

NORTH DAKOTA

North Dakota Century Code

CHAPTER 12-60

BUREAU OF CRIMINAL INVESTIGATION

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12-60-01. Bureau created.—A bureau of the state government, under the attorney general, is hereby created and is designated as the bureau of criminal investigation, hereinafter referred to as the bureau.

Source: S. L. 1965, ch. 111, § 1; 1971, ch. 140, § 1.

12-60-02. Board of managers—Selection of members—Qualifications.—Repealed by S. L. 1971, ch. 141, § 1.

12-60-03. Terms of office—Filling of vacancies.—Repealed by S. L. 1971, ch. 141, § 1.

12-60-04. Duty of board — Salaries. — Repealed by S. L. 1971, ch. 141, § 1.

12-60-05. Attorney general — Duties — Appointment of personnel. The attorney general shall act as superintendent of the bureau and shall have the responsibility of and shall exercise absolute control and management of the bureau. The attorney general shall appoint and fix the salary of a chief of the bureau, such special agents, and such other employees as he deems necessary to carry out the provisions of this chapter within the limits of legislative appropriations therefor.

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12-60-06. Furnishing of equipment.—The attorney general shall provide the bureau with necessary furniture, fixtures, apparatus, appurtenances, appliances, materials, and equipment as he deems necessary for the collection, filing, and preservation of all records required by law to be filed with the bureau or which he may authorize to require or procure respecting the identification and investigation of criminals, the investigation of crime and detection of the perpetrators thereof, and identification and information concerning stolen, lost, found, pledged, or pawned property.

12-60-07. Powers, duties, and functions of bureau.

1. The bureau shall cooperate with and assist the criminal bureau of the department of justice at Washington, D. C., and similar departments in other states in establishing and carrying on a complete system of criminal identification.
2. The bureau shall cooperate with and assist all judges, state's attorneys, sheriffs, chiefs of police, and all other law enforcement officers of this or any other state and of the federal government in establishing such system of criminal identification.
3. The bureau is the state central repository for the collection, maintenance, and dissemination of criminal history record information.
4. The bureau shall assist the sheriffs and other peace officers in establishing a system for the apprehension of criminals and detection of crime.
5. When called upon by any state's attorney, sheriff, police officer, marshal, or other peace officers, the superintendent, chief of the bureau, and their investigators may assist, aid, and cooperate in the investigation, apprehension, arrest, detention, and conviction of all persons believed to be guilty of committing any felony within the state.
6. The bureau shall perform such other duties in the investigation, detection, apprehension, prosecution, or suppression of crimes as may be assigned by the attorney general in the performance of the attorney general's duties.
7. The bureau shall provide assistance from time to time in conducting police schools for training peace officers in their powers and duties, and in the use of approved methods for detection, identification, and apprehension of criminals and require attendance at such police schools.
8. The bureau shall perform the inspection and enforcement duties for the attorney general's licensing department.
9. The bureau shall detect and apprehend persons illegally possessing or disposing of drugs.

12-60-08. Powers of investigators.—For the purpose of carrying out the provisions of this chapter, the investigators shall have all the powers conferred by law upon any peace officer of this state.

12-60-09. Authorization of attorney general for investigations. — No investigation of the acts or conduct of any state agency or state official shall be investigated or made through or by the bureau or any employee thereof, without the authorization of the attorney general particularly specifying the office, department, or person to be investigated and the scope and purposes of the investigation.

12-60-10. Fingerprints, photographs, description of persons charged with felony to be procured and filed. Repealed by S.L. 1987, ch. 162, § 12.

12-60-11. Enforcement officers to send fingerprints and descriptions of felons to the bureau — Report of the bureau to arresting officer. Repealed by S.L. 1987, ch. 162, § 12.

12-60-12. Officer may send fingerprints of persons having certain property in possession. Repealed by S.L. 1987, ch. 162, § 12.

12-60-13. Court to ascertain criminal record of defendant—Furnish information of offense to the bureau.—The judge of the district court of the county in which a defendant is to be sentenced, or the state's attorney or sheriff thereof, shall ascertain the criminal record of every defendant convicted of a felony before sentence is passed on said defendant. The state's attorneys and sheriffs, upon the request of the chief of the bureau or the attorney general, shall furnish to the chief of the bureau a statement of facts relative to the commission or alleged commission of all felonies within their respective counties upon such blanks or in such form as may be requested by the chief of the bureau or the attorney general.

Source: S. L. 1965, ch. 111, § 15.

12-60-14. Violation of chapter—Misdemeanor.—Repealed by S. L. 1975, ch. 106, § 673.

12-60-15. Duty to furnish information. Repealed by S.L. 1987, ch. 162, § 12.

