



October 2, 2007

GRAND JURY

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Mr. Dennis O'Reilly
Foreperson, Sonoma County Grand Jury
P.O. Box 5109
Santa Rosa, CA 95402

RE: Department of Justice (DOJ) Response to Grand Jury Report Recommendation

Dear Mr. O'Reilly:

The following is our response to Recommendation 8 in the Sonoma County Grand Jury Final Report, "See Dick. See Jane. See Dick and Jane go to school. Are they safe?"

Grand Jury Recommendation

Recommendation R8 states: "School districts should, individually or collectively, request that the DOJ implement a system to confirm school district receipt of Notices of Subsequent Arrest. A system that would require the DOJ to follow up if no confirmation was received would at least give school districts some assurance that information trusted to the U.S. Mail or electronic mail servers is actually being received."

DOJ Response

Subsequent Arrest Notifications are disseminated in the same way as initial fingerprint background check responses. If the applicant agency receives the responses to fingerprint checks via a secure mailbox, that is where subsequent arrests notifications are sent as well. There are two other vehicles used for disseminating applicant responses: FAX and U.S. Mail. Each individual agency determines the method by which it will receive the criminal history background check information. By far, the majority of applicant agencies have chosen a mailbox in DOJ's secure mail server for retrieving background check responses.

It was suggested in the Grand Jury Report that some agencies may not know how to retrieve subsequent arrest notifications from their secure mailboxes. This is troubling, because if an agency has a secure mailbox, but does not know how to retrieve subsequent arrest notifications, it would not be retrieving initial responses, either, since both would go to the same place and are accessed in the same manner.

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There are several reasons an agency might not get a notification of a subsequent arrest of an employee:

- the arrest was never transmitted to the Department of Justice
- the quality of the arrest fingerprints were too poor to match to an existing record
- the message was not retrieved within 90 days of transmittal, and was therefore purged from the secure mailbox.

There is no evidence that subsequent arrest notifications are not getting to the secure mailboxes for retrieval. If there are specific instances where an agency knows of an arrest for which it did not receive a notification, DOJ would be happy to research those specific instances. However, based on other agencies' comments to DOJ about how quickly they receive subsequent arrest notices (sometimes on the same day as the arrest event), the current subsequent arrest notification process appears to be quite effective.

There is currently no vehicle in DOJ's automated system to accommodate a confirmation notice and match it up to subsequent arrest notification to be sure it was actually opened (or received, if sent by FAX or U.S. Mail). It should be noted that DOJ transmitted 88,000 subsequent arrest notifications in the past three months alone. Unless it is shown that those notifications are not currently getting to the applicant agencies, adding a confirmation would unnecessarily add to the complexity of the process.

Rather than try to "fix" something that may not be broken, perhaps the prudent response would be to determine why the Sonoma County school districts are having such a difficult time with this aspect of the fingerprint background check process. In this regard, I would be happy to meet with members of the various school districts in Sonoma County to explain the criminal background check process and answer any questions they may have to help them understand how we obtain and disseminate information.

Thank you for allowing us to be a part of your investigation. I look forward to hearing from you in the near future.

Sincerely,



CATHY KESTER, Manager
Applicant Processing Program

For EDMUND G. BROWN Jr.
Attorney General