agencies.
\$ Billing and funding. State ensures agencies have adequate funding and staffing to support these intermediate steps.	→	\$ Billing and funding. CBCO centralizes billing and funding for all background checks, regardless of the OE.
\$ Internal technology solution. State invests in a cloud-based technology solution that allows all State agencies to interface with WSP for their own purposes and track and view background check status updates. Agencies opt in to use of this system. This system should ensure that CHRI gathered for a given purpose is only available to staff at the relevant OE.	→	\$ Internal technology solution. CBCO offers a centralized technology solution to enable all participating agencies, including criminal justice agencies, to interface directly with WSP, track background check processes, and view individuals' background check results. CHRI gathered for a given purpose is only available to relevant staff at other agencies for the same purpose.
FBI coordination. WSP, as the State Identification Bureau, continues to regularly communicate with the FBI about federal background check rules and regulations, information-sharing practices, and auditing recommendations.	→	FBI coordination. Same as the intermediate steps, plus WSP liaises between the FBI and the CBCO.
Vendor contracts. Agencies working with IDEMIA prepare for potential future consolidation of contracts into a single contract.	→	Vendor contracts. CBCO contracts for all fingerprint collection vendor services statewide for roles or licenses.
Continuous process improvement. All agencies regularly review and report on background check trends to identify process improvements.	→	Continuous process improvement. CBCO collaborates with the State Office of Equity and agencies to regularly review background check processes for potential inequities or opportunities for improvement.

Evaluation of Long-Term Vision and Intermediate Steps for Washington

Exhibit 16 shows an evaluation of the current state, intermediate steps, and long-term vision based on the evaluative criteria established in Exhibit 13. The content shown in the “current state” columns duplicates the content shown in Exhibit 14 to illustrate the envisioned progression from the current system to the long-term vision.

Exhibit 16. Evaluation of Washington’s Current System, Intermediate Steps, and Long-Term Vision

	Current System		Intermediate Steps		Long-Term Vision	
Evaluation Criteria	Score	Notes	Score	Notes	Score	Notes
1. Protect public safety, financial security, and privacy.	1	Background checks are comprehensive, but lack of Rap Back Services means there is no ongoing monitoring of individuals holding roles or licenses with unsupervised access to vulnerable populations.	1	No change at this stage. In pursuit of the long-term vision, agencies work to establish Rap Back services in Washington, which will also incidentally improve public safety and financial security.	2	Federal Rap Back Services ensure that only eligible individuals can maintain roles or licenses that offer unsupervised access to vulnerable populations.
2. Changes to the system should have a net positive impact on protected classes.	N/A	Criterion only relevant for evaluating a change to the system.	2	There are no changes that negatively impact protected classes, but there are several improvements. Initial system improvements primarily support individuals with criminal records, who are disproportionately Black and Hispanic, and individuals with low incomes. All agencies ensure they have an established CS&C process and regularly review data to remove barriers and identify additional barriers to roles or licenses other than background checks. The Governor’s Tribal Leaders Social Services Council consults with Washington’s 29 federally recognized tribes to determine how the State can better support background check processes for Tribal purposes when desired by tribes.	2	There are no changes that negatively impact protected classes, but there are several improvements. CBCO partners with the State Office of Equity to regularly review background check processes for potential inequities. Significant system improvements primarily support individuals with criminal records, who are disproportionately Black and Hispanic, and individuals with low incomes. Tribes that seek State involvement in background check processes for Tribal purposes have adequate support.
3. Result in no disparate impact on protected classes.	1	Fitness determination offers flexibility, but process inefficiencies may create barriers to people with low incomes.	1	CS&C assessments continue to offer flexibility for lived experiences, but individuals whose CHRI requires a CS&C assessment (disproportionately Black and Hispanic individuals) may still experience some delays.	1	No change from the previous stage.
4. Minimize total time to complete an individual background check.	1	Varies by agency and by individual case. TATs can be quick for individuals with no record or with automatic disqualifiers, but long for individuals whose CHRI requires a CS&C assessment or additional research.	1	Ensuring adequate staffing addresses some delays in TATs. However, TATs may still be long for individuals whose CHRI requires a CS&C assessment or additional research.	1	No change from the previous stage.
5. Minimize barriers to obtaining a fingerprint due to operating hours and site location.	1	Limited locations and operating hours at fingerprint collection locations creates barriers.	1	No change at this stage. In pursuit of the long-term vision, there is research into locations for supplemental fingerprint collection services.	2	Vendor(s) offer fingerprint collection services to 95% of state residents at locations within a 30-minute drive of home, open evenings and weekends. State offices supplement fingerprint collection services in rural locations and near Tribal lands through existing offices or mobile units.
6. Minimize costs to the individual where applicable.	1	Many applicants pay for background checks for each role or license. DSHS and DCYF pay for all background checks they conduct for impacted individuals.	2	Impacted individuals do not pay for background checks.	2	Impacted individuals do not pay for background checks. CBCO serves as a central billing and funding agency for all background checks, regardless of the OE.
7. Enhance portability of results.	0	No portability except in rare cases.	1	NCPA/VCA serves as an early test case for greater portability for individuals seeking roles or licenses with vulnerable populations.	2	Background check results with the same purpose are portable across agencies.
8. Offer a technology solution with customizable permissions for participating agencies.	1	Some, but not all, agencies have systems to report and track background check status and results.	2	An external portal allows applicants to complete their background check application electronically, review results, and create a user ID to store their information for future applications. CHRI gathered for a given purpose is only available to relevant staff at other agencies that access CHRI for the same purpose.	2	No change from the previous stage.
9. Offer an external portal for impacted individuals to submit applications, review results, and see status updates on background check processes.	0	Most individuals do not have access to an external portal.	2	A cloud-based technology solution allows all participating state agencies to interface with WSP for their own purposes and track and view background check status updates.	2	The cloud-based technology solution described in the intermediate steps is be available to all state agencies.
10. Maximize ease of use and administrative efficiency for participating agencies.	1	Different agencies have disparate experiences based on staffing resources, volume of checks, and process requirements.	2	All agencies regularly review and report on background check trends to identify process improvements. As a step toward the long-term vision, agencies standardize some automatic disqualifiers to eventually enable a future CBCO to conduct initial review of background check results.	2	CBCO administrates the background check system, centralizes billing for all background checks, and contracts for all fingerprint vendor services statewide. A centralized technology system facilitates ease of use.
11. Be feasible with respect to staffing, scope, costs, fiscal impact, and public outreach.	1	Additional staff could support more efficient processes.	1	Adequate levels of administrative staffing and funding ensure that there is support for the needed improvements.	2	CBCO creates administrative efficiencies that lead to long-term cost savings for participating agencies.
12. If the entity making the suitability determination and the entity with the liability for hiring or licensure are different, ensure alignment between both entities.	N/A	Criterion only relevant for a central system.	N/A	Criterion only relevant for a central system.	2	CBCO conducts initial review of background checks for either pass, fail, or CS&C assessment. Agencies conduct CS&C assessments for individuals with criminal records or negative actions.
13. Meet all rules and regulations per the FBI and federal and state law.	2	Currently meets all rules and regulations.	2	All changes align with rules and regulations. WSP (as the State Identification Bureau) continues to regularly communicate with the FBI about federal rules and regulations, information-sharing practices, and auditing recommendations.	2	All changes align with rules and regulations. WSP continues to regularly communicate with the FBI and will liaise between the FBI and CBCO.

Legend	0 – Does not meet criteria	1 – Somewhat meets criteria	2 – Meets or exceeds criteria
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Source: BERK, 2023.

Appendices

Appendix A: Proviso Text

Appendix B: Summary of Applicable Federal and State Laws

Appendix C: Glossary

Appendix D: Agency Summaries

Appendix E: Impacted Individual Interview Questions

Appendix F: Profiles of Other States

Appendix G: Federal Rap Back

Appendix H: State Positions and Purposes that Require a Background Check

Appendix A: Proviso Text

(17)(a) \$50,000 of the general fund—state appropriation for fiscal year 2022 and \$200,000 of the general fund—state appropriation for fiscal year 2023 are provided solely for the office to contract with a third-party facilitator to convene an applicant background check work group. The purpose of the work group is to review existing requirements and processes for conducting applicant background checks for impacted individuals, and to provide a feasibility study and implementation plan for establishing a state office to centrally manage criminal background check processes for impacted individuals.

(b) For the purposes of this subsection, "impacted individuals" means applicants for state employment, current state employees, and individuals for whom an applicant background check is required as a condition of employment or to provide state services, including but not limited to individuals subject to the requirements of RCW 26.44.240, 28A.400.303, 43.43.830 through 43.43.845, 43.101.095, 43.216.270, 74.15.030, and 74.39A.056.38

(c) The director of the office, or the director's designee, must chair the work group. The chair must appoint representatives to the work group including but not limited to:

- (i) A representative of the department of social and health services;
- (ii) A representative of the department of children, youth, and families;
- (iii) A representative of the Washington state patrol;
- (iv) A representative of the department of corrections;
- (v) A representative of the office of the superintendent of public instruction; and
- (vi) Other state agency representatives or representatives of interested parties, at the discretion of the chair, who have expertise in topics considered by the work group.

