MINUTES

REGULAR MEETING
TASK FORCE ON INVENTORYING EMPLOYMENT RESTRICTIONS
Friday, July 20, 2012 at 1:45 p.m.
300 West Adams Street, 2nd Floor Conference Room
Chicago, Illinois

Call to Order and Roll Call

Mark Myrent, Associate Director of Research at the Illinois Criminal Justice Information Authority (ICJIA), welcomed Board Members and guests to the first meeting of the Task Force on Inventorying Employment Restrictions. He began by calling the roll.

Task Force members in attendance were:

Chairman Jeffrey Shuck
State Representative Mary Flowers
State Senator Tom Johnson
Mr. Chimaobi Enyia, designee for Director Weems, CMS
Mr. Daryl Jones, designee for Director Godinez, IDOC
Mr. Donald Evans, designee for Superintendant Koch, ISBE
MSgt. John Garner, designee for Director Grau, ISP
Director Geoffrey Obrzut, ICCB
Ms. Elizabeth Sarmiento, designee for Secretary Saddler, DHS
Ms. Rukhaya Alikhan, designee for Director Hasbrouck, IDPH

Approval of Phone Participation

With a quorum in place, Chairman Jeffery Shuck announced that the first order of business was a procedural matter related to the Open Meetings Act, relative to the participants attending via phone. He asked Junaid Afeef, Associate General Counsel at ICJIA, to explain these procedures to the members. Mr. Afeef stated that, under the Open Meetings Act, in order for a Task Force to participate via phone, they must give notice to Task Force staff, in writing, prior to the meeting, stating the reason for their inability to attend in person. Allowable reasons are illness, a work-related obligation or emergency, a family emergency, or some other emergency that would prevent them from attending the meeting in person. Under the Open Meetings Act, that notice would be brought before the Task Force during a meeting where a quorum is present, and the members would be asked to vote to allow those members to participate telephonically. There is a mechanism that allows the Task Force to by-pass the need to vote to allow phone participation at every meeting. The members can pass a resolution that states any Task Force member with a valid reason under the Open Meetings Act can participate by phone, as long as they have given prior written notice of their reason. This being the first meeting of the Task Force, the members will have to vote to allow

participation of any members on the phone. Per the Open Meetings Act, phone participation cannot count towards a quorum.

Chairman Shuck inquired whether this vote would be necessary in the case of DCFS, since Ms. Shelia Riley was present from that agency. She informed the members that the official designee for Director Calica, Ms. Michelle Jackson, was participating via phone. Also participating via phone was Ms. Karen Helland, designee for Director Reid, IBHE. Ms. Jackson and Ms. Helland both stated that they had work-related reasons for not being able to attend in person. At that time, Chairman Shuck called for a voice vote approving participation of those two members via phone. Hearing no objections, the motion passed.

Chairman's Remarks

Chairman Shuck welcomed the members to this first meeting and introduced himself as the chairman appointed by the Governor, and as the Deputy General Counsel for Personnel at CMS. He stated that he was honored to be named to serve as chairman. He noted that it is a very important task facing this Task Force, and one that interests him professionally a great deal, given his work at CMS, especially working with the Bureau of Personnel specifically on employment-related matters for all agencies that fall under the Personnel Code. He stated that CMS works very hard to make sure that everyone - employees, applicants, and members of the public alike - are afforded every right they are entitled to, without infringing on any of them, while at the same time, delivering the most efficient and effective services to the taxpayers of this state. So this is a very worthwhile task that the Task Force has been formed to do, looking at the employment-related restrictions that exist in statute, policy or practice, relative to employment of individuals, contracting or licensing, all of which constitutes a rather broad mandate. He expressed gratitude to the Task Force members for undertaking this role and to the Illinois Criminal Justice Information Authority Director and staff for providing support to the Task Force.

He continued to say that it is critical that Illinois not have restrictions that are unnecessary, that it is critical that people be given the opportunity to show what talents and abilities they have, that individuals not be deprived of opportunities for employment, contracts or licensure, and that taxpayers not be deprived of the services of talented people who may have had a criminal background in their past. It is finding the appropriate balance among these interests that is the ultimate goal of those who will look at the product of the Task Force.

ICJIA Director Cutrone's Remarks

Mr. Myrent delivered apologies from Director Cutrone, who was unavoidably delayed in another meeting, and would be joining the Task Force meeting shortly.

