Identified Offenders

The current definition of an Identified Offender (prior to January 2011) is someone who was convicted of a felony under the Health Care Worker Background Act (HCWBA) or was convicted of a sex offense. The Identified Offender definition has been changed to include any person who "has been convicted of, found guilty of, adjudicated delinquent for, found not guilty by reason of insanity for, or found unfit to stand trial for, any felony offense in Section 25 of the Health Care Worker Background Act or any sex offense defined in subsection © of Section 10 of the Sex Offender Management Board Act." The new law also gives the State Police the authority and latitude to define any other resident as an Identified Offender, even if they don’t meet the above definition. The new definition of Identified Offender removes some of the crimes in Section 25 of the (HCWBA), as it applies to residents: violation of the Nurse Practice Act, the Illinois Credit Card and Debt Act, the Cannabis Control Act or the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act. However, these crimes, whether felonies or misdemeanors, still apply to employees of a nursing home.

- The act requires facilities to request a criminal history background check (UCIA name check) for all persons age 18 or older, seeking admission to the facility, within 24 hours after admission. (7 days a week, even on weekends!!!) For this reason, it is recommended that the "consent for fingerprinting" be obtained during the admission inquiry process.

- Purpose: to discover and evaluate potential dangerous individuals entering nursing homes as soon as possible.

- If you are unsure whether the offense makes a resident an Identified Offender:
  - Call the Illinois State Police between 8:30am-5pm-(815)740-5160 press option (2) two right away.

- The Hospital Licensing Act requires hospitals to do background checks in certain instances. They should notify the facility if the UCIA has been initiated. Probably not happening!!!

If the UICA name check returns with an identified offense (you must check the “actual crimes” listed on the results, do not go by the “Conviction Status” listed on the background check results) the facility MUST:

1. Initiate a fingerprint check within 72 hours! (complete within 5 days)
   - Nursing Home Resident Fingerprint Inquiry Consent Form (3 copies)
     - 1 sent to Livescan
     - 1 the facility keeps
     - 1 resident copy

The law only permits a waiver if the person is bedridden and immobile. To request a waiver within 72 hours call (217)785-2629
2. **IMMEDIATELY** submit IDPH Identified Offender Information (IOI) Form
   - Fax to the Identified Offender Program (IOP) (312)814-2757
     a. Attach the UICA name check response

3. Expect IOP confirmation within 1 (one) business day
   - Call (312)793-3913 if you don’t hear from the IOP in 1 (one) business day!

4. After confirmation expect a call from the Illinois State Police “Division of Internal Investigation” within 3 (three) business days to schedule an on-site interview with the Administrator/Resident.

5. Once the investigator has completed the investigation a forensic psychologist will review all documentation to complete “risk assessment”.
   - May contact the resident for an interview.

6. The facility will receive an **Identified Offender Report and Recommendations** within 4-6 weeks.
   - Extent of implementation of security measures
   - Recommendations **shall** be incorporated into the facility’s plan of care

If the facility determines based on the **Identified Offender Report and Recommendations** that it cannot manage the identified offender safely within the facility, it shall commence involuntary discharge proceedings. If the Identified Offender Report and Recommendations indicate that the resident is a potential danger to self or others and cannot safely keep the resident, the facility must transfer the Identified Offender within three days after receiving the Report.
(Emergency Involuntary Discharge)

Separate **Discharge Notification** for Identified Offender:

- Resident is hospitalized more than 10 days and is not expected to return to facility, or;
- Discharged, dies the facility **MUST:**

1. **Within 3 (three) business days:**
   - Notify IDPH IOP by fax 9312)814-2757
     o on **Identified Offender Information Form**

2. Confirmation or receipt from IOP within 1-2 business days
TO: All Facilities

FROM: Identified Offenders Program

DATE: 2/8/2011

RE: Identified Offenders Program Requirements

Dear Administrator,

Since our information packet went out in December, we have received many calls regarding the Identified Offender Program process. This notice is being sent out to clarify some of the issues we have noted and to answer some important questions that have come up regarding the new fingerprinting requirements. Please be sure to share this information with any personnel that are responsible for processing of any Identified Offender submissions at your facility.

NOTE: For PILOT facilities, the majority of this information applies to the NON-PILOT program. You will still be following the non-pilot process and using the non-pilot forms for residents age 65 or older, and for any residents admitted prior to 2/1/2011. For residents age 18 to 64 who were admitted on or after 2/1/2011, use the process and forms from the pilot information packet sent on January 28, 2011.