(d) By December 1, 2022, the work group must submit a preliminary feasibility study and implementation plan for a state central background check office to the governor and appropriate committees of the legislature. By June 1, 2023, the work group must submit a final feasibility study and implementation plan to the governor and appropriate committees of the legislature. In developing the feasibility study and implementation plan, the work group must include the following:

- (i) A review of current background check requirements and processes for impacted individuals, including:
 - (A) A list of all state positions and purposes that require a criminal background check as a condition of employment, certification, licensure, or unsupervised access to vulnerable persons;
 - (B) An analysis of any "character, suitability, and competence" components that are required in addition to an applicant background check, including whether such components are warranted and whether they result in unrealistic and unnecessary barriers or result in disproportionate negative outcomes for members of historically disadvantaged communities; and
 - (C) A review of current costs of applicant background checks for state agencies and impacted individuals, including a comparison of current vendor contracts for fingerprint background checks; and

(ii) A proposal and implementation plan to establish a central state office to manage applicant background check processes. In developing the proposal, the work group must consider policy and budgetary factors including, but not limited to:

(A) Cost structure and sharing for impacted agencies, including any cost savings that may occur from transitioning to a centralized criminal background check process;

(B) Information technology needs for the new office and individual agencies, including any necessary information sharing agreements;

(C) Staffing;

(D) Comparable solutions and processes in other states;

(E) Potential usage of the federal Rap Back system, including steps necessary to join the system and associated costs and benefits;

(F) Processes and considerations to make criminal background check results portable for impacted individuals;

(G) Steps necessary to meet federal regulatory requirements and ensure federal approval of state criminal background check processes;

(H) The impact of the proposed process changes for impacted individuals who are members of historically disadvantaged populations; and

(I) Any statutory changes that may be necessary to ensure clarity and consistency.

Appendix B: Summary of Applicable Federal and State Laws

Relevant Federal Laws

28 U.S.C § 534 – Acquisition, preservation, and exchange of identification records and information; appointment of officials. Authorizes the FBI's acquisition, preservation, and exchange of fingerprints and associated information. Sharing regulations are outlined in the following CFRs:

- 28 CFR § 16.34
- 28 CFR § 20.21
- 28 CFR § 20.33
- 28 CFR § 50.12
- 28 CFR § 906

42 U.S.C § 14616 - U.S. Code - Unannotated Title 42. The Public Health and Welfare § 14616.

National Crime Prevention and Privacy Compact. Under this Compact, the FBI and the Party States agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the Federal Government and to Party States for authorized purposes. The FBI shall also manage the Federal data facilities that provide a significant part of the infrastructure for the system.

Public Law 92-544. Grants authority to the FBI to conduct a criminal background check for a noncriminal justice licensing or employment purpose. Pursuant to Pub. L. 92-544, the FBI is empowered to exchange identification records with officials of state and local governments for purposes of licensing and employment, if authorized by a state statute that has been approved by the Attorney General of the United States. The standards employed by the FBI in approving Pub. L. 92-544 authorizations have been established by a series of memoranda issued by the Office of Legal Counsel, Department of Justice. The standards are:

1. The authorization must exist as the result of legislative enactment (or its functional equivalent);
2. The authorization must require fingerprinting of the applicant;
3. The authorization must, expressly or by implication, authorize use of FBI records for screening of the applicant;
4. The authorization must not be against public policy;
5. The authorization must not be overly broad in its scope; it must identify the specific category of applicants/ licensees.

Fingerprint card submissions to the FBI under Pub. L. 92-544 must be forwarded through the State Identification Bureau. The state must also designate an authorized governmental agency to be responsible for receiving and screening the results of the record check to determine an applicant's suitability for employment or licensing.

Public Law 101-630 - Indian Child Protection and Family Violence Prevention Act. Prescribes minimum standards of character and suitability for employment for individuals whose duties and responsibilities allow them regular contact with or control over Indian children, and establishes the method for distribution of funds to support Tribally operated programs to protect Indian children and reduce the incidents of family violence in Indian country as authorized by the Indian Child Protection and Family Violence Prevention Act of 1990, Pub. L. 101-630, 104 Stat. 4544, 25 U.S.C. 3201 3211.

Public Law 103-209. The National Child Protection Act. Establishes procedures for national criminal background checks for childcare providers.

Public Law 105-251. Volunteers for Children Act- Subtitle B. Provides for the improvement of interstate criminal justice identification, information, communications, and forensics.

Public Law 113-186 Child Care and Development Block Grant Act of 2014. Authorizes the Child Care and Development Fund program. Administered by states, territories, and Tribes, the Act outlines how federal funds will be used to provide financial assistance to families with low incomes.

The Privacy Act of 1974 (5 U.S. Code § 552a - Records maintained on individuals). Protects the confidentiality of records that the state or federal government maintains about individuals. Under the Privacy Act, individuals are covered by the Fair Information Practice Principles (FIPP). The FIPPs allow individuals to determine what records pertaining to them are collected, maintained, used, or disseminated by an agency; require agencies to procure consent before records pertaining to an individual collected for one purpose could be used for other incompatible purposes; afford individuals a right of access to records pertaining to them and to have them corrected if inaccurate; and require agencies to collect such records only for lawful and authorized purposes and safeguard them appropriately. Exceptions from some of these principles are permitted only for important reasons of public policy.

RCW 10.97.050 Washington State Criminal Records Privacy Act. Designates WSP as the agency of state government responsible for providing for the completeness, accuracy, confidentiality, and security of criminal history record information and victim, witness, and complainant record information as defined in this chapter. The Act specifies criminal history dissemination guidelines. A conviction record includes information relating to an incident that has led to a conviction or other disposition adverse to the subject. Non-conviction information includes arrests, which have not resulted in a conviction or disposition adverse to the subject.

Non-conviction information over one year old is not available to the public. Certified criminal justice agencies receive both conviction and non-conviction CHRI. Conviction records may be disseminated without restriction to any person or organization.

Relevant RCWs and WACs

RCW/WAC	Title
13.34.138	Review hearings—Findings—Duties of parties involved—In-home placement requirements—Housing assistance.
26.44.240	Out-of-home care—Emergency placement—Criminal history record check.
28A.400.303	Record checks for employees and certain volunteers and contractors—Cost.
43.101.095	Peace and corrections officer certification—Background investigation.
43.20A.710	Investigation of conviction records or pending charges of state employees and individual providers.
43.216.270	Character, suitability, and competence to provide child care and early learning services—Fingerprint criminal history record checks—Background check clearance card or certificate—Shared background checks.
43.43.830	Background checks—Access to children or vulnerable persons—Definitions.
43.43.832	Background checks—Disclosure of information—Sharing of criminal background information by health care facilities.
43.43.8321	Background checks—Dissemination of conviction record information.
43.43.833	Background checks—State immunity.
43.43.834	Background checks by business, organization, or insurance company—Limitations—Civil liability.
43.43.836	Disclosure to individual of own record—Fee.
43.43.837	Fingerprint-based background checks—Requirements for applicants and service providers—Shared background checks—Fees—Rules to establish financial responsibility.
43.43.838	Record checks—Transcript of conviction record—Fees—Immunity—Rules.
43.43.839	Fingerprint identification account.
43.43.840	Notification to licensing agency of employment termination for certain crimes against persons.
43.43.842	Vulnerable adults—Additional licensing requirements for agencies, facilities, and individuals providing services.
43.43.845	Notification of conviction or guilty plea of certain felony crimes—Transmittal of information to superintendent of public instruction.
74.15.030	Powers and duties of secretary. (Chapter 74.15 RCW: Care of children, expectant mothers, persons with developmental disabilities)
74.39A.056	Background checks on long-term care workers.
Chapter 110-06, WAC	Background checks – Early Learning Programs
Chapter 446-16, WAC	Washington State Identification Section
Chapter 446-20, WAC	Employment – Conviction Records

Appendix C: Glossary

Arrest. The act of apprehending and taking a person into custody by authority of law. An arrest may or may not lead to a conviction.

Automatic disqualifier. Some crimes or negative actions automatically preclude an individual from obtaining a given role or license based on state or federal law or agency policy. Such crimes or actions are called disqualifying crimes or actions. A role or license that is not available to an individual with a disqualifying crime or action on their record is said to have a criminal record exclusion. Per the EEOC, any criminal record exclusions for a given role or license must be demonstrably tied to an individual's ability to carry out the duties and responsibilities associated with that role or license.

Background Check. A background check is a general term for a search into an individual's past actions and records. Background checks can consider a wide range of inputs, such as an individual's criminal record, arrest record, inclusion on a sex offender registry, civil record, or credit history. Public and private entities can conduct background checks.

State law limits employer inquiries to convictions (or release from prison) that occurred within the last 10 years and are related to the job (WAC 162-12-140). Exempt from this rule are law enforcement agencies and state agencies, school districts, businesses and other organizations that have a direct responsibility for the supervision, care, or treatment of vulnerable populations.

