

**ARTICLE 10-01
ORGANIZATION**

Chapter
10-01-01 General Administration

**CHAPTER 10-01-01
GENERAL ADMINISTRATION**

Section
10-01-01-01 Organization of Office of Attorney General
10-01-01-02 Inquiries

10-01-01-01. Organization of office of attorney general.

1. **History.** The attorney general is a constitutional officer whose duties are primarily legal in nature. The office is not, for most purposes, an administrative agency. However, the legislative assembly has determined that certain licensing functions should be under the administration of the attorney general and some of these functions involve the adoption of rules pursuant to the Administrative Agencies Practice Act, North Dakota Century Code chapter 28-32. The attorney general is the constitutionally elected head of the office of attorney general. The ~~staff consists of~~ office includes a general counsel, assistant attorneys general, investigators, licensing regulators, accountants, training officers, statisticians, and other necessary support staff. Some state agencies ~~that have~~ legal counsel with the title of ~~assistant attorney general or special assistant attorney general~~ who are paid by the employing agency but appointed by the attorney general and are legally responsible to the attorney general.
2. **Divisions and functions.** The office of attorney general of the state of North Dakota is divided into ~~nine~~ the divisions described in this subsection. The ~~advantage of the division concept is that it~~ organization by divisions provides for supervision at a lower level and allows all of the portfolios to be assigned on a centralized basis rather than by individual subject matter or attorney. Each division is headed by ~~an appointed~~ a director appointed by the attorney general. The director of each division is the primary contact person for that division and is

responsible for the overall management of the division. The agency consists of office includes the following divisions and sections.:

- a. Attorney general administration division. The attorney general division includes the attorney general, the chief deputy attorney general, an executive assistant, and a public information officer for the office of the attorney general. The executive assistant may serve also as the public information officer. The division is primarily responsible for executive staff management, the agency's human resources requirements, constituent resources, and serves as a liaison with the legislative assembly and elected officials.
- a.b. Finance and administration division. The finance and administration division is responsible for supervising all office financial and administrative functions. This division handles office budget matters, bill payments, data and word processing duties, and procurement and support staff duties, and ~~nonlegal employee personnel matters.~~
- b.c. State and local government division. The state and local government division is responsible for the successful and timely preparation, coordination, and distribution of a broad range of legal services to state agencies, and professional and occupational boards and has primary responsibility for all attorney general's opinions and letter responses. Attorneys assigned to the division are responsible for providing the necessary legal advice and assistance to state governmental agencies, including the university system, and occupational and licensing boards served by the division. However, when When agencies or occupational and licensing boards represented by the state and local government division become involved in litigation, either civil or criminal administrative litigation, the state and local government division ~~attorney~~ coordinates the ~~activities with respect to that litigation with the criminal and regulatory division or the civil litigation division as appropriate. This~~ The state and local government division also responds to requests for noncriminal assistance law-related

questions from local governmental agencies city attorneys and state's attorneys on noncriminal matters.

- e.d. Criminal and regulatory division. The criminal and regulatory division is responsible for the administration and enforcement and application of all laws dealing with alcoholic beverage licensing, tobacco licensing, gaming licensing, polygraph examiners licensing, and transient merchant licensing. The attorneys assigned to this division provide legal assistance to those the divisions of the office of attorney general involved in matters such as gaming, and consumer protection and ~~The division is also responsible for matters involving criminal laws, law enforcement, and state's attorneys.~~ charitable gaming, sex offender and felony crimes against children registration, and concealed weapons licenses. Attorneys assigned to ~~this~~ the criminal and regulatory division are responsible for meeting ~~this~~ the office's responsibilities to the various state crime laboratory, the peace officer standards and training board, the parole board and pardon advisory board, and state law enforcement agencies, including the bureau of criminal investigation, North Dakota highway patrol, and the North Dakota department of corrections and rehabilitation. The criminal and regulatory division assists state's attorneys in criminal prosecutions, state and federal post-conviction cases, and also assists the United States attorney's office in drug prosecutions, and for other issues relating to the enforcement of the criminal law. The attorneys also represent the attorney general's office with the state child protection team, the child fatality review panel, the domestic violence fatality review panel, the human trafficking commission, the task force on substance exposed newborns, and the sexual assault evidence collection protocol committee.
- d.e. Civil litigation division. The civil litigation division, ~~which~~ is supervised by the solicitor general, and is responsible for the overall coordination of all civil litigation and all civil appellate cases involving or affecting the state of North Dakota. ~~These~~ The civil litigation division's responsibilities include:

- (1) Civil litigation brought against the state, state agencies, state officials, and state employees (~~other than~~, except natural resources and Indian affairs litigation).
- (2) Representation of agencies at administrative hearings (~~other than~~, except natural resources and Indian affairs, gaming, liquor licensing, and consumer protection hearings).
- (3) Appeals to state and federal courts (~~other than these~~, except appeals involving cases in natural resources and Indian affairs, gaming, liquor licensing, ~~and consumer protection~~, and state and federal post-conviction cases).
- (4) Debt collection and foreclosures.
- (5) Representing (and advising) state agencies with regard to personnel-related questions and litigation. It is the solicitor general's responsibility to oversee these cases involving or affecting the state of North Dakota so the attorney general may be kept informed of the status of such cases. Finally, the solicitor general is responsible for reviewing requests to the state of North Dakota to join other states in state and federal courts as amicus ~~presented to North Dakota by other curiae when requested by other~~ states.