Mr. Myrent's Introductory Remarks

Mark Myrent proceeded to summarize the objectives of the Task Force, as enumerated in the enabling statute (20 ILCS 5000) and the agenda items for this first meeting. As most members are aware, the legislation has been in place in various forms over the past several years. The initial version called for a state appropriation for staff resources, which was never passed by the Legislature. While this caused the project to be put on hold initially, work has proceeded over the past year or so, since the issues involved are seen as too important to be dependent on a state appropriation, particularly in this tough economic climate. ICJIA staff has been contacting state agencies to submit materials mandated by the legislation and proceeding with the work of the legislation.

Mr. Myrent continued that, since it was the first meeting of the Task Force, he wanted to cover the basic material with which Task Force members should be familiarized. He outlined the material that would be presented during the remainder of the meeting, particularly on the current process of employment checks for state hiring taking place currently in the state, and how criminal history background checks are conducted. For this initial meeting, CMS was asked to make a presentation on the procedures in place for Personnel Code agencies, the State Board of Education (ISBE) was asked to present as an example of the procedures for hiring within non-Personnel Code agencies, the Illinois State Police (ISP) was asked to present on the actual criminal history check process, and the Department of Financial and Professional Regulation (IDFPR) was asked to present on licensing and certification procedures.

Also on the agenda was a status report on the required documentation received by state agencies, time for input from audience members, and a discussion of what future work needs to be done by the Task Force. Mr. Myrent went on to describe the various meeting handouts: a copy of the legislation, the agenda, and a copy of the Power Point presentation on the Inventorying Employment Restrictions Task Force Act.

Presentation on the Inventorying Employment Restrictions Task Force Act by Mr. Myrent

Mr. Myrent began his presentation by introducing other ICJIA staff who are providing primary support to the Task Force – Ms. Christine Devitt Westley, Manager of the Data Clearinghouse and Analysis Center within the Research and Analysis Unit (present at the meeting), and Ms. Idetta Phillips, research analyst (unable to attend).

He proceeded to summarize the scope and goal of the Task Force, that of reviewing statutes, administrative rules, policies and practices that restrict employment of persons with a criminal history, and reporting to the Governor and the General Assembly those restrictions and their impact on employment opportunities for people with criminal records. Further, the Task Force is to identify any employment restrictions that are not reasonably related to public safety. The final report of the Task Force is due no later than July 1, 2013.

The Task Force is comprised of the directors (or designees) of 13 state agencies, along with members of the General Assembly (2 from each caucus), and a chairman appointed by the Governor. The Task Force is created in, and staffed by, ICJIA.

Each of the 72 state agencies named in the legislation was required to submit two reports: a description of employment restrictions based on criminal records, and data pertaining to the impact of employment restrictions based on criminal records and effectiveness of case-by-case review mechanisms. These employment restrictions were to be described for positions within the state agency, for employment in facilities licensed, regulated, supervised, or funded by the agency, for employment pursuant to contracts with the agency, and for employment in occupations that the agency licenses or provides certifications to practice, as applicable within each agency. The legislation itself provides a detailed description of the specific information that is required to be provided in each report, which was also presented in the Power Point presentation.

At this point in the meeting, Mr. Myrent asked Ms. Westley of ICJIA to give Task Force members an overview of the handout on Illinois State Agencies, Boards, and Commissions. She stated that the purpose of the document was to provide an organizational structure to the seemingly random list of agencies listed in the legislation, in order to more systematically track their contact information and report submissions. The document is arranged by branch of government, according to the rubric used by the Illinois State Budget Book. The 72 agencies in bold font indicate those included in the legislation, with the remaining 30 agencies found in the Illinois Budget Book being out of the scope of the Task Force. Mr. Myrent added that the document also identifies the agencies that are subject to the Illinois Personnel Code, and those agencies named to be Task Force members.

A question was asked whether all 72 agencies had submitted their reports. Mr. Myrent indicated that not all agencies had yet submitted their report, and that a status update would be presented at the end of the meeting.

Ms. Riley from DCFS asked whether there was a preferred format or template for the required reports. Mr. Myrent replied that because the language of the legislation was so explicit, staff determined that it spoke for itself in terms of the required reporting elements. For any agencies that could use assistance in establishing a report structure, ICJIA staff would be available to offer guidance and technical assistance.

Presentation on Personnel Code Applicant Screening by Chairman Shuck of CMS

Mr. Myrent introduced this presentation by Chairman Shuck by stating that initial applicant screening is handled by a central agency (CMS) for those agencies under the Personnel Code. From some of the agency submissions received, there seems to be a misunderstanding of what that process is, so CMS was invited to present at the meeting.