12-60-16. Report of arrested person's transfer, release, or disposition of case. Repealed by S.L. 1987, ch. 162, § 12.

12-60-16.1. Definitions. As used in sections 12-60-16.1 through 12-60-16.10, unless the context otherwise requires:

1. "Bureau" means the bureau of criminal investigation.
2. "Criminal history record information" includes data concerning a reportable event which the bureau is required or permitted to retain under sections 12-60-16.1 through 12-60-16.10.
3. "Court" means the supreme court, district courts, county courts, and municipal courts of the North Dakota judicial system.
4. "Criminal justice agency" means any government law enforcement agency or entity authorized by law to provide information regarding, or to exercise the powers of, arrest, detention, prosecution, adjudication, correctional supervision, rehabilitation, or release of persons suspected in, charged with, or convicted of, a crime.
5. "Disseminate" means to transmit criminal history record information in any oral or written form. The term does not include:
 - a. The transmittal of the information within a criminal justice agency.
 - b. The reporting of the information as required by section 12-60-16.2.
 - c. The transmittal of the information between criminal justice agencies in order to permit the initiation of subsequent criminal justice proceedings against a person relating to the same offense.
6. "Noncriminal justice agency" means an entity that is not a criminal justice agency.
7. "Record subject" means the person who is the primary subject of a criminal history record. The term includes any representative designated by that person by power of attorney or notarized authorization. If the subject of the record is under legal disability, the term includes that person's parents or duly appointed legal representative.
8. "Reportable event" means an interaction with a criminal justice agency for which a report is required to be filed under section 12-60-16.2. The term includes only those events in which the subject of the event is an adult or a juvenile adjudicated as an adult.

12-60-16.2. Criminal history record information — Reportable events. Except as otherwise provided in sections 12-60-16.1 through 12-60-16.10, each criminal justice agency shall report to the bureau the information described in this section for each felony and reportable offense so designated pursuant to section 12-60-16.4. The following criminal justice agencies shall perform the duties indicated:

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1. Except as otherwise provided in this subsection, each criminal justice agency that makes an arrest for a reportable offense shall, with respect to that offense and the person arrested, furnish to the bureau the fingerprints, charges, and descriptions of the person arrested. If the arrest is made by a criminal justice agency that is a state law enforcement agency, then, on request of the arresting agency, a sheriff or jail administrator shall take the fingerprints. The arresting agency shall then furnish the required information to the bureau. If a decision is made not to refer the arrest for prosecution, the criminal justice agency making that decision shall report the decision to the bureau. A criminal justice agency may make agreements with other criminal justice agencies for the purpose of furnishing to the bureau information required under this subsection.
2. The state's attorney of each county shall notify the bureau of all charges filed, including all those added after the filing of a criminal court case, and whether charges were not filed in criminal cases for which the bureau has a record of an arrest.
3. After the court pronounces sentence for a reportable offense, and if the person being sentenced has not been fingerprinted with respect to that case, the state's attorney shall ask the court to order a law enforcement agency to fingerprint that person. If the court determines that the person being so sentenced has not previously been fingerprinted for the same case, the court shall order the fingerprints taken. The law enforcement agency shall forward the fingerprints to the bureau.
4. The prosecuting attorney having jurisdiction over a reportable offense shall furnish the bureau all final dispositions of criminal cases for which the bureau has a record of an arrest or a record of fingerprints reported under subsection 3. For each charge, this information must include at least the following:
 - a. Judgments of not guilty, judgments of guilty including the sentence pronounced by the court, discharges, and dismissals in the trial court;
 - b. Reviewing court orders filed with the clerk of the court which reverse or remand a reported conviction or which vacate or modify a sentence; and
 - c. Judgments terminating or revoking a sentence to probation and any resentencing after such a revocation.
5. The North Dakota state penitentiary, board of pardons, parole board, and local correctional facility administrators shall furnish the bureau with all information concerning the receipt, escape, death, release, pardon, parole, commutation of sentence, granting of executive clemency, or discharge of an individual who has been sentenced to that agency's custody for any reportable offense which is required to be collected, maintained, or disseminated by the bureau. In the case of an escape from custody or death while in custody, information concerning the receipt and escape or death, must also be furnished.

12-60-16.3. Criminal history record information — Rulemaking required. The attorney general shall adopt appropriate rules for criminal justice agencies regarding the reporting, collecting, maintaining, and disseminating of criminal history record information. The rules must include:

1. Policies and procedures to be used by criminal justice agencies regarding:
 - a. Security of criminal history record information.
 - b. Inspection and challenging of criminal history record information by a record subject.
 - c. Auditing of criminal history record information to ensure that it is accurate and complete and that it is reported, collected, maintained, and disseminated in accordance with sections 12-60-16.1 through 12-60-16.10.
 - d. Development and content of agreements between the bureau and criminal justice agencies providing for reporting of and access to criminal history record information.
 - e. Use of criminal history record information for the purpose of research and statistical analysis of criminal activity.
 - f. Criteria under which criminal history records are purged or sealed.
2. Reportable events to be reported by each criminal justice agency, in order to avoid duplication in reporting.
3. Time requirements for reporting criminal history record information to the bureau.