e.f. Natural resources and Indian affairs division. The natural resources and Indian affairs division is responsible for legal issues involving agriculture, water, oil and gas, the land department, environmentenvironmental law, the game and fish department, and the parks and recreation department, and Indian law. ~~Additionally, Indian law issues are handled by this division.~~ The division's duties include ~~the management of litigation~~ and appeals in these areas, environmental law enforcement, and the preparation of attorney general opinions and letter responses concerning natural resources, agriculture, and Indian affairs.

f.g. Bureau of criminal investigation. The bureau of criminal investigation is the state criminal investigative agency that responds to requests from sheriffs,

chiefs of police, prosecutors, judges, and public officials for assistance in criminal investigations. The bureau is involved in the investigation, arrest, detection, prosecution, or suppression of crimes when directed by the attorney general. The bureau of criminal investigation also participates in the drug task forces and cooperates with and assists federal law enforcement agencies and cooperates with and assists the federal bureau of investigation and similar law enforcement agencies in other states in carrying on a complete system of criminal identification. In addition, the bureau of criminal investigation works with all North Dakota judges, prosecutors, and other law enforcement to establish a system of criminal identification. The bureau serves as the state repository for criminal history record information and maintains and publishes an annual crime report. The bureau assists with the blue alert notice system and with information for lost, missing, or runaway children. The bureau conducts or schedules training of all types for law enforcement in North Dakota. The bureau operates the following sections in carrying out its duties:

- (1) ~~Criminal-section~~Investigation, including general criminal investigations and narcotics investigations.
- (2) ~~Narcotics-section~~Cyber-crime unit, including the investigation of internet crimes against children.
- (3) ~~Training-section~~State and local intelcenter, which provides criminal intelligence information to state and local law enforcement agencies.
- (4) ~~Grants-management-section~~Finance, including grant administration and business operations.
- (5) ~~Criminal justice-information-services-section~~ Information services, including criminal records, uniform crime reporting, and the automated fingerprint identification system.
- (6) ~~Sex offender and felony crimes against children registration.~~
- (7) ~~Concealed weapons license administration.~~

(8) Administration and support for the peace officer standards and training board.

(9) Support for the twenty-four seven sobriety program.

(10) Information processing.

~~The bureau of criminal investigation is responsible for conducting criminal and narcotics investigations, for training criminal justice personnel, for maintaining training and licensing records for peace officers, for administrating federal grant funds for criminal justice programs, and for maintaining criminal justice information systems.~~

g.h. Fire marshal division. The state fire marshal is appointed by the attorney general and supervises the operation of the fire marshal division. The division is responsible for enforcing state laws for prevention of fires; coordinating resources for large rural wild-land fires; storage, sale, and use of combustibles and explosives; installation and maintenance of fire alarms and fire extinguishing equipment; adequacy of exits from public buildings; investigation of arson and the cause and origin of fires and education on hazards of fire. The division also has responsibility for the state's emergency response to hazardous materials incidents and hazardous materials training.

h.i. Consumer protection and antitrust division. The consumer protection and antitrust division is responsible for enforcing the state consumer fraud laws, investigating claims of fraud, misrepresentation, and deceptive practices in the sale or advertisement of merchandise, and mediating consumer complaints against businesses. The division plays an important role in educating members of the public regarding consumer issues. The division is also responsible for investigating antitrust violations and enforcing state antitrust laws.

h.j. Gaming division. The gaming division is responsible for regulating, enforcing, and administering charitable gaming activity in North Dakota. The gaming division performs office and field audits and investigations of gaming organizations, distributors, and manufacturers; ensures that the

receipt, control, and disbursement of gaming funds are accurate and according to law; reviews gaming tax returns; issues administrative complaints; ~~issues work permits to gaming employees;~~ conducts criminal history background checks of applicants, ~~including~~ and officers and stockholders of distributors, manufacturers, and Indian casino management companies; provides guidance and trains representatives of organizations, distributors, manufacturers, and local law enforcement agencies; and ensures compliance with five tribal-state Indian casino gaming compacts.

