

Using Electronic Fingerprinting for Criminal Background Checks

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Because state background checks revealed an increasing number of licensure applicants with criminal records, the Kansas Board of Nursing (BON) instructed its staff to research the problem. In 2005, the BON voted to introduce legislation requiring a background check for nurse licensure. At the same time, the BON was challenged to determine the best process for screening applicants. In 2008, the Kansas legislature passed a bill implementing a criminal background history and Federal Bureau of Investigation screening for all initial applicants for nursing and mental health technicians. At the same time, the board made the decision that this background check would be implemented using live scan fingerprint technology.

In 2003, the Kansas Board of Nursing (BON) dealt with a case in which a convicted felon stole a registered nurse's identity, including his license to practice. Around the same time, the number of applicants with criminal records discovered during state background checks was increasing. In response, the BON instructed its staff to research the problem and draft language for a possible statute change requiring federal and state criminal background checks for licensure, using the best possible process. In 2008, a bill implementing a criminal background history and Federal Bureau of Investigation (FBI) fingerprint screening using live scan fingerprint technology for all initial applicants for nursing and mental health technicians passed the Kansas legislature. This article describes the process, challenges, and outcomes.

Background Checks for Public Protection

Nurses care for vulnerable people and have access to their personal information. "Nurses are placed in a position of public trust" (National Council of State Boards of Nursing [NCSBN], 2005). Because of this, nurses are held to a higher standard, and BONs have responsibility for protecting the public health and safety of the citizens in their state.

The California BON was the first to require criminal background checks for initial licensure. In 1998, only five BONs were authorized to collect fingerprints. By 2005, 18 states required fingerprints for FBI background checks for licensure (NCSBN, 2005).

In 2004, the Centers for Medicare & Medicaid Services conducted a pilot program with seven states to create background check programs for workers in long-term care environments. The program required screening through state and federal fingerprint databases. Because no database is complete, the best practice is to use state-based registries and FBI records. In the pilot program,

FBI checks identified applicants with a criminal history missed by the state check. The pilot program, which lasted 3 years, was successful, and the seven participating states continued using the background check process (Senate Special Committee on Aging, 2008).

At the 2005 annual meeting of the National Council of State Boards of Nursing (NCSBN), delegates voted to approve the five recommendations of the Disciplinary Resource Advisory Panel, which included a recommendation to use criminal background checks on applicants for licensure (NCSBN, 2005).

At their December 4, 2005 meeting, the Council of State Governments Intergovernmental Affairs Committee adopted a resolution supporting criminal background checks for nurses applying for state licensure and urged states to use criminal background checks for all nurse licensure applicants. The committee suggested that states work with their BONs to develop plans for national criminal background checks. The committee also posed several policy questions: How to assess current workload and resources, which questions were needed on licensure applications, when criminal background checks should be implemented, whether a temporary permit should be issued before receiving a rap sheet, what the policy would be for nonreadable fingerprints, and what the appeal process for an applicant would be (Council of State Governments Intergovernmental Affairs Committee, 2005).

Background-Check Tools

"For many years, fingerprints have played an invaluable role in criminal and investigative work. For centuries, man has utilized various systems of identification such as branding, tattooing, distinctive clothing, photography, and measurement. These systems, without exception, have not produced completely desirable results. Only fingerprinting, of all methods of identification, has

proved to be both infallible and feasible” (Collins, 1991, p. 2). Fingerprints have become more common since World War II, and numerous court decisions support their use as evidence and identification (Fingering fingerprints, 2000). An effective way to identify those with a history of crime is to use state and federal background checks (Senate Special Committee on Aging, 2008). The Integrated Automated Fingerprint Identification System, maintained by the FBI, is the largest database of criminals in the world. The FBI Identification Record (rap sheet) is a snapshot of a person’s history at the time a background check report is issued (Federal Bureau of Investigation [FBI], n.d.).

For those not representing law enforcement or the courts, the FBI requires statutory authority to access the FBI database. The FBI requires certain elements to be placed in the state statute that include legislative enactment, fingerprint-based criminal background check, submission of fingerprints to the state identification bureau, categories of licensees for background checks, and an authorized government agency to be the recipient of the rap sheet (FBI, n.d.).

Fingerprints can be obtained using a fingerprint card or a live scan. A fingerprint card uses ink to print images on the fingerprint card. A live scan collects fingerprints using a scanning device and allows electronic submission to the appropriate authorities. The live scan fingerprint technology decreases errors and makes processing quicker (Senate Special Committee on Aging, 2008). In addition, a rap back system can automatically push any crime committed after the initial fingerprinting to the person’s rap sheet and report the new information to licensing agencies. The federal government is currently working on a federal rap back system (Senate Special Committee on Aging, 2008).

Legislative Process in Kansas

In 2005, the Kansas BON voted to introduce legislation requiring a background check for licensure. The BON staff and the Kansas Bureau of Investigation (KBI) worked together to develop language that was sent to the FBI for approval. During the 2006 legislative session, the language was introduced in the Health and Human Services Committee of the Kansas House of Representatives, but no action was taken in that session.