Civil background check *versus* criminal background check. Civil and criminal background checks both review the criminal history of an individual, among other things. The distinction between whether a background check is civil or criminal stems from the reason for conducting the check: a civil background check is conducted because an individual has applied for a role or license that requires a background check, whereas a criminal background check is conducted because an individual has been detained by a law enforcement agency under suspect of having committed a crime. Criminal background checks are outside the scope of this study.

Fingerprint-based background check *versus* name-based background check. All background checks are either name-based or fingerprint-based. Name-based background checks use the individual's full legal name and date of birth to search for relevant information about the individual in one or more databases. An individual's social security number may also be used in a background check, if they provide. Name-based checks require less engagement from the individual, as the individual does not need to submit their fingerprints but can be less accurate because some databases include multiple individuals with the same name and date of birth combination. Fingerprint-based checks use an individual's fingerprints to search for matches in one or more fingerprint databases, which may include state databases, interstate databases, or the FBI's database. A fingerprint-based check is inclusive of a name-based check, as it uses both (1) the individual's fingerprints and (2) the individual's name and date of birth to search for relevant information about the individual in one or more databases.

Background Check Central Unit (BCCU). DSHS's Background Check Central Unit uses a centralized database to conduct hundreds of thousands of background checks, including fingerprint background checks, for DSHS, DCYF, and other authorized service providers who serve vulnerable adults, juveniles, and children. Depending on the type of background check being conducted, the BCCU cross-references information from applicant self-disclosure; the Washington Department of Corrections (DOC) conviction information; the Federal Bureau of Investigation via their conviction information, arrests, pending charges

and the national sex offender registry; the Washington State Patrol (WSP); and the Western Identification Network (WIN).

Character, Suitability, and Competence (CS&C) Assessment (sometimes called a Character, Competence, and Suitability Assessment, or CC&S). Not all crimes or negative actions legally preclude an individual from obtaining a given role or license. If an individual's CHRI contains one or more records or negative actions that do not include a disqualifying crime or action, the fitness determination process for this individual will include a CS&C assessment. To conduct the CS&C assessment, the OE considers the individual's CHRI with respect to the Green Factors to determine whether the individual's unique record should preclude them from holding their desired role or license. Criteria for the determination vary by originating entity and role or license, based on a mix of state and federal requirements. CS&C determination processes are agency-specific, and in some cases are trauma-informed, focused on hiring individuals with lived experience, or oriented towards providing "second chance employment." See *Current System Process* for more information.

Conviction. A conviction in an individual's CHRI indicates that the individual plead guilty to or was found guilty of a crime by a court of law.

Criminal History Record Information (CHRI). CHRI is information that criminal justice agencies collect about an individual's arrests, detentions, indictments, formal criminal charges, and any related dispositions including acquittal, sentencing, correctional supervision, or release. Information is considered CHRI if it confirms the existence or nonexistence of CHRI. CHRI does not include identification information such as fingerprint records if that information does not indicate an individual's involvement with the criminal justice system.

Disposition. The disposition on a criminal record is the current status or final outcome of an arrest or prosecution.

Equal Employment Opportunity Commission (EEOC). The EEOC is a federal agency that enforces federal nondiscrimination employment laws. Under the regulation of the EEOC, to prevent criminal record exclusions from having a disparate impact on protected classes, any criminal record exclusions for a given role or license must be demonstrably tied to an individual's ability to carry out the duties and responsibilities associated with that role or license.

FBI Channeler. A contractor that serves as the conduit for submitting fingerprints to the FBI and receiving the FBI's CHRI, on behalf of an Authorized Recipient like a State Identification Bureau, for authorized noncriminal justice purposes.

Fingerprint collection location. Individuals who undergo a fingerprint-based background check must have their fingerprints collected at a certified location, such as at some requesting entities, some OEs, a local law enforcement agency, or an approved, contracted third-party fingerprint vendor. See *Fingerprint Collection Vendors* for more information.

Fingerprint collection vendor. In Washington, third-party fingerprint collection vendors can collect fingerprints for background checks. Vendors must be approved by WSP. See *Fingerprint Collection Vendors* for more information.

Fitness determination. Upon reviewing the results of an individual's background check, the agency or OE decides whether the impacted individual should be approved for the desired role or license. This determination may include consideration of automatic disqualifiers and a CS&C assessment. See *Current System Process* for more information.

Green Factors. EEOC guidance on Consideration of Arrest and Convictions Records specifies that the Green Factors (the three factors identified by the court in *Green v. Missouri Pacific Railroad*, 549 F.2d 1158 (8th Cir. 1977)) should be an OE’s foundation for conducting a suitability determination. The three Green Factors are:

- The nature and gravity of the offense or conduct;
- The time that has passed since the offense, conduct and/or completion of the sentence; and
- The nature of the job held or sought.

Negative Action. A negative action is a court order, court judgment, or an adverse action with a finding against an individual taken by an agency in any state, federal, Tribal, or foreign jurisdiction.

No Record. A background check returns a finding of No Record if the individual does not have any convictions, pending arrests under one year old, or other negative actions in their CHRI.

Originating entity (OE). An originating entity is an official governmental agency that has been approved by the FBI’s Criminal Justice Information Services division to have access to select criminal justice information about individuals. There are three types of OEs:

- Law enforcement criminal justice agency (e.g., police, patrol, or marshal service)
- Non-law enforcement criminal justice agencies (e.g., criminal courts, corrections, prosecutor’s office)
- Non-criminal justice agencies (e.g., social service agencies, public housing, civil courts)

OEs send an individual’s fingerprints and demographic data to WSP, which in turn sends fingerprints to the FBI. Each fingerprint submission includes the following thirteen pieces of information for the person whose background is being checked: name; aliases (if applicable); residence; citizenship; place of birth; date of birth; sex; race; height; weight; eye color; hair color; and Social Security number.

Portability. Portability describes the ability of an individual’s criminal history to be transferred between recipients, such as two OEs. The findings of an individual’s background check may be portable between two OEs if two conditions are met:

- The individual has consented to providing both agencies with the information.
- Both agencies have the same purpose for the background check.

Purpose. Per the *Noncriminal Justice Access to Criminal Record History Information Policy Reference Guide*, a fingerprint-based background check that an originating agency sends to the FBI must have a defined purpose and may only be used for this purpose. Per CFR §50.12 exchange of FBI identification records, “records obtained under this authority may be used solely for the purpose requested and cannot be disseminated outside the receiving departments, related agencies, or other authorized entities.”

Rap Back. The FBI’s Next Generation Information (NGI) Noncriminal Justice Rap Back Service retains individuals’ fingerprints to continuously compare fingerprints on file with any new fingerprints that are added to state or federal databases in association with a reported event such as an arrest or conviction. This service automatically generates a notification if an individual who has previously passed a background check as a condition of obtaining a role or license has any new criminal activity added to their record, which allows OEs to conduct or reconduct a fitness determination. Washington does not participate in the FBI’s Rap Back Service. The term “Rap” comes from the acronym for “records, arrests, and prosecutions.”

Requesting entity. The requesting entity is a non-originating agency that requests a background check on an individual in accordance with state or federal regulations. The relevant OE conducts the background check.

State Identification Bureau (SIB). In most states, a single state agency is the sole processor of the state's records on individuals' criminal histories, and is the sole entity authorized to submit fingerprints to the FBI for background checks. In Washington, the WSP is the State Identification Bureau.

Vulnerable populations. In this study, vulnerable populations include children, older adults, people with disabilities, people who are incarcerated, and adults of any age who lack the functional, mental, or physical ability to care for themselves.

Washington Access To Criminal History (WATCH). WATCH is the official online source of criminal history conviction records for the state of Washington and is implemented by WSP. The database includes conviction information, arrests less than one year old with dispositions pending, and information regarding registered sex and kidnap offenders. Some information included on WATCH, such as conviction records, is public information and may be used by anyone for any purpose. Non-conviction information over one year old is not available to the public, so this information is only available to certified criminal justice agencies.

Western Identification Network (WIN). WIN is a consortium of western state and local law enforcement agencies that use a shared biometric database and network for the purpose of searching fingerprints and palmprints for criminal identification and civil background checks for roles and licenses. WIN members include the Alaska Department of Public Safety, California Department of Justice, Idaho State Police, Montana Department of Justice, Nevada Department of Public Safety, Oregon State Police, Utah Department of Public Safety, Washington State Patrol, and Wyoming Division of Criminal Investigations. WIN facilitates these states to search approximately 29 million western state fingerprint records. WIN is a 501c non-profit company formed in 1989 as the first multistate automated fingerprint identification information network. WIN maintains a gateway to the FBI's Criminal Justice Information Services Division Next Generation Identification System to facilitate update and searching of the national biometric systems.

Appendix D: Agency Summaries

Exhibit 17 summarizes key aspects of background check processes at four example agencies from our Work Group: DSHS, DCYF, OSPI, and HCA. At the time of writing, HCA was completing the setup process for their background check system so some HCA information is to be determined. We exclude DOC from this table because DOC, as a Criminal Justice agency, has a different process due to its different access to CHRI.