- k. Crime laboratory division. The crime laboratory division provides forensic criminal examinations, including firearms testing, fiber analysis, latent fingerprint analysis, DNA analysis, biological screening, and drug analysis. The crime laboratory also performs toxicology analysis, including testing blood samples for alcohol concentration and samples from the North Dakota medical examiner. The crime laboratory is also responsible for training law enforcement to conduct breath testing to determine alcohol concentration and to certify and repair breath alcohol testing equipment for the entire state of North Dakota.
- l. Lottery division. The lottery division is responsible for administering, regulating, enforcing, and promoting the state's lottery. The lottery division selects and licenses retailers, trains employees of retailers to use lottery terminals, sell tickets and redeem winning tickets, assists retailers in promoting lottery games, pays high-tier prizes to players, ensures that retailers and players comply with the lottery law and rules, and provides full accountability to the public and legislature.
- m. Criminal justice information sharing division. The criminal justice information sharing division is responsible for developing policies, processes, and statewide information systems to capture and provide complete, accurate, and timely criminal justice data. The criminal justice information sharing division administers the portal, which is a secure criminal justice information sharing hub, and the broker, which allows

sharing of criminal justice information in information technology systems. Additionally, the division supports several statewide information systems, including a law enforcement records management system, a jail records management system, and a state's attorney case management system. Other programs within the criminal justice information sharing division include automated victim notification and the common statute table.

- n. Information technology division. The information technology division provides technology planning and assistance services to all divisions of the office of the attorney general. The division maintains data repositories for the key information obtained by the various divisions of the office, including: sex offender and felony crimes against children registration; concealed weapon licenses; gaming and other various licenses; criminal history and other criminal justice repositories, including biometrics; crime lab management system; lottery management; consumer protection management; twenty-four seven sobriety management; crime statistics; and fire marshal and legal billing. The division also provides information from these repositories in response to open-record requests. The division maintains a helpdesk to support technology requests for the entire office and for criminal justice organizations across the state that have access to the data repositories. The division is also responsible to maintain a high level of security for the computer infrastructure in accordance with federal bureau of criminal investigation security policy; to forward appropriate criminal justice information to the federal bureau of criminal investigation; to maintain real-time communications with law enforcement across the state and the nation through North Dakota state radio and criminal justice data information sharing for access to the information in the state's criminal justice repositories; and to support those communications twenty-four hours a day, seven days a week.

3. — Although not a division, the North Dakota racing commission is located within the office of attorney general. The racing commission is appointed by the governor and is responsible for providing for racing under the certificate system, setting

~~racetrack dates, adopting and administering rules for the regulation of live and simulcast parimutuel racing, administering special funds (breeders, purse, race promotion), licensing all participants in live and simulcast racing, regulating bids on licensed activities, and considering and authorizing all proposed extensions, additions, or improvements to facilities owned or leased by a licensee. The racing commission also is responsible for licensing live and simulcast horse racing under a racing addendum to a tribal gaming compact if the tribe so elects. The racing commission appoints a director of racing who is responsible for carrying out the duties and responsibilities of the commission.~~

10-01-01-02. Inquiries.

1. All inquiries, requests for records, and correspondence is to be addressed to the office of the attorney general as follows:

Office of the Attorney General
600 East Boulevard Ave., Dept. 125
Bismarck, North Dakota, 58505-0040

History: Amended effective September 1, 1982; June 1, 1986; September 1, 1989; May 1, 1992; May 1, 1994; _____

General Authority: NDCC 28-32-02; 54-12-01

Law Implemented: NDCC 12-60-01; 12-60-05; 12-60-07; 18-01-01; 53-06.1-03; 53-12.1-02; 54-12-01; 54-12-17; 54-12-24; 54-12-26; 54-12-27; 54-12-32; 54-12-33; 54-12-34; 62.1-04-03

**ARTICLE 10-13
CRIMINAL HISTORY RECORD INFORMATION**

Chapter	
10-13-01	Reporting of Criminal History Record Information
10-13-02	Collecting Criminal History Record Information
10-13-03	Maintaining Criminal History Record Information
10-13-04	Exchanging Criminal History Record Information
10-13-05	Disseminating Criminal History Record Information
10-13-06	Security of Criminal History Record Information
10-13-07	Inspection and Challenge of Criminal History Record Information by a Record Subject
10-13-08	Auditing of Criminal History Record Information
10-13-09	Agreements Between the Bureau and Criminal Justice Agencies
10-13-10	Use of Criminal History Record Information for Research and Statistics
10-13-11	Purging and Sealing of Criminal History Record Information
10-13-12	Agency Responsibility for Reporting Criminal History Record Information
10-13-13	Time Requirement for Reporting Criminal History Record Information
10-13-14	Definitions

**CHAPTER 10-13-01
REPORTING OF CRIMINAL HISTORY RECORD INFORMATION**

Section	
10-13-01-01	Reporting Forms
10-13-01-02	Reporting to Federal Bureau of Investigation Prohibited
10-13-01-03	<u>Fingerprint Cards</u> <u>Biometric Data Submissions</u>
10-13-01-04	Reporting Check Offenses [Repealed]

10-13-01-01. Reporting forms. Criminal justice agencies required by ~~statute~~law to report criminal history record information to the bureau shall adhere to ~~such~~ procedures and use ~~such forms as shall be promulgated~~electronic or paper formats prescribed by the bureau.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-01-02. Reporting to federal bureau of investigation prohibited. Arresting agencies may not report ~~arrest~~criminal history information directly to the federal bureau of investigation, ~~but shall allow all arrest information to be forwarded to~~

the federal bureau of investigation by Only the bureau may submit criminal history record information directly to the federal bureau of investigation.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-01-03. Fingerprint cards Biometric Data Submission. ~~Arresting Criminal justice agencies, or agencies acting on behalf of an arresting agency, shall prepare one fingerprint card on the multipart form, and one federal bureau of investigation fingerprint card, for submission to~~ submit biometric data to the bureau in the electronic or paper format prescribed by the bureau for each arrest for a reportable event. Arrests for check offenses are excluded from this requirement.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-01-04. Reporting check offenses. Repealed effective _____.

