



**John Keel, CPA**  
**State Auditor**

An Audit Report on

# **Agencies' and Higher Education Institutions' Background Check Procedures**

March 2008

Report No. 08-024



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## Overall Conclusion

According to the results of a State Auditor's Office survey, the majority of state agencies and higher education institutions that are authorized to conduct background checks reported that they performed these checks. Of the 157 agencies and institutions surveyed, 130 (83 percent) reported that they conducted checks on employees, contractors, licensees, service providers, or students.

More than 100 statutes authorize the agencies and institutions that auditors surveyed to access the Department of Public Safety's criminal history record information. Some statutes provide this authority to all agencies and institutions, while other statutes are specific to individual agencies or institutions.

Survey results indicate that agencies and institutions apply certain statutes regarding background checks differently. A few agencies and institutions that are not authorized by statute to access the Department of Public Safety's secure Web site for criminal history record information still conduct these checks as a matter of agency policy. Other agencies and institutions do not conduct checks, even though they are authorized to access criminal history record information.

**State agencies and higher education institutions should develop or improve policies and procedures for conducting background checks.**

Opportunities exist for the 130 agencies and institutions that conduct checks to develop or improve their policies and procedures regarding these checks. Auditors identified 24 agencies and institutions (or 18 percent of the 130 agencies and institutions) that do not have written policies and procedures.

### Background Information

The General Appropriations Act (80th Legislature), Article IX, Section 19.68, page IX-87, required the following:

(a) All state agencies currently conducting background checks shall submit to the State Auditor's Office (SAO), the Texas Department of Licensing and Regulation (TDLR), the Department of Public Safety (DPS), and the Legislative Budget Board (LBB) a report on their background check procedures by November 1, 2007. The SAO shall determine the form in which the agencies shall submit the reports.

(b) The SAO shall complete a review of all agencies conducting background checks. The review shall include, but is not limited to, information on any deficiencies in background check procedures and a determination if there are any state agencies that should be conducting background checks, but are currently not conducting background checks. The SAO shall submit the review to TDLR, DPS, and the LBB by April 1, 2008.

In accordance with these requirements, the State Auditor's Office conducted a survey of 157 state agencies and higher education institutions in October 2007. All surveyed agencies and institutions responded. This report summarizes the results of that survey.

For the purposes of this report, a "background check" refers to a criminal background check.

Auditors also developed a model for background check policies and procedures based on federal and state statutes and best practices. This model, which includes basic and best practice elements, was used as a benchmark to analyze agencies' and institutions' policies and procedures. Using this model, auditors identified opportunities for the 106 agencies and institutions that do have policies and procedures to improve these policies and procedures.

### **Certain state agencies and higher education institutions could benefit from conducting background checks.**

#### Employees, Licensees, and Contractors

Of the 157 agencies and institutions surveyed, 31 (20 percent) reported that, while they are authorized to conduct checks on employees, licensees, or contractors, they do not conduct checks on all positions for which they are authorized.

- The following four agencies and one higher education institution have statutory authority to conduct background checks but reported they did not conduct any checks:
  - The Commission on Environmental Quality.
  - The Board of Tax Professional Examiners.
  - The Office of the State Prosecuting Attorney.
  - The State Commission on Judicial Conduct.
  - The Texas State University System.
- Six agencies that reported they have the authority to conduct checks on one or more employee/staff positions also reported they did not conduct any checks on these positions. These agencies included:
  - The Board of Examiners of Psychologists.
  - The Board of Veterinary Medical Examiners.
  - The Commission on Fire Protection.
  - The Credit Union Department.
  - The Health and Human Services Commission.
  - The Higher Education Coordinating Board.

#### Students Enrolled in Certain Academic Majors

Higher education institutions do not have specific state statutory authority to access students' criminal history record information.<sup>1</sup> Forty-eight of the

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<sup>1</sup> Institutions may be required under federal law to ensure that background checks had been conducted on students in certain academic majors before admission or training. For example, Title 49, Code of Federal Regulations, Part 1552, prohibits flight schools from providing flight training to an alien unless the flight school is informed that the Transportation Security Administration has determined that the individual is not a threat to aviation or national security.

institutions surveyed reported they offered at least one of the academic majors<sup>2</sup> listed in the State Auditor's Office's survey, but 15 of those institutions reported they did not conduct any checks on students enrolled in those majors. Some of the institutions that did not conduct student checks relied on school districts and other facilities that accept students for practice teaching, clinical practice, or internships to conduct these checks.

### Types of Background Checks Conducted by Agencies and Institutions

Forty-three percent of all background checks that agencies and institutions conduct are name-based checks that use the Department of Public Safety's secure Web site. This type of check costs \$1.00 and is the least expensive. In contrast, a fingerprint check may cost between \$15.00 and \$44.20, depending upon the type of fingerprint service (state or federal) and the cost of fingerprint acquisition. Furthermore, a fingerprint check is more accurate than a name-based check and can be more complete if conducted through the Federal Bureau of Investigation's Integrated Automated Fingerprint Identification System.

The Department of Public Safety provides a free service through which it retains fingerprints and can notify agencies and institutions of subsequent arrests of employees, licensees, or contractors whose fingerprints are on record. Although a fingerprint check is more expensive than a name-based check, conducting fingerprint checks could reduce the need for repeat checks and reduce the costs associated with these repeat checks.

## ***Key Recommendation***

Agencies and institutions should establish written policies and procedures regarding background checks (see Chapter 2-B).

## ***Summary of Objectives, Scope, and Methodology***

The audit objectives were to:

- Develop the report format for all state agencies and higher education institutions to use to report on their background check procedures.
- Review agencies' and institutions' background check procedures for deficiencies.
- Determine whether there are other agencies and institutions that should be, but are not currently, conducting background checks.

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<sup>2</sup> The academic majors included in the State Auditor's Office survey may provide students access to vulnerable populations (for example, the elderly, disabled, and children), controlled substances, pharmaceuticals, and security sensitive resources during the course of their degree programs or after graduation.

- Develop a model for background check policies and procedures.

The audit scope covered 157 agencies' and institutions' background check policies and procedures, as well as background check survey responses received by November 2007.

The audit methodology included reviewing federal and state statutes; surveying agencies and institutions regarding their policies and procedures for conducting background checks; reviewing documentation from health and human service agencies and regulatory agencies to support their policies and procedures; reviewing and verifying all survey responses for consistency; analyzing survey responses; and consulting with staff from the Department of Public Safety, the Department of Licensing and Regulation, and the Legislative Budget Board.

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# Detailed Results

Chapter 1

## *The Majority of State Agencies and Higher Education Institutions Conduct Background Checks*

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The majority of the 157 state agencies and higher education institutions surveyed reported they are authorized or required to conduct background checks. All of the agencies and institutions that reported being required to conduct checks also reported they conducted these checks.

### Definitions

**Criminal History Record Information** means "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions," according to Texas Government Code, Section 411.082. In this report, this phrase refers to information obtained through the Department of Public Safety's (Department) secure Web site. The Department's public information Web site is a subset of the secure Web site. The public information Web site is limited to cases that have a disposition.

**Authorized** to access criminal history record information means that an agency or institution has specific statutory authority (other than in Texas Government Code, Section 411.135, Access to Certain Information by Public) to access criminal history record information or to conduct a background check, but it is not required to do so.

**Required** means that an agency or institution has a mandate ("shall" or "must") to conduct a background check on certain individuals according to state statutes.

Agencies and institutions that have been statutorily authorized to access the Department of Public Safety's criminal history record information are not required to conduct these checks, but they have the discretion to determine whether a check is necessary.

Of the 157 agencies and institutions surveyed, 130 (83 percent) reported they conducted checks on employees, contractors, licensees, services providers, or students (see Appendix 2 for a list of these agencies and institutions).

As required by the General Appropriations Act, all 157 state agencies and institutions submitted the reporting form (survey) regarding background checks procedures to the State Auditor's Office by November 1, 2007. The State Auditor's Office provided the survey information to the Legislative Budget Board, the Department of Public Safety, and the Department of Licensing and Regulation. Survey results are summarized below. See Appendix 3 for the full survey instrument.

### Background Checks Conducted on Staff

Of the 157 agencies and institutions surveyed, 110 (70 percent) reported that they are authorized or required to conduct checks on at least one staff position (see Appendix 4, Table 6 for additional information).

Auditors surveyed agencies and institutions to determine whether they conducted checks on any of 26 positions that the State Auditor's Office identified as common across agencies and institutions. Of the 110 agencies and institutions authorized or required to perform checks on at least one staff position, 102 (93 percent) reported that they conducted checks on at least one of those positions (see Appendix 4, Table 6 for additional information).



### Background Checks Conducted on License Applicants

Of the 45 agencies that reported being authorized or required to conduct checks on license applicants, 43 (96 percent) reported that they conducted checks on some or all applicants for licenses (see Appendix 4, Table 7 for additional information).

Two agencies, the Commission on Environmental Quality and the Board of Architectural Examiners, reported that they did not conduct background checks on license applicants. The Board of Chiropractic Examiners reported it did not conduct checks on applicants for chiropractic clinic licenses.

### Background Checks Conducted on License Renewal Applicants

Of the 36 agencies that renew licenses, 6 (17 percent) reported they did not conduct background checks when individuals renew licenses (see Appendix 4, Table 7 for additional information). These agencies are:

- The Commission on Environmental Quality.
- The Board of Architectural Examiners.
- The Securities Board.
- The Real Estate Commission.
- The Optometry Board.
- The Commission on Fire Protection.

These agencies reported that the primary reason they do not conduct these checks is a lack of resources or because they rely on the applicant to voluntarily disclose such information upon renewing a license.

## Background Checks Conducted on Students in Certain Academic Majors at Higher Education Institutions

### Checks on Certain Academic Majors

Higher education institutions do not have specific state statutory authority or requirement to access student criminal history record information. However, students in certain academic majors may have access to vulnerable populations (for example, elderly, disabled, and children), controlled substances, pharmaceuticals, and security sensitive resources during the course of their degree programs or after graduation.

Of the 48 institutions surveyed, 33 (69 percent) reported they conduct checks on students in at least one of the academic majors listed in Table 1 below. Most of the institutions that reported conducting checks use a third-party vendor to conduct checks on students either when students are admitted to the program or before they enroll in their first clinical/practicum course. However, the remaining 15 (31 percent) reported they do not conduct checks on students in any of these majors (see Appendix 4, Table 8 and Chapter 2-C for additional information).

The three academic majors for which the highest numbers of institutions reported conducting background checks were nursing, allied health, and education. Table 1 summarizes higher education institutions' checks on students in selected academic majors.

Table 1

Summary of Higher Education Institutions' Background Checks on Students in Selected Academic Majors			
Academic Major <sup>a</sup>	Number of Institutions That Offer This Academic Major	Number of Institutions That Conduct Checks on Students in This Academic Major	Percent of Institutions That Conduct Checks on Students in This Academic Major
Social Work	22	3	14%
Psychology	33	5	15%
Law	5	1	20%
Law Enforcement	13	4	31%
Nutrition	12	4	33%
Education/Teacher Certification	36	14	39%
Pharmacy	9	6	67%
Allied Health	21	15	71%
Dentistry	5	4	80%
Medicine	8	7	88%
Nursing	27	24	89%
Other majors <sup>b</sup>	11	11	100%
<sup>a</sup> The State Auditor's Office selected 11 academic majors to determine whether institutions conducted background checks on students in those majors.			
<sup>b</sup> "Other Majors" include additional majors for which some institutions reported they conducted checks. Those majors included human development and family sciences, dental hygiene, human services and consumer sciences, child development, welding, public health, biomedical sciences, health information sciences, communication disorders, aircraft pilot training, and biomedical communications.			

Source: State Auditor's Office background check survey.

### Background Checks Conducted on Contractors and Subcontractors

Forty agencies and institutions reported that they are authorized or required to conduct checks on contractors, contractor employees, or subcontractors. Of those 40 agencies and institutions, 35 (88 percent) reported that they perform checks on contractors and related individuals (see Appendix 4, Table 6 for additional information).

## ***Agencies and Higher Education Institutions Apply Statutes Differently, and They Should Develop or Improve Policies and Procedures Regarding Background Checks***

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State agencies and higher education institutions apply statutes regarding background checks differently. In addition, most agencies and institutions should develop or improve their policies and procedures regarding background checks. Agencies and institutions also could benefit from conducting certain background checks that they do not currently conduct.

Chapter 2-A

### **State Agencies' and Higher Education Institutions' Application of Selected Statutes Regarding Background Checks Varies**

There is inconsistency among agencies and institutions in their application of certain statutes regarding background checks. Additionally, some agencies and institutions are not familiar with certain statutes that grant authorization to conduct background checks.

Examples of how the application of certain statutes varies include the following:

#### **Excerpts from the Texas Government Code**

Texas Government Code, Section 411.1405, Access To Criminal History Record Information: Authorizes agencies to conduct checks on employees, applicants for employment, contractors, subcontractors, interns or volunteers that have access to information resources or information resources technology other than a desktop or telephone assigned to that person.

Texas Government Code, Section 411.094, Access to Criminal History Record Information: Authorizes higher education institutions to obtain criminal history record information only for the purpose of evaluating applicants for employment in security-sensitive positions. The statute also defines a "security-sensitive position" as employment in an institution of higher education held by an employee who:

- (A) handles currency;
- (B) has access to a computer terminal;
- (C) has access to a master key; or
- (D) works in a location designated as a security-sensitive area.

- Forty-nine of 151 (32 percent) agencies and institutions that have staff with access to information resources or information resources technology reported that they do not conduct checks on these employees (see Appendix 4, Table 9 for additional information). The majority of these agencies indicated lack of statutory authority as the reason for not conducting checks. However, Texas Government Code, Section 411.1405, grants all agencies and institutions this authority. Furthermore, the statute provides a definition for what constitutes information resources and information resources technology. These definitions are broad, and some agencies interpret this as an authorization to conduct a check on any individual in their organization.
- The definition of a "security-sensitive position" in the Texas Government Code, Section 411.094, is applied differently among institutions. In *A Report on the Use of Criminal History Information by Texas State Agencies and Institutions of Higher Education* (State Auditor's Office Report No. 07-009, January 2007), the State Auditor's Office previously reported that the definition of "security-sensitive position" has resulted in some institutions classifying all positions as security-sensitive because an institution is authorized to designate which locations can be classified as security-

sensitive areas. Furthermore, while some institutions reported conducting checks on current employees who occupy security-sensitive positions, other institutions apply the authority more narrowly and conduct checks only for the purpose of evaluating applicants for employment in security-sensitive positions as specified in the statute.

**Agencies and institutions that lack specific authority to conduct background checks can use other methods to gain access to criminal history record information.**

**Excerpts from  
The Texas Government Code**

**Section 552.023:** (a) A person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests.

**Section 411.083:** (b) the Department of Public Safety shall grant access to (3) the person who is the subject of the criminal history record information.

Auditors identified more than 100 statutes that govern access to criminal history record information for the agencies and institutions surveyed. However, for those agencies and institutions that do not have this authority, they can still obtain criminal history record information directly from an individual. Under Texas Government Code, Sections 552.023 and 411.083, individuals are entitled to access information collected on themselves. (See text box for excerpts from the Texas Government Code and Appendix 5 for a list of statutes that grant access to the Department of Public Safety criminal history record information).