Exhibit 17. Summaries of Agency Background Check Processes for DSHS, DCYF, OSPI, and HCA

	DSHS	DCYF	OSPI	HCA
Snapshot				
Annual volume of fingerprint-based checks	140,000	80,000	45,000 – 55,000	~120
Cost to individual	\$0	\$0	Applicants visiting an ESD will pay a processing fee for the fingerprinting service, which varies from \$32.75 to \$44.75 for a total of \$78 to \$90, depending on the ESD visited. If they do not visit an ESD office, they can be fingerprinted at any location currently providing the service and that fee can vary, ranging from \$16 to \$50.	TBD
Fingerprint collection locations	<ul style="list-style-type: none"> ▪ IDEMIA locations ▪ Local law enforcement offices 	<ul style="list-style-type: none"> ▪ IDEMIA locations ▪ Local law enforcement offices 	<ul style="list-style-type: none"> ▪ 9 Educational Service District offices ▪ 28 school districts ▪ Local law enforcement offices 	<ul style="list-style-type: none"> ▪ IDEMIA locations ▪ Others TBD
Requirements				
Selected in-scope licenses or roles requiring fingerprint background checks	<ul style="list-style-type: none"> ▪ Anyone who cares for or has unsupervised access to vulnerable adults, including older adults and people with developmental disabilities ▪ Employees in residential programs for children or youth 	<ul style="list-style-type: none"> ▪ Licensed providers ▪ Anyone who cares for or has unsupervised access to children receiving DCYF services ▪ Anyone age 16 or older who lives in a licensed family childcare home 	<ul style="list-style-type: none"> ▪ School system employees ▪ Education licensure 	<ul style="list-style-type: none"> ▪ All agency employees ▪ Certain Medicaid providers with ownership interest

	DSHS	DCYF	OSPI	HCA
	<ul style="list-style-type: none"> State employees with access to sensitive information (e.g., federal tax information) Certain Medicaid providers with ownership interest 			
Renewal frequency	Depends on the position. Some programs do not require renewal unless the individual changes position	5 years	2 years	TBD
Contingent employment	Yes	No	Yes	Yes
Portability	Limited portability underway due to an effort to align some background check purposes under NCPA/VCA.	Limited (e.g., bus drivers who work for both DCYF and OSPI)	Within some OSPI jobs (e.g., between some school districts) and timeframes	Limited by federal requirements
CS&C Determination				
Decision-maker	Varies. For DSHS hiring, the Appointing Authority decides. For licensed providers hiring their own employees, the hiring entity decides. For DSHS license and certification approvals, authorized DSHS program staff decide.	There is a tiered decision-making process depending on the circumstances of the crime or negative action. The program administrator must review all denials.	<ul style="list-style-type: none"> Certification: OSPI Office of Professional Practices Employment: Individual school district superintendents 	Office of the Chief Medical Examiner
Determination Policy	<ul style="list-style-type: none"> Evaluated using the online Character Competency and Suitability Tool Some DSHS departments must conduct their own review 	Evaluated using WAC 110-04-1020 line items 2a-2f: <ul style="list-style-type: none"> Time passed Seriousness Number, types, and age of other associated crimes Applicant's age at time of crime Completed service or rehabilitation Role/purpose of check 	No standard policy – OSPI certification applications are reviewed on a case-by-case basis and individual school districts have their own standards. Certification is not a guarantee of employment.	<ul style="list-style-type: none"> A committee meets to discuss the applicant's unique situation. Ultimately, the committee makes a recommendation to the Chief Medical Examiner who makes the final decision. Currently creating more flexible criteria. Would like more objective disqualifiers.
Appeals process	DSHS employees undergoing a background check due to internal promotion or transfer may appeal to the Secretary of DSHS. Other individuals	Childcare/ early learning has a formal appeals process while child welfare does not.	Applicants can appeal and/or submit additional information to show compliance or reform.	TBD

	DSHS	DCYF	OSPI	HCA
	may submit additional information to correct information that is inaccurate.			
Regular review of CS&C results and processes	Background Check Advisory Group meets quarterly to discuss disqualifying lists, criminal offenses, proposed and enacted laws, and CS&C results. Changes have been made over the years.	Tracks all CS&C determinations, including the proportion that are approved/denied and reasons for denial.	OSPI tracks decisions. Changes to the RCW would prompt a review of the process.	TBD
Administration				
Staffing	30 FTE. Other staff also participate in background check processes, such as completing CS&C assessments or administering program-level policies and training.	36 staff, including 23 background check specialists and 13 suitability assessment specialists.	3 FTE + 1 temp	A few FTE once the system is updated
Records and systems	Background Check Central Unit (BCCU) has access to a centralized database in which it checks other databases for criminal history reports.	<ul style="list-style-type: none"> ■ DSHS's BCCU ■ Managed Education and Registry Information Tool (MERIT) – the workforce registry and official system of record for early learning professionals in WA ■ STARS ID – Certification an individual has completed required early care and education coursework 	Education Data System, from which data is automatically deleted after 2 years.	TBD
Interagency collaboration	Helps facilitate some background checks for DCYF and DOH, but does not typically conduct a full analysis.	Background checks facilitated through DSHS's BCCU.	Conducts some checks for DCYF.	TBD

Appendix E: Impacted Individual Interview Questions

Questions

1. What was the reason for your recent background check?
2. What is the job/license for which you applied?
4. Where did you get fingerprinted and how was the experience?
5. How easy was it to get an appointment?
6. How convenient were the location and operating hours?
7. Consider the period of time between when you were informed you would need to complete a background check and when you were notified of a final hiring/licensure decision.
8. What was the approximate length of time?
9. Were you satisfied with the timeline, and why or why not?
10. Following the background check, did you obtain the related job/license? Why or why not?
11. [If applicable] Were you given an opportunity to explain your background check history and why your experience, including your background check history, might be relevant to the position or license?
12. Consider the customer service you received during the background check process.
13. Were you given clear instruction on how to maneuver through the process? Who provided this support?
14. Were you treated with respect throughout the background check process? If not, at what point(s) in the process was this lacking?
15. Is there anything else you would like to share about the background check process?
16. We are looking to understand whether our interview pool is representative of state demographics. We would like to ask you about your location, age, and race/ethnicity. Answering these questions is entirely optional.
17. In what county did you seek employment/licensure?
18. What was your age at the time of the background check?
19. What is your race or ethnicity?

Appendix F: Profiles of Other States

Arizona

We sent this summary to Arizona staff for review and additional clarity. We did not receive a response, so some information in this summary may be incomplete.

Overview

Arizona offers two primary background check systems:

- A Fingerprint Clearance Card (FCC), the focus of this summary.
- A conventional background check process for organizations and positions not included in the fingerprint clearance card system. This conventional system is similar to Washington's current system.

The Fingerprint Clearance Card Model

Arizona's FCC system offers two levels of clearance (Level 1 and Standard) across 18 different agencies and 46 different "sponsors" within those agencies.² FCCs are required for prospective state employees who need their backgrounds checked as a condition of licensure, certification, or employment. Obtaining a Level 1 FCC is more difficult than obtaining a Standard FCC, as there are more automatic disqualifiers for Level 1. However, a Level 1 FCC provides the individual access to licensures, certifications, and employment opportunities with access to more vulnerable populations and more sensitive information, and qualifies the individual for all roles and licenses covered by the Standard level. FCCs are valid for 6 years. Arizona Department of Public Safety (DPS) and the Board of Fingerprinting facilitate the program.

How the Clearance Card Works

Upon receiving an offer from a state agency, a prospective employee will be "sponsored" by the hiring organization and can then apply at DPS for a FCC. DPS then conducts the background check. Only individuals that are sponsored by a hiring organization can apply for a FCC.

By the Numbers

- **18** participating agencies and **46** "sponsors"
 - **138,000:** FY20 volume of background checks (about half of WSP's volume)
 - **\$67:** Cost to an individual for a clearance card background check
 - **<10 days:** Time to process ink-based prints with no criminal history. Prints with criminal history take ~30 days
 - **~2 days:** Time to process electronic prints with no criminal history. Prints with criminal history take ~30 days
 - **2 years:** Process to gain FBI approval of the system
-

Participating Agencies, Licensures, Departments, and Boards

- Arizona Dept. of Child Safety
 - State Board of Pharmacy
 - Arizona Dept. of Economic Security
 - Arizona Dept. of Health Services
 - Arizona Board of Physical Therapy
 - Dept. of Education
 - Arizona Dept. of Transportation
 - Arizona Dept. of Financial Institutions
 - Arizona Board of Dental Examiners
 - Arizona Board of Fingerprinting
 - Arizona Charter School Board
 - Arizona Dept. of Real Estate
 - Dept. of Juvenile Corrections
 - Health Science Student & Clinical Assistant
 - Juvenile Probation
 - Arizona Board of Technical Registration
 - Arizona Game and Fish
 - Arizona Schools for the Deaf & Blind
-

² The BERK team is unclear as to how this broad portability is possible with FBI regulations. When asked about this, the Arizona staff provided no comment.