12-60-16.4. Criminal history record information — Reportable offenses. Criminal justice agencies shall report to the bureau reportable events for each felony and for each of the following misdemeanor offenses:

1. Class A and B misdemeanor offenses in sections 6-08-16 and 6-08-16.1.
2. Class A misdemeanor offenses included in title 12.1.
3. Class A and B misdemeanor offenses in chapters 19-03.1 and 19-03.2, and in section 12-47-21.
4. Class B misdemeanor offenses in sections 12.1-17-01, 12.1-20-12.1, 12.1-21-05, 12.1-21-06, 12.1-23-05, and 12.1-29-03.
5. Class A misdemeanor offenses in sections 53-06.1-16 and 53-06.1-16.1.
6. Class A misdemeanor offenses in title 62.1.

12-60-16.5. Criminal history record information — Exchange of information among criminal justice agencies and the courts. The bu-

reau and other criminal justice agencies shall disclose criminal history record information:

1. To a criminal justice agency that requests the information for its functions as a criminal justice agency or for use in hiring or retaining its employees.
2. To a court, on request, to aid in a decision concerning sentence, probation, or release pending trial or appeal.
3. Pursuant to a judicial, legislative, or administrative agency subpoena issued in this state.
4. As otherwise expressly required by law.

12-60-16.6. Criminal history record information — Dissemination to parties not described in section 12-60-16.5. Only the bureau may disseminate criminal history record information to parties not described in section 12-60-16.5. The dissemination may be made only if all the following requirements are met:

1. The information has not been purged or sealed.
2. The information is of a conviction, or the information is of a reportable event occurring within one year preceding the request.
3. The request is written and contains:
 - a. The name of the requester.
 - b. The name of the record subject.
 - c. At least two items of information used by the bureau to retrieve criminal history records, including:
 - (1) The fingerprints of the record subject.
 - (2) The state identification number assigned to the record subject by the bureau.
 - (3) The social security number of the record subject.
 - (4) The date of birth of the record subject.
 - (5) A specific reportable event identified by date and either agency or court.
4. The identifying information supporting a request for a criminal history record does not match the record of more than one individual.

12-60-16.7. Criminal history record information — Prohibited dissemination. If dissemination is prohibited under section 12-60-16.6, or there is no information, the bureau shall provide the following answer to the requester: "No information is available because either no information exists or dissemination is prohibited."

12-60-16.8. Criminal history record information — Required disclosure of certain dissemination. If the bureau disseminates information under section 12-60-16.6, unless the request was accompanied by an authorization on forms prescribed by the bureau and signed by the record subject, the bureau shall mail notice of that dissemination to the record subject at the last known address of the record subject.

12-60-16.9. Criminal history record information — Fee for record check. The bureau shall impose a fee of twenty dollars for a record check conducted for a noncriminal justice agency that is not also a court.

12-60-16.10. Criminal history record information — Penalty. Any willful violation as defined in section 12.1-02-02 of any provision of sections 12-60-16.1 through 12-60-16.9 relating to reporting or disseminating criminal history record information is a class A misdemeanor.

12-60-17. Superintendent to make rules and regulations. The superintendent, pursuant to chapter 28-32, shall make and promulgate such rules and regulations, not inconsistent with the provisions of this chapter, as may be necessary and proper for the efficient performance of the bureau's duties. Such rules and regulations shall be printed and forwarded to each state's attorney, sheriff, constable, marshal, or other peace officer, and each of said officers shall assist the superintendent in the performance of his duties by complying with such rules and regulations.

12-60-18. Money collected paid into general fund.—All moneys collected or received, including all rewards for the apprehension or conviction of any criminal earned or collected by the superintendent, the chief of the bureau, his assistants, or any employee of his office, shall be paid into the general fund of the state.

* * *

Probation

12-53-18. Records on discharge from probation.—Every defendant who has fulfilled the conditions of his probation for the entire period thereof, or who shall have been discharged from probation prior to the termination of the period thereof, may at any time be permitted in the discretion of the court to withdraw his plea of guilty. The court may in its discretion set aside the verdict of guilty; and in either case, the court may dismiss the information or indictment against such defendant, who shall then be released from all penalties and disabilities resulting from the offense or crime of which he has been convicted. The clerk of the district court shall file all papers, including the findings and final orders in proceedings had hereunder, and shall note the date of filing on the papers. The records and papers shall be subject to examination by said clerk, the judges of the court, the juvenile commissioner, and the state's attorney. Others may examine such records and papers only upon the written order of one of the district judges.