As a result, agencies and institutions that do not have specific statutory authority to access the Department of Public Safety's criminal history record information and the Federal Bureau of Investigation's information can request that an individual have a check conducted and then provide written consent for the state entity to receive a copy of the results.

**Excerpts from  
The Texas Government Code**

**Section 411.106, Access To Criminal History Record Information:** (b) Criminal history record information obtained by the Texas Department of Insurance under Subsection (a) may not be disclosed or released to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

**Section 411.1143, Access To Criminal History Record Information:** (b) Criminal history record information obtained by the [Health and Human Services Commission] or an agency under Subsection (a) may not be released or disclosed to any person except in a criminal proceeding, in an administrative proceeding, on court order, or with the consent of the provider or applicant.

There is a lack of clarity regarding an individual's right to obtain a copy of his or her own background information directly from the agency or institution conducting the background check.

Texas Government Code, Section 411.085, prohibits agencies' and institutions' employees who conduct checks on an individual from providing that individual with a copy of the results. This statute states that "a person commits an offense if the person knowingly or intentionally provides a person with a copy of the person's criminal history record information obtained from the [Department of Public Safety]."

However, other statutes such as Texas Government Code, Sections 411.106 and 411.1143, state that criminal history record information may not be disclosed or released to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

Therefore, it appears that an individual could provide written consent to have the check results released directly to him or her from the agency or institution conducting the check.

Chapter 2-B

## State Agencies and Higher Education Institutions Should Develop or Improve Policies and Procedures for Conducting Background Checks

Opportunities exist for agencies and institutions to develop or improve their policies and procedures for conducting checks.

Auditors identified these opportunities through analysis of agencies' and institutions' survey results and reviews of 32 sets of policies and procedures submitted by the health and human services agencies and regulatory agencies. Health and human services agencies and regulatory agencies were selected for a more thorough review because they represent the majority of agencies that issue licenses to individuals who serve a vulnerable population or have direct access to the public. The review consisted of verifying the accuracy of survey

responses against these agencies' written policies and procedures. However, auditors did not verify whether these agencies actually implemented their policies and procedures.

The State Auditor's Office developed a model for background check policies and procedures based on federal and state statutes and best practices. This model, which includes basic elements and best practice elements, was used as a benchmark to analyze agencies' policies and procedures (see text box for a definition of basic and best practice elements and Chapter 3 for the background check model).

Survey results indicate that 130 of 157 (83 percent) agencies and institutions conduct background checks. Of those 130, 32 are health and human services agencies and regulatory agencies, while the remaining 98 include all other agencies and institutions (see Appendix 2 for a list of agencies and institutions that conduct checks).

### Elements in the Background Check Model for Policies and Procedures

**Basic Element** - An element that is required by federal or state law of any agency or institution conducting a background check (for example, an agency or institution must obtain written consent from the person on whom the check is conducted).

**Best Practice Element** - An element that an agency or institution may consider including in its criminal background check policies and procedures as an enhancement. These elements are not required by federal or state law for all agencies and institutions, but they may be required for a particular agency or institution if they are expressly stated in its governing statute. A best practice element also pertains to an internal control procedure that should be included in any agency's policies and procedures to ensure the efficient and effective performance of a background check process in accordance with applicable laws.

### Health and Human Services Agencies' and Regulatory Agencies' Policies and Procedures

Of the 32 health and human service agencies and regulatory agencies that conduct checks, 24 (75 percent) reported they have written policies and procedures for conducting checks. However, overall, these policies and procedures incorporated only 40 percent of the 46 elements included in the State Auditor's Office background check model. Only seven of these agencies' policies and procedures addressed 70 percent or more of these elements. Those agencies included:

- The Department of Family and Protective Services.
- The Department of Aging and Disability Services.
- The Department of Banking.
- The Department of Licensing and Regulation.
- The Racing Commission.
- The Board of Podiatric Medical Examiners.
- The Board of Examiners of Psychologists.

See Appendix 6 for details on specific agencies' background check policies and procedures.

In addition, eight regulatory agencies that reported conducting background checks do not have written policies and procedures. Those agencies are:

- The Securities Board.
- The Board of Public Accountancy.
- The Board of Professional Land Surveying.
- The Board of Professional Geoscientists.
- The Texas Medical Board.
- The Texas State Board of Dental Examiners.
- The Board of Chiropractic Examiners.
- The Board of Pharmacy.

#### Other Agencies' and Institutions' Self-Reported Information on Policies and Procedures

Of the 98 other agencies (agencies not classified as health and human services or regulatory agencies) and institutions, 82 (84 percent) reported they have written policies and procedures for conducting checks (see Appendix 6 for additional information).

Overall, these policies and procedures incorporated 45 percent of the 46 elements included in the State Auditor's Office background check model. However, auditors did not verify the accuracy of these agencies' and institutions' survey responses.

Sixteen (16 percent) of these 98 other agencies and institutions reported that they do not have written policies and procedures for conducting checks. Those agencies are:

- The Adjutant General's Department.
- The Commission on Jail Standards.
- The Department of Agriculture.
- The Office of Rural Community Affairs.
- The State Auditor's Office.
- The State Commission on Judicial Conduct.
- Texas Education Agency.
- Texas State Technical College – Waco.
- Texas State Technical College - West Texas.
- Texas State Technical College System.
- Texas Transportation Institute.
- The University of North Texas System.
- Angelo State University.
- Tarleton State University.
- Texas A&M International University.
- Texas A&M University - Corpus Christi.

### **Recommendation**

Agencies and institutions should establish written policies and procedures regarding background checks.



## Certain State Agencies and Higher Education Institutions Could Benefit From Conducting Background Checks

Certain agencies and institutions could benefit from conducting background checks on state employees, licensees, contractors, service providers, or students. Of the 157 agencies and institutions surveyed, 31 (20 percent) reported they do not conduct checks on all the categories of individuals for whom they are authorized to conduct checks.

Auditors identified four agencies and one institution that have statutory authority to conduct checks but do not conduct any checks:

- The Commission on Environmental Quality.
- The Board of Tax Professional Examiners.
- The Office of the State Prosecuting Attorney.
- The State Commission on Judicial Conduct.
- The Texas State University System.

A total of 108 agencies and institutions reported being authorized to conduct background checks on one or more employee/staff positions. Of these 108, 6 agencies (6 percent) do not conduct checks on any of these positions. These agencies included:

- The Board of Examiners of Psychologists.
- The Board of Veterinary Medical Examiners.
- The Commission on Fire Protection.
- The Health and Human Services Commission.<sup>3</sup>
- The Higher Education Coordinating Board.
- The Credit Union Department.

Three (15 percent) of 20 agencies that have investment analysts, investment traders, and/or financial portfolio staff reported they did not conduct checks on any of these positions. It is important to note, however, that these three agencies—the Pension Review Board, the Real Estate Commission, and the

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<sup>3</sup> The Health and Human Services Commission reported conducting background checks on some human resources staff and some inspectors or investigators staff, but it reported not having authority to conduct these checks.

Water Development Board—reported that they are neither authorized nor required to conduct these checks.

As discussed in Chapter 2-A, 49 agencies and institutions do not conduct checks on employees with access to information resources or information resources technology, even though they acknowledge their authority to conduct checks on these employees.

Fifteen (31 percent) of 48 institutions reported that they do not conduct checks on any students in academic majors that allow access to vulnerable populations, controlled substances, pharmaceuticals, or security sensitive resources (see Chapter 1 and Appendix 4, Table 8 for additional information).

Auditors identified eight positions common across all agencies and institutions that may allow access to sensitive information or security-sensitive resources. Table 2 summarizes these positions.

Table 2

Positions That May Allow Access to Security-Sensitive Information or Resources			
Categories of Positions That May Allow Access to Security-Sensitive Information or Resources	Number of Agencies and Institutions That Reported Having These Positions	Number of Agencies and Institutions That Reported They Do Not Conduct Checks On These Positions	Percent of Agencies and Institutions That Reported They Do Not Conduct Checks On These Positions
Executive	157	58	36%
Financial Aid (Higher Education Institutions)	49	5	10%
Fiscal Officer	155	57	36%
General Counsel	99	43	43%
Human Resources	143	51	35%
Information Technology	151	49	32%
Sensitive Information	132	44	33%
Designated Security Sensitive Area	53	5	9%

Source: State Auditor’s Office background check survey.

### Types of Background Checks That Agencies and Institutions Conduct

The most common type of background check that agencies and institutions conduct is a name-based check (43 percent) using the Department of Public Safety’s (Department) secure Web site. This type of check costs \$1.00 and it is the least expensive. However a fingerprint check, which may cost \$15.00 to \$44.20, is more accurate because a fingerprint is unique to each individual, while an individual’s name is not. Also, a fingerprint check is more complete because a fingerprint can be used to run a check on the Department’s system

and the Federal Bureau of Investigation’s system, while a name-based check is restricted to the Department’s system.

Furthermore, the Department provides a service that is free upon payment for a fingerprint check. Specifically, the Department will initiate a notification to agencies and institutions within 48 hours after an employee, licensee, or contractor whose fingerprints are on record is arrested in Texas.

This service could minimize the need for agencies and institutions to conduct checks periodically. However, this service is available to agencies and institutions only for individuals on whom they conduct a fingerprint check. (See Appendix 7 for details on the different types of background checks available and the associated costs).

Table 3 summarizes the types of background checks that agencies and institutions reported conducting.

Table 3

Number and Type of Background Checks Agencies and Institutions Conduct					
Category	Number of Federal Bureau of Investigation Fingerprint Checks	Number of Department of Public Safety Fingerprint Checks	Number of Department of Public Safety Name-based Checks		Number of Checks Conducted by Third Party-Vendors <sup>a</sup>
			Secure Web Site	Public Information Web Site	
Employee/Staff	126	126	871	335	477
Licensees or Services Providers	43	43	80	7	9
Contractors	21	21	48	24	28
Students in Certain Academic Majors	4	6	17	7	64
<b>Totals <sup>b</sup></b>	<b>194</b>	<b>196</b>	<b>1,016</b>	<b>373</b>	<b>578</b>
<b>Percent of All Check Types Conducted</b>	<b>8%</b>	<b>8%</b>	<b>43%</b>	<b>16%</b>	<b>25%</b>
<sup>a</sup> A third-party vendor contracted by a criminal justice agency or a non-criminal justice agency may gain access to the Department of Public Safety’s secure Web site under Texas Government Code, Sections 411.083 (b)(5) and (b)(6). <sup>b</sup> Agencies and institutions reported conducting 2,357 background checks on different individual categories such as employees/staff, licensees and service providers, contractors, and students in certain academic majors.					

Source: State Auditor’s Office background check survey.

## Model for Background Check Policies and Procedures

To identify elements of background check policies and procedures, the State Auditor's Office reviewed and compiled policy and procedure guidelines included in various federal and state statutes, selected agencies and institutions' policies and procedures, and applicable best practices.

The elements of the background check model auditors developed were classified into two categories: basic elements and best practice elements (see Chapter 2-B). References provided below are not all-inclusive; therefore, agencies and institutions should refer to their own authorizing statutes and administrative codes to determine whether an element classified as a best practice is a required element for their particular agency or institution. Table 4 lists all the elements in the model.

Table 4

Elements of Model Criminal Background Check Policies and Procedures	
Element	Statutory Support and Other References
<b>Basic Elements</b>	
Purpose of conducting criminal background checks.	(a) Texas Government Code, Section 411.089 (for criminal justice purposes).
	(b) Texas Government Code, Section 411.122 (for licensing purposes).
	(c) Texas Government Code, Section 411.1405, and agency enabling statutes - see Appendix 5 (for employment, contracting, volunteering).
A reference to statutory or other authority/requirement(s) to conduct criminal background checks.	(a) Agency enabling statutes (see Appendix 5).
	(b) Texas Government Code, Section 411.135, and the Fair Credit Reporting Act (general public authority).
The types of positions, individuals, or licensees on whom an agency or institution is authorized or required to conduct criminal background checks.	(a) Specific types - Identified in agency enabling statutes (see Appendix 5).
	(b) Texas Government Code, Section 411.135, and the Fair Credit Reporting Act (general public).
<b>Information an individual must provide to have a criminal background check conducted:</b>	(a) Texas Government Code, Section 411.0845 (e) (required for accessing criminal history record information at the Department of Public Safety, including Federal Bureau of Investigation information).
	(b) Texas Government Code, Section 411.086 (b) (for obtaining information from the Department of Public Safety).
(a) Full name.	
(b) Other names (for example, maiden names, aliases).	
(c) Date of birth.	
(d) Alias date of birth.	
(e) Fingerprints.	
(f) Sex.	

Elements of Model Criminal Background Check Policies and Procedures	
Element	Statutory Support and Other References
(g) Race.	
(h) Texas driver's license number or personal identification certificate number.	
(i) Social Security number.	
(j) Recent photograph of the individual.	
(k) Street address. <sup>a</sup>	
Individual's written consent to have a criminal background check conducted.	(a) Texas Government Code, Sections 411.0845 (e)(2) and 411.087 (d)(1) (information from the Department of Public Safety).
	(b) Title 28, Code of Federal Regulations, Section 50.12(b) (Federal Bureau of Investigation information).
	(c) Fair Credit Reporting Act - Title 15, United States Code, Section 1681a (o)(5)(A)(i) (information from Consumer Reporting Agencies).
	(d) State of Texas employment application form.
A provision to ensure that all applicants in similar situations are treated in the same manner.	(a) <i>U.S. Equal Employment Opportunity Commission Compliance Manual</i> , Section 15, April 19, 2006.
	(b) Texas Government Code, Section 411.087 (d)(3).
The right of an individual to obtain a copy of his or her criminal history report directly from the provider of the report, (e.g., the Department of Public Safety, and not directly from the agency that conducted the check). Exceptions are: (a) when the criminal history information is obtained from a public information source (Texas Government Code, Section 411.135) or (b) when the agency is expressly authorized by its enabling statute to disclose the information to the individual.	(a) Texas Government Code, Section 411.083 (b)(3) (obtain directly from the Department of Public Safety).
	(b) Title 28, Code of Federal Regulations, Section 16.32 (Federal Bureau of Investigation information).
	(c) Texas Government Code, Section 411.085 (a) (prohibits direct disclosure by an agency).
Notification of an applicant's rights to review his or her criminal history information, challenge its accuracy and completeness, and request corrections.	(a) Title 28, Code of Federal Regulations, Section 50.12(b) (Federal Bureau of Investigation information).
	(b) Fair Credit Reporting Act (information obtained through a consumer reporting agency).
	(c) <i>U.S. Equal Employment Opportunity Commission Compliance Manual</i> , Section 15, April 19, 2006. (This is an internal control procedure necessary to ensure compliance with the equal employment opportunity requirements).
Guideline for proper use of criminal history information obtained.	(a) Texas Government Code, Section 411.084 (a) (information from the Department of Public Safety).
	(b) Texas Government Code Section, Section 411.087 (d)(3) (Federal Bureau of Investigation information).