CHAPTER 10-13-02 COLLECTING CRIMINAL HISTORY RECORD INFORMATION

Section

10-13-02-01 Bureau Responsibility

10-13-02-01. Bureau responsibility. The bureau shall establish procedures and ~~forms~~ electronic or paper formats for collecting criminal history record information from criminal justice agencies. ~~Such procedures must include,~~ including methods for ~~facilitating to facilitate~~ the collection of prosecution or disposition information or reportable events relating to initial arrest reports.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.2; 12-60-16.3; 12-60-16.4

CHAPTER 10-13-03 MAINTAINING CRIMINAL HISTORY RECORD INFORMATION

Section

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 electronic criminal history files.

History: Effective November 1, 1987; amended _____

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 North Dakota Century Code section ~~12-60-16.3~~ 12-60-16.1, based on information generated within and by actions of an agency, or agencies as in the case of joint or shared record systems.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.1; 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 requirements of North Dakota Century Code section ~~12-60-16.3~~ chapter 12-60 and this article and may be audited by the bureau for compliance.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

CHAPTER 10-13-04 EXCHANGING CRIMINAL HISTORY RECORD INFORMATION

Section

10-13-04-01 Limitation on Use of Exchanged Information

10-13-04-02 Exchange Log

10-13-04-03 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 804~~ for National Security Purposes

10-13-04-01. Limitation on use of exchanged information. Criminal history record information exchanged between criminal justice agencies for criminal justice

purposes may not be used or disseminated for purposes other than those for which it was originally obtained.

History: Effective November 1, 1987.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-04-02. Exchange log. Criminal justice agencies shall maintain a transaction log of requests received for criminal history record information and their response to those requests for a minimum of three years. Such ~~The~~ log must include:

1. Name of record subject.
2. Requesting agency.
3. Officer name or unit number.
4. Date of request.
5. Type of response (and indicating a record exchange or no record).

~~Exchange logs must be retained for a minimum of three years.~~

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3; 12-60-16.5

10-13-04-03. 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, for national security purposes. Criminal justice agencies shall release criminal history record information to the department of defense (DOD), department of the state, department of transportation, office of personnel management, central intelligence agency (CIA), and the office of personnel management (OPM) federal bureau of investigation as required by the ~~Security Clearance Information Act of 1985~~ (SCIA) under federal law 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 . Local agencies or the bureau may ask the requesting federal agency for provides its legal authorization under the Security Clearance Information Act of 1985) to the bureau or criminal justice agency.~~

2. The request relates to an individual under investigation by the department of defense, department of state, department of transportation, office of personnel management, central intelligence agency, or the office of personnel management federal bureau of investigation for the purpose of determining eligibility for ~~(a) a security clearance,~~ access to classified information ~~(a security clearance); or (b),~~ assignment to or retention in sensitive national security duties, acceptance or retention in the armed forces, appointment, retention, or assignment to a position of public trust or a critical or sensitive position while either employed by the federal government or performing a federal government contract.
3. The requesting federal agency has received a written consent from the individual under investigation ~~authorizing release to~~ authorize disclosure of criminal history record information for the purposes specified ~~above~~ in this rule.
4. The request for record check is written and contains:
 - a. The biometric data of the record subject, or if the request is made without the submission of biometric data, the request must also include the name of the record subject.
 - b. ~~At and~~ 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.
 - (5) A specific reportable event identified by date and by either a criminal justice agency or a court.
5. The information has not been purged or sealed.
6. The identifying information ~~supporting~~ in support of a request for a criminal history record does not match the record of more than one individual.

7. The information to be disclosed is information relative to a reportable event initiated within that criminal justice agency, in accordance with section 10-13-04-01.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3; 12-60-16.5; 12-60-16.6

CHAPTER 10-13-05 DISSEMINATING CRIMINAL HISTORY RECORD INFORMATION

Section

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

10-13-05-05 Retention of fingerprints and other identifying information for rap back purposes

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~~ Only the bureau may disseminate criminal history record information for noncriminal justice purposes.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3; 12-60-16.6; 12-60-16.7

10-13-05-02. Bureau handling of dissemination requests. The bureau shall provide forms and establish and publish 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.~~

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3; 12-60-16.6; 12-60-16.7

10-13-05-03. Fee for record check. Requests from noncriminal justice agencies for criminal history record checks must be accompanied by ~~a check, money order, cash,~~ or government purchase order in the amount of ~~twenty dollars to cover the authorized~~ fee payment in the amount required in North Dakota Century Code section 12-60-16.9. Checks, money orders, or purchase orders ~~should~~must be made payable to the "Attorney General's Office". Any request ~~not accompanied by the twenty dollar~~that does not include the statutory fee will not be processed and will be returned to the requesting party ~~unprocessed~~. A receipt for payment of the fee will be ~~returned~~provided to the requesting party.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3; 12-60-16.9

