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## EVALUATOR MANUAL TRANSMITTAL SHEET

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<p><b><u>Distribution:</u></b></p> <p>___ All Child Care Evaluator Manual Holders</p> <p>___ All Residential Care Evaluator Manual Holders</p> <p><u>X</u> All Evaluator Manual Holders</p>	<p><b><u>Transmittal No.</u></b> <b>10RM-09</b></p> <hr/> <p><b><u>Date Issued</u></b> August 2010</p>
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**Subject:**

Reference Material – Background Check Procedures

**Reason for Change:**

Add Section 7-1120

**Filing Instructions:**

REMOVE – page 1, 11

INSERT –pages 1, 11, 11.1, 11.2, 11.3, 11.4, 11.5

**Approved:***ORIGINAL DOCUMENT SIGNED BY**THOMAS STAHL**08/02/2010*


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**7-1110 CRIMINAL RECORD STATEMENT (LIC 508)****7-1110**

All license applicants, non-client adult residents, and employees associated with the facility at the time of application must have a criminal record clearance or a criminal record exemption (Evaluator Manual Section 7-1700, Exemption) prior to licensure. Subsequent to licensure, all persons having contact with clients of or residing in a licensed facility must submit fingerprints to the Department of Justice and the Federal Bureau of Investigation and have a California clearance or a criminal record exemption prior to initial presence in the facility. Because a subject may begin work or be present in a licensed facility before a response from the Federal Bureau of Investigation is received, subjects submitting fingerprints must sign a Criminal Record Statement (LIC 508). This statement requires the subject to disclose any prior convictions. All convictions and conduct associated with marijuana convictions must be disregarded, as covered by the Marijuana Reform Act of 1977 (Health & Safety Code sections 11361.5 and 11361.7). The LIC 508 informs the licensee that they must inform their Licensing Program Analyst that the subject disclosed convictions on the LIC 508 and send the analyst a copy of the subject's LIC 508. For TrustLine applicants, the TLR 508 must be used.

If the subject discloses convictions on the LIC 508, other than a minor traffic violation or minor marijuana convictions over two years old, the Regional Office must immediately forward a copy of the LIC 508 and any attached explanation or documentation to the Caregiver Background Check Bureau. An individual who discloses convictions cannot work or be present in a licensed facility until an exemption has been granted.

The Caregiver Background Check Bureau will maintain the LIC 508 and match it with a rap sheet when received. The convictions disclosed must be compared with the convictions on the subject's RAP sheet. Discrepancies and omissions must be factored in to the exemption decision (see Evaluator Manual Section 7-1730).

In cases where the subject discloses convictions on the LIC 508 and the convictions do not appear on his/her rap sheet or a clearance is received, the licensing agency must use the self disclosure in lieu of or in addition to the rap sheet. Treat the disclosure the same as a subsequent conviction (see Evaluator Manual Sections 7-1820 and 1821). The subject may be subject to removal (see Evaluator Manual Section 7-1815).

County licensing agencies conduct their own investigations and follow-up on LIC 508 disclosures. Licensing agencies should make sure that the latest revision date of the LIC 508 is available to and used by applicants and licensees. LIC 508s may be downloaded from the Internet and copied.

**7-1120 EXCLUDED INDIVIDUALS REJECTED BY THE DEPARTMENT OF JUSTICE INTERFACE REPORT (LISD2LAR)**

Field offices receive a Licensing Information System Generated Excluded Individuals Rejected by the Department of Justice Interface Report (LISD2LAR) when an individual who is identified as having been excluded from a facility attempts to become associated to a new facility. This report is intended to ensure that Regional Offices are aware of the need to verify whether it is appropriate for the individual to become associated to a new facility. The report prints at each field office default printer and identifies the individual by name, social security number, and date of birth. This report will print when the

**7-1120 EXCLUDED INDIVIDUALS REJECTED BY THE DEPARTMENT OF JUSTICE INTERFACE REPORT (LISD2LAR) (Continued)**

Licensing Administrative Action Records System (LAARS) identifies that an individual has a prior administrative action. The report also includes the date that the individual submitted fingerprints to become associated to a new facility, the facility number for their new association, and the current Department of Justice response to the fingerprint submission.

As these individuals have a prior administrative action, it is important that the Regional Manager or designee review these cases quickly to ensure that individuals who may be a risk to clients are not allowed to work or reside in a licensed facility. If the individual does not have a criminal record, the facility or applicant will have likely received a clearance notice from Department of Justice. In the case of employees, the licensee may have hired someone based on the Department of Justice clearance notice they received.