Chairman Shuck began by pointing out the CMS 100 form in the packet of handouts, titled “Examining/Employment Application”, the standard application form that is used

for positions under the Personnel Code. The question of interest to the Task Force is Question 9, within the box in the middle of the form, which states: “If your answer to any of the following questions is “yes” please attach a signed, detailed explanation.” And further, 9 B. which states: “Have you ever pled guilty to or been convicted of any criminal offense other than a minor traffic violation?” The box also contains language clarifying what should not be reported, specifically, those charges that were sealed or expunged.

{At this point, Director Weems of CMS joined the meeting.}

Answering these questions is a required part of the CMS 100. CMS examiners check the form for completeness when it is submitted, and if question 9B is not answered, then the individual is given an ‘Incomplete” grade and the form is returned with instructions to complete whatever is missing. At this stage of the application process, the examiner is merely checking for completeness, and does not review any explanation that may be provided in 9B regarding a previous conviction. The purpose of the information on the CMS 100 is to determine the applicant’s eligibility to sit for a qualifying exam, or in the case of higher-level titles not suited to an exam, to determine if the candidate’s information, particularly training and experience, meets the qualifications of the position. At this initial screening stage, the applicant’s information is retained at CMS, and is not forwarded to the agency seeking to hire along with the eligibility list.

{At this point, Director Cutrone of ICJIA was able to join the meeting. He stated that he would save his remarks, since the group had already begun substantive discussion and asked that the meeting continue as before.}

Chairman Shuck continued that it is incumbent upon the hiring agency to ask the candidate for a copy of their CMS 100 at the time of their interview. It is up to that agency to make whatever use of the CMS 100 information, and information from the interview, as necessary, given the agency’s internal requirements and restrictions.

At this point, Rep. Flowers asked to make some comments. She stated that she thought most of the Task Force members understand the CMS application process, but that she had another concern, as reflected in the handout entitled ”Appendix A: Licenses that can be Denied for a Felony Record”. The statutes authorizing such denials are enumerated in the document, and she asked whether the first thing that needed to be accomplished was to undo some of those laws. In addition, she pointed out that State Representative Ford had introduced legislation to take Question 9 off the CMS 100 application. She asked whether CMS (as represented by the Chairman) would be supportive of that type of legislation in the future.

Rep. Flowers asked to continue her remarks by thanking Judge Tom Grippando for his work on this issue, and informed the Task Force members that Rep. Constance Howard, a long-time legislative leader on the issue of the employment of persons with past criminal convictions legislation, had announced her resignation. Rep. Flowers wished to thank her for her dedication and expressed her regret that Ms. Howard would

no longer be able to carry her work forward. Finally, she wanted to reiterate the point that more people deserve the opportunity to have a job, especially in this economic climate. She observed that there are lots of people out there with a criminal record, who may or may not be guilty, but in the meantime, the State is missing out on the service they can provide. She added that Illinois would not have the problem of not being able to afford state employees if the state had more people working and more jobs created, and therefore, more money in the economy. So before the Task Force goes any further and so as not to delay its work any longer, Rep. Flowers concluded that Task Force should agree that the first order of business should be that of eradicating the legislation that created employment barriers in the first place.

Chairman Shuck replied that the General Assembly will certainly want to take a careful look at the Task Force's final report and the accompanying data, to determine if there are statutes in need of amendment.

Rep. Flowers reiterated that the best way to make expeditious progress was to review Appendix A first, because it reflects current law. Chairman Shuck replied that the agencies have been reporting the statutes and restrictions that exist and how they apply those to their positions. That information will be necessary to the General Assembly to fashion a response to recommendation made in the final report. The statutes listed on Appendix A will be addressed by those agencies that license occupations. In fact, the Department of Financial and Professional Regulations (IDFPR) has been invited to present on their licensing process, as there was perhaps an oversight in the Inventorying Employment Restrictions legislation of not including IDFPR as a Task Force member.

Chairman Shuck continued that one statute he personally thought was in need of modification was the Personnel Code itself. Section 8b1 is very similar to sections of statutes that apply to hiring at various non-Personnel Code agencies (Office of the Comptroller, Secretary of State), and would appear that they were all drafted at the same time, quite some time ago. They all include a long list of crimes which can exclude a person from testing and employment. In practice, however, CMS chooses to exclude no one from testing, getting a grade, or being on an eligible candidate list, regardless of authority granted to do so in the Personnel Code itself. CMS leaves it up to the agencies subject to the Personnel Code restrictions, and any other restrictions that apply to their specific positions, to determine if the criminal background of the candidate is somehow inconsistent with that position, and if that candidate remains the best candidate on the eligible list after a review of any past criminal background. Ideally, agencies are using the approach approved by the EEOC and existing case law.