Fingerprint Collection

Arizona has a nonexclusive contract with FieldPrint to send electronic fingerprint information to DPS. Individuals can also access to public and private vendors for ink-based fingerprinting. Some private vendors provide mobile fingerprinting units that can reach remote individual .

Disqualifying Criteria & Appeals

After fingerprints are submitted to DPS and results are obtained from the FBI, an individual will be approved if their CHRI does not contain one or more crimes or negative actions from a broad list of automatically disqualifying infractions, ranging from major felonies to misdemeanor offenses. The Arizona system only matches individual for arrest records and not convictions, so anyone with an arrest record that matches one of the disqualifiers will be denied a FCC. Individuals who do not receive a FCC can appeal to the Board of Fingerprinting in an appeal process that can take anywhere from 20 days to four months.

Pros and Cons of the Arizona Model

Exhibit 18 summarizes the primary pros and cons of the Arizona model.

Exhibit 18. Pros and Cons of the Arizona Model

Pros	Cons
<ul style="list-style-type: none">▪ FCC is widely portable across 18 agencies for six years from the date of issue, decreasing the number of repeat fingerprints needed.▪ Nonexclusive fingerprinting contract allows for both public and private entities to provide fingerprinting services. FieldPrint offers a streamlined electronic fingerprinting process, and private, mobile fingerprinting units provide broader accessibility to rural individuals in need of fingerprinting.▪ A consolidated system under one agency (DPS) allows for more streamlined administration of the FCC background check system.▪ The Arizona model has standardized statutes applying to the FCC system, which facilitates any updates to the FCC process in statute language.	<ul style="list-style-type: none">▪ Electronic and ink-based prints with a criminal history can take up to 30 days to process, which is not significantly faster than WA's current system.▪ The number and extent of automatic disqualifiers that prohibit individuals from obtaining a FCC likely exclude some qualified candidates and limit employment.▪ Automatic disqualification process only considers arrests, not convictions. This has equity implications because an arrest is not proof that an individual has committed a crime.▪ The burden of appealing the FCC process rests largely an individual and can take up to four months, which could further exclude qualified candidates.

Source: BERK, 2023.

Florida³

Overview

- **Objective.** The Florida Clearinghouse provides a single data source for background screening results of individuals required to be screened by law for employment providing services to vulnerable populations.
- **Members.** Seven participating agencies (see textbox at right).
- **Administration.** Currently administered by the Agency for Health Care Administration (AHCA) because the Clearinghouse was built off an existing system from AHCA.
- **Background Check Purpose.** Each agency conducts screening for the same purpose – vulnerable populations – under the National Child Protection Act/Volunteers for Children Act (NCPA/VCA).

Participating Agencies

- Agency for Health Care Administration
 - Department of Children and Families
 - Department of Health
 - Department of Elder Affairs
 - Department of Juvenile Justice
 - Agency for Persons with Disabilities
 - Vocational Rehabilitation
-

How the Clearinghouse Model Works

- The Clearinghouse shares background check results among specified agencies.
- Rap Back is available to current employers of the individual via an employee roster.
- The Clearinghouse tracks screenings from initiation to determination and provides status updates to the provider.
- Providers can search for Live Scan locations and make appointments via links to the Live Scan providers' websites.
- The Clearinghouse offers providers access to the public version of an individual's Florida RAP sheet for review before hiring the individual. This allows for review of offenses that may not be disqualifying but which may be relevant to the position.
- If an individual already has an existing background check process underway, multiple providers can connect to this process and request notification when results are available to reduce duplicative screening.

Operations

- **Costs.** \$1.3M annually to manage the system for seven agencies, including:
 - \$638k from the Legislature.
 - Remaining ~\$700k from contracted services dollars.

³ Information in this summary is drawn from an interview with Taylor Haddock from Florida AHCA, from supporting materials provided by AHCA, and from additional background research.

- **Fiscal Impact.** The Clearinghouse has collectively saved health care providers and licensees nearly \$115 million since it was launched in 2013.
- **Staffing.** Seven staff running the system and 25 staff processing background checks.
- **Background Check Volume.** The Clearinghouse has processed over 6.5 million screenings.

Next Steps for Florida's Clearinghouse

- **Expand to 9,000 agencies that use Volunteer Employee Criminal History Services ([VECHS](#)).** Legislation has been submitted to add VECHS agencies to the Clearinghouse. AHCA has some trepidation about providing support to this high number of agencies.
- **Expand to purposes other than NCPA/VCA.** An upcoming update to the Clearinghouse will allow for multiple purposes with access permissions (firewalls) based on purpose.
- **House centrally.** The Clearinghouse is currently housed at AHCA, which provides significant support to other participating agencies. Because AHCA does not have the authority to regulate the agencies that use the Clearinghouse, centralization of the system as its own agency or commission would allow for standardization of customer service and the processing of work within the system.
- **Automation.** A long-term goal of the Clearinghouse is to use AI to automate the system of reviewing federal and Florida CHRI. Records from other states would continue to require manual review.

Key Observations

- **No FBI Rap Back.** While Florida had to agree to opt into FBI NGI Rap Back as a condition for the Clearinghouse, the federal system isn't ready to support FL. AHCA hopes to begin federal Rap Back services in 2024.
- **The Clearinghouse has had mixed results with their approach to livescan vendors.** The Clearinghouse has one nonexclusive contract, and any vendor can provide fingerprints. This creates increased access, but some vendors offer poor service and AHCA has no redress.
- **Screening requirements differ among participating agencies.** Standards have differed since Florida began conducting background checks in 1999.
- **Implementing the system has not been linear.** After six years of efforts from the Clearinghouse, the Florida Legislature recently passed legislation to reassign the purpose for the Department of Education's background checks for teachers to NCPA/VCA.
- **Modernization of the Clearinghouse is required.** Since its development in 2012 and launch in 2013, the system has not once undergone a major overhaul and needs modernization that will require an IT and programmatic investment.

Georgia⁴

Overview

Georgia Department of Early Care and Learning (DECAL) administers the Kids Online Administration Licensing Application (KOALA) background check system, which processed roughly 72,000 fingerprint background checks in 2022.

Integrated Portal

Georgia's early care and learning background checks are primarily administered through KOALA, an online system that provides childcare services information and licensing information. Potential employers and individuals can access KOALA through DECAL's website. DECAL pays all applicable background check fees including out-of-state fees, which are required if an individual has lived out of state within the past five years. Individuals create an application and submit all relevant information through KOALA.

Upon application submittal, DECAL conducts a minimum of four checks, including the national criminal database, the national sex offender registry, the Georgia sex offender registry, and the Georgia child abuse database. Out-of-state applicants are subject to additional checks. A separate team processes applications where limited or no history is found. This team is comprised of individuals with a legal or law enforcement background. Another team exclusively focuses on processing out-of-state applications.

Employers have their own online portal where they can view information submitted by individuals and directors are able to submit their approval of an individuals through the portal. This portal allows employers to see the status of background check applications and filter by "submitted," "started but not submitted," "expired," and "completed."

If an individual does not pass the background check process, they will receive a letter noting which convictions disqualified them from the position. Only the individual receives this notice, and the letter provides information for the individual to quickly file an appeal if they feel it is warranted.

Portability within the DECAL – KOALA system is possible; however, it is only possible between locations, organizations, and roles with the same purpose for which the original background check was conducted. Portability is only possible for up to one year after the initial background check and provided the applicant does not have a six-month break from working within the childcare industry.

Fingerprint Collection

DECAL uses Thales (formerly GEMALTO), a fingerprint collection vendor, to collect electronic fingerprint submissions. It switched to this automated process in 2020 which has proven to be significantly faster than the previous method of mailing physical prints. Starting in April of 2023, the vendor contract switch to FieldPrint.

Once an individual submits a background check application and provides a "sponsor" (agency), the individual receives an identification number that they take to Thales to get fingerprinted.

⁴ Information in this summary is drawn from an interview with Gregory Brown and Marcy Maioli from DECAL, from supporting materials provided by Georgia, and from additional background research.

Suitability & Determination

The DECAL legal team makes all fitness determinations. The team automatically disqualifies individuals with any felonies; however, individuals have an online appeal process through which they can contest a background check decision. During the appeals process the Suitability and Determination Team determines eligibility based on the time elapsed since the felony and the offense.

Rap Back

DECAL's sister agency, the Department of Family and Children, has organized an internal, automatic database and notification system, called Investigation Outcome Notification System (IONS), for cases of child abuse and neglect. IONS houses data dating back to 2008 and provides automatic, weekly updates if a current employee is arrested for or convicted of child abuse or neglect.

While Georgia has this internal system that offers similar functionality to Rap Back services, it has not implemented federal Rap Back due to the challenges of maintaining an updated list of active employees. Because federal Rap Back reports can only be pulled on current, active employees, Georgia would need child care facilities to report on staff turnover and new hires. Given the high level of turnover in this industry and the compliance challenges that implies, Georgia has decided not to pursue federal Rap Back at this time.