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 ~~wherein which~~ criminal history record information is released, the details of the release must be recorded. In those cases ~~wherein which~~ dissemination is prohibited, ~~in accordance with~~ North Dakota Century Code section 12-60-16.7 under state or federal law, the reason for not disseminating criminal history record information must be recorded. ~~Such dissemination log must be retained by the~~ The recording agency shall maintain the dissemination log for a minimum of three years.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3; 12-60-16.5; 12-60-16.6; 12-60-16.7;

10-13-05-05. Retention of fingerprints and identifying information for rap back purposes. The bureau and the federal bureau of investigation may retain fingerprints and other identifying information obtained through the criminal history record information background investigation process for rap back at the request of the agency, official or entity that submitted the fingerprints and other identifying information. The subject of the record request must be provided notice of the retention of the fingerprints

and other identifying information. Fingerprints and other identifying information may be searched against future submissions, including latent fingerprint searches.

History: Effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3; 12-60-24

CHAPTER 10-13-06 SECURITY OF CRIMINAL HISTORY RECORD INFORMATION

Section

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~~must 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~~record information, including information technology personnel, contractors, maintenance personnel, and nonagency janitorial personnel).
4. Supervision of personnel with ~~direct or indirect~~ access or proximity to criminal history filesrecord information.

History: Effective November 1, 1987; amended effective _____.

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 and security systems to protect criminal history data from unauthorized access. Buildings and rooms used for ~~file~~criminal history record information ~~maintenance should~~and

storage must be constructed and utilized so as to prevent unrestricted physical access by unauthorized persons.

History: Effective November 1, 1987; amended effective _____

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 information systems must provide the following:

1. ~~Protection against unauthorized access~~ Access to only authorized individuals and agencies using secure passwords. Authorized individuals may not disclose passwords.
2. ~~Protection~~Security against tampering or destruction of the criminal history record information system.
3. Detection and logging of unauthorized attempts to access attempts the criminal history record information system.
4. Protection of criminal history record information system software.
5. ~~Assurance of restricted access in a shared computer system~~ Compliance with the security requirements under 28 C.F.R. Part 20 and NCIC.

History: Effective November 1, 1987; amended effective _____

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

Section

- 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 ~~A~~ record subject ~~shall~~may, 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.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-07-02. Record subject identification. Satisfactory verification of identity may ~~consist of~~include fingerprint comparison or presentation of a current government-issued photo-identification such as, including 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.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3; 12-60-16.6

10-13-07-03. Inspection by representative. A representative of a record subject ~~must satisfactorily establish his identity as representative and~~shall present evidence ~~of a~~ power of attorney ~~or, notarized authorization, or satisfactory proof of authority as a legal~~ representative of the record subject before being allowed to view the information on file for the record subject.

History: Effective November 1, 1987; effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.1(9); 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~~the subject's 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 containing information necessary to comply with that request and will forward that request form 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.~~The record subject shall provide satisfactory verification of identity before the agency may permit the record subject to inspect the records.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-07-05. Request for inspection from out-of-state. ~~Any~~A 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~~duly authorized representative of the record subject. ~~Any requests~~Requests made by mail or any other means from out-of-state ~~cannot~~may not be processed by either the receiving agency or the bureau.

History: Effective November 1, 1987; amended effective _____

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~~subject's record is available for review and shall establish a time within normal working hours when that review can take place.

History: Effective November 1, 1987.

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~~shall also respond negatively if no record is found for the individual. ~~In either situation, the~~The agency or the bureau shall notify the individual will be informed in writing of the reason for the negative response and will be advised of histhe right to challenge the denial.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3; 12-60-16.7

10-13-07-08. Record copies restricted. ~~Persons~~Individuals inspecting criminal history records may make notes of the information in the record but ~~will~~may not be ~~provided~~receive a copy of the information ~~except~~record ~~unless~~ the ~~person~~ inspecting the ~~record~~record subject intends to challenge the information in the record. If a challenge is indicated ~~a~~record subject challenges information in a criminal history record, the criminal justice agency ~~will~~or the bureau shall limit the ~~copy~~copies of the record to those portions ~~to be challenged~~of the record that have been challenged.

History: Effective November 1, 1987; amended effective _____

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~~agency or the bureau denies a record subject the right to inspect ~~his~~the subject's criminal history record, ~~he~~the subject may challenge ~~this~~the denial by submitting a challenge form and a complete set of fingerprints, within ten days of the denial, to the administrator of the agency which has issued the denial. The agency administrator ~~must, within thirty days,~~ either shall allow inspection of the records requested, or respond to the ~~individual in writing~~record subject with ~~his~~written findings as to why the denial is upheld.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-07-10. Challenge of completeness and accuracy. Any A record subject may challenge, ~~in writing,~~ the completeness or accuracy, or both, of specific criminal history record entries pertaining to the ~~individual~~record subject and request that incomplete or inaccurate entries be corrected. Upon challenge, the criminal justice agency originating the record entries shall ~~conduct an administrative review of~~review the alleged incomplete or incorrect entries, 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~~shall specify in writing the incomplete or inaccurate entries and indicate what he ~~deems to be the~~are complete or correct entries.