Elements of Model Criminal Background Check Policies and Procedures	
Element	Statutory Support and Other References
Guideline for disclosure of criminal history information.	(a) Texas Government Code, Section 411.084 (a) (Information from the Department of Public Safety).
	(b) Texas Government Code, Section 411.084 (b) (Federal Bureau of Investigation information).
Proper storage of criminal history information (e.g., filing criminal history information separately from personnel records).	Texas Government Code, Section 411.0845 (d). (An internal control procedure necessary to ensure compliance with the statutory requirement regarding the confidentiality and limited disclosure of information obtained from the Department of Public Safety.)
Security of criminal history information (e.g., criminal history information is locked in a file cabinet or password-protected database).	Texas Government Code, Section 411.0845 (d). (This is an internal control procedure necessary to ensure compliance with the statutory requirement regarding the confidentiality and limited disclosure of information obtained from the Department of Public Safety.)
Best Practice Elements (Unless Statutorily Required by Individual Agency Statute)	
Type(s) of criminal background checks (e.g., FBI fingerprint, DPS fingerprint) specified for each type of position or license.	(a) Texas Government Code, Section 411.087 (State agencies with specific authority to access the Department of Public Safety's secured Web site are also authorized to obtain information from the Federal Bureau of Investigation and criminal justice agencies in the state.)
	(b) Agencies that do not have specific authority could access the Department of Public Safety's public information Web site (Texas Government Code, Section 411.135) or obtain information through a consumer reporting agency under the Fair Credit Reporting Act.
Disqualifying criminal offenses for a particular position or license type (e.g., sexual offenses).	(a) Texas Education Code, Sections 22.084 and 22.085 (employment in public schools).
	(b) Texas Occupation Code, Section 53.021 (licensing).
Reasons for considering a criminal offense to be a disqualification (e.g., to bar sex offenders from having access to children).	Texas Occupation Code, Section 53.025 (licensing).
Criteria for reviewing criminal history information:	(a) Texas Government Code, Section 411.1405 (e), and <i>U.S. Equal Employment Opportunity Commission Compliance Manual</i> , Section 15, April 19, 2006 (employment, contracting, or volunteer work).
(a) Relevance of the offense.	(b) Texas Occupation Code, Sections 53.021 - 53.023 (licensing).
(b) Number of offenses committed.	
(c) Nature and severity of each offense.	
(d) Time elapsed from the date the offense was committed until the present.	
(e) Individual's efforts at rehabilitation.	
(f) Individual's age when the crime was committed.	
(g) Other evidence of the person's fitness, including letters of recommendations.	

Elements of Model Criminal Background Check Policies and Procedures	
Element	Statutory Support and Other References
(h) The extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved.	
(i) The relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the position or licensed occupation.	
Notification to the individual regarding the agency's criminal background check policies.	(a) Texas Education Code, Section 51.215 (c) (employment). (b) Texas Occupation Code, Section 53.025 (a)(b)(c) (licensing).
Notification to the individual that the agency may choose to limit an applicant's duties (e.g., deny unsupervised access to vulnerable populations, deny access to residences) until a criminal background check is completed.	Title 42, United States Code, Chapter 67, Subchapter VI, Section 5119a, (b)(1)(E) (employment).
<b>Applicant's disclosure of any conviction, including:</b>	Required in the State of Texas Application for Employment form. Also required for employment involving access to children under Title 42, United States Code, Section 5119a, (b)(1)(B).
(a) Nature of the offenses (e.g., burglary).	
(b) Dates of the offenses.	
(c) Conviction types (e.g., misdemeanor, felony).	
(d) Name and location of the courts where cases were tried (including military offenses).	
(e) Disposition of the cases.	
Consequences of falsifying or omitting information regarding the individual's criminal history.	(a) Notification included in the State of Texas Application for Employment. (b) Texas Government Code, Section 411.1405 (e)(6).
Consequences for not giving consent to conduct a criminal background check or consequences of failure/refusal to provide fingerprints if requested by the agency.	Texas Education Code, Section 51.215 (a), and Texas Labor Code, Section 301.042 (a) (employment).
Party responsible for paying the cost of the criminal background check, if applicable.	(a) Texas Occupation Code, Section 1702.282 (a) (licensing). (b) Texas Education Code, Sections 22.0833 (f) and 22.0837 (employment).
Agency's process for following up on a criminal history information for which a disposition is not specified.	<i>U.S. Equal Employment Opportunity Commission Compliance Manual</i> , Section 15, April 19, 2006. (required for employment).

Elements of Model Criminal Background Check Policies and Procedures	
Element	Statutory Support and Other References
Opportunity given to the applicant to appeal an adverse decision made by the agency based on his or her criminal history information.	Texas Occupation Code, Sections 53.051 - 53.052 (required for licensing).
The frequency with which the agency conducts repeat criminal background checks based on types of positions or individuals.	Texas Human Resources Code, Section 61.0357 (d) and (e) (required for some agencies).
Timeliness in conducting criminal background checks.	Texas Education Code, Section 22.0836 (h) (required for some agencies).
Proper documentation of the decision-making process.	An internal control procedure should be designed to enhance consistent and systematic application of pertinent policies and procedures and to mitigate the risk of discrimination suits.
Disposal of criminal history information after the completion of the purpose for which the criminal history information was obtained.	(a) Texas Government Code, Section 411.0985 (d) (employment).
	(b) Texas Government Code, Section 411.1005 (c) (licensing).
Automatic notification regarding subsequent criminal information about an individual.	(a) Texas Government Code, Section 411.0845 (optional - service available to subscribers to the Criminal History Clearinghouse (CHC), Department of Public Safety).
	(b) Texas Education Code, Section 22.082, and Texas Human Resources Code, Section 61.0357 (required for the State Board for Educator Certification and the Texas Youth Commission).
Offices or staff designated to perform key responsibilities related to criminal background checks.	(a) Texas Government Code, Section 411.094 (e) (destruction of information).
	(b) Texas Government Code, Section 411.106 (c) (maintenance of information).
Staff qualifications and training requirements for conducting criminal background checks.	An internal control procedure should provide a reasonable assurance of efficient and effective staff performance of the criminal background check process in accordance with applicable laws and regulations.
Separation of duties between (1) staff conducting criminal background checks and reviewing criminal history information and (2) staff making decisions on employment, contracting, licensing, or volunteer work.	An internal control procedure should be designed to mitigate the risks of inadvertent error and/or inappropriate actions in processing criminal history information and using it for decision-making.
<sup>a</sup> Basic element for agencies using the clearinghouse.	



# Appendices

Appendix 1

## **Objectives, Scope, and Methodology**

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### **Objectives**

The objectives of this audit were to:

- Develop the report format for all state agencies and higher education institutions to use to report on their background check procedures.
- Review agencies' and institutions' background check procedures for deficiencies.
- Determine whether there are other agencies and institutions that should be, but are not currently, conducting background checks.
- Develop a model for background check policies and procedures.

### **Scope**

The scope of this audit included 157 agencies' and institutions' background check policies and procedures and background check survey responses received by November 2007.

### **Methodology**

The audit methodology included reviewing federal and state statutes; surveying agencies and institutions regarding their policies and procedures for conducting background checks; reviewing documentation from health and human service and regulatory agencies to support policies and procedures; reviewing and verifying all survey responses for consistency; analyzing survey responses; and consulting with staff from the Department of Public Safety, the Department of Licensing and Regulation, and the Legislative Budget Board.

This audit did not include a review of information technology.

Information collected and reviewed included the following:

- Federal and state statutes, rules, and regulations.
- Reporting form (surveys).
- Health and human services agencies' and regulatory agencies' background check policies and procedures.

Procedures conducted included the following:

- Reviewed and verified survey response data.
- Analyzed survey response data.
- Consulted with staff from the Department of Public Safety, the Legislative Budget Board, and the Department of Licensing and Regulation.

Criteria used included the following:

- *U.S. Equal Employment Opportunity Commission Compliance Manual on Race and Color Discrimination, April 19, 2006.*
- Fair Credit Reporting Act (FCRA), Title 15, United State Code, Section 1681 et. seq.
- National Child Protection Act, amended by the Crime Control Act.
- Title 28, Code of Federal Regulations, Section 16.32.
- Title 28, Code of Federal Regulations, Section 50.12.
- Title 42, United States Code, Chapter 67, Section 5119a.
- Title 42, United States Code, Chapter 140, Subchapter II.
- State of Texas employment application.
- Texas Education Code, Sections 22.084 - 22.085.
- Texas Government Code, Sections 411.084 – 411.086.
- Texas Occupation Code, Sections 53.021 – 53.025.
- Texas Occupation Code, Section 53.051 – 53.052
- Texas Occupation Code, Section 1702.282.
- Texas state statutes listed in Table 10, Appendix 5.

## **Project Information**

Audit fieldwork was conducted from October 2007 through February 2008. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit

objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The following members of the State Auditor's staff performed the audit:

- Ileana Barboza, MBA, CGAP (Project Manager)
- Michael A. Simon, MBA, CGAP (Assistant Project Manager)
- John Boyd
- Carmelita S. Lacar, PhD, CIA, GCAP
- Julie Leung (Audit Research Specialist)
- Dennis Ray Bushnell, CPA (Quality Control Reviewer)
- Daniel Wattles, MPAff, CPM (Audit Manager)

## ***State Agencies and Higher Education Institutions That Participated in the State Auditor's Office Survey on Background Checks***

Table 5 lists the 157 state agencies and higher education institutions that participated in the State Auditor's Office survey on background checks. This table also summarizes whether these agencies and institutions reported (1) having authorization to conduct background checks on any employees, contractors, licensees, services providers, or students; (2) if they conducted these checks; and (3) if they had written policies and procedures for background checks.

Table 5

Summary of State Agencies and Higher Education Institutions That Participated in The State Auditor's Office Background Check Survey				
Agency or Institution Number	Agency or Institution	Agency or Institution Reported Having Authorization or Being Required to Conduct Checks	Agency or Institution Reported It Conducted Checks	Agency or Institution Reported It Had Written Policies and Procedures for Checks
<b>General Appropriations Act - Article I - General Government</b>				
301	Office of the Governor	X	X	X
302	Office of the Attorney General	X	X	X
303	Texas Facilities Commission			
304	Comptroller of Public Accounts	X	X	X
306	Library and Archives Commission	X	X	X
307	Secretary of State	X	X	X
313	Department of Information Resources	X	X	X
325	Fire Fighters' Pension Commissioner			
327	Employees Retirement System	X	X	X
333	Office of State-Federal Relations			
338	Pension Review Board			
347	Public Finance Authority			
352	Bond Review Board			
356	Texas Ethics Commission			
403	Veterans Commission			
477	Commission on State Emergency Communications			
479	State Office of Risk Management			
527	Cancer Council			
808	Historical Commission			
809	Preservation Board	X	X	X

**Summary of State Agencies and Higher Education Institutions That Participated in  
The State Auditor's Office Background Check Survey**

Agency or Institution Number	Agency or Institution	Agency or Institution Reported Having Authorization or Being Required to Conduct Checks	Agency or Institution Reported It Conducted Checks	Agency or Institution Reported It Had Written Policies and Procedures for Checks
813	Commission on the Arts			
<b>General Appropriations Act - Article II - Health and Human Services</b>				
529	Health and Human Services Commission	X	X	X
530	Department of Family and Protective Services	X	X	X
537	Department of State Health Services	X	X	X
538	Department of Assistive and Rehabilitative Services	X	X	X
539	Department of Aging and Disability Services	X	X	X
<b>General Appropriations Act - Article III - Education</b>				
323	Teacher Retirement System		X	X
506	The University of Texas M.D. Anderson Cancer Center	X	X	X
555	Texas Cooperative Extension	X	X	X
556	Texas Agricultural Experiment Station	X	X	X
557	Texas Veterinary Medical Diagnostic Laboratory	X	X	X
576	Texas Forest Service	X	X	X
701	Texas Education Agency	X	X	
709	Texas A&M University System Health Science Center	X	X	X
710	Texas A&M University System	X	X	X
711	Texas A&M University	X	X	X
712	Texas Engineering Experiment Station	X	X	X
713	Tarleton State University	X	X	
714	The University of Texas at Arlington	X	X	X
715	Prairie View A&M University	X	X	X
716	Texas Engineering Extension Service	X	X	X
717	Texas Southern University	X	X	X
718	Texas A&M University at Galveston	X	X	X
719	Texas State Technical College System	X	X	
720	The University of Texas System Administration	X	X	X
721	The University of Texas at Austin	X	X	X
723	The University of Texas Medical Branch at Galveston	X	X	X
724	The University of Texas at El Paso	X	X	X
727	Texas Transportation Institute	X	X	

**Summary of State Agencies and Higher Education Institutions That Participated in  
The State Auditor's Office Background Check Survey**

Agency or Institution Number	Agency or Institution	Agency or Institution Reported Having Authorization or Being Required to Conduct Checks	Agency or Institution Reported It Conducted Checks	Agency or Institution Reported It Had Written Policies and Procedures for Checks
729	The University of Texas Southwestern Medical Center at Dallas	X	X	X
730	University of Houston	X	X	X
731	Texas Woman's University	X	X	X
732	Texas A&M University - Kingsville	X	X	X
733	Texas Tech University	X	X	X
734	Lamar University - Beaumont	X	X	X
735	Midwestern State University	X	X	X
736	The University of Texas - Pan American	X	X	X
737	Angelo State University	X	X	
738	The University of Texas at Dallas	X	X	X
739	Texas Tech University Health Sciences Center	X	X	X
741	Sul Ross State University Rio Grande College	X	X	X
742	The University of Texas of the Permian Basin	X	X	X
743	The University of Texas at San Antonio	X	X	X
744	The University of Texas Health Science Center at Houston	X	X	X
745	The University of Texas Health Science Center at San Antonio	X	X	X
747	The University of Texas at Brownsville	X	X	X
750	The University of Texas at Tyler	X	X	X
751	Texas A&M University - Commerce	X	X	X
752	University of North Texas	X	X	X
753	Sam Houston State University	X	X	X
754	Texas State University - San Marcos	X	X	X
755	Stephen F. Austin State University	X	X	X
756	Sul Ross State University	X	X	X
757	West Texas A&M University	X	X	X
758	Texas State University System	X		
759	University of Houston - Clear Lake	X	X	X
760	Texas A&M University - Corpus Christi	X	X	
761	Texas A&M International University	X	X	
763	University of North Texas Health Science Center at Fort Worth	X	X	X

**Summary of State Agencies and Higher Education Institutions That Participated in  
The State Auditor's Office Background Check Survey**

Agency or Institution Number	Agency or Institution	Agency or Institution Reported Having Authorization or Being Required to Conduct Checks	Agency or Institution Reported It Conducted Checks	Agency or Institution Reported It Had Written Policies and Procedures for Checks
764	Texas A&M University - Texarkana	X	X	X
765	University of Houston - Victoria	X	X	X
768	Texas Tech University System	X	X	X
769	University of North Texas System	X	X	
771	School for the Blind and Visually Impaired	X	X	X
772	School for the Deaf	X	X	X
781	Higher Education Coordinating Board	X	X	X
783	University of Houston System	X	X	X
784	University of Houston - Downtown	X	X	X
785	The University of Texas Health Center at Tyler	X	X	X
787	Lamar State College - Orange	X	X	X
788	Lamar State College - Port Arthur	X	X	X
789	Lamar Institute of Technology	X	X	X
923	Texas State Technical College - Harlingen	X	X	X
924	Texas State Technical College - West Texas	X	X	
925	Texas State Technical College - Waco	X	X	
926	Texas State Technical College - Marshall	X	X	X
<b>General Appropriations Act - Article IV - The Judiciary</b>				
203	Board of Law Examiners	X	X	X
212	Office of Court Administration, Texas Judicial Council	X	X	X
213	Office of the State Prosecuting Attorney <sup>a</sup>			
242	State Commission on Judicial Conduct <sup>a</sup>		X	
243	State Law Library			
<b>General Appropriations Act - Article V - Public Safety and Criminal Justice</b>				
401	Adjutant General's Department	X	X	
405	Department of Public Safety	X	X	X
407	Commission on Law Enforcement Officer Standards and Education	X	X	
409	Commission on Jail Standards		X	
411	Commission on Fire Protection	X	X	X
458	Alcoholic Beverage Commission	X	X	X
665	Juvenile Probation Commission	X	X	X