The new requirements referred to in our mailing from December 6, 2010, took effect on Monday, January 10, 2010. To ensure that the process goes smoothly for your facility, please be sure to read the information below, as well as the information in our previous mailing. If you have any questions, please call us at 312-793-3913 or 3914.

Thank you.

- In order to be in compliance with the law and to avoid ordering unnecessary fingerprint checks, please be sure to check the crimes on the background check results against the Identified Offender Conviction List. This list was included in our 12/6/2010 information packet. It has also been attached to this mailing for your convenience. Do not go by the “Conviction Status” listed on the
background check results. You must check the actual crimes listed on the results, as stated in the instructions in our prior mailing.

- Be sure to ONLY use the CURRENT Identified Offender Information Form which is ATTACHED to this mailing for your convenience. (This is the same form that was sent in the December mailing.)

- PILOT: If your facility is in the Pilot, you will use the PILOT forms for residents age 18 to 64 admitted between 2/1/2011 and 7/31/2011. All other residents will follow the regular (non-pilot) process and forms.

- We have received many Identified Offender Information Forms that have missing and/or incorrect information. Please review the instruction sheet provided with the form. The instructions were written so they could be used as a checklist to be sure your form is completed properly. Be sure to use the correct facility name and Facility ID to match your license. If you are unsure of your Facility ID number or name, you can look up your facility on the website below.
  http://www.idph.state.il.us/webapp/LTCAApp/ltc.jsp

Failure to properly complete the form may delay processing of your submissions and/or cause your submissions to be rejected.

- Be sure to CORRECTLY indicate whether the resident is a sex offender. As stated in the instructions, both convicted and registered sex offenders are treated the same. It is possible that a resident is not required to register and yet have convictions that qualify him/her as a sex offender.

- All submissions (Admissions AND Discharges) must include an Identified Offender Information Form AND a copy of the resident’s background check results. Sex offender website printouts should only be included if the resident is a registered sex offender. DO NOT INCLUDE PRINTOUTS FOR REGISTRANTS THAT ARE NOT YOUR RESIDENT.

- Please do not submit extraneous documents with the required reporting paperwork. Any supplemental information that is relevant to the risk assessment process should be provided to the investigator at the time of the resident’s interview. Please be sure to provide complete and accurate information to the investigators to ensure a thorough and accurate analysis.

- ALL backgrounds must be ordered ELECTRONICALLY, according to the updated law. Fingerprint cards cannot be used. If you are not submitting electronically already, please contact the state police at 815-740-5160 for assistance in setting up electronic submissions.

- For any questions regarding PENDING or HELD responses from the state police when you request a background check, you will need to contact the State Police Bureau of Identification at 815-740-5160.

- If you are working with a third party (vendor, corporate office, etc.), be sure that the third party submits the background checks to the state police promptly and
returns the results to the facility promptly. Some backgrounds have been delayed when third parties are involved, resulting in compliance problems.

- The start date of January 10, 2011, is based on REPORTING date. Therefore, all submissions at this time should be following the new process, including ordering the FBI check, regardless of admission date.
- **PILOT:** Pilot residents (age 18 to 64 and admitted on or after 2/1/2011) must follow the pilot process. All other residents should follow the non-pilot process.
- An updated live scan vendor list was recently released and has been attached to this mailing for your convenience. Please note, the listings provided are just for informational purposes to assist in locating a vendor. You may use any live scan vendor, whether they are on the list or not.
- Be sure to utilize the Nursing Home Resident Applicant Fingerprint Consent Form provided, which has the code numbers that the vendor will need to properly process the fingerprints.
- **PILOT:** Pilot facilities will need to be sure to use the correct consent form (Pilot or Non-Pilot) based on the resident’s age and admission date. The codes on each form are different.
- Additional information is required to process FBI fingerprint checks. As a result, the consent form for the FBI checks has been updated to provide space for the additional information. The updated form is attached to this mailing.
- **UPDATE TO PROCESS:** Please include a copy of the consent form with all submissions (pilot and non-pilot).

The following are some frequently asked questions and answers.

**Q:** What should a facility do if a resident (or guardian) refuses to sign the consent form for the required live scan fingerprinting?

