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**PROGRAM MEMO**

TO: LONG-TERM CARE OMBUDSMAN PROGRAM COORDINATORS AREA AGENCY ON AGING DIRECTORS	NO.: PM 07-17(P)
SUBJECT: Background Clearance Procedures and Forms	DATE ISSUED: September 17, 2007
REVISED:	EXPIRES: Until Superseded
REFERENCES:	SUPERSEDES: PM 07-12 (P)
PROGRAMS AFFECTED: <input type="checkbox"/> All <input checked="" type="checkbox"/> Title III-B <input type="checkbox"/> Title III-C1/C2 <input type="checkbox"/> Title III-D <input type="checkbox"/> Title III-E <input type="checkbox"/> Title V <input type="checkbox"/> CBSP <input type="checkbox"/> MSSP <input checked="" type="checkbox"/> Title VII <input type="checkbox"/> ADHC <input type="checkbox"/> Other: _____	
REASON FOR PROGRAM MEMO: <input checked="" type="checkbox"/> Change in Law or Regulation <input type="checkbox"/> Response to Inquiry <input type="checkbox"/> Other Specify: _____	
INQUIRIES SHOULD BE DIRECTED TO: Susan Harrigan, Associate Governmental Program Analyst, at (916)928-2266 or Jana Matal, Ombudsman Program Manager, Office of the State Long-Term Care Ombudsman at (916)419-7510	

This Program Memo supersedes PM-07-12(P) issued June 8, 2007, and outlines the procedures that local Ombudsman programs must use to comply with the criminal background clearance requirements mandated by passage of Senate Bill 1759 (Ashburn, Chapter 902, Statutes of 2006). In addition, instructions are included for various forms related to the background clearance process. The procedures below are listed in the order in which they should be accomplished by local Ombudsman program staff. Please refer to the attached checklist for a summary of the procedures and forms (see Attachment 1). All forms will be sent via e-mail to the Local Ombudsman Program Coordinators.

Overview of the Background Clearance Process

Effective July 1, 2007, SB 1759 requires existing and prospective Long-Term Care (LTC) Ombudsman staff and volunteers to be fingerprinted and obtain background clearances prior to certification as LTC Ombudsman representatives. See Attachment 2, Welfare and Institutions Code Section 9719, to review the new law.

The Office of the State Long-Term Care Ombudsman (OSLTCO) will notify Area Agencies on Aging (AAA) and local Ombudsman programs when to send Ombudsman staff and volunteers to be fingerprinted. The start date is dependent upon setting up systems and the execution of necessary contracts.

Live Scan sites will send fingerprints to the Department of Justice (DOJ) electronically. DOJ will forward fingerprints to the Federal Bureau of Investigation (FBI) to obtain out-of-state criminal history records on applicants. Results of DOJ and FBI record checks will be sent to Department of Social Services (DSS), Community Care Licensing Division (CCLD), Caregiver Background Check Bureau (CBCB).

DSS staff will analyze the records and determine if the applicant is approved, denied or eligible to apply for a criminal record exemption. The evaluation criteria will be the same criteria that DSS uses to evaluate the backgrounds of employees, volunteers, and licensees of community care facilities that have contact with residents.

DSS will notify OSLTCO staff of their determinations, and OSLTCO will forward that information via e-mail to the local Ombudsman programs. DSS will also notify the OSLTCO if an Ombudsman representative subsequently commits a crime. (See Attachment 3 for detailed information on processing criminal history records and Attachment 4 for information on DSS processing of records when a criminal history exists.)

This process will be a positive step for the LTC Ombudsman Program because it will provide additional levels of protection for residents in LTC facilities and a greater sense of security and comfort for them by ensuring that Ombudsman representatives have not committed serious and violent crimes.

Please be aware that the OSLTCO does not anticipate many denials of Ombudsman representatives. People who become Ombudsman staff and volunteers work in the program because they want to make a difference. As we implement this program, it will be important for Ombudsman Program Coordinators to communicate how much we value our staff and volunteers and that this process is not personal, nor a reflection of a problem within the program.

Funding and AAA Logistics

The Fiscal Year (FY) 07/08 Governor's Budget contains an augmentation of \$68,000 for local assistance funding for fingerprinting activities. The Budget also contains \$21,000 for FY 08/09 and ongoing. The OSLTCO bases this allocation to AAAs on the Ombudsman Funding Formula (see Attachment 5). The allocation is included in the Ombudsman General Fund Title VII-A section of the planning estimate.

The AAAs will receive State General Funds to pay the rolling fee for Live Scan fingerprinting. AAAs will make this funding available to Ombudsman programs that will coordinate the fingerprinting of their existing and prospective Ombudsman staff and volunteers. In most cases, the cost of Live Scan fingerprinting is under \$25. Local programs can use State General Fund or Federal Citation Penalty funds if local Ombudsman programs overspend and need additional funding to pay for fingerprinting. Local programs may not use Federal Older Americans Act funds. If local programs do not spend all funds for fingerprinting, they may use the funds for other purposes allowable with State General Fund monies.