Idaho⁵

Overview

The State of Idaho has a centralized background check system through its Idaho Department of Health and Welfare (DHW), which helps facilitate background checks alongside the Idaho State Police, Idaho’s SIB. This system processes background checks for select individuals with unsupervised access to vulnerable populations or access to federal tax information. For individuals who do not fall into these categories, other governmental agencies and professional boards conduct their own background check programs to meet their constituencies’ needs.

By the Numbers

- **30,000:** annual volume of background checks
 - **21:** number of state employees facilitating background checks
-

The DHW is unique in that it is a Non-Criminal Justice Agency that collects, submits, and receives individual CHRI. Idaho has found it beneficial to have one agency conducting background checks for administrative efficiency and uniformity of suitability determinations. However, this process is strained both by FBI requirements that limit background check portability to specific purposes, and by the regular audits that DHW must undergo to maintain access to individual CHRI.

Compliance with FBI Regulations

DHW is audited every three years. Auditors seek to ensure that applicant records are secure and only accessible by authorized individuals.

To balance a demand for certain employees who require background checks and the safety that background checks provide, Idaho has a “variance process” where individuals can begin working for a state-regulated agency while the background check is being processed. For an applicant to qualify for variance, the state requires other components of the background check process to be complete and takes additional safety precautions to ensure it is safe for the applicant to begin working with supervision.

Fingerprint Collection

DHW collects fingerprints and sends them to the Idaho State Police, which then submits the fingerprints to the FBI. The Idaho State Police also checks the submitted fingerprints with Idaho’s criminal archives and the Western Identification Network. Once the FBI has gathered all relevant CHRI, hiring agencies can access fingerprint background check results through an online portal that is facilitated by DHW.

To collect fingerprints, DHW has a network of 14 Live Scan fingerprinting machines housed in existing DHW properties. This network covers every major metropolitan area in Idaho along I-84. To build this network, Idaho acquired hardware and software primarily through grants. However, the addition of this hardware and software has increased pressure on Idaho’s IT department. This relatively limited inventory of fingerprint collection equipment can create challenges in replacing a unit in case of equipment failure. While Idaho can use local law enforcement offices to collect fingerprints, these offices cannot perform Live Scan

⁵ Information in this summary is drawn from an interview with Fernando A. Castro from the Idaho Department of Health and Welfare (Division of Management Services, Criminal History Unit), from supporting materials provided by Idaho, and from additional background research.

collection; they must use physical fingerprint cards that are mailed to DHW, where they are digitized to a Live Scan format.

Fitness Determination and Appeals

Idaho has a standard list of disqualifying crimes approved by the Idaho Legislature. The fitness criteria also include a review of other registries including the Child Protection Central Registry, Medicare and Medicaid Exclusion lists, and Idaho’s Nurse Aide Registry.

Idaho’s system allows an individual to appeal a denial of clearance decision if they can prove that they have not committed a disqualifying crime. For those individuals wishing to appeal on the grounds that they should be considered despite having been convicted of a disqualifying crime, there is little to no recourse.

Applicants that provide substance use disorders treatment services that do not receive a clearance from DHW may be eligible to apply for a special waiver that allows individuals with a history of disqualifying crimes or relevant records to be hired. Roughly 40% of people who apply for the waiver receive one, and it allows individuals to work at substance use treatment locations. There is no portability associated with this waiver.

Cost to Applicants

Where a background check is required, Idaho statute dictates that the applicant must pay for the background check. There are DHW programs and private agencies that will subsidize the applicant fees by allocating general fund revenue when the State is the driver for the background check (for its employees or licensees). When employers agree to pay for staff background checks, these checks are paid out of their own budgets.

Rap Back

Idaho has pursued Rap Back services and was met with opposition from its Legislature. The Legislature cited concerns about government misuse of fingerprint information and privacy concerns.

Pros and Cons

Exhibit 19 describes some of the pros and cons of the Idaho model, as noted by our interviewee.

Exhibit 19. Pros and Cons of the Idaho Model

Pros	Cons
<ul style="list-style-type: none">▪ Policy uniformity▪ Quick turnaround times▪ Accessibility through a public facing web-based background check application▪ DHW has complete control of fingerprint collection and submission infrastructure and near-complete automation of business processes	<ul style="list-style-type: none">▪ Staff retention challenges and shortages can lead to service disruption▪ Long response time from other states for queries into their Central Child Protection Registries▪ Inability to take online payments▪ Insufficient inventory of fingerprint collection equipment – results in an inability to replace a unit quickly in case of equipment failure▪ Slow FBI review / approval process for changes to state background check legislation

Source: BERK, 2023.

General Advice for Centralizing Washington State's Background Check System

Staff at Idaho DHW have provided advice to Washington, should Washington choose to centralize its background check system:

- Have all parties agree to the most stringent applicant suitability criteria possible. This yields a more efficient process and allows staff to spend more time doing research and making suitability determinations for applicants with complex CHRI.
- Pursue and/or support federal legislation that creates and implements national child abuse and adult abuse registries if these searches are relevant to an agency's or program's scope.
- When drafting statute related to fingerprint-based background checks, ensure it meets US PL 92-544 FBI core requirements. Keep the statute simple and easily editable.
 - Refrain from promulgating disqualifying criteria, background check processing nuances, denial of clearance challenge procedures, and fees for service in statute. Consider putting this information in the state administrative code, as it is easier to change and update as needed.
- If opting to have an in-house fingerprint operation, commit to support the resiliency of the operation by upgrading and maintaining its infrastructure. If this process is handled outside the agency, require the vendor to deploy a redundant, resilient, and FBI-compliant infrastructure.
 - If required to research other states' criminal jurisdictions, administrative law, or professional board findings, build and foster an open, cooperative, interstate network comprised of these activities.

Oregon⁶

Overview

A portion of Oregon's background check system is centralized within a Background Check Unit (BCU) within the Department of Human Services. The BCU conducts criminal records checks and protective services checks to determine if an individual has past behavior such that they should not be allowed to work, volunteer, be employed, or otherwise perform in a position that serves vulnerable people. The BCU processes about 200,000 background checks each year with a team of 68 staff.

Oregon began efforts to centralize their background check systems in 2001. From 2014 to 2018, Oregon convened a workgroup to assess further centralization. However, no significant changes resulted from the work, [summarized in this report](#).

Fingerprint Collection

For the past 10 years, the BCU has contracted with FieldPrint to collect individual fingerprints. The BCU reports that many private fingerprint collection services do not offer adequate services in rural areas. As a result, many individuals in these areas provide their fingerprints at local law enforcement locations, which is more expensive for the individuals who are responsible for the cost of the fingerprint collection. The BCU will release an RFP in the next year for a new fingerprint collection vendor contract.

How the Oregon System Works

- Checks done by the BCU are portable for two years, so an individual can change jobs within the same industry (i.e., the same purpose and background check type) without being subject to a new, full background check.
- While the individual is responsible for the cost of fingerprint collection, the State pays for all other fees.
- The BCU reports inconsistent turnaround times from Oregon State Police (which is Oregon's SIB), ranging from one to 20 or more days, which directly impacts the processing times for the BCU.
- The state has not passed Rap Back legislation due to opposition, and is not currently pursuing it.
- After the Equal Employment Opportunity Commission (EEOC) published the "Green Factors" in 2012, Oregon codified them in their statute to support their weight test and fitness determination (ORS 181A.195 (10)(c)).

⁶ Information in this summary is drawn from an interview with Jeff Akin from Oregon's Background Check Unit and Imaging & Records Management Services, from supporting materials provided by Oregon, and from additional background research.

Appendix G: Federal Rap Back Services

A major contributor to our understanding of the state and federal rap back systems come from the Washington State Auditor's Office (SAO). The SAO's [Enhancing Background Checks in Washington State – a performance audit report](#) is a primary source of this section.

Federal NGI Rap Back Services

There are two types of federal Rap Back services— criminal and applicant. This appendix focuses exclusively on applicant-based Rap Back services.

The Federal NGI Rap Back service collects and retains fingerprints from authorized contributors representing civil applicants such as employees, volunteers, licensees, or security clearance candidates. The federal NGI service retains submitted fingerprints as either new identities or within existing identities and sets subscription timelines for those authorized contributors. These subscription timelines refer to the amount of time a fingerprint applicant's information is valid before needing to renew the fingerprint background check process.

Once a set of fingerprints is retained, the NGI Rap Back service automatically monitors the fingerprints for future criminal activity. Fingerprints are continuously monitored against incoming civil records and against historical records. If an existing fingerprint set in the system matches with a historical or incoming record, the NGI Rap Back service automatically generates a notification that alerts users that an applicant, employee, or volunteer has engaged in some criminal activity or has been arrested.

While federal Rap Back services are available to all states, only a handful participate. Hawaii and Texas are currently enrolled in criminal justice Rap Back. Eight states are enrolled in non-criminal justice Rap Back including Utah, Georgia, Florida, Missouri, Maryland, Texas, Hawaii, and Oklahoma. However, in an interview with Florida (see [Appendix F: Profiles of Other States](#)), Florida reported that while they have opted in to Rap Back services, they are not yet enrolled and waiting for the FBI's system to be compatible with their model.