History: Effective November 1, 1987; amended effective _____

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 must 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.

History: Effective November 1, 1987.

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 an~~originating criminal justice agency corrects criminal history record entries ~~are made by the originating criminal justice agency,~~ the originating agency shall notify all criminal justice and noncriminal justice agencies that have received the erroneous information within the year preceding the challenge of saidthe corrections.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

CHAPTER 10-13-08 AUDITING OF CRIMINAL HISTORY RECORD INFORMATION

Section

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 criminal history record information. ~~Such audits~~Audits must be conducted to ascertain compliance with North Dakota Century Code sections 12-60-16.1 through ~~12-60-16.10~~12-60-24 and this article. Upon completion of each audit, the bureau shall submit to the attorney general a written report setting forth the audit methodology and a summary of findings and recommendations. The audits of state and local agencies ~~will~~must 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.

History: Effective November 1, 1987; amended effective _____

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 North Dakota Century Code sections 12-60-16.1 through ~~12-60-16.10~~12-60-24, this article, and the policies and procedures established for operation of the bureau's central repository. The results of such audit must be reported to the attorney general.

History: Effective November 1, 1987; amended effective _____

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

Section

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 prescribed as needed~~ must be in the form required by the bureau.

History: Effective November 1, 1987; amended effective ____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3; 12-60-16.5

**CHAPTER 10-13-10
USE OF CRIMINAL HISTORY RECORD INFORMATION FOR RESEARCH
AND STATISTICS**

Section

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~~ The bureau may disclose criminal history record information for research and statistics ~~is authorized~~ for bona fide studies and analyses ~~of such matters as~~ including the incidence of crime, recidivism, demographic trends, or the administration of criminal justice.

History: Effective November 1, 1987; amended effective _____

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 section 10-13-10-01, ~~only~~ if the results will only 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.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-10-03. Written agreement required. The recipient of criminal history record information for research and statistical purposes shall execute a written agreement with the bureau 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. 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.

History: Effective November 1, 1987; amended effective _____

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

Section

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 from a court of competent jurisdiction.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-11-02. Purging limited. Purging must 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 fingerprintsbiometric data, photos, and arrest and disposition data, or they may destroy only specific portions of a record to accomplish the required purge.

History: Effective November 1, 1987; amended effective _____

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.
2. Review by the record subject.
3. Authorized research and statistical purposes.
4. Upon court order from a court of competent jurisdiction.

History: Effective November 1, 1987; amended effective _____

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~~must be accomplished by limiting access to the sealed records or portions thereof of the records to specific terminals or specifically authorized persons, or ~~both~~to specific terminals and specifically authorized persons.

History: Effective November 1, 1987; amended effective _____

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

Section

- 10-13-12-01 ~~Law Enforcement and Arresting~~Criminal Justice Agencies
- 10-13-12-02 Prosecuting Attorneys
- 10-13-12-03 Local and Regional Correctional Facilities
- 10-13-12-04 ~~State Penitentiary~~North Dakota Department of Corrections and Rehabilitation
- 10-13-12-05 ~~Board of Pardons~~Pardon Advisory Board and Parole Board

10-13-12-01. Law enforcement and arresting Criminal justice agencies. Law enforcement and arresting Criminal justice agencies shall report to the bureau the following reportable events and information to the bureau:

1. Arrests.
 - a. FingerprintsBiometric data.
 - b. Physical description.
 - c. Charges.
2. Decisions not to refer arrests for prosecution.
3. FingerprintsBiometric data ordered by the court after a determination that biometric data has not been previously collected from defendant has not been previously fingerprinted for the current charge.
4. The arresting agency ~~retains responsibility for ensuring that~~ is responsible for reporting the required information ~~is reported~~ to the bureau even though another agency is under agreement to provide fingerprinting services or collection of biometric data.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.2, 12-60-16.3; 12-60-16.4

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

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 the sentence imposed.
6. Dismissal of charges.
7. Reversal of conviction.
8. Remand.
9. Vacation of sentence.
10. Sentence amendment or modification.
11. Judgment or order modifying or terminating probation.

12. Judgment or order revoking probation, including resentencing and the sentence imposed.
13. Deferred imposition of sentence or suspended sentence.
14. Death of defendant prior to trial.
15. ~~Conviction of misdemeanor check offenses~~ Deferred prosecution or pretrial diversion of offenses under rule 32.2 of the North Dakota rules of criminal procedure.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.2, 12-60-16.3; 12-60-16.4

10-13-12-03. Local and regional correctional facilities.

1. Local and regional correctional facilities shall report to the bureau the following events and information:
 1. a. Receipts Receipt of an inmate.
 2. b. Escape of an inmate.
 3. c. Death of an inmate.
 4. d. Release of an inmate from custody.
2. This information shall be reported only for those offenders actually sentenced to the custody of the sheriff or local or regional correctional facility for reportable offenses. It does not apply to ~~these~~ offenders who happen to be in custody awaiting trial or transfer to another facility, except in the event of ~~their~~ the offender's escape or death.