Chairman Shuck also addressed the issue of Rep. Ford's introduced legislation, HB1210, which would eliminate Question 9B on the CMS 100. CMS did work with Rep. Ford on that issue, and they reached what they thought was a workable compromise, whereby the question would be removed from the CMS application, but would be asked by the hiring agency at the time the candidate (prospective hire by that time) authorized the actual background check done by the State Police. However, several of the largest

state agencies that hire large groups or classes of employees at a time (such as the Department of Corrections and Department of Human Services) objected on the grounds that they would expend too many resources upfront in the hiring process on individuals that would not be ultimately qualified to be hired based on a prior criminal background. These agencies have rather strict requirements because they are dealing with vulnerable or dangerous populations. While a final resolution could not be reached on the legislation this time around, CMS is open to continued efforts in that direction in the future.

Chairman Shuck continued on that one of the by-products of this Task Force could be a catalog of restricted occupations that could be circulated among IDOC inmates and others with criminal backgrounds, so that they could be forewarned that they have disqualifying circumstances that would prevent them from obtaining employment in those agencies or occupational fields. Perhaps they can direct their training and job seeking efforts in those areas without restrictions that might apply to them. At the same time, large agencies may be more amenable to changing the CMS 100 if they see that few, if any, disqualified persons are applying for jobs in their agencies, and thus there is no reason to fear that they are expending scarce training resources on candidates they cannot hire.

In terms of the CMS application process, Chairman Shuck indicated that it was clear from some of the agencies' responses to the Task Force that they thought CMS did background checks on their behalf. This is incorrect. CMS does not conduct any background checks on applicants on behalf of hiring agencies. So the Task Force process of receiving documentation directly from state agencies has been very good so far, and has produced useful information on where CMS needs to make their process clearer.

Going back to Section 8b1 of the Personnel Code, it does list out a variety of statutory offenses that can be a bar to people being offered the opportunity to test (apply for eligibility) for a state position. These tend to be drug and sex offenses, although many could be considered quite minor, and that is certainly an area that is ripe for review, reconsideration and amendment. Chairman Shuck reiterated that CMS does not currently apply this list in any way to exclude people from applying for state employment. It is the position of CMS that a prior criminal background should only be an issue at the nexus between the occupation applied for and the individual's particular background, which manifests itself in the context of the hiring agency, not at the point of applying generally for state employment in a particular occupation.

An audience member asked what grade of candidates is actually on the eligibility list, and are they able to get an 'A' grade if question 9B (that they do have a criminal record) is checked?

Chairman Shuck responded that requirements for a given position do not include 'absence of a criminal background'. That may be a condition of employment, but it is not one of the job requirements considered during the application scoring process. The

qualifications grade is based solely on the candidate's matching the criteria of training and experience listed for that job.

He continued to describe the Personnel Administrative Rules (Section 302.130, included in the handout materials). Part A lists the circumstances where the Director of CMS shall remove names, and part B is where the Director may remove names from the list.

There are six reasons listed in part A for mandatory removal of names: where the person has already been hired off the list, where the candidate has died, where the candidate cheated on the civil service exam (which carries a typical penalty of one year of ineligibility to be on the list), where the candidate has been found to lack any qualifications required for the class they were erroneously declared eligible, where the candidate requests removal of their name, and where the postal authorities cannot locate the eligible at their last known address.

Reasons listed in part B for optional removal of a name from an eligible list include: failure of the candidate to show up for their interview, and refusal to accept two separate offers of employment. The one reason applicable to the work of this Task Force is b.13, conviction of an eligible of a felony. These are all reasons that hiring agencies can use to request that CMS remove eligibles from a list, which CMS will consider where appropriate. CMS does not remove names from lists of its own accord.

In regard to reason b 13, (felony conviction of an eligible), this comes into play when a person has already been offered employment at the hiring agency, and it become known that the person has a felony conviction. If that felony conviction is directly relevant to the title for which they are being hired, the agency will likely apply to CMS to have that person removed from that one Eligible List.

