

RESOLUTION NO. 009-2021

A RESOLUTION ADOPTING APPENDIX 2H (A POLICY GOVERNING FINGERPRINT-BASED CRIMINAL HISTORY RECORD INFORMATION (CHRI) CHECKS MADE FOR NON-CRIMINAL JUSTICE PURPOSES) IN THE TOWN OF CRESTONE MUNICIPAL CODE CHAPTER 2 (ADMINISTRATION)

WHEREAS, the Board of Trustees of the Town of Crestone, Colorado recognizes the necessity of enacting A Policy Governing Fingerprint-based Criminal History Record Information (CHRI) Checks Made for Non-criminal Justice Purposes; and

WHEREAS, Fingerprint-based CHRI checks will only be conducted as authorized by the FBI and CBI, in accordance with all applicable state and federal rules and regulations by "Authorized Personnel" as described in such policy; and

WHEREAS, such policy may be amended or supplemented from time to time by resolution of the Board of Trustees.

WHEREAS, the Town Board of Trustees agrees to such amendments.

NOW, THEREFORE, be it resolved by the Board of Trustees that the Policy Governing Fingerprint-based Criminal History Record Information (CHRI) Checks Made for Non-criminal Justice Purposes, attached as Exhibit A and incorporated herein by reference is hereby adopted by the Town of Crestone as Appendix 2H (A Policy Governing Fingerprint-based Criminal History Record Information (CHRI) Checks Made for Non-criminal Justice Purposes) to Chapter 2 (Administration) of the Town of Crestone Municipal Code.

DONE and **SIGNED** this 17th day of October, 2021.


Kairina Danforth, Mayor

Attest:


Allyson Ransom, Town Clerk



Town of Crestone

POLICY GOVERNING **FINGERPRINT-BASED CRIMINAL HISTORY RECORD INFORMATION (CHRI) CHECKS** **MADE FOR NON-CRIMINAL JUSTICE PURPOSES**

This policy is applicable to any fingerprint-based state and national criminal history record check made for non-criminal justice purposes and requested under applicable federal authority and/or state statute authorizing such checks for licensing or employment purposes. Where such checks are allowable by law, the following practices and procedures will be followed.

I. Requesting CHRI checks

Fingerprint-based CHRI checks will only be conducted as authorized by the FBI and CBI, in accordance with all applicable state and federal rules and regulations. If an applicant or employee is required to submit to a fingerprint-based state and national criminal history record check, he/she shall be informed of this requirement and instructed on how to comply with the law. Such instruction will include information on the procedure for submitting fingerprints. In addition, the applicant or employee will be provided with all information needed to successfully register for a fingerprinting appointment.

II. Access to CHRI

All CHRI is subject to strict state and federal rules and regulations. CHRI cannot be shared with other entities for any purpose, including subsequent hiring determinations. All receiving entities are subject to audit by the CBI (Colorado Bureau of Investigations) and the FBI, and failure to comply with such rules and regulations could lead to sanctions. Furthermore, an entity can be charged with federal and state crimes for the willful, unauthorized disclosure of CHRI.

III. Storage of CHRI

CHRI shall only be stored for extended periods of time when needed for the integrity and/or utility of an individual's personnel file. Administrative, technical, and physical safeguards, which are in compliance with the most recent CBI and FBI security Policy, have been implemented to ensure the security and confidentiality of CHRI. Each individual involved in the handling of CHRI is to familiarize himself/herself with these safeguards.

In addition to the above, each individual involved in the handling of CHRI will strictly adhere to the policy on the storage and destruction of CHRI.

IV. Retention of CHRI

Federal law prohibits the repurposing or dissemination of CHRI beyond its initial requested purpose. Once an individual's CHRI is received, it will be securely retained in internal agency documents for the following purposes *only*:

- Historical reference and/or comparison with future CHRI requests
- Dispute of the accuracy of the record
- Evidence for any subsequent proceedings based on information contained in the CHRI.

CHRI will be kept for the above purposes in:

- hard copy form in personnel files located in the locked filing cabinet located in the locked filing room
 - CHRI will be maintained for up to *one (1) year*. At the end of this term, the CHRI will be disposed of according to the *Disposal of Physical Media* policy.

V. CHRI Training

An informed review of a criminal record requires training. Accordingly, all personnel authorized to receive and/or review CHRI at the Town of Crestone will review and become familiar with the educational and relevant training materials regarding CHRI laws and regulations made available by the appropriate agencies.

In addition to the above, all personnel authorized to receive and/or review CHRI must undergo Security Awareness Training on a biennial basis. This training will be accomplished using the training materials made available by the CBI.

VI. Adverse Decisions Based on CHRI

If inclined to make an adverse decision based on an individual's CHRI, *the Town of Crestone* will take the following steps prior to making a final adverse determination:

- Provide the individual the opportunity to complete or challenge the accuracy of his/her CHRI; and
- Provide the individual with information on the process for updating, changing, or correcting CHRI.