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Public Records

44-04-18. Access to public records—Penalty.—

1. Except as otherwise specifically provided by law, all records of public or governmental bodies, boards, bureaus, commissions or agencies of the state or any political subdivision of the state, or organizations or agencies supported in whole or in part by public funds, or expending public funds, shall be public records, open and accessible for inspection during reasonable office hours.
2. Violations of this section shall be punishable as an infraction.

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CRIMINAL HISTORY RECORDS LAW

RULES, POLICIES AND PROCEDURES

Published by
Nicholas J. Spaeth
Attorney General

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Chapter 10-13-01

Reporting of Criminal History Record Information

Chapter 10-13-01 REPORTING CHRI
10-13-01-01 Reporting Forms
10-13-01-02 Reporting to FBI Prohibited
10-13-01-03 Fingerprint Cards
10-13-01-04 Reporting Check Offenses

10-13-01-01. REPORTING FORMS. Criminal justice agencies required by statute to report criminal history record information to the bureau shall adhere to such procedures and use such forms as shall be promulgated by the bureau.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-01-02. REPORTING TO FBI PROHIBITED. Arresting agencies shall not report arrest information directly to the Federal Bureau of Investigation, but shall allow all arrest information to be forwarded to the FBI by the Bureau.

General Authority: NDCC 12-6-16.3

Law Implemented: NDCC 12-60-16.3

10-13-01-03. FINGERPRINT CARDS. Arresting agencies, or agencies acting on behalf of an arresting agency, shall prepare two fingerprint cards for submission to the bureau for each arrest for a reportable event. Arrests for check offenses are excluded from this requirement.

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General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-01-04. REPORTING CHECK OFFENSES. Convictions for check offenses included in NDCC sections 6-08-16 and 6-08-16.1 shall be reported to the bureau on forms prescribed by the bureau. These forms may require a single print of the right index finger in lieu of a complete set of fingerprints.

General Authority: NDCC 12-60-16.3

Law Implemented: 12-60-16.3

Chapter 10-13-02

Collecting Criminal History Record Information

Chapter 10-13-02 COLLECTING CHRI
10-13-02-01 Bureau Responsibility

10-13-02-01. BUREAU RESPONSIBILITY. The bureau shall establish procedures and forms for collecting criminal history record information from criminal justice agencies. Such procedures shall include methods for facilitating the collection of disposition information or reportable events relating to initial arrest reports.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

Chapter 10-13-03

Maintaining Criminal History Record Information

Chapter 10-13-03 MAINTAINING CHRI
10-13-03-01 Rules Apply to Manual and Automated Systems
10-13-03-02 Local Criminal History Records
10-13-03-03 Rules Governing Local Criminal History Records

10-13-03-01. RULES APPLY TO MANUAL AND AUTOMATED SYSTEMS.
Criminal history record information may be maintained in manual files or in computerized criminal history files.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-03-02. LOCAL CRIMINAL HISTORY RECORDS. Local criminal justice agencies may compile and maintain criminal history records, as defined by NDCC 12-60-16.3, based on information generated within and by actions of that agency.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-03-03. RULES GOVERNING LOCAL CRIMINAL HISTORY RECORDS. Criminal history records maintained by local criminal justice agencies are subject to the standards established by NDCC 12-60-16.3 and these rules, and may be audited by the bureau for compliance.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

Chapter 10-13-04

Exchanging Criminal History Record Information

Chapter 10-13-04	EXCHANGING CHRI
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10-13-04-02	Limitation on Use of Exchanged Information
10-13-04-03	Exchange Log
10-13-04-04	Disclosure Under the Security Clearance Information Act

10-13-04-01. LIMITATIONS ON INFORMATION TO BE DISCLOSED.
Criminal justice agencies shall disclose only that information on reportable events which occurred within that agency or in relation to reportable events initiated by that agency. Information on arrests and dispositions occurring entirely within other jurisdictions or agencies may not be disclosed by an agency simply because it resides within that agency's criminal history record system.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-04-02. LIMITATION ON USE OF EXCHANGED INFORMATION.
Criminal history record information exchanged between criminal justice agencies shall not be used or disseminated for purposes other than those for which it was originally obtained.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-04-03. EXCHANGE LOG. Criminal justice agencies shall
maintain a transaction log of requests received for criminal

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history record information and their response to those requests.