Rep. Flowers asked if the person being removed from the eligible list is notified of that fact, and if there was a way that the candidate can contest removal from an Eligible List. Chairman Shuck answered that the Administrative Rule does call for such notification of removal from the list, and that he did not recall of any instance when a candidate expressed a desire to appeal the removal of their name from a list. There is no appeal provision in the Administrative Rule, but the individual could write to the Director of CMS asking for a review. He agreed that adding appeal provisions to the Personnel Code or Administrative Rule could be helpful, although he did not know how many candidates would ever avail themselves of that process, since the name removal process itself comes up infrequently. He stated that most candidates are aware that their criminal background will likely be disqualifying, as in the case of the person convicted of identity theft who would be found disqualified for a job in a human resources department, where they would access to others' person identifiers.

Mr. Myrent asked a question about how removal of a candidate's name from an Eligible List affected their future employment. Chairman Shuck replied that the person would have to re-test for the position title to begin the application process again. There is no

bar to testing based on having been removed from an Eligible List (except for the reason of fraud on an exam). The reason for having been found ineligible at a particular agency may not hold for the same title at another agency, since restrictions can be agency-specific, so the individual may have an opportunity to get back on the Eligible List.

An audience member asked if Question 9b on the CMS 100 required the disclosure of a delinquency finding (juvenile conviction) that was not sealed or expunged. Chairman Shuck replied that there can be a problem of employers interpreting and understanding the nuances of criminal history information, particularly the juvenile justice system which operates differently than the adult system. He stated that CMS was not interested in juvenile delinquency information in Question 9b. The audience member suggested that any reference to juvenile records be removed from the wording of 9B, so as not to lead the applicant to believe that delinquency findings should be reported on the form. Chairman Shuck replied that CMS was trying to balance clarity of language with space considerations on the form, and that he would be willing to discuss the matter further after the meeting or at another time.

Rep. Flowers commented that the current meeting was an appropriate time to discuss the matter of the wording on the CMS 100 with regard to juvenile records. Chairman Shuck noted that the wording was taken directly from statute, but he did not have any more specific information at this time. It was agreed that it was the purpose of the Task Force to look at that wording and make recommendations for change. Revisiting the wording on the CMS 100 would be included in the future work of the Task Force.

Chairman Shuck summarized his remarks on the CMS process, reiterating that it was hiring agency's responsibility to consider whether a candidate presented to them on the Eligible List met all the criteria for the position within the agency, including factors regarding any criminal background, since the bars to employment based on criminal background resides in each agency's particular statutes, rules and policies. CMS' role in the process is to provide advice and counsel on any questions of interpretation the agency might have with regard to candidate eligibility for the position.

An audience member asked a clarifying question about the removal of candidate names from eligibility lists, as to whether removal from one agency list affected their status on any other eligibility list. Chairman Shuck reiterated that an agency's request for a name removal from their list does not affect any other eligibility list that individual may also be on. The list is by position title, not by agency.

Rep. Flowers asked how a candidate removed from a list would know what other agencies may use the same title, or what other positions they might apply for. Particularly for those candidates with a criminal record, how will they know which positions they would be eligible for, and not waste their time applying for jobs for which their criminal record disqualifies them.

Chairman Shuck replied that CMS has examination counselors, whose job it is to work with candidates on deciding which jobs to apply for, based on their experience, training and interests. However, those counselors may not be familiar with the disqualifications of particular agencies or occupations based on criminal history. Those factors will become known through the work of the Task Force, and a product from the Task Force could be the development of informational material for job applicants to make it easier to discern which occupations they are eligible for if they have a criminal record. It's not something CMS has at present.

An audience member asked a clarifying question regarding the language on the letter notifying the candidate that they have been removed from an eligibility list. Chairman Shuck replied that he would make a note to look at the specific wording on the letter and verify that it makes it clear to the candidate what other job application opportunities remain open to them.

An audience member asked a clarifying question regarding the mandatory reasons for a candidate name to be removed from an Eligible List. Specifically, part A 3 (of the Personnel Code Administrative Rule Section 302.130) states that a name shall be removed if the postal authorities cannot locate the candidate at their last known address. How will the candidate know their name has been removed, if they have moved and their mail is not being forwarded? Chairman Shuck stated it is the applicant's responsibility to keep their contact information up to date so that the hiring agency can contact them for an interview. Another audience member asked if the CMS 100 asked for an email address, since that information typically follows an individual even when they move. Chairman Shuck answered it does not currently, but that it was an interesting concept to pursue.