**Summary of State Agencies and Higher Education Institutions That Participated in  
The State Auditor's Office Background Check Survey**

Agency or Institution Number	Agency or Institution	Agency or Institution Reported Having Authorization or Being Required to Conduct Checks	Agency or Institution Reported It Conducted Checks	Agency or Institution Reported It Had Written Policies and Procedures for Checks
694	Youth Commission	X	X	X
696	Department of Criminal Justice	X	X	X
<b>General Appropriations Act - Article VI - Natural Resources</b>				
305	General Land Office	X	X	X
455	Railroad Commission			
551	Department of Agriculture	X	X	
554	Animal Health Commission			
580	Water Development Board			
582	Commission on Environmental Quality	X		X
592	Soil and Water Conservation Board			
802	Parks and Wildlife Department	X	X	X
<b>General Appropriations Act - Article VII - Business and Economic Development</b>				
320	Texas Workforce Commission	X	X	X
332	Department of Housing and Community Affairs	X	X	X
357	Office of Rural Community Affairs	X	X	
362	Texas Lottery Commission	X	X	X
601	Department of Transportation	X	X	X
<b>General Appropriations Act - Article VIII - Regulatory</b>				
312	Securities Board	X	X	
329	Real Estate Commission	X	X	X
337	Board of Tax Professional Examiners <sup>a</sup>			
359	Office of Public Insurance Counsel			
360	State Office of Administrative Hearings			
370	Residential Construction Commission	X	X	X
448	Office of Injured Employee Counsel			
450	Department of Savings and Mortgage Lending	X	X	X
451	Department of Banking	X	X	X
452	Department of Licensing and Regulation	X	X	X
454	Department of Insurance	X	X	X
456	State Board of Plumbing Examiners	X	X	X
457	Board of Public Accountancy	X	X	
459	Board of Architectural Examiners	X	X	X



**Summary of State Agencies and Higher Education Institutions That Participated in  
The State Auditor's Office Background Check Survey**

Agency or Institution Number	Agency or Institution	Agency or Institution Reported Having Authorization or Being Required to Conduct Checks	Agency or Institution Reported It Conducted Checks	Agency or Institution Reported It Had Written Policies and Procedures for Checks
460	Board of Professional Engineers	X	X	X
464	Board of Professional Land Surveying	X	X	
466	Office of Consumer Credit Commissioner	X	X	X
469	Credit Union Department	X	X	X
473	Public Utility Commission of Texas			
475	Office of Public Utility Counsel			
476	Racing Commission	X	X	X
481	Board of Professional Geoscientists	X	X	
503	Texas Medical Board	X	X	
504	Texas State Board of Dental Examiners	X	X	
507	Texas Board of Nursing	X	X	X
508	Board of Chiropractic Examiners	X	X	
512	Board of Podiatric Medical Examiners	X	X	X
513	Funeral Service Commission	X	X	X
514	Optometry Board	X	X	X
515	Board of Pharmacy	X	X	
520	Board of Examiners of Psychologists	X	X	X
533	Executive Council of Physical and Occupational Therapy Examiners		X	X
578	Board of Veterinary Medical Examiners	X	X	X
<b>Other</b>				
308	State Auditor's Office	X	X	
<b>Totals</b>		<b>128</b>	<b>130</b>	<b>106</b>

<sup>a</sup> Agency did not report its authority to conduct checks.

Source: State Auditor's Office background check survey.

## State Auditor's Office Reporting Form (Survey)

Below is the reporting form (survey) that the State Auditor's Office used to survey state agencies and higher education institutions. The completed survey was due on November 1, 2007.

Survey of Agencies and Higher Education Institutions: Criminal Background Checks	
<p>Definition of terms and phrases for the purpose of this reporting form. We suggest that you print this page for future reference.</p> <ol style="list-style-type: none"> <li>"Criminal background check" refers to the process of collecting a person's criminal history, such as identifiable descriptions and notations of arrests, detentions, indictments, and other formal criminal charges and their dispositions.</li> <li>"Authorized to access criminal background history information" means that your agency has specific statutory authority (other than in Texas Government Code, Section 411.135) to access criminal history information or to conduct a criminal background check, but it is not required to do so.</li> <li>"Child" refers to an individual who is neither married nor the head of a household and who is under 18 years of age; or under 22 and a full-time student regularly attending a school, college, or technical training course designed to prepare him or her for gainful employment.</li> <li>"Contractor" is an individual or vendor that has entered into an agreement to provide goods or services to an agency.</li> <li>"Individual" - This term is used interchangeably with the term "applicant." These terms may refer to an applicant for a position, contract, volunteer work, license, permit, or certification. They also may refer to individuals who are subject to repeat criminal background checks, such as current employees; long-term contractors; or individuals applying for the renewal or restoration of a revoked or lapsed license, permit, or certification.</li> <li>"License" refers to licenses, certificates, registrations, titles, or permits issued by a state agency to an individual or organization (e.g., for a nurse or a child care center).</li> <li>"Obtaining criminal history information" and "conducting a criminal background check" are used interchangeably.</li> <li>"Required" means that your agency has a mandate ("shall" or "must") to conduct a criminal background check on certain individuals according to statutes or professional standards. This assumes that your agency also has authority to access criminal history information.</li> <li>"Service provider" refers to an individual or an entity that applies to the agency to provide or deliver services to a third party (e.g., foster parents, mentors).</li> <li>"Vulnerable population" refers to populations who are in danger of being abused, neglected, or exploited, (e.g., children, the elderly, and adults who are disabled).</li> </ol>	
<p>1. Please identify your agency's authority to access criminal history information (other than in Texas Government Code, Section 411.135) or specific requirement(s) for your agency to conduct criminal background checks. (Enter all that apply.) (If this question does not apply to your agency, leave this question blank and go to Question 2.)</p>	
Texas statutes:	<p>1. Texas _____ Code, Chapter _____, Section _____</p> <p>2. Texas _____ Code, Chapter _____, Section _____</p> <p>3. _____ (for non-codified sections)</p> <p><input type="checkbox"/> More than three Texas statute citations apply.</p>
Texas Administrative Code	<p>1. Texas Administrative Code Title _____, Section _____</p> <p>1. Texas Administrative Code Title _____, Section _____</p> <p>1. Texas Administrative Code Title _____, Section _____</p> <p><input type="checkbox"/> More than three Texas Administrative Code citations apply.</p>
Federal statutes	<p>1. U.S. Code Title _____, Section _____</p> <p>2. U.S. Code Title _____, Section _____</p> <p>3. U.S. Code Title _____, Section _____</p>

**Survey of Agencies and Higher Education Institutions: Criminal Background Checks**

	<input type="checkbox"/> More than three Federal statute citations apply.
Federal regulations	1. Code of Federal Regulations, Title _____, Section _____
	2. Code of Federal Regulations, Title _____, Section _____
	3. Code of Federal Regulations, Title _____, Section _____
	<input type="checkbox"/> More than three Federal regulations citations apply.
Other authority / requirements imposed by professional organizations:	Please cite the reference for such authority/requirement (including the Web site address and document page number, if available online): <div style="border: 1px solid black; height: 30px; width: 100%;"></div>

**2. If your agency does not have specific authority/requirements to conduct criminal background checks, does your agency serve a vulnerable population directly or indirectly through service providers or licensees?**

<input type="checkbox"/>	Yes - Please describe the types of clients served (e.g., children) and how they are served (e.g., indirectly through service providers or licensees). <div style="border: 1px solid black; height: 30px; width: 100%;"></div>
<input type="checkbox"/>	No
<input type="checkbox"/>	Not applicable / skipping this question

**Agency Employees/Staff Categories**

3. In the table below, please indicate:

- 3.1. Which employee/staff exist in your agency.
- 3.2. Whether criminal background checks are conducted on all/some/none of these employees/staff.
- 3.3. Whether your agency is authorized/required/not specifically authorized or required to conduct a criminal background check.

Agency Employees / Staff Categories	Agency has at least one of these categories	Criminal background checks are conducted on	Your agency is _____ to conduct a criminal background check
a. Executives (e.g., agency heads, chancellors, directors, senior executive officers, etc.)	<input type="checkbox"/>		
b. Fiscal officers, purchasers, accounts payable staff, accountants, budget analysts	<input type="checkbox"/>		
c. Human resources staff	<input type="checkbox"/>		
d. Internal auditors	<input type="checkbox"/>		
e. General counsels, attorneys, and other staff working on legal issues	<input type="checkbox"/>		
f. Inspectors; investigators; or other staff ensuring legal, regulatory, and other compliance	<input type="checkbox"/>		
g. Investment analysts, traders, portfolio staff	<input type="checkbox"/>		
h. Staff with access to cash (e.g., cashiers)	<input type="checkbox"/>		
i. Staff with access to key secured data, such as information technology personnel, including network specialists, database analysts, systems analysts	<input type="checkbox"/>		

**Survey of Agencies and Higher Education Institutions: Criminal Background Checks**

j. Staff with access to sensitive documents (e.g., staff with access to admissions records, registrar, staff with access to health facilities, staff with access to archives, etc.)	<input type="checkbox"/>		
k. Staff holding master keys or who have direct access/ responsibility for state property of a significant value, such as property managers, custodians, housekeeping staff, or repair and maintenance staff	<input type="checkbox"/>		
l. Law enforcement, public safety, or staff with direct access to prison inmates (e.g., correctional officers, security staff, game wardens, park rangers)	<input type="checkbox"/>		
m. Staff serving or having direct access to children (e.g., caseworkers, counselors, child care workers, etc.)	<input type="checkbox"/>		
n. Staff serving or having direct access to senior citizens	<input type="checkbox"/>		
o. Staff serving or having direct access to people with disabilities	<input type="checkbox"/>		
p. Staff responsible for the care/safety of individuals, including nurses, physicians, and other health care professionals or other workers who have access to those individuals	<input type="checkbox"/>		
q. Staff with direct access to controlled substances, drugs, or bio-hazardous/toxic materials, including laboratory research staff, environmental and laboratory technicians, and pharmacists	<input type="checkbox"/>		
r. Food service staff	<input type="checkbox"/>		
s. Interns	<input type="checkbox"/>		
t. Volunteers	<input type="checkbox"/>		
u. Teaching staff at higher education institutions	<input type="checkbox"/>		
v. Financial aid staff at higher education institutions	<input type="checkbox"/>		
w. Staff who work in a location designated as a security-sensitive area (and not otherwise specified in another category)	<input type="checkbox"/>		
Other personnel category: <input type="text"/>			
Other personnel category: <input type="text"/>			
Other personnel category: <input type="text"/>			
<input type="checkbox"/>	Check this box if you have more than three other categories not listed above.		

**Survey of Agencies and Higher Education Institutions: Criminal Background Checks**

If you answered "some" under "criminal background checks are conducted on" for any item above, please explain your answer below.

If you selected either "Authorized" or "Required," but your agency is not currently conducting a criminal background check on an employee/staff category, please explain, (e.g., new legislative mandate(s), lack of funds, lack of personnel, etc.).

**Licensees or Service Providers Categories**

4. In the table below, please indicate:

- 4.1. Whether your agency serves the licensees/service providers described below.
- 4.2. Whether your agency conducts criminal background checks on all/some/none of the individual(s) in the categories.
- 4.3. Whether your agency is authorized/required/not specifically authorized or required to conduct a criminal background check.

(If this question does not apply to your agency, skip to question 5.)

Licensees or Service Providers Categories	Agency serves this category	Criminal background checks are conducted on	Your agency is _____ to conduct a criminal background check?
Individual applicants for new licenses (e.g., nurses, plumbers, cosmetologists)	<input type="checkbox"/>		
Individual applicants for renewal of licenses	<input type="checkbox"/>		
Entity operators (child care centers, race tracks, nursing homes)	<input type="checkbox"/>		
Service providers serving a vulnerable population (e.g., foster parents, mentors, etc.)	<input type="checkbox"/>		
Other: <div style="border: 1px solid black; height: 20px; width: 100%;"></div>			
Other: <div style="border: 1px solid black; height: 20px; width: 100%;"></div>			
Other: <div style="border: 1px solid black; height: 20px; width: 100%;"></div>			

**Survey of Agencies and Higher Education Institutions: Criminal Background Checks**

Check this box if you have more than three other categories not listed above.

If you answered "some" under "criminal background checks are conducted on" for any item above, please explain your answer below.

If you selected either "Authorized" or "Required," but your agency is not currently conducting a criminal background check on an employee/staff category, please explain, (e.g., new legislative mandate(s), lack of funds, lack of personnel, etc.).

The following questions pertain to criminal background checks performed by higher education institutions.

**Students by Major**

5. In the table below, please indicate:

- 5.1. The majors offered.
- 5.2. Whether your institution conducts criminal background checks on all/some/none of the students
- 5.3. Whether your institution is authorized/required/not specifically authorized or required to conduct a criminal background check.

Major	Institution offers this major	Criminal background checks are conducted on students	Your institution is _____ to conduct a criminal background check
Nursing	<input type="checkbox"/>		
Medicine	<input type="checkbox"/>		
Pharmacy	<input type="checkbox"/>		
Dentistry	<input type="checkbox"/>		
Nutrition	<input type="checkbox"/>		
Allied Health (including but not limited to medical technology, physical therapy, occupational therapy, speech therapy, and physician's assistant)	<input type="checkbox"/>		
Education/Teacher's Certification	<input type="checkbox"/>		
Social work	<input type="checkbox"/>		
Psychology	<input type="checkbox"/>		
Law Enforcement	<input type="checkbox"/>		
Law	<input type="checkbox"/>		

**Survey of Agencies and Higher Education Institutions: Criminal Background Checks**

<p>Other major offered at your institution for which you conduct criminal background checks:</p> <div style="border: 1px solid black; height: 60px; width: 100%;"></div>		
<p>Other major offered at your institution for which you conduct criminal background checks:</p> <div style="border: 1px solid black; height: 60px; width: 100%;"></div>		
<p>Other major offered at your institution for which you conduct criminal background checks:</p> <div style="border: 1px solid black; height: 60px; width: 100%;"></div>		

Check this box if you have more than three other categories not listed above.

If you answered "some" under "criminal background checks are conducted on students" for any item above, please explain your answer below.

If you selected either "Authorized" or "Required," but your agency is not currently conducting a criminal background check on students within the majors above, please explain, (e.g., new legislative mandate(s), lack of funds, lack of personnel, etc.).