Such log shall include:

1. Name of Record Subject.
2. Requesting Agency.
3. Date of Request.
4. Type of Response.

Exchange logs shall be retained for a minimum of three years.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-04-04. DISCLOSURE UNDER THE SECURITY CLEARANCE INFORMATION ACT OF 1985. (Public Law No. 99-169, 99 Stat. 1009, codified in part at 5 U.S.C. Section 801.) Criminal justice agencies may release criminal history record information to the Department of Defense (DOD), Central Intelligence Agency (CIA), and the Office of Personnel Management (OPM) as required by the Security Clearance Information Act (SCIA) if the following requirements are met:

1. The subagency within the three authorized agencies, is in fact authorized to make requests for criminal history records (local agencies or the bureau may ask the requesting agency for its authorization under SCIA).

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2. The request relates to an individual under investigation by DOD, CIA, or OPM for the purpose of determining eligibility for (a) access to classified information (a security clearance); or (b) assignment to or retention in sensitive national security duties.

3. The requesting agency has received a written consent from the individual under investigation authorizing release of criminal history record information for the purposes specified above.

4. The request for record check is written and contains:
 - a. The name of the record subject.

 - b. At least two items of information used to retrieve criminal history records, including:
 - (1) The fingerprints of the record subject.

 - (2) The state identification number assigned to the record subject by the bureau.

 - (3) The social security number of the record subject.

 - (4) The date of birth of the record subject.

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- (5) A specific reportable event identified by date and either agency or court.
2. The information has not been purged or sealed.
 3. The identifying information supporting a request for a criminal history record does not match the record of more than one individual.
 4. The information to be disclosed is information relative to a reportable event initiated within that agency, in accordance with section 10-13-04-01 of these rules.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

Chapter 10-13-05

Disseminating Criminal History Record Information

- Chapter 10-13-05 DISSEMINATING CHRI
10-13-05-01 Criminal Justice Agency Response to
Dissemination Requests
10-13-05-02 Bureau Handling of Dissemination Requests
10-13-05-03 Fee for Record Check
10-13-05-04 Dissemination Log

10-13-05-01. CRIMINAL JUSTICE AGENCY RESPONSE TO DISSEMINATION REQUESTS. Criminal justice agencies receiving requests for criminal history record information from noncriminal justice sources shall refer those requests to the bureau by providing the requestor with a request form supplied by the bureau.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-05-02. BUREAU HANDLING OF DISSEMINATION REQUESTS. The bureau shall provide forms and establish procedures for noncriminal justice entities to acquire criminal history record information, and shall make those procedures known to inquiring agencies. Request forms will be provided through criminal justice agencies and directly to noncriminal justice entities upon request.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-05-03. FEE FOR RECORD CHECK. Requests from noncriminal justice agencies for record checks must be accompanied by a check,

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money order, cash, or government purchase order in the amount of \$20.00 to cover the authorized fee. Checks, money orders, or purchase orders should be made payable to the "Attorney General's Office". Any request not accompanied by the \$20.00 fee will be returned to the requesting party unprocessed. A receipt for payment of the fee will be returned to the requesting party.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-05-04. DISSEMINATION LOG. The bureau shall maintain a transaction log of all requests for criminal history record checks, and in those cases where criminal history record information is released, the details of the release shall be recorded. In those cases where dissemination is prohibited, in accordance with NDCC 12-60-16.3 section 7, the reason for not disseminating shall be recorded. Such dissemination log shall be retained by the recording agency for a minimum of three years.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

Chapter 10-13-06

Security of Criminal History Record Information

Chapter 10-13-06 SECURITY OF CHRI
10-13-06-01 Policies and Procedures Required
10-13-06-02 Facilities
10-13-06-03 Automated Systems

10-13-06-01. POLICIES AND PROCEDURES REQUIRED. All criminal justice agencies maintaining criminal history record systems, whether manual or automated must have written policies and procedures to protect criminal history data from unauthorized access. Written policies and procedures will include at a minimum.

1. Designation of personnel authorized access to criminal history files.
2. Screening of personnel authorized access.
3. Screening of noncriminal justice personnel with indirect access or work proximity to criminal history files (such as computer programmers, maintenance personnel, and non-agency janitorial personnel).
4. Supervision of personnel with direct or indirect access or proximity to criminal history files.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-06-02. FACILITIES. All criminal justice agencies maintaining criminal history record systems, whether manual or automated, must have adequate facilities to protect criminal history data from unauthorized access. Buildings and rooms used for file maintenance should be constructed and utilized so as to prevent unrestricted physical access by unauthorized persons.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-06-03. AUTOMATED SYSTEMS. Criminal justice agencies operating automated criminal history record systems must provide the following:

1. Protection against unauthorized access.
2. Protection against tampering or destruction.
3. Detection and logging of unauthorized access attempts.
4. Protection of software..
5. Assurance of restricted access in a shared computer system.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