History: Effective November 1, 1987; amended effective ____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.2, 12-60-16.3

10-13-12-04. ~~State penitentiary~~ North Dakota department of corrections and rehabilitation. The ~~state penitentiary~~ department of corrections and rehabilitation shall

report to the bureau the following events and information:

1. Receipt of an inmate.
2. Escape of an inmate.

3. Death of an inmate.
4. Release of an inmate from custody.
5. Transfer of an inmate to an out-of-state correctional facility.
6. Admission of an offender to supervision of probation or parole under the interstate compact for adult offender supervision.

History: Effective November 1, 1987; amended effective ____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.2, 12-60-16.3

10-13-12-05. ~~Board of pardons~~ Pardon advisory board and parole board. The ~~board of pardons~~ pardon advisory board and parole board, through the department of ~~parole and probation~~ corrections and rehabilitation, shall report to the bureau the following events and information for each sentence assigned to a record subject for each reportable offense:

1. Pardon.
2. Parole.
3. Commutation of sentence.
4. Discharge of a parolee from custody or supervision.
5. Termination or revocation of parole.
6. Termination of supervision under the interstate compact for adult offender supervision.

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

History: Effective November 1, 1987; amended effective ____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.2, 12-60-16.3

CHAPTER 10-13-13 TIME REQUIREMENT FOR REPORTING CRIMINAL HISTORY RECORD INFORMATION

Section

10-13-13-01 Time Limits

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

1. Arrest - within twenty-four hours.
2. Decision not to refer - within forty-eight hours.
3. Decision not to file charges - within forty-eight hours.
4. All other reportable events - within thirty days.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

CHAPTER 10-13-14 DEFINITIONS

Section

10-13-14-01 ~~Definitions As Used in This Article~~

10-13-14-01. Definitions ~~as used in this article.~~ ~~Certain terms~~As used in this article ~~are defined as follows, unless the context otherwise requires:~~

1. “Agency” means a criminal justice agency in the state of North Dakota as defined in North Dakota Century Code subsection 6 of section 12-60-16.1. For purposes of these rules, an agency includes a North Dakota state or municipal court.
2. “Biometric data” includes fingerprints, palm prints, voice prints, retinal or iris images, facial recognition, and DNA profiles.
3. “Bureau” means the North Dakota attorney general’s bureau of criminal investigation.
- 1.4. “Challenge” means to formally, in writing, call into question the completeness, contents, accuracy, dissemination, or denial of access to a criminal history record.
- 2.5. “Collect” means to solicit and receive information pertaining to reportable events.
- 3.6. “Court” means the North Dakota supreme court, a North Dakota district court, or a municipal court of the state of North Dakota.

- 4-7. "Exchange" means to disclose criminal history record information, by any means, to another criminal justice agency or to a court.
- 5-8. "Maintain" means to file or store criminal history record information and to combine information on related reportable events for identified record subjects.
- 6-9. "NCIC" means the federal bureau of investigation, national crime information center.
- 7-10. "Originating agency" means the criminal justice agency ~~which~~that recorded and reported a reportable event.
- 8-11. "ORI" means the originating agency identifier assigned by the federal bureau of investigation.
- 9-12. "Personal identifiers" means an individual's name, social security number, other number, or descriptive information ~~which~~that is sufficiently unique to identify one individual.
- 10-13. "Prosecuting attorney" includes state's attorneys, assistant state's attorneys, city attorneys, assistant city attorneys, and assistant attorney generals who prosecute individuals charged with offenses.
- 11-14. "Purge" means destroying, blotting out, striking out, expunging, or effacing a record so that no trace of the individual identification remains.
- 12-15. "Rap Back" means the retention of fingerprints submitted for non-criminal purposes under North Dakota Century Code section 12-60-24 and used for the purpose of authorized notification regarding the contributor of a future reportable event, including latent fingerprint search comparison.
16. "Record subject" means the individual who is the primary subject of a criminal history record, and includes any authorized or lawful representative of the individual.
17. "Report" means to submit ~~to the bureau~~ information to the bureau pertaining to reportable events.
18. "Reportable event" includes information a criminal justice agency is required to submit to the bureau for a reportable offense under North Dakota Century Code section 12-60-16.4 and includes arrest information,

all charges filed, or not filed or not referred for prosecution if a report of an arrest was submitted to the bureau, all dispositions of criminal cases, correctional supervision, judgments amending, modifying, terminating or revoking a sentence to probation and any resentencing after revocation, and information concerning the receipt, escape, death, release, transfer to another institution, pardon, conditional pardon, reprieve, parole, commutation of sentence, or discharge of an individual sentenced to custody for a reportable offense.

19. "Reviewing agency" means the criminal justice agency at which a record subject has appeared to request an inspection of his~~the~~ record subject's criminal history record.