**Contractors and Their Employees**

- 6. In the table below, please indicate:**
- 6.1. If your agency receives goods/services from the categories listed.
  - 6.2. Whether your agency requires criminal background checks on all/some/none of the following categories.
  - 6.3. Whether your agency is authorized/required/not specifically authorized or required to conduct criminal background checks.

**Survey of Agencies and Higher Education Institutions: Criminal Background Checks**

Contractor Categories	Agency receives goods/services from	Criminal background checks are conducted on	Your agency is _____ to conduct a criminal background check
Contractors	<input type="checkbox"/>		
Contractors' Employees	<input type="checkbox"/>		
Subcontractors	<input type="checkbox"/>		

If you answered "some" under "criminal background checks are conducted on" for any item above, please explain your answer below.

If you selected either "Authorized" or "Required," but your agency is not currently conducting a criminal background check on any category above, please explain, (e.g., new legislative mandate(s), lack of funds, lack of personnel, etc.).

The following questions pertain to the employees, service providers, student majors, and/or contractors for whom you indicated your agency conducts criminal background checks.

**Agency Employees / Staff Categories**

7. In the tables below, please indicate:

- 7.1. Each type of criminal background check conducted.
- 7.2. How often a criminal background check is repeated on the same individual.

Category	7.1 Types of Criminal Background Checks Conducted					
	FBI Fingerprint Check	DPS Fingerprint Check	DPS Name-based Check		Third Party Vendors	Other (Please specify)
			Secure Database	Public Information Database		
Executives (e.g., agency heads, chancellors, directors, senior executive officers, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Fiscal officers, purchasers, accounts payable staff, accountants, budget analysts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Human resources staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Internal auditors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
General counsels, attorneys, and other staff working on legal issues	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	



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Inspectors; investigators; or other staff ensuring legal, regulatory, and other compliance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Investment analysts, traders, portfolio staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Staff with access to cash (e.g., cashiers)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Staff with access to key secured data, such as information technology personnel, including network specialists, database analysts, systems analysts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Staff with access to sensitive documents (e.g., staff with access to admissions records, registrar, staff with access to health facilities, staff with access to archives, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Staff holding master keys or who have direct access/responsibility for state property of a significant value, such as property managers, custodians, housekeeping staff, or repair and maintenance staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Law enforcement, public safety, or staff with direct access to prison inmates (e.g., correctional officers, security staff, game wardens, park rangers)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Staff serving or having direct access to children (e.g., caseworkers, counselors, child care workers, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

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Staff serving or having direct access to senior citizens	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Staff serving or having direct access to people with disabilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Staff responsible for the care/safety of individuals, including nurses, physicians, and other health care professionals or other workers who have access to those individuals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Staff with direct access to controlled substances, drugs, or bio-hazardous/toxic materials, including laboratory research staff, environmental and laboratory technicians, and pharmacists	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Food service staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Interns	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Volunteers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Teaching staff at higher education institutions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Financial aid staff at higher education institutions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Staff who work in a location designated as a security-sensitive area (and not otherwise specified in another category)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Category					7.2 Frequency of Criminal Background Checks (A year equals a period of any 12 consecutive months)	
Executives (e.g., agency heads, chancellors, directors, senior executive officers, etc.)						
Fiscal officers, purchasers, accounts payable staff, accountants, budget analysts						
Human resources staff						

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Internal auditors	
General counsels, attorneys, and other staff working on legal issues	
Inspectors; investigators; or other staff ensuring legal, regulatory, and other compliance	
Investment analysts, traders, portfolio staff	
Staff with access to cash (e.g., cashiers)	
Staff with access to key secured data, such as information technology personnel, including network specialists, database analysts, systems analysts	
Staff with access to sensitive documents (e.g., staff with access to admissions records, registrar, staff with access to health facilities, staff with access to archives, etc.)	
Staff holding master keys or who have direct access/ responsibility for state property of a significant value, such as property managers, custodians, housekeeping staff, or repair and maintenance staff	
Law enforcement, public safety, or staff with direct access to prison inmates (e.g., correctional officers, security staff, game wardens, park rangers)	
Staff serving or having direct access to children (e.g., caseworkers, counselors, child care workers, etc.)	
Staff serving or having direct access to senior citizens	
Staff serving or having direct access to people with disabilities	
Staff responsible for the care/safety of individuals, including nurses, physicians, and other health care professionals or other workers who have access to those individuals	
Staff with direct access to controlled substances, drugs, or bio-hazardous/toxic materials, including laboratory research staff, environmental and laboratory technicians, and pharmacists	
Food service staff	
Interns	
Volunteers	
Teaching staff at higher education institutions	
Financial aid staff at higher education institutions	
Staff who work in a location designated as a security-sensitive area (and not otherwise specified in another category)	

**Licensees or Service Providers by Category**

8. In the tables below, please indicate:
- 8.1. Each type of criminal background check conducted.
  - 8.2. When a criminal background check is conducted. Select all that apply.

Category	8.1 Type of Criminal Background Checks Conducted					
	FBI Fingerprint Check	DPS Fingerprint Check	DPS Name-based Check		Third Party Vendors	Other (Please specify)
			Secure Database	Public Information Database		
Individual applicants for new licenses (e.g., nurses, plumbers, cosmetologists)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Survey of Agencies and Higher Education Institutions: Criminal Background Checks						
Individual applicants for renewal of licenses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Entity operators (child care centers, race tracks, nursing homes)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Service providers serving a vulnerable population (e.g., foster parents, mentors, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<b>8.2 When a Criminal Background Check is Conducted</b>					
<b>Category</b>	<b>Upon Application</b>	<b>Upon Renewal</b>	<b>After the Agency Becomes Aware of Possible Criminal Conduct</b>	<b>Periodic Repeat Checks</b>	<b>No Repeat Checks</b>	<b>Other</b>
Individual applicants for new licenses (e.g., nurses, plumbers, cosmetologists)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Individual applicants for renewal of licenses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Entity operators (child care centers, race tracks, nursing homes)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Service providers serving a vulnerable population (e.g., foster parents, mentors, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
The following questions pertain to criminal background checks performed by higher education institutions.						
Students by Major						
9. In the tables below, please indicate:						
<ul style="list-style-type: none"> <li>• 9.1. Each type of criminal background check conducted and</li> <li>• 9.2. When a criminal background check is conducted. Select all that apply.</li> </ul>						
	<b>9.1 Types of Criminal Background Checks Conducted</b>					
<b>Category</b>	<b>FBI Fingerprint Check</b>	<b>DPS Fingerprint Check</b>	<b>DPS Name-based Check</b>		<b>Third Party Vendors</b>	<b>Other (Please specify)</b>
			<b>Secure Database</b>	<b>Public Information Database</b>		
Nursing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Medicine	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Pharmacy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Dentistry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Nutrition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

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Allied Health (including but not limited to medical technology, physical therapy, occupational therapy, speech therapy, and physician's assistant)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Education/Teacher's Certification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Social work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Psychology	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Law Enforcement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<b>9.2 When a Criminal Background Check is Conducted</b>					
<b>Category</b>	<b>Before admission to a degree program</b>	<b>Before enrollment in first clinical/practicum course</b>	<b>Before Internship</b>	<b>Right before graduation</b>	<b>After the institution becomes aware of possible criminal conduct</b>	
Nursing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Medicine	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Pharmacy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Dentistry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Nutrition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Allied Health (including but not limited to medical technology, physical therapy, occupational therapy, speech therapy, and physician's assistant)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Education/Teacher's Certification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Social work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Psychology	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Law Enforcement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

**Survey of Agencies and Higher Education Institutions: Criminal Background Checks**

**Contractors and Their Employees**

10. In the tables below, please indicate:

- 10.1. Each type of criminal background check conducted for contractors, employees of contractors, and subcontractors.
- 10.2. When a criminal background check is conducted. Select all that apply.

Category	10.1 Types of Criminal Background Checks Conducted					
	FBI Fingerprint Check	DPS Fingerprint Check	DPS Name-based Check		Third Party Vendors	Other (Please specify)
			Secure Database	Public Information Database		
Contractors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Contractors' Employees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Subcontractors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Contractors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Contractors' Employees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Subcontractors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

**11. Does your agency conduct criminal background checks on prospective employees prior to employment?**

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

**12. Does your agency obtain foreign criminal history information on prospective employees, licensees, students, etc. who have resided outside the United States?**

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

**12.1 Would your agency benefit from being authorized to obtain foreign criminal history information? Please explain your answer in the text box.**

<input type="checkbox"/>	Yes	
<input type="checkbox"/>	No	

**13. Does your agency have written policies and procedures for conducting criminal background checks?**

<input type="checkbox"/>	Yes	
<input type="checkbox"/>	No (Please explain, then skip to question 15.)	

**Survey of Agencies and Higher Education Institutions: Criminal Background Checks**

**14. When is the last time your criminal background check policies and procedures were updated? (e.g., mm/dd/yy)**

**15. In the table below, please indicate:**

- 15.1. Which of the following elements are addressed in your agency's criminal background check policies and procedures, whether or not those policies are written or formalized.
- 15.2. If your agency has written policies and procedures, please indicate the corresponding page and section number in the box.

Element	Addressed in the policies and procedures?	Relevant page and section number in your written policies and procedures
a. The purpose for conducting criminal background checks.	<input type="checkbox"/>	<div style="border: 1px solid black; width: 150px; height: 20px;"></div>
b. A reference to statutory or other authority/requirement(s) to conduct criminal background checks.	<input type="checkbox"/>	<div style="border: 1px solid black; width: 150px; height: 20px;"></div>
c. The types of positions, individuals, or licensees on whom your agency is authorized or required to conduct criminal background checks.	<input type="checkbox"/>	<div style="border: 1px solid black; width: 150px; height: 20px;"></div>
d. The type(s) of criminal background checks (FBI fingerprint, DPS fingerprint, etc.) conducted for each position, individual, or license type.	<input type="checkbox"/>	<div style="border: 1px solid black; width: 150px; height: 20px;"></div>
e. A list of disqualifying criminal offenses for a particular position or license type (e.g., sexual offenses).	<input type="checkbox"/>	<div style="border: 1px solid black; width: 150px; height: 20px;"></div>
f. The reasons for considering a criminal offense to be a disqualification (e.g., to bar sex offenders from having access to children).	<input type="checkbox"/>	<div style="border: 1px solid black; width: 150px; height: 20px;"></div>
g. The criteria for reviewing criminal history information:		
g.1 Relevance of the offense to the position, contract, or license.	<input type="checkbox"/>	<div style="border: 1px solid black; width: 150px; height: 20px;"></div>
g.2 Number of offenses committed.	<input type="checkbox"/>	<div style="border: 1px solid black; width: 150px; height: 20px;"></div>
g.3 Nature and severity of each offense.	<input type="checkbox"/>	<div style="border: 1px solid black; width: 150px; height: 20px;"></div>
g.4 Time elapsed from the date the offense was committed until the present.	<input type="checkbox"/>	<div style="border: 1px solid black; width: 150px; height: 20px;"></div>
g.5 Individual's efforts at rehabilitation.	<input type="checkbox"/>	<div style="border: 1px solid black; width: 150px; height: 20px;"></div>
h. A notification to the individual regarding the agency's criminal background check policies.	<input type="checkbox"/>	<div style="border: 1px solid black; width: 150px; height: 20px;"></div>

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i. A notification to the individual that the agency may choose to limit an applicant's duties (e.g., deny unsupervised access to vulnerable populations, deny access to residences) until a criminal background check is completed.	<input type="checkbox"/>	<input type="text"/>
j. The information an individual must provide to have a criminal background check conducted as it appears on a valid identification document (e.g., a government-issued ID with photo), which at a minimum includes:		
j.1 Full name.	<input type="checkbox"/>	<input type="text"/>
j.2 Street address.	<input type="checkbox"/>	<input type="text"/>
j.3 Date of birth.	<input type="checkbox"/>	<input type="text"/>
k. Other information required by the agency to conduct a criminal background check:		
k.1 Social Security number.	<input type="checkbox"/>	<input type="text"/>
k.2 Fingerprints.	<input type="checkbox"/>	<input type="text"/>
k.3 Other names (e.g., maiden name, alias).	<input type="checkbox"/>	<input type="text"/>
k.4 Previous places of residence.	<input type="checkbox"/>	<input type="text"/>
l. The applicant's self-disclosure of any criminal convictions, including:		
l.1 Nature of the offenses (e.g., burglary).	<input type="checkbox"/>	<input type="text"/>
l.2 Dates of the offenses.	<input type="checkbox"/>	<input type="text"/>
l.3 Conviction types (e.g., misdemeanor, felony).	<input type="checkbox"/>	<input type="text"/>
l.4 Name and location of the courts where cases were tried.	<input type="checkbox"/>	<input type="text"/>
l.5 Disposition of the cases.	<input type="checkbox"/>	<input type="text"/>
m. Consequences of falsifying or omitting information regarding the individual's criminal history.	<input type="checkbox"/>	<input type="text"/>



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n. Individual's written consent to have a criminal background check conducted.	<input type="checkbox"/>	<input type="text"/>
o. Consequences for not giving consent to conduct a criminal background check or consequences of failure/refusal to provide fingerprints if requested by the agency.	<input type="checkbox"/>	<input type="text"/>
p. Party responsible for paying the cost of the criminal background check, if applicable.	<input type="checkbox"/>	<input type="text"/>
q. Agency's process for following up on a criminal history information for which a disposition is not specified.	<input type="checkbox"/>	<input type="text"/>
r. A provision to ensure that all applicants in similar situations are treated in the same manner.	<input type="checkbox"/>	<input type="text"/>
s. The right of an individual to obtain a copy of his or her criminal history report directly from the provider of the report, (e.g., the Department of Public Safety, and not directly from your agency), except when criminal history is obtained from a public information source (Texas Government Code, Section 411.135).	<input type="checkbox"/>	<input type="text"/>
t. Notification of an applicant's rights to review his or her criminal history information, challenge its accuracy and completeness, and request corrections.	<input type="checkbox"/>	<input type="text"/>
u. Opportunity given to the applicant to appeal an adverse decision made by the agency based on his or her criminal history information.	<input type="checkbox"/>	<input type="text"/>
v. The frequency with which the agency conducts repeat criminal background checks based on types of positions or individuals.	<input type="checkbox"/>	<input type="text"/>
w. Guidelines for ensuring:		
w.1. The proper use of criminal history information obtained.	<input type="checkbox"/>	<input type="text"/>
w.2. Timeliness in conducting criminal background checks.	<input type="checkbox"/>	<input type="text"/>
w.3. Proper documentation of the decision-making process.	<input type="checkbox"/>	<input type="text"/>
w.4. The proper storage of criminal history information (e.g., filing criminal history information separately from personnel records).	<input type="checkbox"/>	<input type="text"/>

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w.5. The security of criminal history information (e.g., criminal history information is locked in a file cabinet or password-protected database).	<input type="checkbox"/>	<input type="text"/>
w.6. Disclosure and sharing of criminal history information.	<input type="checkbox"/>	<input type="text"/>
w.7. Disposal of criminal history information after the completion of the purpose for which the criminal history information was obtained.	<input type="checkbox"/>	<input type="text"/>
w.8. Automatic notification regarding subsequent criminal information about an individual.	<input type="checkbox"/>	<input type="text"/>
x. Offices or staff designated to perform key responsibilities related to criminal background checks.	<input type="checkbox"/>	<input type="text"/>
y. Staff qualifications and training requirements for conducting criminal background checks.	<input type="checkbox"/>	<input type="text"/>
z. Separation of duties between (1) staff conducting criminal background checks and reviewing criminal history information and (2) staff making decisions on employment, contracting, volunteer work, licensing, permitting, or certification.	<input type="checkbox"/>	<input type="text"/>
<b>16. Please provide information regarding any other important criminal background check procedures your agency conducts that are not specified above.</b>		
<input type="text"/>		
<b>17. Please provide us with a copy of your written policies and procedures for obtaining criminal history information or conducting criminal background checks, if available.</b>		
<input type="checkbox"/>	Available online at _____ (Please provide a specific URL, not the homepage of your agency.)	
<input type="checkbox"/>	Will e-mail an electronic copy.	
<input type="checkbox"/>	Will mail a hard copy to the State Auditor's Office.	
<input type="checkbox"/>	As indicated in Question 13, our agency does not have written policies and procedures.	