Rep. Flowers remarked that the Task Force meeting so far has been a fantastic process of direct communication with the agencies involved in the employment of individuals with criminal records, particularly CMS, so that instead of being reactive, it is possible to make recommendations for changes to the process that are timely, innovative and responsive to the issues before the Task Force.

Presentation on the Illinois State Police Criminal Background Check Process by Tammi Kestel, Assistant Bureau Chief at ISP

Ms. Kestel handed out her Power Point presentation and another handout, the ISP Legislation Matrix that enumerates the statutory authority (state and/or national) under which each applicable state agency requests criminal history information for non-criminal justice purposes from ISP.

She began her presentation with an explanation of the Uniform Conviction Information Act (UCIA) (20 ILCS 2635) criminal history check, available most broadly to the general public since 1991. Illinois is a "closed record state", meaning that, without separate statutory authority to the contrary, only conviction information on an individual may be

released by ISP. In “open record states”, such as Florida, all criminal history information, including arrests not leading to conviction, can be released.

The subject’s personal identifiers entered on the UCIA Request Form by the requestor are not stored on the ISP database, and the results of that criminal history records check are not valid for more than 30 days. The agency requesting a UCIA check must keep the signature of the subject authorizing that check on file for two years, and the person subjected to the check must be given a copy of response from ISP in order to be able to contest any erroneous information under the Access and Review process.

Ms. Kestel continued to describe the Fee Applicant record check process. The state agencies involved in this process are enumerated in the ISP Legislation Matrix handout. This is always a finger-print based check, and that print remains on file in the ISP database to be able to notify the requesting agency of any subsequent conviction for that individual. This future notification to the employer of a subsequent conviction is called the “revised response”, or Criminal Applicant (CAPP) response. This is possible because the State Police maintain a dissemination file against which subsequent arrest and convictions are run.

Mr. Evans asked why it is necessary for ISP to maintain the fingerprints of applicants even after they are no longer employed by the requesting agency. Ms. Kestel replied that the ISP CHRI database currently has no capability to flag fingerprints as ‘not useful’. In the future, hopefully by 2014, ISP will need to build that capability in order to participate in the FBI “Rap Back” program that operates in the same way as Illinois’ ‘revised response’ process. The FBI does not maintain the fingerprint information on applicants, just as Illinois does not maintain information on individuals subject to a UCIA check. So the FBI response to an Illinois applicant card is just a snapshot in time, and will not trigger a subsequent response if the applicant is arrested in another state.

An audience member asked under what statutory authority the State Police provides subsequent responses on fee applicants. Ms. Kestel replied that almost all of the statutes listed on the ISP Legislation Matrix contains language that directs the ISP “now and forever after” to continue to provide conviction information to that requesting entity. There is no cost to the agency for the subsequent response, but there is a cost for the initial response. However, the FBI plans to charge a fee for its “Rap Back” response in the future. In order for Illinois to participate in the FBI program, the database will have to be programmed with the capability to provide selective subsequent responses to exclude persons who are no longer of interest to the requesting agency. The federal law has not yet been drafted, but when it is, ISP will have to be able to comply, and codify any changes into its administrative rules and the Criminal Identification Act (20 ILCS 2630).

Mr. Obrzut asked about whether the State Police has a backlog in processing fee applicant requests. Ms. Kestel responded that there is no backlog in the fingerprint processing. What may be perceived as a delayed response by the requesting agency is the lag caused by the necessity to determine which arrests without a disposition on

record have resulted in a conviction, for those entities that are statutorily restricted to conviction information only on applicants. If the courts are not diligent in sending disposition information to ISP within the statutorily mandated 30 days after the decision is made, then the individuals involved in those court cases will have rap sheets that indicate they were arrested, but no further information on how those cases were decided. ISP cannot send out incomplete information, and therefore, must wait until its Disposition Acquisition Unit (staffed by 17 employees) contacts the circuit court clerk and obtains the missing information. Some agencies may hire employees contingent on receiving a favorable response from ISP. The current average turn-around time for complete ISP responses to agencies' fee applicant inquiries is 30 days after an initial "pending" response. That first pending response should be received within 24 hours of the fingerprint submission.

An audience member asked a clarifying question about the process by which persons can 'challenge' their criminal history information (rap sheet) sent out by the State Police. Ms. Kestel responded that the individual can challenge anything on that rap sheet. If the person wants to question something that appears, they should be referred by the hiring agency to the Illinois State Police to begin the Access and Review process. A convenient way to do that is to refer them to the Access and Review flyer on the ISP website: www.isp.state.il.us.