**Cases with a Clearance**

If the individual does not have a criminal record or possible Child Abuse Central Index (CACI) match, the prior administrative action was based on conduct only. For these cases, the Regional Office is to proceed as follows:

- Contact the facility to determine if and how the individual is associated to the licensed facility. This action can be accomplished by informing the facility that Community Care Licensing is updating its records and confirming the individual's current association with the facility;
- Check Licensing Information System and legal sources for the individual to identify the specific prior legal action and facility association;
- Obtain and review the prior Decision and Order or other legal documents through a review of the Licensing Administrative Action Records System Extranet secure website.
  - Once logged-on to the system, the Regional Manager or designee will enter identifying information for each individual. In order to obtain information from the system, the identifying information entered must exactly match the information contained in Legal Case Tracking System (LCTS). If the query does not reflect a match with any of the personal identifiers, then there are no identified licensing administrative actions against the individual.
  - If the individual is identified as having been involved in a licensing administrative action, the Regional Manager or designee will need to obtain more information about the licensing action and to assess how that prior action affects their current case. The system will include document links to the signed legal documents. If the legal documents cannot be obtained, please

**7-1120 EXCLUDED INDIVIDUALS REJECTED BY THE DEPARTMENT OF JUSTICE INTERFACE REPORT (LISD2LAR) (Continued)**

send an email request, stating the individual's name and case number, to the Legal Division at [LAARS-CCL@dss.ca.gov](mailto:LAARS-CCL@dss.ca.gov).

- Decision and Order and Stipulation are binding legal documents. The Regional Manager or designee should discuss with their consulting attorney before making a decision. Legal action, including issuance of an immediate exclusion order will be necessary if the person is not already subject to a presently enforceable exclusion order. This action must happen quickly as many of these individuals have the right to employment and presence in a community care facility with a California clearance.

**Actions after Case Review**

Several possible actions may be initiated after review:

- If it is determined that the individual is under a presently enforceable exclusion order preventing their presence in a licensed facility, the Regional Manager or designee should immediately notify the facility that the individual is not approved to work or reside in the facility and must be removed. If there is any indication or suspicion that the individual is or will be working or residing in the facility, it may be necessary for the licensing program analyst to conduct a case management visit to verify that the individual is not present. The Regional Manager or designee must send a copy of the Decision and Order to the licensee and contact Caregiver Background Check Bureau via email at [CBCB-AAFlags@dss.ca.gov](mailto:CBCB-AAFlags@dss.ca.gov). The Caregiver Background Check Bureau will notify the Community Care Licensing Division (CCLD) Application Support Desk to update the Licensing Information System administrative action comment section to reflect the current exclusion. The Regional Manager or designee must work with the consulting attorney to consider any other appropriate legal action (i.e., denial, revocation, or exclusion).
- If it is determined that the individual is not under a presently enforceable exclusion order preventing their presence in a licensed facility but the Regional Office deems the individual poses a risk to the health and safety of clients in care, consult Legal for further action. The Caregiver Background Check Bureau cannot unilaterally deny the clearance or association based on a Regional Office's belief that the person will be a risk to clients. The Regional Office must take the affirmative step of issuing an exclusion order before the person can be prohibited from working or residing at the facility.
- If it is determined that the individual is not under a presently enforceable exclusion order and no affirmative legal step to exclude has been taken, he or she has a legal right to work or reside in a facility, the Regional Manager or designee shall notify the Caregiver Background Check Bureau that the individual may now be associated. Notification shall be made via e-mail address at [CBCB-AAFlags@dss.ca.gov](mailto:CBCB-AAFlags@dss.ca.gov) and

**7-1120 EXCLUDED INDIVIDUALS REJECTED BY THE DEPARTMENT OF JUSTICE INTERFACE REPORT (LISD2LAR) (Continued)**

shall include the individual's Personnel Identification number and assigned facility number.

