

Department of Justice

§ 200.1

(5) Providing to an employee upon his or her request a copy of CHRI upon which an adverse determination was predicated; and

(6) Maintaining, for a period of no less than three years, auditable records regarding

(i) Maintenance and dissemination of CHRI; and

(ii) The employer's certification.

(c) If relevant CHRI is lacking disposition information, the SIB or responsible agency in a participating State will make reasonable efforts to obtain such information to promote the accuracy of the record and the integrity of the application of the relevant standards. If additional time beyond a State's standard response time is needed to find relevant disposition information, the SIB or responsible agency may advise the authorized employer that additional research is necessary before a final response can be provided. If raised, a participating State should take into account the effect of post-conviction relief.

§ 105.27 Miscellaneous provisions.

(a) *Alternate State availability.* (1) An authorized employer may submit the employee's fingerprints to the SIB of a participating State other than the State of employment—provided it obtains the permission of the accommodating State—if the authorized employer is prevented from submitting an employee's fingerprints because the employee's employment is in:

(i) A State that does not have an applicable Public Law 92-544 statute authorizing state and national fingerprint-based criminal history checks of prospective and current private security officers and has elected to opt out; or

(ii) A participating State that has not yet established a process for receiving fingerprints and processing the checks under the regulations in this subpart.

(2) A participating State agreeing to process checks under this subsection will discontinue doing so if thereafter the State of the employee's employment establishes a process State and

national fingerprint-based criminal history checks of prospective and current private security officers.

(b) *FBI fees for national check.* The fee imposed by the FBI to perform a fingerprint-based criminal history record check is that routinely charged for noncriminal justice fingerprint submissions as periodically noticed in the FEDERAL REGISTER.

(c) *Penalties for misuse.* (1) In addition to incarceration for a period not to exceed two years, one who knowingly and intentionally misuses information (including a State's notification) received pursuant to the Act may be subject to a fine pursuant to 18 U.S.C. 3571.

(2) Consistent with State law, a violation of these regulations may also result in the divestiture of "authorized employer" status, thereby precluding an employer which provides security services from submitting fingerprints for a State and national criminal history record check.

(d) *Exclusion from coverage.* [Reserved]

PART 200—ALIEN TERRORIST REMOVAL PROCEDURES

AUTHORITY: Pub. L. 105-277, 112 Stat. 2681.

SOURCE: 64 FR 8496, Feb. 19, 1999, unless otherwise noted. Redesignated by Order No. 2662-2003, 68 FR 9846, Feb. 28, 2003.

§ 200.1 Eligibility for Protection under the Convention Against Torture.

A removal order under Title V of the Act shall not be executed in circumstances that would violate Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention, as implemented by section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. 105-277. Convention-based claims by aliens subject to removal under this Title shall be determined by the Attorney General, in consultation with the Secretary of State.