## ***Additional Information Regarding Agencies' and Higher Education Institutions' Background Checks***

Table 6 lists the state agencies and higher education institutions that reported being authorized or required to conduct background checks on at least one staff person or contractors and that conduct these checks.

Table 6

<b>State Agencies and Higher Education Institutions That Reported Authorization or a Requirement to Conduct Background Checks</b>					
<b>Agency or Institution Number</b>	<b>Agency or Institution</b>	<b>Background Checks on at Least One Staff Person</b>		<b>Background Checks on Contractors</b>	
		<b>Authorized or Required</b>	<b>Conducts Check</b>	<b>Authorized or Required</b>	<b>Conducts Check</b>
<b>General Appropriations Act - Article I - General Government</b>					
301	Office of the Governor	X	X	X	X
302	Office of the Attorney General	X	X	X	X
304	Comptroller of Public Accounts	X	X	X	X
306	Library and Archives Commission	X	X	X	X
307	Secretary of State	X	X	X	X
313	Department of Information Resources	X	X	X	X
327	Employees Retirement System	X	X		
809	Preservation Board	X	X		
<b>General Appropriations Act - Article II - Health and Human Services</b>					
529	Health and Human Services Commission	X			
530	Department of Family & Protective Services	X	X	X	X
537	Department of State Health Services	X	X	X	X
538	Department of Assistive and Rehabilitative Services	X	X		
539	Department of Aging and Disability Services	X	X	X	X
<b>General Appropriations Act - Article III - Education</b>					
506	The University of Texas M.D. Anderson Cancer Center	X	X	X	X
555	Texas Cooperative Extension	X	X		
556	Texas Agricultural Experiment Station	X	X		
557	Texas Veterinary Medical Diagnostic Laboratory	X	X		

**State Agencies and Higher Education Institutions That Reported  
Authorization or a Requirement to Conduct Background Checks**

Agency or Institution Number	Agency or Institution	Background Checks on at Least One Staff Person		Background Checks on Contractors	
		Authorized or Required	Conducts Check	Authorized or Required	Conducts Check
576	Texas Forest Service	X	X		
709	Texas A&M University System Health Science Center	X	X	X	
710	Texas A&M University System	X	X		
711	Texas A&M University	X	X	X	X
712	Texas Engineering Experiment Station	X	X		
713	Tarleton State University	X	X		
714	The University of Texas at Arlington	X	X		
715	Prairie View A&M University	X	X		
716	Texas Engineering Extension Service	X	X		
717	Texas Southern University	X	X		
718	Texas A&M University at Galveston	X	X		
719	Texas State Technical College System	X	X		
720	The University of Texas System Administration	X	X		
721	The University of Texas at Austin	X	X		
723	The University of Texas Medical Branch at Galveston	X	X	X	X
724	The University of Texas at El Paso	X	X		
727	Texas Transportation Institute	X	X		
729	The University of Texas Southwestern Medical Center at Dallas	X	X		
730	University of Houston	X	X	X	X
731	Texas Woman's University	X	X		
732	Texas A&M University - Kingsville	X	X		
733	Texas Tech University	X	X		
734	Lamar University - Beaumont	X	X		
735	Midwestern State University	X	X		
736	The University of Texas - Pan American	X	X		
737	Angelo State University	X	X		
738	The University of Texas at Dallas	X	X		
739	Texas Tech University Health Sciences Center	X	X		

**State Agencies and Higher Education Institutions That Reported  
Authorization or a Requirement to Conduct Background Checks**

Agency or Institution Number	Agency or Institution	Background Checks on at Least One Staff Person		Background Checks on Contractors	
		Authorized or Required	Conducts Check	Authorized or Required	Conducts Check
741	Sul Ross State University Rio Grande College	X	X		
742	The University of Texas of the Permian Basin	X	X		
743	The University of Texas at San Antonio	X	X		
744	The University of Texas Health Science Center at Houston	X	X		
745	The University of Texas Health Science Center at San Antonio	X	X	X	X
747	The University of Texas at Brownsville	X	X	X	
750	The University of Texas at Tyler	X	X	X	X
751	Texas A&M University - Commerce	X	X		
752	University of North Texas	X	X		
753	Sam Houston State University	X	X		
754	Texas State University - San Marcos	X	X		
755	Stephen F. Austin State University	X	X		
756	Sul Ross State University	X	X		
757	West Texas A&M University	X	X		
758	Texas State University System	X			
759	University of Houston - Clear Lake	X	X		
760	Texas A&M University - Corpus Christi	X	X		
761	Texas A&M International University	X	X	X	X
763	University of North Texas Health Science Center at Fort Worth	X	X		
764	Texas A&M University - Texarkana	X	X		
765	University of Houston - Victoria	X	X		
768	Texas Tech University System	X	X		
769	University of North Texas System	X	X		
771	School for the Blind and Visually Impaired	X	X		
772	School for the Deaf	X	X	X	
781	Higher Education Coordinating Board	X		X	X
783	University of Houston System	X	X	X	X
784	University of Houston - Downtown	X	X		

State Agencies and Higher Education Institutions That Reported Authorization or a Requirement to Conduct Background Checks					
Agency or Institution Number	Agency or Institution	Background Checks on at Least One Staff Person		Background Checks on Contractors	
		Authorized or Required	Conducts Check	Authorized or Required	Conducts Check
785	The University of Texas Health Center at Tyler	X	X		
787	Lamar State College - Orange	X	X		
788	Lamar State College - Port Arthur	X	X		
789	Lamar Institute of Technology	X	X		
923	Texas State Technical College - Harlingen	X	X		
924	Texas State Technical College - West Texas	X	X		
925	Texas State Technical College - Waco	X	X		
926	Texas State Technical College - Marshall	X	X		
<b>General Appropriations Act - Article IV - The Judiciary</b>					
212	Office of Court Administration, Texas Judicial Council	X	X	X	X
<b>General Appropriations Act - Article V - Public Safety and Criminal Justice</b>					
401	Adjutant General's Department	X	X	X	X
405	Department of Public Safety	X	X	X	X
407	Commission on Law Enforcement Officer Standards and Education	X	X	X	X
411	Commission on Fire Protection	X			
458	Alcoholic Beverage Commission	X	X	X	X
665	Juvenile Probation Commission	X	X	X	
694	Youth Commission	X	X	X	X
696	Department of Criminal Justice	X	X	X	X
<b>General Appropriations Act - Article VI - Natural Resources</b>					
305	General Land Office	X	X	X	X
551	Department of Agriculture	X	X		
582	Commission on Environmental Quality	X			
802	Parks and Wildlife Department	X	X	X	X
<b>General Appropriations Act - Article VII - Business and Economic Development</b>					
320	Texas Workforce Commission	X	X	X	X
332	Department of Housing and Community Affairs	X	X	X	X

State Agencies and Higher Education Institutions That Reported Authorization or a Requirement to Conduct Background Checks					
Agency or Institution Number	Agency or Institution	Background Checks on at Least One Staff Person		Background Checks on Contractors	
		Authorized or Required	Conducts Check	Authorized or Required	Conducts Check
357	Office of Rural Community Affairs	X	X		
362	Texas Lottery Commission	X	X	X	X
601	Department of Transportation			X	X
<b>General Appropriations Act - Article VIII - Regulatory</b>					
312	Securities Board	X	X		
370	Residential Construction Commission			X	X
454	Department of Insurance	X	X		
456	State Board of Plumbing Examiners	X	X	X	
457	Board of Public Accountancy				
459	Board of Architectural Examiners	X	X	X	X
460	Board of Professional Engineers	X	X	X	X
469	Credit Union Department	X			
476	Racing Commission	X	X		
504	Texas State Board of Dental Examiners	X	X		
512	Board of Podiatric Medical Examiners	X	X	X	X
520	Board of Examiners of Psychologists	X			
578	Board of Veterinary Medical Examiners	X			
<b>Other</b>					
308	State Auditor's Office	X	X		
<b>Totals</b>		<b>110</b>	<b>102</b>	<b>40</b>	<b>35</b>

Source: State Auditor's Office background check survey.

Table 7 lists the 45 state agencies that reported statutory authorization or requirements to conduct checks on license applicants. This table also summarizes whether these agencies reported they conduct checks on license applicants, lists agencies that reported they renew licenses, and specifies whether these agencies conduct checks on applicants for license renewals.

Table 7

State Agencies That Report They Are Authorized or Required to Conduct Checks on Licensees				
Count	Agency Number	Agency	Conducts Checks on License Applicants	Conducts Checks on License Renewals Applicants
<b>General Appropriations Act - Article I - General Government</b>				
1	304	Comptroller of Public Accounts	X	X
2	307	Secretary of State <sup>a</sup>	X	
<b>General Appropriations Act - Article II - Health and Human Services</b>				
3	529	Health and Human Services Commission <sup>a</sup>	X	
4	530	Department of Family and Protective Services	X	X
5	537	Department of State Health Services	X	X
6	538	Department of Assistive and Rehabilitative Services	X	X
7	539	Department of Aging and Disability Services	X	X
<b>General Appropriations Act - Article III - Education</b>				
8	701	Texas Education Agency	X	X
9	771	School for the Blind and Visually Impaired <sup>a</sup>	X	
<b>General Appropriations Act - Article IV - The Judiciary</b>				
10	203	Board of Law Examiners <sup>a</sup>	X	
<b>General Appropriations Act - Article V - Public Safety and Criminal Justice</b>				
11	405	Department of Public Safety	X	X
12	407	Commission on Law Enforcement Officer Standards and Education	X	X
13	411	Commission on Fire Protection <sup>c</sup>	X	
14	458	Alcoholic Beverage Commission	X	X
<b>General Appropriations Act - Article VI - Natural Resources</b>				
15	551	Department of Agriculture	X	X
16	582	Commission on Environmental Quality <sup>c</sup>		



State Agencies That Report They Are Authorized or Required to Conduct Checks on Licensees				
Count	Agency Number	Agency	Conducts Checks on License Applicants	Conducts Checks on License Renewals Applicants
General Appropriations Act - Article VII - Business and Economic Development				
17	332	Department of Housing and Community Affairs <sup>a</sup>	X	
18	362	Texas Lottery Commission	X	X
19	601	Department of Transportation	X	X
General Appropriations Act - Article VIII - Regulatory				
20	312	Securities Board <sup>C</sup>	X	
21	329	Real Estate Commission <sup>C</sup>	X	
22	370	Residential Construction Commission	X	X
23	450	Department of Savings and Mortgage Lending	X	X
24	451	Department of Banking	X	X
25	452	Department of Licensing and Regulation	X	X
26	454	Department of Insurance	X	X
27	456	State Board of Plumbing Examiners	X	X
28	457	Board of Public Accountancy	X	X
29	459	Board of Architectural Examiners <sup>C</sup>		
30	460	Board of Professional Engineers	X	X
31	464	Board of Professional Land Surveying <sup>a</sup>	X	
32	466	Office of Consumer Credit Commissioner <sup>a</sup>	X	
33	469	Credit Union Department <sup>a</sup>	X	
34	476	Racing Commission	X	X
35	481	Board of Professional Geoscientists	X	X
36	503	Texas Medical Board	X	X
37	504	Texas State Board of Dental Examiners	X	X
38	507	Texas Board of Nursing	X	X
39	508	Board of Chiropractic Examiners	X	X
40	512	Board of Podiatric Medical Examiners	X	X
41	513	Funeral Service Commission <sup>b</sup>	X	
42	514	Optometry Board <sup>C</sup>	X	
43	515	Board of Pharmacy	X	X
44	520	Board of Examiners of Psychologists	X	X

State Agencies That Report They Are Authorized or Required to Conduct Checks on Licensees				
Count	Agency Number	Agency	Conducts Checks on License Applicants	Conducts Checks on License Renewals Applicants
45	578	Board of Veterinary Medical Examiners	X	X
Totals			43	30
<p><sup>a</sup> Eight agencies report that they do not renew licenses that they issue.</p> <p><sup>b</sup> One agency reports that it is not authorized to conduct checks on applicants renewing a license.</p> <p><sup>c</sup> Six agencies report that they do not conduct background checks on applicants renewing a license. Two of the six agencies also report not conducting checks on license applicants. These two agencies are the Commission on Environmental Quality and the Board of Architectural Examiners.</p>				

Source: State Auditor's Office background check survey.

Table 8 lists the 48 higher education institutions that reported they offer at least one of the academic majors included in the State Auditor’s Office’s survey. This table also identifies whether those institutions reported they conducted background checks on those students.

Table 8

Higher Education Institutions That Offer at Least One of the Academic Majors Listed in the State Auditor’s Office’s Survey			
Institution Number	Institution	Conducts Checks On Students in Selected Academic Majors	Does Not Conduct Checks on Students in Selected Academic Majors
<b>General Appropriations Act - Article III - Education</b>			
506	The University of Texas M.D. Anderson Cancer Center	X	
709	Texas A&M University System Health Science Center	X	
711	Texas A&M University		X
713	Tarleton State University	X	
714	The University of Texas at Arlington	X	
715	Prairie View A&M University	X	
717	Texas Southern University	X	
721	The University of Texas at Austin	X	
723	The University of Texas Medical Branch at Galveston	X	
724	The University of Texas at El Paso	X	
729	The University of Texas Southwestern Medical Center at Dallas	X	
730	University of Houston		X
731	Texas Woman's University	X	
732	Texas A&M University - Kingsville		X
733	Texas Tech University		X
734	Lamar University - Beaumont	X	
735	Midwestern State University	X	
736	The University of Texas - Pan American		X
737	Angelo State University	X	
738	The University of Texas at Dallas		X
739	Texas Tech University Health Sciences Center	X	
741	Sul Ross State University Rio Grande College		X

Higher Education Institutions That Offer at Least One of the Academic Majors Listed in the State Auditor's Office's Survey			
Institution Number	Institution	Conducts Checks On Students in Selected Academic Majors	Does Not Conduct Checks on Students in Selected Academic Majors
742	The University of Texas of the Permian Basin		X
743	The University of Texas at San Antonio		X
744	The University of Texas Health Science Center at Houston	X	
745	The University of Texas Health Science Center at San Antonio	X	
747	The University of Texas at Brownsville	X	
750	The University of Texas at Tyler	X	
751	Texas A&M University - Commerce		X
752	University of North Texas	X	
753	Sam Houston State University	X	
754	Texas State University - San Marcos		X
755	Stephen F. Austin State University	X	
756	Sul Ross State University	X	
757	West Texas A&M University	X	
759	University of Houston - Clear Lake		X
760	Texas A&M University - Corpus Christi	X	
761	Texas A&M International University	X	
763	University of North Texas Health Science Center at Fort Worth	X	
764	Texas A&M University - Texarkana		X
765	University of Houston - Victoria	X	
784	University of Houston - Downtown		X
787	Lamar State College - Orange	X	
788	Lamar State College - Port Arthur	X	
789	Lamar Institute of Technology		X
923	Texas State Technical College - Harlingen	X	
924	Texas State Technical College - West Texas	X	
925	Texas State Technical College - Waco	X	
<b>Totals</b>		<b>33</b>	<b>15</b>

Source: State Auditor's Office background check survey.