NGI Rap Back Process

1. The State Criminal Justice Information Services (CJIS) agency retains submitted fingerprints for agencies that subscribe to Rap Back service. If Washington were to enroll in NGI Rap Back services, this would be the Washington State Patrol (WSP).
2. The State CJIS agency then flags individuals with information within the state's Automated Fingerprint Identification System (AFIS) for inclusion in Rap Back.
3. If the flagged individual is arrested or commits any new offenses after the initial background check, the State CJIS agency sends updated information to the relevant state agency. The state agency reviews information and notifies the individual's employer if the individual is no longer eligible for employment/licensure.

Steps Needed to Implement Federal NGI Rap Back Services in Washington

The Washington State Legislature would need to pass legislation authorizing WSP (the approved CJIS agency) to retain an individuals' fingerprints for noncriminal justice purposes. These new functions would require that the participating state, federal agencies, and all participating entities have authority:

1. To submit the fingerprints to FBI's Next Generation Identification (NGI).
2. For the fingerprints to be retained by NGI.

3. For the fingerprints to be searched by future submissions to the NGI system and appropriate responses sent to Submitting and Subscribing Entities. These future searches include latent (historical) fingerprint searches.

Once statutory authority is in place, Washington State would then need to:

4. Ensure state statute allows for fingerprint-based checks for all roles or licenses.
5. Develop a budget and secure financing, potentially from special revenue funds and/or federal grants.
6. Develop and execute an engagement plan to educate the public and mitigate concerns.

WSP has existing capacity in its IT systems to support Rap Back programming.

Past Attempts to Implement Rap Back in Washington State

The Health Professionals Legislative Bill (2015). In 2015, Representatives Stanford, Goodman, and S. Hunt—by request of the Nursing Care Quality Assurance Commission—sponsored House Bill 2080, an act relating to fingerprint-based background checks for health professionals. The Bill proposed to amend RCWs 43.43.700, 43.43.705, 43.43.742, and 18.130.064. In summary, the Bill sought to:

- Authorize WSP and the Department of Health (DOH) to participate in the Rap Back program, which was newly launched by the FBI.
- Authorize WSP to retain fingerprints submitted by a statutorily authorized agency for noncriminal justice purposes.
- Require that applicants be notified that their fingerprints would be searched against arrests and unsolved crime files, and that their criminal history would be periodically checked and reported back to the statutorily authorized agencies.
- Allow disciplining authorities under the DOH to adopt rules authorizing fingerprint checks for applicants and licensees in the professions it regulates.

The Health Professionals Legislative Bill met opposition from a variety of different groups including the ACLU, Columbia Legal, Northwest Justice, National Rifle Association, and Washington Defenders Association. These groups raised concerns related to:

- **Privacy**, including limited trust in government to safeguard information.
- **Scope creep** related to use of information for additional purpose, including immigration enforcement.
- **Inclusion of latent fingerprint searches and quality of those prints** leading to potential for misidentification.
- **Inclusion of closed records**, including charges that are not prosecuted and judicial decisions that result in dismissals or not guilty findings.
- **Cost** related to the ability of applicants and state agencies to pay for the program.

The SAO Performance Audit (2013). In 2013, the Washington State Auditor's Office (SAO) published a performance audit report recommending that the state implement state and federal Rap Back services. The report found that states implementing Rap Back or similar services experienced a collection of fast and accurate information, saved money by eliminating repetitive fingerprinting, and improved criminal justice monitoring to disqualify individuals who otherwise would have remained in positions of trust for an average of 20 months before a subsequent follow-up check would alert oversight entities to potential problems.

While the report recommended that the State implement Rap Back services, it acknowledged that changes to state requirements would be necessary to be comprehensive and successful, including the following.

- Statutory authority to participate in state and federal Rap Back services.
- Statutory authority to retain civil fingerprints for Rap Back services, including changing laws that prohibited retention of fingerprint records for school employees.
- Funding to upgrade related information technology systems, potentially stemming from special revenue funds related to background checks, or from federal grant money.
- Outreach plans to mitigate privacy concerns.
- Reviews of name-based background checks, to determine if they should be altered to become fingerprint-based.

Appendix H: State Positions and Purposes that Require a Background Check

The following pages show a list of positions and purposes that require a background check under Public Law 92-544. Some positions are within the scope of this study and others are out-of-scope.

Washington

Central Agency - Director
State Identification Section
State Patrol
4242 Martin Way
Olympia, Washington 98504

1. Washington Office of the State Insurance Commissioner
(Previously WaRC, Ch.48)
 - A. Applicants for an insurance producer license
(WaRC § 48.17.170 and WaRC § 48.17.090)
 - B. Applicants for a resident insurance producer license
(WaRC § 48.17.090)
 - C. Applicants for an insurance adjuster license
(WaRC § 48.17.380)
 - D. Applicants for a resident surplus line broker's license (WaRC § 48.15.070)
2. Washington State Horse Racing Commission (WaRC § 67.16 and 67.17)
3. Washington State Gambling Commission (WaRC § 9.46.070)
4. Washington State Liquor Control Board (WaRC § 66.08.030)
5. Emergency Vehicle Permit (WaRC §§ 46.37.194)
6. Armed Private Security Guard License (WaRC § 18.170.040 and 18.170.130)
7. Armed Private Investigator License (WaRC §18.165.040[1][a] And 18.165.070)
8. Office of Superintendent of Public Instruction (WaRC § 28A.400.303)
 - A. School Districts;
 - B. Educational Service Districts;
 - C. The Washington State Center for Childhood Deafness and Hearing loss;
 - D. The State School for the Blind;
 - E. Their contractors hiring employees who will have regularly scheduled unsupervised access to children; and
 - F. Federal Bureau of Indian Affairs-funded school employees and applicants for employment
9. **Applicants for an initial** concealed pistol license
(WaRC § 9.41.070)
10. Explosive license (WaRC § 70.74.360.1)

Washington continued

11. Department of Social and Health Services (DSHS) or Department of Children, Youth, and Families

1. (WaRC §§ 43.43.837) -

- A. Any applicant or service provider to have unsupervised access to vulnerable adults, children or juveniles or an applicant or service provider that has access vulnerable adults, children or juveniles that has resided in the state less than three consecutive years before application,
- B. Is an applicant or service provider providing services to children or people with developmental disabilities under (RCW 74.15.030)
- C. Is an individual residing in an applicant or service provider's home, facility, entity, agency, or business or who is authorized by the department of social and health services or the department of children, youth, and families to provide services to children or people with developmental disabilities, (RCW 74.15.030)
- D. Is an applicant or service provider providing in-home services funded by:
 - 1. Medicaid personal care under (RCW 74-09-520)
 - 2. Community options program entry system waiver services under (RCW 74.39A.0300)
 - 3. Chore services under (RCW 74.39A.110); or
 - 4. Other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW administered by the department of social and health services which includes services provided in adult family homes, in-home services, and other services administered or provided by contract by the department directly or through contract with area agencies on aging or similar services provided by facilities and agencies licensed or certified by the department

Previous #11 - DSHS - the following categories have been moved to the Department of Children, Youth, and Families (WaRC §§ 74.15.030, 26.44.240) A. Licensing/Provider and B. Emergency placement of children

Washington continued

5. Long-term care workers (RCW 74.39A.056 when read with RCW 74.39A.009) **include all persons who provide paid, hands-on personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care workers employed by home care agencies or a consumer directed employer, providers of home care services to persons with developmental disabilities under Title 71A RCW, all direct care workers in state-licensed assisted living facilities, enhanced services facilities, and adult family homes, respite care providers, direct care workers employed by community residential service businesses, and any other direct care worker providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities**
2. (WaRC § 43.216.170 when read with WaRC § 43.43.837) - **Any current employee or applicant seeking our being considered for any position with the department who will or may have unsupervised access to vulnerable adults, children, and juveniles**
12. Employees of the Special Commitment Center, of the Washington State Department of Social and Health Services (WaRC § 71.09)
13. Washington State Investment Board (WSIB) (RCW 43.33A.025)
 - A. Finalist candidate for board staff position
 - B. Applicant with authority for access to:
 1. Funds under jurisdiction or responsibility of WSIB.
 2. Data or security systems of WSIB, or designs for such systems.
14. Private School applicants and Employees (WaRC § 28A.195.080)
15. Driver training instructors (WaRC Ch. 46.82)
16. Employees or contractors for the Department of Services for the Blind (WaRC § 74.18).
17. Alien firearm license (WaRC § 9.41.170)
18. Bail bond agents (WaRC § 18.185.040)

