



Fact Sheet | Tribal Court and CFR Court Uses of TAP

PURPOSE

The Tribal Access Program (TAP) provides Tribal criminal courts and Department of Interior, Bureau of Indian Affairs, Courts of Indian Offenses (commonly known as “CFR Courts”) access to FBI Criminal Justice Information Services (CJIS) systems including the National Crime Information Center (NCIC), Interstate Identification Index (III), Next Generation Identification (NGI), and other national databases for criminal justice purposes. In addition, TAP provides access to the National Instant Criminal Background Check System (NICS) which helps prevent prohibited persons from obtaining firearms.

This fact sheet provides an overview of authorized uses of TAP by Tribal Courts and CFR Courts. All Tribal and CFR Court uses must be specifically authorized by federal law. Any record check not specifically authorized by federal law is not permitted. Any information obtained from FBI CJIS systems is considered criminal justice information (CJI) and must be handled according to applicable law, regulation, and policy.

AUTHORIZED USES

Queries Of National Crime Information Databases

- Name-based record checks of criminal defendants for the purposes of making pretrial release, sentencing, and probation violation decisions
- Name-based record checks of individuals to determine whether that person is the subject of a domestic violence protective order or is a registered sex offender
- Name-based record checks of witnesses in criminal cases
- Name-based record checks of potential jurors in criminal cases to ensure potential jurors are qualified to serve
- Name-based and fingerprint-based record checks of employees or applicants for employment hired by courts that adjudicate criminal justice matters
- Name-based record checks for use in domestic violence or stalking cases

Entries Into National Crime Information Databases

- Convictions for serious offenses including domestic violence convictions, sex offenses, and felonies
- Orders of protection
- Arrest warrants
- Information that would keep prohibited persons from possessing or receiving firearms – e.g., domestic violence convictions, felony convictions, and domestic violence protection orders

UNAUTHORIZED USES

Queries Of National Crime Information Databases

- Name-based and fingerprint-based record checks of civil litigants in private litigation
- Name-based and fingerprint-based record checks of witnesses in civil cases
- Any name-based or fingerprint-based record checks not specifically authorized by federal law

Entries Into National Crime Information Databases

- Non-fingerprint-based arrests
- Convictions for non-serious offense
- Any record entry not specifically authorized by federal law

INFORMATION EXCHANGE BETWEEN AGENCIES

There are some limited instances where federal law (28 CFR 50.12) authorizes courts to receive the results of record checks performed by other Tribal agencies. Common examples include:

- Pursuant to the Native American Children's Safety Act (NACSA), the results of fingerprint-based record checks conducted by social services agencies on prospective foster parents/guardians and foster home placements. Tribal Social Service agencies are authorized to perform this check and the results may be shared with a tribal court with jurisdiction over the foster care placement as part of the agency's findings/recommendations.
- Pursuant to 28 CFR 20.33 (a) (1), the results of name-based record checks conducted by Tribal prosecutor's offices on criminal defendants may be shared with courts to support findings/recommendations regarding sentencing, bail and pre-trial release conditions, and probation revocation decisions.

PROTECTING CRIMINAL JUSTICE INFORMATION (CJI)

When information is shared between agencies, the FBI CJIS Division requires that both agencies have a policy for the transmission, storage, and destruction of CJI to protect it from unauthorized disclosure, alteration, or misuse. The exchange of information may take several forms including but not limited to electronic mail, facsimiles, hard copy, and information systems sending, receiving and storing information. Additional supporting documentation, such as Information Exchange Agreements, may need to be signed by both agencies. TAP provides examples and templates of information Exchange Agreements online at: <https://www.justice.gov/tribal/onboarding-and-vetting>.

For more information on court uses of TAP, email the Tribal Access Program: tribalaccess@usdoj.gov and include your agency's name in the subject line of your email message.