Table 9 lists the 49 state agencies and higher education institutions that reported they have staff that have access to information resources and information resources technology but do not conduct background checks on these staff.

Table 9

Do Not Conduct Background Checks on Staff That Have Access to Information Resources and Information Resources Technology <sup>a</sup>	
No.	Agency or Institution
1	Adjutant General's Department
2	Animal Health Commission
3	Board of Chiropractic Examiners
4	Board of Examiners of Psychologists
5	Board of Law Examiners
6	Board of Pharmacy
7	Board of Professional Geoscientists
8	Board of Public Accountancy
9	Board of Tax Professional Examiners
10	Board of Veterinary Medical Examiners
11	Bond Review Board
12	Cancer Council
13	Commission on Environmental Quality
14	Commission on Fire Protection
15	Commission on Jail Standards
16	Commission on State Emergency Communications
17	Commission on the Arts
18	Credit Union Department
19	Department of Banking
20	Department of Licensing and Regulation
21	Department of State Health Services
22	Executive Council of Physical and Occupational Therapy Examiners
23	Fire Fighters' Pension Commissioner
24	Health and Human Services Commission
25	Higher Education Coordinating Board
26	Historical Commission
27	Office of Public Insurance Counsel
28	State Office of Risk Management
29	Office of State-Federal Relations
30	Office of the State Prosecuting Attorney

**Do Not Conduct Background Checks on Staff That Have Access to Information Resources and Information Resources Technology<sup>a</sup>**

No.	Agency or Institution
31	Optometry Board
32	Pension Review Board
33	Public Finance Authority
34	Public Utility Commission of Texas
35	Railroad Commission
36	Real Estate Commission
37	Soil and Water Conservation Board
38	State Auditor's Office
39	State Law Library
40	State Office of Administrative Hearings
41	Texas A&M University - Kingsville
42	Texas Board of Nursing
43	Texas Education Agency
44	Texas Ethics Commission
45	Texas Facilities Commission
46	Texas Medical Board
47	Residential Construction Commission
48	Texas State Board of Dental Examiners
49	Water Development Board
<sup>a</sup> Texas Government Code, Section 411.1405, authorizes agencies and institutions to conduct checks on staff in these positions.	

Source: State Auditor's Office background check survey.

## State Statutes That Govern Access to Criminal History Record Information

Table 10 lists 106 state statutes that govern access to the Department of Public Safety's criminal history record information for the state agencies and higher education institutions that participated in the State Auditor's Office background check survey. This list includes only those statutes that auditors identified in the course of this audit and may not be a complete list of all relevant statutes.

Agencies and institutions that are authorized by Texas Government Code, Chapter 411, to access criminal history record information can (1) conduct fingerprint checks using information maintained by the Federal Bureau of Investigation (which automatically includes a fingerprint check through the Department of Public Safety's secure Web site), (2) conduct fingerprint checks using information maintained by the Department of Public Safety on its secure Web site, or (3) conduct name-based checks using the Department of Public Safety's secure Web site.

Agencies and institutions without specific statutory authority can conduct name-based checks using the Department of Public Safety's public Web site pursuant to Texas Government Code, Section 411.135. These organizations can also request a copy of a background check directly from the individuals on whom the background check is conducted (as discussed in Chapter 2-B).

Table 10

State Statutes That Govern Access to Criminal History Record Information at the Department of Public Safety		
Texas Alcoholic Beverage Code		
Section	109.532	Criminal History Background Checks
Texas Property Code		
Section	416.002	Application For Certificate
Texas Probate Code		
Section	698	Access to Criminal History Records
Texas Labor Code		
Section	91.013	Background Investigations
Section	301.042	Access to Certain Criminal History Record Information
Texas Occupations Code		
Section	110.156	Adjudication Information
Section	153.006	Criminal Record Report
Section	155.008	Criminal Record Check
Section	301.2511	Criminal History Record Information for License Applicants
Section	301.3011	Criminal History Record Information Requirement for Renewal

**State Statutes That Govern Access to Criminal History Record Information  
at the Department of Public Safety**

Section	651.259	Application by Out-of-State License Holder
Section	901.253	Character Investigation
Section	901.354	Firm License Information and Eligibility
Section	1101.3521	Criminal History Record Information Requirement for License
Section	1302.101	General Powers and Duties
Section	1701.303	License Application; Duties of Appointing Entity
Section	1702.282	Criminal History Check
Section	2303.055	Examination of Criminal Conviction
<b>Texas Education Code</b>		
Section	12.1059	Agency Approval Required for Certain Employees
Section	22.082	Access To Criminal History Records By State Board For Educator Certification
Section	22.0831	National Criminal History Record Information Review Of Certified Educators
Section	22.0832	National Criminal History Record Information Review Of Certain Open-Enrollment Charter School Employees
Section	22.0833	National Criminal History Record Information Review Of Noncertified Employees
Section	22.0836	National Criminal History Record Information Review Of Substitute Teachers
Section	51.215	Access to Police Records of Employment Applicants
<b>Texas Family Code</b>		
Section	262.114	Evaluation of Identified Relatives and Other Designated Individuals
Section	264.116	Texas Foster Grandparent Mentors
Section	264.1165	Mentorship Pilot Program
<b>Texas Health and Safety Code</b>		
Section	76.101	Registration Required; Fees
Section	250.002	Information Obtained by Facility, Regulatory Agency, or Private Agency
Section	431.407	Criminal History Record Information
Section	533.007	Access to Criminal History Record Information; Criminal Penalty for Unlawful Disclosure
Section	773.070	Access to Certain Criminal History Record Information
Section	781.201	Criminal History Check
<b>Texas Human Resources</b>		
Section	40.054	Access to Criminal History
Section	42.056	Required Background and Criminal History Checks; Criminal Penalties
Section	42.153	Application; Initial Inspection and Background Criminal History Checks
Section	61.0357	Required Background and Criminal History Checks
<b>Texas Code of Criminal Procedure</b>		
Section	60.061	Information on Persons Licensed by Certain Agencies
<b>Texas Finance Code</b>		
Section	14.151	Obtaining Information
Section	122.004	Investigation by Commissioner



**State Statutes That Govern Access to Criminal History Record Information  
at the Department of Public Safety**

Section	156.206	Mortgage Broker License Act: Criminal Background Check
Section	156.214	Registered Financial Services Company
<b>Texas Government Code</b>		
Section	411.083	Dissemination Of Criminal History Record Information
Section	411.0845	Criminal History Clearinghouse
Section	411.087	Access To Criminal History Record Information Maintained By Federal Bureau Of Investigation Or Local Criminal Justice Agency
Section	411.089	Access To Criminal History Record Information: Criminal Justice Agency
Section	411.090	Access To Criminal History Record Information: State Board For Educator Certification
Section	411.0901	Access To Criminal History Record Information: Texas Education Agency
Section	411.091	Access To Criminal History Record Information: Texas Alcoholic Beverage Commission
Section	411.0915	Access To Criminal History Record Information Of Political Subdivisions: Texas Alcoholic Beverage Commission
Section	411.092	Access To Criminal History Record Information: Banking Commissioner
Section	411.093	Access To Criminal History Record Information: Texas Department Of Licensing And Regulation
Section	411.094	Access To Criminal History Record Information: Institution Of Higher Education
Section	411.095	Access To Criminal History Record Information: Consumer Credit Commissioner
Section	411.096	Access To Criminal History Record Information: Texas Racing Commission
Section	411.098	Access To Criminal History Record Information: Texas School For The Blind And Visually Impaired
Section	411.0985	Access To Criminal History Record Information: Texas Commission For The Blind
Section	411.099	Access To Criminal History Record Information: Texas State Board Of Medical Examiners
Section	411.100	Access To Criminal History Record Information: Board Of Law Examiners
Section	411.1005	Access To Criminal History Record Information: State Bar Of Texas
Section	411.102	Access To Criminal History Record Information: McGruff House Program
Section	411.103	Access To Criminal History Record Information: Child Watch Program
Section	411.104	Access To Criminal History Record Information: Texas Workforce Commission
Section	411.105	Access To Criminal History Record Information: Texas State Board Of Public Accountancy
Section	411.106	Access To Criminal History Record Information: Texas Department Of Insurance
Section	411.108	Access To Criminal History Record Information: Texas Lottery Commission
Section	411.109	Access To Criminal History Record Information: Comptroller
Section	411.110	Access To Criminal History Record Information: Department Of State Health Services
Section	411.1105	Access To Criminal History Record Information: Department Of State Health Services
Section	411.112	Access To Criminal History Record Information: Commission On Law Enforcement Officer Standards And Education
Section	411.113	Access To Criminal History Record Information: Texas School For The Deaf
Section	411.1131	Access To Criminal History Record Information: Texas Commission For The Deaf And Hard Of Hearing
Section	411.114	Access To Criminal History Record Information: Department Of Protective and Regulatory Services
Section	411.1141	Access To Criminal History Record Information: Texas Youth Commission
Section	411.1142	Access To Criminal History Record: Interagency Council On Early Childhood Intervention

**State Statutes That Govern Access to Criminal History Record Information  
at the Department of Public Safety**

Section	411.1143	Access To Criminal History Record Information; Agencies Operating Part Of Medical Assistance Program
Section	411.1145	Access To Criminal History Record Information: State Preservation Board
Section	411.115	Access To Criminal History Record Information: Texas Department Of Mental Health And Mental Retardation; Local Authorities; Community Centers
Section	411.117	Access To Criminal History Record Information: Texas Rehabilitation Commission
Section	411.119	Access To Criminal History Record Information: Texas Commission On Private Security
Section	411.121	Access To Criminal History Record Information: Adjutant General
Section	411.122	Access To Criminal History Record Information: Licensing Or Regulatory Agency
Section	411.1236	Access To Criminal History Record Information: Texas Commission On Fire Protection
Section	411.125	Access To Criminal History Record Information: Texas Board Of Nursing
Section	411.127	Access To Criminal History Record Information: Applicants For Employment And Contractors
Section	411.130	Access To Criminal History Record Information; Crime Victims' Institute
Section	411.132	Access To Criminal History Record Information: State Auditor
Section	411.134	Criminal History Record Information: Texas State Library And Archives Commission
Section	411.135	Access To Certain Information By Public
Section	411.137	Access To Criminal History Record Information: Texas Juvenile Probation Commission
Section	411.138	Access To Criminal History Record Information: Juvenile Board Or Juvenile Probation Department
Section	411.1385	Access To Criminal History Record Information: Savings And Mortgage Lending Commissioner
Section	411.1386	Access To Criminal History Record Information: Court Clerk; Department Of Aging And Disability Services; Guardianships
Section	411.1387	Access To Criminal History Record Information: Facility, Regulatory Agency, Or Private Agency
Section	411.1388	Access To Criminal History Record Information: Interagency Council On Sex Offender Treatment
Section	411.139	Access To Criminal History Record Information: State Securities Board
Section	411.140	Access To Criminal History Record Information: State Commission On Judicial Conduct
Section	411.1402	Access To Criminal History Record Information: Employees Retirement System Of Texas
Section	411.1405	Access To Criminal History Record Information: State Agencies; Information Technology Employees
Section	411.1406	Access To Criminal History Record Information: Guardianship Certification Board
Section	411.1407	Access To Criminal History Record Information: Credit Union Department
Section	466.201	Access to Criminal History Record Information
Section	467.036	Access to Criminal History Records
Section	531.102	Office of Inspector General
<b>Texas Civil Statutes That Govern Access to Criminal History Record Information</b>		
Section	179e: 5.04	Texas Racing Act: Access to Criminal History Records

Source: State Auditor's Office review of state statutes.

## Summary of Health and Human Services Agencies' and Regulatory Agencies' Policies and Procedures Regarding Background Checks

Table 11 summarizes the survey responses from the five health and human services agencies regarding their written policies and procedures for conducting criminal background checks. For a full description of each element, please refer to Appendix 3, State Auditor's Office Survey (Reporting Form), Survey Question 15.

Table 11

Summary of Health and Human Services Agencies' Policies and Procedures Regarding Background Checks (“X” indicates the agency's policies and procedures include the element listed on the left)					
	Health and Human Services Commission	Department of Family and Protective Services	Department of State Health Services	Department of Assistive and Rehabilitative Services	Department of Aging and Disability Services
<b>Basic Policies and Procedures<sup>a</sup></b>					
a. Purpose for conducting background checks.	X	X		X	X
b. Statutory authority/requirement to conduct checks.		X	X	X	X
c. Types of positions on which agency conducts checks.	X	X	X	X	X
r. A provision to treat all applicants the same.		X			
s. Right of an individual to obtain a report copy.	X	X		X	X
t. Applicant's rights to review his report, challenge its accuracy, completeness, and request corrections.	X	X		X	X
w.1. The proper use of obtained check information.		X	X	X	X
w.4. The proper storage of check information.		X		X	X
w.5. The security of check information.		X			X
w.6. Disclosure and sharing of check information.	X	X	X	X	X
<b>Information an individual must provide to have a background check conducted:</b>					
j.1. Full name.		X		X	X
j.2. Street address.		X			X
j.3. Date of birth.		X		X	X
k.1 Social Security number.		X		X	
k.2. Fingerprints.		X			X
n. Individual's written consent.		X		X	X
<b>Number of basic elements in agency policies and procedures</b>	5	16	4	12	14
<b>Percent of basic elements in agency policies and procedures</b>	31%	100%	25%	75%	88%

**Summary of Health and Human Services Agencies' Policies and Procedures Regarding Background Checks**  
 ("X" indicates the agency's policies and procedures include the element listed on the left)

	Health and Human Services Commission	Department of Family and Protective Services	Department of State Health Services	Department of Assistive and Rehabilitative Services	Department of Aging and Disability Services
<b>Best Practice Elements <sup>a</sup></b>					
d. Type of background checks conducted.	X	X			X
e. Disqualifying criminal offenses.	X	X	X	X	X
f. Reasons for considering a criminal offense to be a disqualification.		X			
h. Notification regarding agency's background check policies.	X	X	X	X	X
i. Notification that applicant's duties may be limited until a check is completed.		X			X
k.3. Other names.		X			X
k.4. Previous residence.		X			
m. Consequences of falsifying or omitting information.	X	X	X	X	X
o. Consequences for not giving consent to conduct a check or failure to provide fingerprints.		X		X	X
p. Party responsible for paying for the check.		X			
q. Agency's process to follow up on checks with no disposition.		X		X	X
u. Opportunity to appeal an adverse decision.	X	X	X		X
v. Frequency of repeat checks.		X	X		X
w.2. Timeliness of checks.		X			X
w.3. Decision-making process documentation.	X	X	X		X
w.7. Disposal of check information.		X	X	X	X
w.8. Automatic notification regarding subsequent checks.				X	
x. Offices or staff designated to perform checks.		X		X	X
y. Staff qualifications and training requirements.					X
z. Separation of duties.		X		X	X
<b>The criteria for reviewing criminal history information:</b>					
g.1. Relevance of the offense.	X	X	X		X
g.2. Number of offenses committed.	X	X	X		X
g.3. Nature and severity of each offense.	X	X	X		X
g.4. Time elapsed since offense was committed.	X	X	X		X
g.5. Individual's efforts at rehabilitation.	X	X			
<b>Applicant's self-disclosure of any criminal convictions:</b>					
l.1. Nature of the offenses.	X	X	X	X	X

**Summary of Health and Human Services Agencies' Policies and Procedures Regarding Background Checks**  
 ("X" indicates the agency's policies and procedures include the element listed on the left)

	Health and Human Services Commission	Department of Family and Protective Services	Department of State Health Services	Department of Assistive and Rehabilitative Services	Department of Aging and Disability Services
I.2. Dates of the offenses.	X		X		X
I.3. Conviction types.		X		X	X
I.4. Name and location where cases were tried.	X				X
I.5. Disposition of the cases.	X	X	X	X	X
Number of best practice elements in agency policies and procedures	15	26	14	12	25
Percent of best practice elements in agency policies and procedures	50%	87%	47%	40%	83%
Number of basic and best practice elements in agency policies and procedures	20	42	18	24	39
Percent of basic and best practice elements in agency policies and procedures	43%	91%	39%	52%	85%

<sup>a</sup> See Appendix 3, State Auditor's Office Survey (Reporting Form), Survey Question 15 for each element's full description.