Chapter 10-13-07

Inspection and Challenge of Criminal History
Record Information by a Record Subject

Chapter 10-13-07	INSPECTION AND CHALLENGE OF CHRI
10-13-07-01	Inspection
10-13-07-02	Record Subject Identification
10-13-07-03	Inspection by Representative
10-13-07-04	Inspection of Local and State Central Repository Records
10-13-07-05	Request for Inspection From Out-of-State
10-13-07-06	Notification of Record Availability
10-13-07-07	Negative Response to Request for Inspection
10-13-07-08	Record Copies Restricted
10-13-07-09	Challenge of Denial to Inspect
10-13-07-10	Challenge of Completeness and Accuracy
10-13-07-11	Forwarding Challenge Forms to Originating Agency
10-13-07-12	Notification of Corrections to a Criminal History Record

10-13-07-01. INSPECTION. Any record subject shall, upon submission of a written request and satisfactory verification of his identity, be entitled to review without undue burden to either the criminal justice agency or the record subject, any criminal history record information maintained by any criminal justice agency about the record subject.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-07-02. RECORD SUBJECT IDENTIFICATION. Satisfactory verification of identify may consist of fingerprint comparison or presentation of photo-identification such as a driver's license or passport. If fingerprint comparison is required for positive identification the record subject may be required to return at a later date to the agency where the inspection was requested.

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General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-07-03. INSPECTION BY REPRESENTATIVE. A representative of a record subject must satisfactorily establish his identity as representative and present evidence of power of attorney or notarized authorization before being allowed to view the information on file for the record subject.

General Authority: NDCC 12-60-16.1(7)

NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-07-04. INSPECTION OF LOCAL AND STATE CENTRAL REPOSITORY RECORDS. A record subject may make a request at any criminal justice agency in North Dakota to inspect his criminal history record, if any, retained by that agency and by the bureau. The agency receiving that request will prepare a form provided by the bureau, and containing information necessary to comply with that request, and will forward that request from to the bureau within five working days. Upon confirmation of the record subject's identity, the bureau will return a copy of any record information to the requesting agency within twenty working days.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

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10-13-07-05. REQUEST FOR INSPECTION FROM OUT-OF-STATE. Any request for inspection of a criminal history record must be made in person at a criminal justice agency by the record subject or a duly authorized representative. Any requests made by mail or any other means from out-of-state cannot be processed by either the receiving agency or the bureau.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-07-06. NOTIFICATION OF RECORD AVAILABILITY. Criminal justice agencies shall notify the record subject when the individual's record is available for review and shall establish a time within normal working hours when that review can take place.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-07-07. NEGATIVE RESPONSE TO REQUEST FOR INSPECTION. A criminal justice agency or the bureau may deny inspection of a record if the record subject is not satisfactorily identified. Agencies or the bureau will also respond negatively if no record is found for the individual. In either situation, the individual will be informed in writing of the reason for the negative response and will be advised of his right to challenge the denial.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-07-08. RECORD COPIES RESTRICTED. Persons inspecting criminal history records may make notes of the information but will not be provided a copy of the information except when the person inspecting intends to challenge the information. If a challenge is indicated, the criminal justice agency will limit the copy to those portions to be challenged.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-07-09. CHALLENGE OF DENIAL TO INSPECT. If an individual is denied the right to inspect his criminal history record, he may challenge this denial by submitting a challenge form and a complete set of fingerprints, within 10 days of the denial, to the administrator of the agency which has issued the denial.

The administrator must, within 30 days, either allow inspection of the records requested, or respond to the individual in writing with his findings as to why the denial is upheld.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-07-10. CHALLENGE OF COMPLETENESS AND ACCURACY. Any record subject may challenge, in writing, the completeness and/or accuracy of specific criminal history record entries pertaining to the individual, and request that incomplete or inaccurate entries be corrected. Upon challenge, the criminal justice agency originating the record entry(ies) shall conduct an administrative review of the alleged incomplete or incorrect entry(ies), and shall notify the record subject, in writing, of the results of the review within twenty working days of the receipt of the challenge.

The record subject must specify the incomplete or inaccurate entry(ies) and indicate what he deems to be the complete or correct entry(ies).

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-07-11. FORWARDING CHALLENGE FORMS TO ORIGINATING AGENCY. If the reviewing agency is not also the originating agency, the original challenge form and any related documents shall be forwarded to the originating agency, or, in the case of challenges claiming incompleteness, to the agency that can verify the notations which, according to the record subject, should be included in the record. The reviewing agency shall retain a copy of the original challenge form.