Ms. Kestel continued with her presentation about the volume of records stored in the CHRI database, the clear superiority of a fingerprint-based check over a name-based check, types of user agreements and memoranda of understanding based on the privacy laws that cover the confidentiality of the records, the response methods available from ISP, the response types that ISP send out to the inquiring agency, the methods available to hiring agencies to send in fingerprints (80 percent are now sent electronically via Livescan machines, vs. the old ink and roll method on paper cards), the most frequent reasons for rejection of submissions (99 percent on the quality of the print, not that a required element is missing), and the current price of Livescan equipment (approximately $10,000 per unit). In the case of misplaced responses, ISP may only re-generate UCIA responses back to the requesting agency up to 30 days (by law), and within 90 days for fingerprint –based fee applicant responses due to CHRI database space constraints. After that, the applicant must submit a new set of prints. Ms. Kestel also pointed out the fees associated with the process, those charged by ISP, and others charged by the commercial Livescan vendors, over and above the ISP fee.

An audience member asked a clarifying question about the UCIA process, in terms of who could initiate the process. Ms. Kestel replied that for licensing and employment purposes, the agency needed to have the applicant's signature on file, authorizing the check. But the general public could obtain the UCIA form from the ISP website, and submit it (with payment), and receive conviction information on any other person without their permission, as long as the requestor knew the subject's name and date of birth.

Rep. Flowers asked what the difference was between the criminal history information disseminated by the State Police and what's on the Internet. Ms. Kestel replied that she

could only speak for ISP, which is the official central repository for criminal records in Illinois. Some of private sellers of rap sheet data actually obtain it via UCIA requests to ISP, such that ISP records could be considered for sale. That concluded Ms. Kestel's presentation.

{At this point in the meeting, Chairman Shuck announced a change in the meeting schedule in the interest of time. The presentations by Mr. Evans from ISBE regarding hiring procedures at a non-personnel code agency, and by a presentation by a representative from the Illinois Department of Financial and Professional regulation (IDFPR) regarding how criminal records affect the occupational licensure process would be postponed to a later meeting.}

Agency report submission status report

Ms. Westley informed the group that staff would be developing various mailing lists of Task Force members and other interested participants from the sign-in sheets, and that everyone should be sure to leave their contact information. In addition, a website for the Task Force would be hosted by ICJIA, where meeting materials, minutes and the agency reports themselves would be posted for easy access by all. (The website can be found here: http://www.icjia.state.il.us/IERTF/)

Ms. Westley then directed the group to the handout entitled Agencies by Service Area. The 72 agencies enumerated in the Inventorying Employment Restrictions Task Force Act were organized by the six service areas used in the SFY13 Illinois Budget Book, and presented in descending order of state employee headcount. This would give Task Force members an idea of the general focus of the work activities performed by the various agencies, and the maximum number of employees affected by restrictions (if any) at each agency. The Human Services Area includes 10 agencies employing 20,348; the Public Safety Area includes 10 agencies employing 16,333; the Government Services Area includes 20 agencies employing 10,625; the Economic Development and Infrastructure Area includes 14 agencies employing 8,187; the Environment and Business Area includes 11 agencies employing 3,415; and the Education Area includes 7 agencies employing 836 employees.

Ms. Westley continued with the status of agency reports submitted to the Task Force as of the meeting date (July 20). Forty-nine (49) of the 72 agencies had responded to the Task Force. Staff conducted several outreach efforts over the course of the last nine months, including sending out email notifications of the statutory requirement to submit a report, letters to the Executive Directors of the agencies, and phone calls to agencies not yet responding.

Rep. Flowers asked about the time frame given for state agencies to respond. Mr. Myrent responded that the latest version of the law (20 ILCS 5000) went into effect July 1, 2011.
Ms. Shelia Riley from DCFS wanted to state on behalf of her agency that they were grateful for the Task Force's patience in regard to the tardiness of their submission, due

to many organizational changes that had occurred over the past year. She assured the members that her agency was re-prioritizing this task and would be submitting their report as soon as possible.

Ms. Westley went on to say that staff has not yet collated the agencies' responses into categories of restrictions, or counted how many agencies reported that they had no restrictions, given that not all agencies had yet responded. That would be the work of the Task Force, to decide how to organize the material submitted to the Task Force, and to perhaps devise an outreach strategy for agencies not yet submitting reports, in order to proceed toward the final goal of crafting recommendations for the final report. When asked by an audience member, Ms. Westley assured the group that staff was prepared to provide technical and support to any agency still working on their report. She thanked all the agencies that had already submitted their reports, and indicated that ICJIA staff was ready to offer assistance in whatever capacity was requested by the Task Force.