- The Caregiver Background Check Bureau will enter the new association and criminal history status for the individual into the Caregiver Background Check system.
- The Caregiver Background Check Bureau will then notify the Community Care Licensing Division Application Support Desk to change the administrative action flag status to "reinstated" and annotate the following comment: "On (date) Regional Office #\_\_\_ reviewed the legal case and the individual's history and a decision has been made to allow the individual to be licensed, reside or work in a facility."
- If it is determined that the individual was flagged inaccurately, the Regional Manager or designee must notify the Community Care Licensing Division Application Support Desk to remove the administrative action flag. Their telephone (916) 323-6102 or [cldappsuppdesk@dss.ca.gov](mailto:cldappsuppdesk@dss.ca.gov).
- An administrative action flag is only deemed inaccurate if the individual was never the subject of an administrative action to revoke or deny their licenses, or to exclude them from a facility.
  - If the individual was involved in a prior action, but was not revoked, denied, or excluded (for example, individual was approved to work through a stipulated probation), it may also be appropriate to notify Legal that the information in the Legal Case Tracking System for the individual, needs to be corrected to display the appropriate status or case closure information. Notify Legal via e-mail at [LAARS-CCL@dss.ca.gov](mailto:LAARS-CCL@dss.ca.gov).
  - If the individual was previously denied, revoked, or excluded but is determined to now be allowed to be associated to a facility, their association needs to be restored as noted above, but the prior flag will not be removed.

**Cases with a Prior Clearance that now have a criminal conviction, arrest or Child Abuse Central Index (CACI) hit**

If the individual has a previous clearance and the administrative action was based on conduct not related to the current conviction or arrest, the Caregiver Background Check Bureau will contact the Regional Office by e-mail to inform them that the individual has a current criminal history.

After reviewing the administrative action and consulting with their legal consultant, the

**7-1120 EXCLUDED INDIVIDUALS REJECTED BY THE DEPARTMENT OF JUSTICE INTERFACE REPORT (LISD2LAR) (Continued)**

Regional Manager or designee must contact the Caregiver Background Check Bureau via e-mail address at [CBCB-AAFlags@dss.ca.gov](mailto:CBCB-AAFlags@dss.ca.gov), to take one of the following steps:

- If the Regional Manager or designee determines that the individual may be licensed or present in a facility, the Regional Manager or designee must notify the Caregiver Background Check Bureau that the exemption process may begin. The case will be assigned to an exemption analyst.
- If the Regional Manager or designee determines that the individual may not be licensed or present in a facility, the Regional Manager or designee must work with Legal and the Caregiver Background Check Bureau for further action. The Regional Manager or designee shall then work with the consulting attorney to take appropriate action (i.e., denial, revocation, or exclusion).

**Cases with Prior Criminal History**

If the individual has a prior conviction, arrest, or possible Child Abuse Central Index match, the Caregiver Background Check Bureau will receive a rap sheet or notice of a possible Child Abuse Central Index match from the Department of Justice. For these cases, the Caregiver Background Check Bureau will review the information received from the Department of Justice and determine if the previous administrative action is related to an exemption denial, or an exclusionary action taken by either the Caregiver Background Check Bureau or the Program Office.

- If it is determined that the previous administrative action is related to an exemption denial, the Caregiver Background Check Bureau will obtain and review the legal documents to determine if the individual can now go through the exemption review process. If the individual is eligible, the Caregiver Background Check Bureau will process the exemption case using current procedures. If the individual is not eligible, the Caregiver Background Check Bureau will notify the Community Care Licensing Division Application Support Desk to update the administrative action comment section.

**Standardized Language to be used in Licensing Information System Administrative Action Comment Section**

If the Regional Manager or designee determines that it is okay for the individual to be licensed or present in the facility – the administrative action flag will be changed to “AA-reinstated” and a comment added that says:

On (date) Regional Office #\_\_\_ reviewed the legal case and the individual’s history and a decision has been made to allow the individual to be licensed, reside or work in a facility.

**7-1120 EXCLUDED INDIVIDUALS REJECTED BY THE DEPARTMENT 7-1120  
OF JUSTICE INTERFACE REPORT (LISD2LAR) (Continued)**

If the Regional Manager or designee determines that it is not okay for the individual to be licensed or present in the facility – the administrative action flag will not be changed and one of the following comments will be added:

On (date) Regional Office # \_\_\_ reviewed the legal case and the individual's history

and the Stipulation/ Decision and Order excluded the individual for life. The individual is not eligible to be licensed, reside or work in a facility.

and after legal consult, the Department deems the individual poses an immediate risk of harm to the health and safety of clients in care, legal action(s) proceeding.

and the Stipulation/ Decision and Order excluded the individual for \_\_\_ years, from \_\_\_ to \_\_\_. Therefore, he/she is not eligible to be licensed, reside or work in a facility until after \_\_\_.