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General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-07-12. NOTIFICATION OF CORRECTIONS TO A CRIMINAL HISTORY RECORD. IN the event that corrections of criminal history record entries are made by the originating criminal justice agency, the originating agency shall notify all criminal justice and non-criminal justice agencies that have received the erroneous information within the year preceding the challenge of said corrections.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

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Chapter 10-13-08

Auditing of Criminal History Record Information

Chapter 10-13-08 AUDITING OF CHRI SYSTEMS
10-13-08-01 Auditing Local Criminal History Record Systems
10-13-08-02 Auditing of Bureau

10-13-08-01 AUDITING LOCAL CRIMINAL HISTORY RECORD SYSTEMS. The bureau shall conduct annual audits of a representative sample of local criminal justice agencies to ensure completeness and accuracy of criminal history record information and to ensure compliance with legal requirements for the reporting, collection, maintenance and dissemination of such information. Such audits shall be conducted to ascertain compliance with NDCC 12-60-16.1 through 12-60-16.10 and these rules. Upon completion of each audit, the bureau shall submit to the Attorney General a written reporting setting forth the audit methodology and a summary of findings and recommendations.

The audits of state and local agencies will include an inspection of facilities and equipment; observation of equipment and procedures; interviews with management and staff personnel; examination of files, documents and other material; analysis of record samples, and review of all relevant written standards, guidelines, regulations, manuals and training materials.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-08-02. AUDITING OF BUREAU. The bureau shall conduct an annual audit of the state central repository for criminal history record information. This audit will examine compliance with NDCC 12-60-16.1 through 12-60-16.10, these rules, and the policies and procedures established for operation of the bureau's central repository. The results of such audit shall be reported to the Attorney General

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

Chapter 10-13-09

Agreements Between the Bureau and Criminal Justice Agencies

Chapter 10-13-09 AGREEMENTS BETWEEN THE BUREAU AND CRIMINAL
JUSTICE AGENCIES

10-13-09-01 Agreements Between the Bureau and Criminal
Justice Agencies

10-13-09-01. AGREEMENTS BETWEEN THE BUREAU AND CRIMINAL JUSTICE
AGENCIES. Any formal agreement required by state or federal law
or regulation between criminal justice agencies, will be pre-
scribed as needed by the bureau.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

Chapter 10-13-10

Use of Criminal History Record Information
for Research and Statistics

Chapter 10-13-10 USE OF CHRI FOR RESEARCH AND STATISTICS
10-13-10-01 Purposes Warranting Disclosure
10-13-10-02 Disclosure of Personal Identifiers
10-13-10-03 Written Agreement Required.

10-13-10-01. PURPOSES WARRANTING DISCLOSURE. Disclosure of criminal history record information for research and statistics is authorized for bonafide studies and analyses of such matters as the incidence of crime, recidivism, demographic trends or the administration of criminal justice.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-10-02. DISCLOSURE OF PERSONAL IDENTIFIERS. Criminal history records may be disclosed in a form that identifies record subjects, for the purposes authorized in rule 10-13-10-01, only if the results will be released to the public in statistical, aggregate and anonymous form and published information does not disclose the identity of record subjects. If the purposes of the study and analysis can be accomplished without access to personal identifiers, the required data will be made available without personal identifiers.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-10-03. WRITTEN AGREEMENTS REQUIRED. The recipient of criminal history record information for research and statistical purposes, shall execute a written agreement that defines the purposes of the study or analysis, and the intended use of the information, and establishes safeguards to assure the integrity, confidentiality and security of the information, ~~if the information is disclosed to the recipient in a form that identifies record subjects.~~ The recipient may not use the information for purposes other than those specified in the agreement, or disclose information in a form that identifies the record subject, without the express written authorization of the record subject.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

Chapter 10-13-11

Purging and Sealing of Criminal History Record Information

Chapter 10-13-11	PURGING AND SEALING OF CHRI
10-13-11-01	Court Order Required
10-13-11-02	Purging Limited
10-13-11-03	Access to Sealed Records
10-13-11-04	Methods of Sealing

10-13-11-01. COURT ORDER REQUIRED. Criminal history records, or portions thereof, may be purged or sealed only when expressly authorized by state or federal law, and pursuant to a court order.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-11-02. PURGING LIMITED. Purging shall be accomplished so as to retain records or portions of records which are not the direct objective of a purge order. Agencies may destroy an entire record, including fingerprints, photos, and arrest and disposition data, or they may destroy only specific portions of a record to accomplish the required purge.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-11-03. ACCESS TO SEALED RECORDS. Criminal justice agencies may access sealed records for the following purposes:

1. Records management

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2. Review by the record subject
3. Authorized research and statistical purposes
4. Upon court order

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-11-04. METHODS OF SEALING. Records may be sealed by attaching a special marking to sealed files, or by removal from the general record file and storage in a separate, secured file. In automated systems, sealing will be accomplished by limiting access to the sealed records or portions thereof to specific terminals and/or specifically authorized persons.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