Local Ombudsman programs will not pay for background clearances, only fingerprinting. The OSLTCO will contract with DSS to analyze and process the criminal history records, and to pay for the DOJ and FBI criminal history reports.

Local Ombudsman Program Logistics

1. Live Scan Sites

Local Ombudsman programs have contacted nearby Live Scan site(s) to arrange for fingerprinting and to determine the preferred method of payment. Local programs have established payment methods to pay Live Scan sites for fingerprinting charges or reimbursement methods to repay applicants who pay for fingerprinting fees. Ombudsman programs must use established accounting processes to reimburse applicants who pay Live Scan sites for fingerprinting.

Many Live Scan sites only accept cash, and many require appointments or take walk-ins only on specified days. Some sites accept checks, credit cards or money orders. Coordinators should inquire about reduced fees for fingerprinting volunteers, as some sites may waive fees or offer discounts for volunteers. Many Live Scan sites have mobile services that can come to the local Ombudsman program's office to fingerprint groups of people.

Local programs can view a list of all Live Scan sites in the State and the cost of Live Scan fingerprinting at each location at the following Internet link:

<http://ag.ca.gov/fingerprints/publications/contact.php>

Before fingerprinting begins, each Local Ombudsman Program Coordinator, or his/her designee, should contact the Live Scan providers they are planning to use to ensure that the new applicant information has been added to their fingerprinting devices. Taking this step now will avoid delays or confusion that could occur when staff and volunteers present themselves to be fingerprinted. There are steps each of the providers must take so that the Live Scan machines will be able to process the fingerprints of all Ombudsman representatives.

In order to confirm that the providers have downloaded the necessary information from the DOJ website, contact the Live Scan provider(s) and ask them to type the following information into their Live Scan device:

ORI # AA491

Applicant Type: Department of Social Services and CDA Ombudsman

If the device does not accept the ORI number and Applicant Type, ask the provider to access the DOJ website and download the updated tables.

After the OSLTCO notifies local programs to begin fingerprinting, every existing Ombudsman and all new applicants must go to a Live Scan site and be fingerprinted. Local programs will need to notify current and prospective Ombudsman staff and volunteers of the new background clearance requirement. All previously fingerprinted Ombudsman staff and volunteers need to be fingerprinted again, and the

results evaluated according to the requirements of the new law. This will enable DOJ to notify DSS of any subsequent arrests.

All existing staff and volunteers must be fingerprinted and receive a background clearance notice prior to January 31, 2008. Existing representatives should be fingerprinted by mid-January in order to meet this requirement.

2. Criminal Record Statement (LIC 508B)

The Criminal Record Statement (LIC 508B) is a DSS form that requires each individual to disclose all criminal convictions, the circumstances, and location of the crime(s). This form **MUST BE** completed by every existing local Ombudsman and every new applicant prior to being fingerprinted (see Attachment 6). Giving false or incomplete information on the LIC 508B is sufficient cause to disqualify an applicant.

If an applicant or existing Ombudsman representative discloses a criminal conviction on the Criminal Record Statement, local Ombudsman staff will place a copy of the form in an enveloped marked "confidential" and mail it to the following address:

Caregiver Background Check Bureau, CCLD/CDSS
744 P Street, Mail Station 19-62
Sacramento, CA 95814
Attention: Long-Term Care Ombudsman Analyst

If the applicant does not disclose a criminal conviction, do not send a copy to DSS. Local Ombudsman programs must keep the original LIC 508B forms for every new applicant and existing Ombudsman in a secured file. If DSS determines that a criminal record exemption is necessary, the applicant will need a copy of their LIC 508B on file in your office.

3. Requirement for Criminal Background Clearance

The Requirement for Criminal Background Clearance form (OSLTCO S003) is a statement that every existing Ombudsman and new applicant must sign and date before being fingerprinted (see Attachment 7). This document states that everyone who applies for certification as an Ombudsman must undergo a background clearance and the applicant's signature verifies that he/she:

- Knows he/she must complete the criminal background clearance process.
- Understands that he/she must complete the Criminal Record Statement (LIC 508B).
- Understands that conviction of a prohibited crime will result in denial of certification in the Long-Term Care Ombudsman Program.
- May file a criminal record exemption for certain types of crimes to be allowed to work in the Ombudsman program.
- May be requested to pay for fingerprint rolling fees and be reimbursed.

This form must be maintained in a secured file at the local Ombudsman program as an attachment to applications from new applicants. Forms must also be kept on file for existing certified Ombudsman staff and volunteers.

4. Request for Live Scan Service Form

The Request for Live Scan Service form (LIC 9163) must be completed by every new applicant and all existing local Ombudsman staff and volunteers prior to being fingerprinted. Each individual will take this form to the Live Scan site to be fingerprinted. This form is customized for use by the LTC Ombudsman Program. Do not allow Ombudsman staff and volunteers to use generic or blank forms at local Live Scan vendors.