Washington continued

19. Parks and Recreation Commission (WaRC § 79A.05.030)
Job applicants, volunteers, and independent contractors:
 - A. having supervised access to children or vulnerable adults, or
 - B. responsible for collecting or disbursing cash or processing credit/debit card transactions.
20. Applicants for a mortgage broker or loan originator license (WaRC § 19.146)
21. Applicants for agency head positions when appointed by the governor (WaRS § 43.06)
22. Department of Early Learning (DEL) applicants for an agency license, licensees, employees, and other persons with unsupervised access to children in care, including DEL Early Childhood Education and Assistance Program employees who have access to children (WaRC § 43.215)
23. Metropolitan Park District, by resolution for park district employees, applicants for employment, volunteers, vendors and independent contractors, who in the course of their job their work or volunteer activity with the park district, may have unsupervised access to children, person with developmental disabilities, or vulnerable adults or be responsible for collecting or dispersing cash or processing credit/debit card transactions (WaRS § 35.61.130)
 1. Des Moines Pool Metropolitan Park District
(Res. No 2010-05)
 2. Greater Clark Parks District (Res. No. 2017-04-04)
 3. Tukwila Pool Metropolitan Park District
(Res. No. 2016-07)
 4. Olymia Metropolitan Parks District
(Res. No. MPD-8)
 5. **Eastmont Metropolitan Park District**
(Res. No. 06-04)
24. Applicants for license through the Washington State Department of Health (WaRC § 18.130):
 - A. Dispensing Opticians and designated apprentices
 - B. Midwives
 - C. Ocularists
 - D. Massage Practitioners and Businesses
 - E. Dental Hygienists
 - F. East Asian Medicine Practioners
 - G. Certified Radiologic Technologists and X-Ray Technicians
 - H. Respiratory Care Practioners

Washington continued

- I. Hypnotherapists and Registered agency affiliated Counselors and Advisors and Certified Counselors
 - J. Licensed Mental Health Counselors, Mental Health Counselor Associates, Marriage and Family Therapists, Marriage and Family Therapist Associates, Social Workers, Advanced Social Work Associates, Independent Clinical Social Work Associates
 - K. Registered Nursing Pool Operators
 - L. Registered or Certified Nursing Assistants, Medication Assistants
 - M. Certified Health Care Assistants
 - N. Certified Dietitians and Nutritionists
 - O. Certified Chemical Dependency Professionals and Chemical Dependency Professional Trainees
 - P. Sex Offender Treatment Providers and Certified Affiliate Sex Offender Treatment Providers
 - Q. Certified Emergency Medical Care and Transportation Services and Certified Emergency Medical Service Personnel
 - R. Orthotists and Prosthetists
 - S. Registered Surgical Technologists
 - T. Recreational Therapists
 - U. Certified Animal Massage Practitioners
 - V. Athletic Trainers
 - W. Certified Home Care Aides
 - X. Genetic Counselors
 - Y. Certified Reflexologists
 - Z. Certified Medical Assistants, Medical Assistants-Hemodialysis Technicians and Phlebotomists, and Registered Certified and Registered Medical Assistants
 - AA. Applicants for licensure as behavior analysts, assistant behavior analysts and for certification as a behavior technician
 - BB. Applicants for physical therapy licensure or physical therapist assistant licensure, including renewals
 - CC. Washington Board of Osteopathic Medicine and Surgery - applicants for a license to practice osteopathic medicine and surgery including renewals
 - DD. Washington Medical Quality Assurance Commission - Applicants for a license to practice medicine including renewals.
25. Applicants for employment as peace officers through the Washington State Criminal Justice Training commission (WaRC § 43.101.095)

Washington continued

26. Washington State Dept. of Licensing - Current or prospective employees who issue enhanced drivers licenses and identicards and current or prospective employees who have access to information pertaining to confidential vehicle license plates, driver's licenses, identicards, or vessel registrations (WaRC § 46.01.130)
27. Real Estate Licensure Applicants (WaRC § 18.85.171)
28. Counties, by ordinance, for applicants for licensure or licensees in occupations specified by ordinance and require county employees, applicants for employment, volunteers, vendors, and independent contractors, who in the course of their work or volunteer activity with the county, may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults (WaRC Chapter 36.01.300)
 - * King County (KCC § 6.64.520)
 1. Applicant for a for-hire driver's license.
 - * Pierce County (Ord. No. 2012-17, previously Ord. No. 2011-44, Pierce County Code § 5.02.035)
 1. Pawnbrokers, Secondhand, Antiques, Junk and/or Salvage Dealers
 2. Adult Entertainers/Managers
 3. Panorama, Picture Arcades, and Peep Show Premises, Owner, or Device
 4. Taxi Drivers
 5. Outdoor Public Music Festival
29. Cities or towns by ordinance for applicants for licensure or licenses in occupations specified by ordinance and require city or town employees, applicants for employment, volunteers, vendors, and independent contractors, who in the course of their work or volunteer activity with the city or town, may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults (WaRC Chapter 35.21.920)
 - *Bremerton, City of
 - Applicants for a taxicab driver's or business certificate (Ord. No. 5254, Bremerton Municipal Code Ch. 5.12)
 - *Issaquah, City of
 - Collective garden safety license (Ord. No. 2638)
 - *Lacey, City of
 - Applicants for a for-hire driver/operator, Locksmith, or solicitor occupational permit. (City of Lacey Municipal Code, Chapter 5.22)

Washington continued

*Moses Lake, City of

An applicant or employee seeking to engage in the occupations of solicitors, mobile food vendors, pawn brokers, second hand dealers or taxi drivers (Ord. No. 2917 when read with WaRC § 35.21.920)

*Yelm, City of

Applicants for a for-hire vehicle driver/operator, locksmith or solicitor occupational permit (Yelm City Code, 5.03.045)

30. Code Cities by ordinance for applicants for licensure or licensees in occupations specified by ordinance and require code city employees, applicants for employment, volunteers, vendors, and independent contractors, who in the course of their work or volunteer activity with the code city, may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults (WaRC Chapter 35A.21.370)

*Olympia, City of (Ord. No. 6928, Olympia Municipal Code, 5.10.045)

Applicants for an occupational permit for-hire vehicle drivers/operators, locksmiths and solicitors; licensing and operation of adult oriented businesses.

*Pasco, City of (Ord. No. 4022, Pasco Municipal Code, § 5.08.045)

1. Dance hall operation
2. Public dance permit
3. Adult entertainment facility business license
4. Adult entertainer's license
5. Adult waitperson's license
6. Adult entertainment facility manager's license
7. Driver's permit

31. Escrow agents and employee licenses (WaRC § 18.44.031)

32. Applicant for license as Owners or Controlling persons of Appraisal management companies (HB 3040 WaRC § 18.310.090)

33. Money Transmitter License (WaRC § 19.230.040)

34. Applications and renewals by the Washington State Liquor Control Board for a license to produce, process, or sell marijuana (WaRC § 69.50.331)

35. Officers, directors, and owners applying for a consumer loan license (WaRC § 31.04.045)

Washington continued

36. Washington Professional Educator Standards Board - Initial applicants for certification of personnel employed in the common schools of the state, including certification for emergency, temporary, substitute, or provisional duty (WaRC § 28A.410.010)
37. Applicants for a medical marijuana consultant certificate (WaRC Chapter 69.51A)
38. Emergency placement of children by an authorized agency of a federally recognized tribe in the state of Washington. (WaRC Section 26.44.240)
39. Department of Revenue - Current and prospective department employees and contractors that are or may be authorized to access federal tax information (WaRC Chapter 82.01.060)
40. All current and prospective employees of and contractors with the state of Washington who are or may be authorized by the agency for which he or she is employed to access federal tax information (WaRC Section 41.04.821 previously HB 2208, Section 1)
41. **Department of Children Youth and Families (DCYF) -**
 1. (WaRC § 43.216.270 when read with WaRC §§ 43.216.295 and 43.216.010)
Newly applied for agency license, new licensees, their new employees, and other persons who newly have unsupervised access to children in care and all individuals applying for first-time agency licenses, all new employees, and other persons who have not been previously qualified by the department to have unsupervised access to children in child care which includes: an agency license any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following:
 - a. Child day care center
 - b. Early learning
 - c. Family day care provider
 - d. Nongovernmental private-public partnership

2. (WaRC §§ 74.15.030 when read with 74.15.020 and 74.15.040)
 - A. Agencies and their staff, volunteers, students, and interns when the agency is seeking license or relicense which includes: any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their home, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following:
 1. Child-placing agency
 2. Community facility
 3. Crisis residential center
 4. Emergency respite center
 5. Foster-family home
 6. Group-care facility
 7. HOPE Center
 8. Maternity service
 9. Resource and assessment center
 10. Responsible living skills program

42. Court Appointed Special Advocate guardians ad item and guardian ad litem volunteers (WaRC Section 13.34.100)

→ → Law Enforcement/Criminal Justice Purpose - NO USER FEE ≈ ≈

1. Security Division, Washington Public Power Supply System (Security Div. - WA Public Power Supply System). Treat as criminal justice agency (ORI #WA003015y). Fingerprint card submissions must indicate in reason fingerprint block. "Applicant for Security Force Employment" only (Chap. 43.52 RCW)
2. Training Division, Pierce County Sheriff's Department, Fingerprint card submissions must indicate "Criminal Justice Applicant" in reason fingerprinted block. (ORI# WA027001Z)