Sub-committee suggestions

Mr. Myrent discussed how to get as many Task Force members as possible involved in the actual work that needs to be done over the next year. Tapping into all the knowledge and expertise of the members would be critical to the success of the project. He went over a list of several possible sub-committees or workgroups, including an Outreach Committee to assist with obtaining the remaining agency reports through perhaps already established contacts, and a workgroup to assist with validation of the information submitted (both statutes and agency level policies and procedures).

Rep. Flowers asked if having such agency-level restrictions policies might be in violation of the law. Mr. Myrent responded that to the extent that certain agencies have flexibility that is not statutory restricted, it is not in violation of the law to put additional restrictions in place. The statutes may speak to those factors that mandatorily require disqualification from a position, but it may be silent on other factors that agencies may consider in their own internal decision making.

Mr. Myrent continued to describe other possible sub-committees or workgroups. One might be concerned with Definitions and Context, or with the central matter before the Task Force, that of determining which restrictions are not reasonably related to public safety. The Task Force may need more information from the agencies regarding what they believe to be reasonable restrictions, based on the context of those positions within their organization. Other work groups may focus on specific aspects of employment as enumerated in the statute: employment within state agencies, licensing of positions by state agencies, and contracting and granting with state agencies. A possible workgroup may one that documents the impact of employment restrictions from the perspective of the ex-offender seeking employment. Those Task Force members currently serving in the state legislature may wish to look at aspects of legislation that may need to be addressed by the Task Force in its recommendations. Finally, it would be good to have

a sub-committee that could provide guidance on structure and content of the final report.

Mr. Myrent concluded by asking Task Force members to forward comments to him on possible work groups, and asking for their participation on the groups themselves. In response to a question from the audience, he reiterated that the deadline for the final report of the Task Force has been amended to by July 1, 2013, not September 1, 2012.

Rep. Flowers commented that some of the workgroup ideas appeared to her to be redundant with work already accomplished by the Legislative Task Force sponsored by Rep. Constance Howard, particularly on the topic of ex-offender issues. Mr. Myrent responded that information already gathered by other groups, such as the Collaborative on Reentry could be shared in subsequent meetings. Rep. Flowers reiterated that from her perspective, the Task Force should focus on solutions to the problems already uncovered by those other work groups, rather than remaining focused on their findings regarding the scope of the problem. The original legislation forming the Task Force was introduced in 2009, and now the work has been pushed back even further into 2013, while the Task Force continues to wait for information from state agencies. In the meantime, the problem remains that ex-offenders cannot obtain employment due to barriers imposed by law. She was hoping that the work of changing this on-going situation could move faster by not focusing too much on what is already known about the issue.

Chairman Shuck expressed his preference that all aspects of the issue be addressed in the final report, so that it would present a balance between protecting the legitimate interests of the tax payers in protecting their person and property, and the people with criminal backgrounds who want to become tax payers and offer their talents and abilities to the service of the state. Rep. Flowers agreed that all perspectives should be represented.

She added that over her tenure in the legislature, laws have been passed that restrict not only employment opportunities, but educational ones as well, but restricting inmates from receiving an education while incarcerated, or being eligible for scholarship money due to their criminal background. She asked Mr. Evans from ISBE if his agency report addressed those issues. He replied that his report focused on employment within the agency and the licensure of teachers, but he agreed the Task Force should look at other laws affecting the ability of ex-offenders to qualify for jobs. He agreed that the exact purpose of the Task Force was to focus on what recommendations could be made to change the laws creating unnecessary barriers to employment.

Rep. Flowers commented that she has been in office since 1983, and can remember when many of the current laws were passed. At that time, there were few people incarcerated, and few minorities. Since then it has escalated because of the many laws passed since then that have increased penalties up to a felony. She reiterated that she was dedicated to the work of the Task Force and would continue to be involved in all aspects of its work.

Adjournment

Mr. Myrent noted that the last order of business was to set the next meeting. Rep. Flowers offered the use of her offices in Chicago or Springfield for future meetings, and Mr. Myrent stated that staff was mindful not to burden Task Force members with too many trips up to Chicago. He stated that more frequent meetings would probably be necessary in the beginning of this process, and perhaps again in June, during the finalizing of the report. The group concluded that the next meeting should be held during the first week of September. Staff would check into meeting space availability and send out an email with the next date. The meeting was then adjourned.