Source: State Auditor's Office background check survey and review of written policies and procedures provided by these agencies.

Table 12 summarizes the survey responses from the 19 regulatory agencies' regarding their written policies and procedures for conducting criminal background checks.

Table 12

Summary of Regulatory Agencies' Policies and Procedures Regarding Background Checks ("X" indicates the agency's policies and procedures include the element listed on the left)																			
	Real Estate Commission	Residential Construction Commission	Department of Savings and Mortgage Lending	Department of Banking	Department of Licensing and Regulation	Department of Insurance	State Board of Plumbing Examiners	Board of Architectural Examiners	Board of Professional Engineers	Office of Consumer Credit Commissioner	Credit Union Department	Racing Commission	Texas Board of Nursing	Board of Podiatric Medical Examiners	Funeral Service Commission	Optometry Board	Board of Examiners of Psychologists	Executive Council of Physical and Occupational Therapy Examiners	Board of Veterinary Medical Examiners
<b>Basic Policies and Procedures<sup>a</sup></b>																			
a. Purpose for conducting background checks.	X	X		X	X	X	X	X	X		X	X	X	X	X	X			X
b. Statutory authority/ requirement to conduct checks.		X		X	X	X	X	X	X	X	X	X		X					X
c. Types of positions on which agency conducts checks.		X	X	X	X		X	X	X	X	X	X	X	X	X	X	X		X
r. A provision to treat all applicants the same.	X	X	X		X		X	X				X		X			X		
s. Right of an individual to obtain a report copy.									X			X		X					
t. Applicant's rights to review his report, challenge its accuracy, completeness, and request corrections.								X	X		X	X		X					
w.1. The proper use of obtained check information.				X	X			X	X	X		X		X			X		X

**Summary of Regulatory Agencies' Policies and Procedures Regarding Background Checks**  
 ("X" indicates the agency's policies and procedures include the element listed on the left)

	Real Estate Commission	Residential Construction Commission	Department of Savings and Mortgage Lending	Department of Banking	Department of Licensing and Regulation	Department of Insurance	State Board of Plumbing Examiners	Board of Architectural Examiners	Board of Professional Engineers	Office of Consumer Credit Commissioner	Credit Union Department	Racing Commission	Texas Board of Nursing	Board of Podiatric Medical Examiners	Funeral Service Commission	Optometry Board	Board of Examiners of Psychologists	Executive Council of Physical and Occupational Therapy Examiners	Board of Veterinary Medical Examiners
w.4. The proper storage of check information.				X	X				X	X		X					X		X
w.5. The security of check information.				X					X	X		X					X		
w.6. Disclosure and sharing of check information.		X		X				X	X	X	X	X		X			X		
<b>Information an individual must provide to have a criminal background check conducted:</b>																			
j.1. Full name.			X	X	X				X	X		X		X		X	X		X
j.2. Street address.			X	X	X				X		X		X		X	X	X		X
j.3. Date of birth.			X	X	X				X	X		X		X		X	X		X
k.1 Social Security number.		X	X	X					X					X		X	X		X
k.2. Fingerprints.			X	X	X				X		X		X		X	X	X		
n. Individual's written consent.	X	X	X	X	X		X		X	X	X	X		X		X	X		X
Number of basic elements in agency policies and procedures	3	7	8	13	11	2	5	7	11	12	6	15	2	14	2	8	12	0	10
Percent of basic elements in agency policies and procedures	19%	44%	50%	81%	69%	13%	31%	44%	69%	75%	38%	94%	13%	88%	13%	50%	75%	0%	63%

**Summary of Regulatory Agencies' Policies and Procedures Regarding Background Checks**  
 ("X" indicates the agency's policies and procedures include the element listed on the left)

	Real Estate Commission	Residential Construction Commission	Department of Savings and Mortgage Lending	Department of Banking	Department of Licensing and Regulation	Department of Insurance	State Board of Plumbing Examiners	Board of Architectural Examiners	Board of Professional Engineers	Office of Consumer Credit Commissioner	Credit Union Department	Racing Commission	Texas Board of Nursing	Board of Podiatric Medical Examiners	Funeral Service Commission	Optometry Board	Board of Examiners of Psychologists	Executive Council of Physical and Occupational Therapy Examiners	Board of Veterinary Medical Examiners
<b>Best Practice Elements <sup>a</sup></b>																			
d. Type of background checks conducted.		X	X	X	X		X	X		X	X	X	X	X		X	X		X
e. Disqualifying criminal offenses.	X	X		X	X		X					X	X	X		X	X	X	
f. Reasons for considering a criminal offense to be a disqualification.	X	X		X	X		X					X	X	X		X			X
h. Notification regarding agency's background check policies.		X	X	X	X		X	X	X		X	X		X		X	X		X
i. Notification that applicant's duties may be limited until a check is completed.			X									X		X			X		X
k.3. Other names				X						X		X		X					X
k.4. Previous residences		X		X															X
m. Consequences of falsifying or omitting information.	X	X	X	X	X		X	X		X	X	X	X	X		X	X		X



**Summary of Regulatory Agencies' Policies and Procedures Regarding Background Checks**  
 ("X" indicates the agency's policies and procedures include the element listed on the left)

	Real Estate Commission	Residential Construction Commission	Department of Savings and Mortgage Lending	Department of Banking	Department of Licensing and Regulation	Department of Insurance	State Board of Plumbing Examiners	Board of Architectural Examiners	Board of Professional Engineers	Office of Consumer Credit Commissioner	Credit Union Department	Racing Commission	Texas Board of Nursing	Board of Podiatric Medical Examiners	Funeral Service Commission	Optometry Board	Board of Examiners of Psychologists	Executive Council of Physical and Occupational Therapy Examiners	Board of Veterinary Medical Examiners
o. Consequences for not giving consent to conduct a check or failure to provide fingerprints.	X			X						X		X	X	X					X
p. Party responsible for paying for the check.			X	X			X			X		X	X	X		X	X		
q. Agency's process to follow up on checks with no disposition.		X	X							X	X	X		X			X		
u. Opportunity to appeal an adverse decision.	X	X	X	X	X		X	X	X	X	X	X	X	X		X	X		
v. Frequency of repeat checks.		X		X	X				X			X		X			X		X
w.2. Timeliness of checks.				X	X					X				X			X		
w.3. Decision-making process documentation.		X			X			X	X	X				X			X		
w.7. Disposal of check information.				X				X	X	X				X			X		X

**Summary of Regulatory Agencies' Policies and Procedures Regarding Background Checks**  
 ("X" indicates the agency's policies and procedures include the element listed on the left)

	Real Estate Commission	Residential Construction Commission	Department of Savings and Mortgage Lending	Department of Banking	Department of Licensing and Regulation	Department of Insurance	State Board of Plumbing Examiners	Board of Architectural Examiners	Board of Professional Engineers	Office of Consumer Credit Commissioner	Credit Union Department	Racing Commission	Texas Board of Nursing	Board of Podiatric Medical Examiners	Funeral Service Commission	Optometry Board	Board of Examiners of Psychologists	Executive Council of Physical and Occupational Therapy Examiners	Board of Veterinary Medical Examiners
w.8. Automatic notification regarding subsequent checks.											X			X					
x. Offices or staff designated to perform checks.		X	X	X	X							X		X			X		X
y. Staff qualifications and training requirements.					X									X			X		
z. Separation of duties.		X			X							X					X		
<b>The criteria for reviewing criminal history information:</b>																			
g.1. Relevance of the offense.	X	X	X	X	X		X	X	X		X	X	X	X		X	X	X	X
g.2. Number of offenses committed.	X	X	X		X		X	X	X		X	X	X	X		X	X		X
g.3. Nature and severity of each offense.	X	X	X	X	X		X	X	X		X	X	X	X		X	X		X
g.4. Time elapsed since offense was committed.	X	X	X	X	X		X	X	X		X	X	X	X		X	X		X
g.5. Individual's efforts at rehabilitation.	X	X	X		X		X	X	X		X	X	X	X		X	X		X

**Summary of Regulatory Agencies' Policies and Procedures Regarding Background Checks**  
 ("X" indicates the agency's policies and procedures include the element listed on the left)

	Real Estate Commission	Residential Construction Commission	Department of Savings and Mortgage Lending	Department of Banking	Department of Licensing and Regulation	Department of Insurance	State Board of Plumbing Examiners	Board of Architectural Examiners	Board of Professional Engineers	Office of Consumer Credit Commissioner	Credit Union Department	Racing Commission	Texas Board of Nursing	Board of Podiatric Medical Examiners	Funeral Service Commission	Optometry Board	Board of Examiners of Psychologists	Executive Council of Physical and Occupational Therapy Examiners	Board of Veterinary Medical Examiners
<b>Applicant's self-disclosure of any criminal convictions:</b>																			
I.1. Nature of the offenses.	X	X	X	X	X		X			X	X	X		X		X	X		X
I.2. Dates of the offenses.	X	X	X	X	X		X			X		X		X		X	X		X
I.3. Conviction types.	X	X	X	X	X		X			X		X		X		X	X		X
I.4. Name and location where cases were tried.	X	X	X	X	X		X					X		X		X	X		X
I.5. Disposition of cases.	X	X	X	X	X		X			X		X		X		X	X		X
Number of best practice elements in agency policies and procedures	15	22	18	22	22	0	17	11	10	14	12	26	12	28	0	17	25	2	21
Percent of best practice elements in agency policies and procedures	50%	73%	60%	73%	73%	0%	57%	37%	33%	47%	40%	87%	40%	93%	0%	57%	83%	7%	70%
Number of basic and best practice elements in agency policies and procedures	18	29	26	35	33	2	22	18	21	26	18	41	14	42	2	25	37	2	31

**Summary of Regulatory Agencies' Policies and Procedures Regarding Background Checks**  
 ("X" indicates the agency's policies and procedures include the element listed on the left)

	Real Estate Commission	Residential Construction Commission	Department of Savings and Mortgage Lending	Department of Banking	Department of Licensing and Regulation	Department of Insurance	State Board of Plumbing Examiners	Board of Architectural Examiners	Board of Professional Engineers	Office of Consumer Credit Commissioner	Credit Union Department	Racing Commission	Texas Board of Nursing	Board of Podiatric Medical Examiners	Funeral Service Commission	Optometry Board	Board of Examiners of Psychologists	Executive Council of Physical and Occupational Therapy Examiners	Board of Veterinary Medical Examiners
Percent of basic and best practice elements in agency policies and procedures	39%	63%	57%	76%	72%	4%	48%	39%	46%	57%	39%	89%	30%	91%	4%	54%	80%	4%	67%

<sup>a</sup> See Appendix 3, State Auditor's Office Survey (Reporting Form), Survey Question 15 for each element's full description.

Source: State Auditor's Office background check survey and review of written policies and procedures provided by these agencies.

## Costs and Descriptions of Different Types of Background Checks

Table 13 lists the different types of background checks that a state agency or higher education institution may conduct, a description of the check, and the cost of the check. A name-based check costs between \$1.00 and \$3.72 depending on the source (Department of Public Safety secure Web site or public Web site). A fingerprint check may cost between \$15.00 and \$44.20<sup>4</sup>, depending upon the type of fingerprint service (state or federal).

Table 13

Costs and Descriptions of Different Types of Background Checks		
Type of Background Check	Description	Cost
Department of Public Safety (Department) Secure Web site - Name-based Search	This check is performed using the Computerized Criminal History (CCH) system, a statewide repository of criminal history data reported to the Department by local criminal justice agencies. CCH includes information on arrests, prosecutions, and case dispositions for individuals arrested for Class B misdemeanors or greater violations of Texas criminal statutes.	\$1.00
Department Public Web site - Name-based Search	Same as above, but information is limited to arrest cases with a corresponding conviction or deferred adjudication.	\$3.72
Department Fingerprint-based Search	This check is performed using the Automated Fingerprint Identification System (AFIS), a biometric identification system that automates the processing of arrest and applicant fingerprint card reporting to the Department of Public Safety. It contains a fingerprint database of individuals arrested in Texas.	\$15.00
Department FAST Service	The Department has established the Fingerprint Applicant Services of Texas (FAST) to provide fingerprint services. FAST fingerprints are captured via a livescan fingerprint device that makes the process more efficient and improves the fingerprint quality resulting in a more accurate match. This is a digital scan of the entire hand.  The FAST service, which is not required, automatically provides a chain of custody for the fingerprints.	\$9.95
Federal Bureau of Investigation (FBI) Fingerprint-based Search	This check is performed using the Integrated Automated Fingerprint Identification System (IAFIS), a national fingerprint and criminal history system maintained by the FBI. The IAFIS contains the largest biometric database in the world and includes fingerprints and corresponding criminal history information for more than 47 million subjects.	\$19.25

Source: Department of Public Safety.

<sup>4</sup> The \$44.20 FBI fingerprint check cost includes \$15 for the Department of Public Safety's fee, \$9.95 for fingerprint acquisition, and \$19.25 for the FBI fee. However, an applicant may be required to pay additional fees associated with the adjudication of the background check, and those fees may vary from agency to agency. The additional fees are not controlled by the Department of Public Safety.

**Related State Auditor's Office Work**

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Related SAO Work		
Number	Product Name	Release Date
07-009	A Report on the Use of Criminal History Information by Texas State Agencies and Institutions of Higher Education	January 2007
06-049	An Audit Report on State Agencies' Use of Criminal History Records	July 2006

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