Partially completed forms will be sent from OSLTCO to local Ombudsman programs via e-mail. Attachment 8 indicates the following sections of the form that will be completed by OSLTCO. Local Ombudsman Program Coordinators, or their designees, need to ensure that the following sections of the form are completed prior to giving the form to each individual:

- ORI: AA491 -- This number identifies DSS as the agency that will receive the records.
- Type of Application: License, Certification, Permit
(Do not check Employment or Volunteer)
- Job Title: Ombudsman
- Agency Address: CA Dept of Social Services, Mail Code 03502,
P.O. Box 944243 Mail Station 19-62, Sacramento, CA 94244
- Misc. No. BIL (Agency Billing Number): 148548 -- This number is used for billing purposes.
- Facility Number: 349822222 -- This number is assigned to the LTC Ombudsman Program to identify its staff and volunteers.
- Level of Service: DOJ FBI
- Employer: LTC Ombudsman, 1300 National Drive, Sacramento, CA 95834,
Ph # (916) 419-7510

The applicant must complete Section 5 “Applicant Information.”

New applicants should be given this form within the last two days of the 36 hour certification training and before completion of the internship. All new applicants must present themselves at a Live Scan site within three business days after being given the form.

Unless the local Ombudsman program has arranged for a mobile fingerprint service at the office, the following information must be given to all individuals to be fingerprinted:

1. The Live Scan location(s) the local program has selected.
2. The acceptable methods of payment at each of the Live Scan locations.
3. Availability of services at each location, e.g., walk-in service, appointments, hours of service, etc.
4. Properly completed Request for Live Scan Service form (LIC 9183) (see sample in Attachment 8).

It is very important that individuals know that the local Ombudsman program will only pay for fingerprint rolling fees at the Live Scan site, which will usually not exceed \$25. The Agency Billing Number on the Request for Live Scan Service form tells the Live Scan service provider that the applicant does not pay the DOJ and FBI record search fees. DOJ will bill DSS for those fees. CDA will reimburse DSS through an Interagency Agreement.

All local Ombudsman programs that currently require fingerprinting of their staff and volunteers must have new applicants take two Request for Live Scan Service forms to the Live Scan provider. One form will include the same information that has been submitted in the past. The other form will include the information indicated in this Program Memo.

5. Ombudsman Fingerprint Reporting Form

The Ombudsman Fingerprint Reporting Form (OSLTCO S004) notifies the OSLTCO that new applicants have received the Request for Live Scan Service forms and were sent to be fingerprinted (see Attachment 9). Within two days after applicants receive the Request for Live Scan Service form, local Ombudsman program staff will complete the form and send it via e-mail to the OSLTCO at this following address: stateomb@aging.ca.gov. All information on the form must be completed.

OSLTCO staff needs to know the names of new applicants to identify cleared individuals and to reconcile DOJ invoices which list individuals who were fingerprinted. This form is used only for new applicants to the local program. OSLTCO already has the necessary information about existing Ombudsman staff and volunteers.

6. Application for Ombudsman Certification Form (OSLTCO S0002) [formerly titled Ombudsman Certification Form (0001 Rev. 06/07)]

Attachment 10 is the revised version of the Ombudsman Certification Form. The form has been revised to include a statement that the applicant will submit Live Scan fingerprints and has signed the Requirement for Criminal Background Clearance form. Other changes in this form include:

- Date of Birth is added.
- Age ranges were removed.
- Occupation is reworded from “housewife” to “homemaker”.
- Position that was held if the applicant was ever employed in a long-term care facility is added.
- Whether the individual has been conserved is added.

This form shall be completed after the new applicants have finished 36 hours of training, completed the Requirement for Criminal Background Clearance, and have received the Request for Live Scan Service form.

The Application for Ombudsman Certification form must be completed by every new applicant and submitted to OSLTCO at the same time the Coordinator submits the Request for Certification of Ombudsman Representatives form (OSLTCO S001) (see Attachment 11). Existing Ombudsman staff and volunteers do not need to complete the Application for Ombudsman Certification form.

7. Decertification

The new background clearance process reinforces the requirement that local Ombudsman programs must submit a Decertification of Ombudsman Form (OSLTCO S005) to OSLTCO no later than five business days after the last day the individual works in the local program (see Attachment 12). This form was previously titled Withdrawal/ Non-Renewal of Ombudsman Certification Form 0009 0904. It is not acceptable to wait until the end of the fiscal year to decertify individuals who have left a local Ombudsman program earlier in the year.

If an applicant is fingerprinted and then decides not to complete training, or is dropped from the internship program, the Coordinator or designee must notify the OSLTCO within five business days. Additionally, if the Coordinator, or his/her designee, receives information that an individual who is eligible for an exemption request decides not to proceed with the process, the Coordinator must notify OSLTCO within five business days. This could occur if the individual chooses not to file an exemption request either during the initial certification process or after a subsequent conviction, for example. The individual's name will be decertified or removed from the DSS data system.

Decertifying individuals quickly is now more important because the OSLTCO is required to notify DSS when individuals are decertified so that they will not incur the costs involved in continuing to run or research a decertified persons' criminal history. Additionally, if the individual has left the Ombudsman program, the DSS has no legal right to receive subsequent arrest information.



Lynn Daucher
Director

Attachments (12)