

## SEARCH Resolution 98-21

Of the Membership Group of SEARCH, The National Consortium for Justice Information and Statistics

February 5, 1998

### **Criminal History Record Background Check Legislation for Non-Criminal Justice Purposes**

**WHEREAS**, the Congress is actively considering numerous bills authorizing criminal history record information background checks for a wide range of critical and sensitive employment and licensing purposes;

**WHEREAS**, it is important that non-criminal justice background checks be fingerprint-supported in order to avoid the costs and delay which arise when name-only checks produce multiple potential matches and, more importantly, to avoid the highly adverse consequences that can arise when a name-only check fails to retrieve existing criminal history record information because the subject provides incorrect information or uses an alias;

**WHEREAS**, it is important that federal legislation authorizing criminal history record background checks for non-criminal justice purposes require (except for federal agencies, federal licensees, federal employment and other federal purposes) that the check be initiated through an appropriate government agency and directed to the state central repository so as to minimize costs and maximize the reliability and effectiveness of the background check; and

**WHEREAS**, federal legislation should not limit or otherwise prescribe the fees that a state can impose for non-criminal justice background checks because these checks involve state records, compiled at state expense, for state purposes and, therefore, state legislatures and state executive agencies are the appropriate decision makers to balance the affordability of the checks with the financial needs of the state and the state repository;

**NOW, THEREFORE, BE IT RESOLVED**, by the Membership Group of SEARCH, The National Consortium for Justice Information and Statistics, that: "The Congress of the United States is urged to include the following access and processing provisions in any non-criminal justice, criminal history record information background check legislation:

- 1) expressly provide that a criminal history record information request for a non-criminal justice purpose must be based upon positive identification (*e.g.*, fingerprints) of the individual who is the subject of the check; and
- 2) expressly provide that a national criminal history background check for a non-federal agency purpose must be forwarded to the state central repository for a statewide and, if appropriate, a national check."

In addition, the legislation should not prescribe fees or, if fees are addressed, should expressly provide that the states have discretion to set the amount and the nature of the fees to be charged for processing background checks for non-criminal justice purposes.