Chapter 10-13-12

Agency Responsibility for Reporting
Criminal History Record Information

Chapter 10-13-12	AGENCY REPORTING RESPONSIBILITY
10-13-12-01	Law Enforcement and Arresting Agencies
10-13-12-02	Prosecuting Attorneys
10-13-12-03	Local Correctional Facilities
10-13-12-04	State Penitentiary
10-13-12-05	Board of Pardons and Parole Board

10-13-12-01. LAW ENFORCEMENT AND ARRESTING AGENCIES. Law enforcement and arresting agencies shall report to the bureau the following events and information:

1. Arrests
 - a. Fingerprints
 - b. Physical description
 - c. Charges
2. Decisions not to refer arrests for prosecution
3. Fingerprints ordered by the court after determination that defendant has not been previously fingerprinted for the current charge

The arresting agency retains responsibility for ensuring that the required information is reported to the bureau even though another agency is under agreement to provide fingerprinting services.

General Authority: NDCC 12-60-16.3

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Law Implemented: NDCC 12-60-16.2

NDCC 12-60-16.3

10-13-12-02. PROSECUTING ATTORNEYS. Prosecuting attorneys shall report to the bureau the following events and information:

1. Charges filed
2. Charges added subsequent to the filing of a criminal court case
3. Decisions not to file charges after a reported arrest
4. Judgments of not guilty
5. Judgments of guilty including sentence imposed
6. Dismissal of charges
7. Reversal of conviction
8. Remand
9. Vacation of sentence
10. Sentence modification
11. Judgment terminating probation
12. Judgment revoking probation including resentencing
13. Deferred imposition of sentence or suspended sentence
14. Death of defendant prior to trial
15. Conviction of misdemeanor check offenses

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.2

NDCC 12-60-16.3

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10-13-12-03. LOCAL CORRECTIONAL FACILITIES. Local correctional facilities shall report to the bureau the following events and information:

1. Receipts
2. Escape
3. Death
4. Release

This information shall be reported only for those offenders actually sentenced to the custody of the sheriff or local correctional facility for reportable offenses. It does not apply to those offenders who happen to be in custody awaiting trial or transfer to another facility, except in the event of their escape or death.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.2

NDCC 12-60-16.3

10-13-12-04. STATE PENITENTIARY. The state penitentiary shall report to the bureau the following events and information:

1. Receipt
2. Escape
3. Death
4. Release

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General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.2

NDCC 12-60-16.3

10-13-12-05. BOARD OF PARDONS AND PAROLE BOARD. The board of pardons and parole board, through the department of parole and probation, shall report to the bureau the following events and information.

1. Pardon
2. Parole
3. Commutation of sentence
4. Discharge from custody or supervision

The preceding events and information shall be reported for each sentence assigned to a record subject for each reportable offense.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.2

NDCC 12-60-16.3

Chapter 10-13-13

Time Requirement for Reporting Criminal
History Record Information

Chapter 10-13-13 REPORTING TIME REQUIREMENTS
10-13-13-01 Time Limits

10-13-13-01. TIME LIMITS. Reports and substantiating documents of reportable events shall be submitted to the bureau within the following time limits after the completion of the event:

1. Arrest - with 24 hours
2. Decision not to refer - within 48 hours
3. Decision not to file charges - within 48 hours
4. All other reportable events - within 30 days

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

Chapter 10-13-14

Definitions

Chapter 10-13-14 DEFINITIONS

10-13-14-01 Definitions As Used in These Rules

10-13-14-01. DEFINITIONS AS USED IN THESE RULES. Certain terms used in these rules shall be defined as follows:

DEFINITIONS

1. "Challenge" means to formally, in writing, call into question the completeness, contents, accuracy, dissemination or denial of access to a criminal history record.
2. "Collect" means to solicit and receive information pertaining to reportable events.
3. "Exchange" means to disclose criminal history record information, by any means, to another criminal justice agency or to a court.
4. "Maintain" means to file or store criminal history record information and to combine information on related reportable events for identified record subjects.
5. "Originating Agency" means the criminal justice agency which recorded and reported a reportable event.

6. "Personal Identifiers" means an individual's name, social security number, other number or descriptive information which is sufficiently unique to identify one individual.
7. "Purge" means destroying, blotting out, striking out or effacing a record so that no trace of the individual identification remains.
8. "Report" means to submit to the bureau information pertaining to reportable events.
9. "Reviewing Agency" means the criminal justice agency at which a record subject has appeared to request an inspection of his criminal history record.
10. "Seal" means retaining a record, but prohibiting access or dissemination except as provided by rule 10-13-11-03.