A final adverse decision based on an individual's CHRI will not be made until the individual has been afforded a reasonable time to correct or complete the CHRI.

VII. Local Agency Security Officer

Each NCJA receiving CHRI is required to designate a Local Agency Security Officer (LASO). An individual designated as LASO is:

- An individual who will be considered part of the NCJA's "authorized personnel" group.
- An individual that has completed a fingerprint-based background check and found appropriate to have access to CHRI.
- An employee directly involved in evaluating an individual's qualifications for employment or assignment.

The *Town of Crestone's* LASO is Clerk Allyson Ransom.

The LASO is responsible for the following:

- Identifying who is using or accessing CHRI and/or systems with access to CHRI.
- Ensuring that personnel security screening procedures are being followed as stated in this policy.
- Ensuring the approved and appropriate security measures are in place and working as expected.

When changes in the LASO appointment occur, the Town of Crestone shall complete and return a new

LASO appointment form. The most current copy of the LASO appointment form will be maintained on file indefinitely by the agency.

VIII. Personnel Security

All Town of Crestone personnel

All personnel requiring access to CHRI must first be deemed "Authorized Personnel." The CBI will review and determine if access is appropriate. Access is denied if the individual has ever had a felony conviction, of any kind, no matter when it occurred. Access may be denied if the individual has one or more recent misdemeanor convictions.

In addition to the above, an individual believed to be a fugitive from justice, or having an arrest history without convictions, will be reviewed to determine if access to CHRI is appropriate. The CBI will take into consideration extenuating circumstances where the severity of the offense and the time that has passed would support a possible variance.

Persons already having access to CHRI and who are subsequently arrested and/or convicted of a crime will:

- a. Have their access to CHRI suspended until the outcome of an arrest is determined and reviewed by the CBI in order to determine if continued access is appropriate.
- b. Have their access suspended indefinitely if a conviction results in a felony of any kind.
- c. Have their access denied by the CBI where it is determined that access to CHRI by the person would not be in the public's best interest.

All access to CHRI by support personnel, contractors, and custodial workers will be denied. If a need should arise for such persons to be in an area(s) where CHRI is maintained or processed (at rest or in transit); they will be escorted by, or be under the supervision of, authorized personnel at all times while in these area(s).

Personnel Termination

The LASO shall terminate access to CHRI immediately upon notification of an individual's termination of employment.

The Town of Crestone CHRI access termination process:

- a. Notification will be sent via email to the CBI
- b. This is to be done within 24 hours of receiving notification of termination
- c. All keys, email accounts, etc. will be obtained/disabled from the user within 24 hours

XI. Media Protection

All media containing CHRI is to be protected and secured at all times. The following is established and to be implemented to ensure the appropriate security, handling, transporting, and storing of CHRI media in all its forms.

Media Storage and Access

Physical CHRI media shall be securely stored within physically secured locations or controlled areas. Access to such media is restricted to authorized personnel only and shall be secured at all times when not in use or under the supervision of an authorized individual.

Physical CHRI media:

- a. Is to be stored within employee records when feasible or by itself when necessary.
- b. Is to be maintained within a lockable filing cabinet, drawer, closet, office, safe, vault, or other secure container.

Disposal of Physical Media

Once physical CHRI media (paper/hard copies) is determined to be no longer needed by the agency, it shall be destroyed and disposed of appropriately. Physical CHRI media shall be

destroyed by shredding, cross-cut shredding, or incineration. *The Town of Crestone* will ensure such destruction is witnessed or carried out by authorized personnel:

- a. The LASO shall witness or conduct disposal.
- b. Cross-cut shredding will be the method of destruction will be used by the agency.
- c. This will occur at the end of each school year (May/June).

X. Incident and Disciplinary Response

The security of information and systems in general, and of CHRI in particular, is a top priority for the Town of Crestone. Therefore, we have established appropriate operational incident handling procedures for instances of an information security breach. It is each individual's responsibility to adhere to established security guidelines and policies and to be attentive to situations and incidents which pose risks to security. Furthermore, it is each individual's responsibility to immediately report potential or actual security incidents to minimize any breach of security or loss of information. The following security incident handling procedures must be followed by each individual:

- a. All incidents will be reported directly to the LASO.
- b. If any records were stolen, the incident will also be reported to appropriate authorities.
- c. Once the cause of the breach has been determined, disciplinary measures will be taken in accordance with the disciplinary policy.

In addition to the above, the LASO shall report all security-related incidents to the CBI within 24 hours.

All agency personnel with access to FBI and/or CBI CHRI has a duty to protect the system and related systems from physical and environmental damage and are responsible for correct use, operation, care and maintenance of the information. All existing laws and *the Town of Crestone* regulations and policies apply, including those that may apply to personal conduct. Misuse or failure to secure any information resources may result in temporary or permanent restriction of all privileges up to employment termination.

Approved October 11, 2021

Kairina Danforth
Kairina Danforth, Mayor

10-12-21
Date

Attested;

Allyson Ransom
Allyson Ransom, Clerk