During the 2007 legislative session, the language was introduced in the Kansas Senate Public Health and Welfare Committee. The BON was successful in amending House Bill 2620 to include the implementation of criminal background history and FBI fingerprint screening for all initial applicants for nursing and mental health technicians. The bill passed the Kansas legislature and was signed by then Governor Kathleen Sebelius on May 14, 2008, with the effective date of July 1, 2008.

Implementation in Kansas

Interviews were conducted with staff members of other state BONs that implemented background checks to determine the processes used and difficulties encountered during implementation. One issue for several staff members was the amount of time between submitting fingerprint cards and receiving the rap sheets. Texas reported a 12% rejection rate for poor-quality fingerprint cards. In these cases, the applicants were fingerprinted a second time, and the new card was submitted. These rejections increased applicants’ waiting time and the BON’s costs (Texas Board of Nursing). The Florida BON reported a rejected fingerprint card could add 6 to 8 weeks to the licensure process (Pouncey, 2008).

The Kansas BON and the KBI met several times during the implementation process, developing a collaborative relationship. These meetings included the administration, information technology (IT), and legal divisions of both agencies. Meeting topics included resources, software, electronic fingerprints, rap back systems, IT connections, and concerns about unreadable fingerprint cards and the time needed to receive rap sheets.

During one meeting, the KBI demonstrated a live scan developed by Sagem Morpho and discussed the pros and cons of electronic fingerprinting. The pros included decreased time for receiving rap sheets, more accurate fingerprints, and a decreased number of unreadable fingerprints. The cons included the cost of the equipment, the need to input demographic information manually, and storage of the equipment.

The Kansas BON signed a memorandum of agreement on the dissemination of criminal history information, stating that the KBI would act as the vendor for the BON and would coordinate fingerprint results with the FBI. The BON was developing new licensing software, and the fingerprints requirement was incorporated into the new software.

The BON staff determined that purchasing the live scan equipment would benefit the BON and future applicants because of the quickness and accuracy compared with the paper-based inked fingerprints. A list of approved state and KBI contract vendors for live scan was reviewed, and the Sagem Morpho live scan was selected. However, unforeseen cuts to the BON’s budget derailed the equipment purchases.

Fortunately, the NCSBN received the Office for the Advancement of Telehealth Licensure Portability Grant, and part of the grant went toward helping state BONs implement criminal background checks. The Kansas BON requested a \$50,000 grant to implement the criminal background bill that included FBI fingerprint screening as a licensing requirement. The request included the development of new software, the purchase of two 1000-ppi mobile live scan machines, annual maintenance, and staff training time. The BON chose mobile units over nonmobile units because it planned to conduct fingerprint processing at student nurse functions.

After receiving the grant, the BON ordered the live scan machines and developed new application forms and procedures. Procedures were drafted and approved by the Kansas BON on September 17, 2008. A workshop conducted for nursing school administrators on September 15, 2008, included requirements and procedures for fingerprints. The public, health facilities, and nurses were notified using the BON's website, Twitter, Facebook, and quarterly newsletter.

Before taking delivery of the equipment, the BON was required to develop a segmented dedicated secure network with the KBI. This network created a site-to-site firewall connection for criminal background checks transmissions. The BON also was required to install dedicated network LAN ports to connect to the data center's firewall.

After receiving the two mobile live scan machines, 10 staff members participated in a half-day training session on using them. Staff members worked directly with the KBI to ensure the quality of the fingerprint process.

Outcomes and Efficacy

The work duties of the licensing clerks were reviewed, and new duties and processes were incorporated by the existing staff. Fingerprinting for licensure was implemented on July 1, 2009, and live scan was implemented on August 25, 2009. Since implementation, the BON has processed 11,846 fingerprints, and 1,724 of the applicants had a criminal history (14.5%). Of those with criminal histories, 1,273 were nursing students seeking licensure, and 371 (29%) of them had a criminal history that was not disclosed on their initial application.

The BON staff has conducted 1,311 live scans since implementation and receives live scan rap sheets 24 to 48 hours after submission. Receiving a rap sheet takes 5 to 7 days after submitting an inked fingerprint card. If a name check is required because of an unreadable fingerprint, the staff receives the rap sheet in 4 to 6 weeks.

The live scan devices have obtained fingerprints of nursing students at various nursing schools and conferences. During a 1-day conference, 75 nursing students were fingerprinted. Two local nursing schools send their students to the BON office for fingerprinting.

One of many background-check success stories involves a nursing school graduate who submitted an application for licensure. The background check revealed that the applicant had five drug and alcohol convictions. The name on the convictions did not match the name the graduate put on the licensure application. Only a high-tech background check could have revealed these convictions.

Background checks are an effective tool to identify individuals with criminal histories. Federal criminal history checks through the FBI's Integrated Automated Fingerprint Identification System identify individuals with any arrests or

convictions. Live scan fingerprint technology produces quicker reports and less chance of error than paper-based inked fingerprints.

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