**A:** Undergoing the fingerprint process is statutorily required of the facility for admission of the resident. If the resident refuses to be fingerprinted, the facility can reserve the right to deny admission. For this reason, it is recommended that the consent for fingerprinting be obtained during the admission process.

**Q:** Are residents required to have photo ID’s in order to be fingerprinted by live scan vendors?

**A:** Photo ID’s are not legally required by live scan vendors at this time, although some vendors have internal polices requiring ID’s. If you are having problems with this requirement, please try a different vendor. Please note, new rules governing licensing of live scan vendors are being worked on which impose certain identification requirements on the live scan vendors. IDPH and the State Police are currently working to address the identification requirements in the proposed rules.

**Q:** Do waivers apply for the State & FBI fingerprint check also?
A: This issue has not been fully resolved. Once this is resolved, a follow-up notification will be sent out to explain how this will be handled.

Q: With regard to the State & FBI fingerprint check, what must be done within the 72-hour deadline?
A: The fingerprint check must be arranged within the 72 hour deadline. The actual fingerprints must be taken within 5 business days. This should allow enough time for vendors to accommodate facilities in rural areas. This applies to both pilot and non-pilot fingerprint checks. This deadline also applies to UCIA fingerprint checks.

Q: What does 15 days old refer to regarding UCIA name checks?
A: The 15 days refers to the time between when the State Police sent the report to the facility, which is indicated at the top of each page of the report, and the date the background check is reported to the Identified Offenders Program. In general, this should not be an issue, as you should be ordering the FBI check and sending in the reporting documents within 72 hours of receipt of the background check results. Usually, this only affects facilities who order background checks before admitting residents, or when a facility needs to report an existing resident who should have been reported, but for some reason never was reported.

Q: What should be done when a resident is admitted, but then, during the reporting process, must be admitted to the hospital? How should this be reported?
A: The State Police investigators have a limited amount of time to complete the resident interview. Therefore, you will need to work with the investigators to get the interview completed within their timeframe. If this is not possible, the facility will need to resubmit the IO Information Form and UCIA name check results once the resident returns to the facility. The UCIA name check results must be no more than 30 days old. If the Fee Applicant (State & FBI) fingerprint check was completed less than 30 days prior to the return of the resident, you will NOT need to order a new check. Be sure to indicate the date of the original check on the IO Information Form.

Q: How can a facility appeal a risk recommendation?
A: There is no appeal process for risk recommendations. It is not the intent of this program to assess residents in a given facility on an ongoing basis. The IOP process provides an assessment at the time of admission to assist the facility in planning the care of the resident. It is the facility’s responsibility to monitor the resident and adjust the care plan accordingly.

Q: According to the instructions, it looks like a resident could be required to be fingerprinted twice. Is this correct?
A: Yes. In a small number of situations, a resident may need to be fingerprinted twice. If the UCIA name check response comes back with multiple hits or if the background doesn’t match the individual (for example, if you submit a female but the background is for a male), you will need to order a UCIA fingerprint check. The results of this check will come back to the facility. At that point, the facility must check the crimes to verify if the resident is an Identified Offender. If the resident is an Identified Offender, you must then order the Fee Applicant state & FBI check using the consent form provided in our packet.

Q: I haven’t received all the paperwork yet. Can I send what I have and send the rest later?
A: No. You must have all the required paperwork when you fax over any submissions.

Q: I’m trying to be pro-active. Can I send the background check from a previous facility and send the updated background when I get it?
A: No. Wait for the updated background check because you never know if there will be anything new or different on the new check.

Q: I’m trying to be pro-active. Can I just order the FBI check right away instead of waiting for the name check results?
A: No. You must wait for the name check results and verify that the resident is an Identified Offender BEFORE you order the FBI check.

Thank you for taking the time to review this information. If you still have questions after reading through this information packet, please contact the Identified Offender Program at 312-793-3913 or 3914.

Attachments:
- Identified Offender Conviction List – This is the list of crimes that meet the act for reporting and has been provided again for your convenience. This is the same list that was sent in December.
- Identified Offender Information Form with Instructions – This is the current reporting form and has been provided again for your convenience. This is the same form that was sent in December.
- Live Scan Fingerprint Vendor Information – This is the most recent listing of live scan vendors. Other live scan vendors may be available in your area. If you already have a live scan vendor that is not on this list, they may be able to perform these checks as well.
- Nursing Home Resident Fingerprint Inquiry Consent Form – This is the current consent form. This form has been updated to include additional information that is required for the FBI checks.