20. "~~Seal~~Sealed Record" means ~~retaining a record, but prohibiting access or dissemination except as provided by~~that has been retained, but is inaccessible under state or federal law or pursuant to a valid state or federal court order. Access to a sealed record may only be allowed in accordance with section 10-13-11-03.

History: Effective November 1, 1987; amended effective _____

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.2; 12-60-16.3, 12-60-16.4

ARTICLE 10-18

CRIMINAL JUSTICE DATA INFORMATION SHARING

Chapter 10-18-01 Criminal Justice Data Information System

Sections

10-18-01-01 Definitions

10-18-01-02 Organization and Operation of the Criminal Justice Information Sharing Advisory Board

10-18-01-03 Criminal Justice Information Sharing Access

10-18-01-04 Security Requirements

10-18-01-05 Denial, Suspension, or Revocation of Access

10-18-01-06 Notification of Denial, Suspension, or Revocation of Access

10-18-01-01. Definitions. As used in this article, unless the context otherwise requires:

1. "Access" means authorized access to the criminal justice information sharing system, including entry, collection, review, acquisition, and use of criminal justice data information.
2. "Advisory board" means the criminal justice information sharing advisory board.
3. "Agency" includes a criminal justice agency in the state of North Dakota as defined in North Dakota Century Code subsection 6 of section 12-60-16.1.
4. "Applicant" means any agency or individual that applies for access to the criminal justice information sharing system.
5. "Authorized agency" means an agency the attorney general has authorized to have access to the criminal justice information sharing system.
6. "Authorized user" means an individual the attorney general has authorized to have access to the criminal justice information sharing system.
7. "Biometric data" includes fingerprints, palm prints, voice prints, retinal or iris images, facial recognition, and DNA profiles.
8. "Chief officer" means the designee of the attorney general responsible for the management and operation of the criminal justice data information sharing system.

9. “Court” means the North Dakota supreme court, district courts, and municipal courts in the North Dakota judicial system.
10. “Criminal history record information” includes information collected from agencies on individuals and includes biometric data and identifiable descriptions and notations of: arrests; detentions; complaints, indictments or informations or other criminal charges; dispositions of criminal charges, including sentencing, correctional supervision, release from custody, domestic violence protection orders and disorderly conduct restraining orders, and events required to be reported under North Dakota Century Code section 12-60-16.2.
11. “Criminal justice data information sharing system” means the data information system authorized in North Dakota Century Code section 54-12-34 and includes the collection and dissemination of criminal history record information and driver’s license information.
12. “NCIC” means the federal bureau of investigation national crime information center.
13. “ORI” means the originating agency identifier assigned by the federal bureau of investigation.

History: Effective _____.

General Authority: NDCC 54-12-34

Law Implemented: NDCC 54-12-34

10-18-01-02. Organization and operation of the criminal justice information advisory board.

1. The criminal justice information sharing advisory board consists of: the chief justice of the North Dakota supreme court or designee; the director of the department of emergency services or designee; the director of the department of corrections and rehabilitation or designee; the superintendent of the highway patrol or designee; the chief of the bureau of criminal investigation; the chief information officer of the state or designee; the director of the department of transportation or designee; a representative of a city police department; a representative of a county

sheriff's office; a state's attorney; a city government representative; and a county government representative. The chief of the bureau of criminal investigation is the chairman of the advisory board.

2. The advisory board shall meet at least two times annually and for special meetings called by the chairman.
3. The attorney general shall advise and consult with the advisory board on access and security policies and procedures, eligibility for access, the collection, storage, and sharing of criminal justice and driver's license information, the systems necessary to perform these functions, and in the promulgation of administrative rules.
4. If the attorney general has denied, suspended, or revoked the access of an agency, applicant, or authorized user and the agency, applicant, or authorized user has submitted a written request for review in accordance with these rules, the advisory board shall review the request and make a recommendation to the attorney general to affirm, reverse, or modify the attorney general's decision.

History: Effective _____.

General Authority: NDCC 54-12-34

Law Implemented: NDCC 54-12-34

10-18-01-03. Criminal justice data information sharing access.

1. For purposes of these rules, "attorney general" includes the chief officer of the criminal justice data information sharing system designated by the attorney general.
2. The attorney general may authorize an individual employed by an agency to access the criminal justice data information sharing system.
3. The attorney general may authorize an individual not employed by an agency as defined in this article to access the criminal justice data information sharing system if the individual meets the requirements of this article unless prohibited by federal law.
4. The agency and the individual shall sign a criminal justice data information sharing system agreement in a form prescribed by the attorney general.

5. Each agency is responsible for providing its own technology infrastructure and security procedures to assure there is no unauthorized access or dissemination of criminal justice data information.
6. The agency and the individual shall agree to comply with all requirements governing access and use of the criminal justice data information sharing system before access is authorized.
7. All individual applicants for access shall complete an application form prescribed by the attorney general and shall submit to a criminal history background investigation including the submission of biometric data as defined in North Dakota Century Code subsection 1 of section 12-60-16.1.
8. Only agencies assigned an ORI by the federal bureau of investigation, and users employed by agencies assigned an ORI, or users authorized by the attorney general unless prohibited by federal law, may be authorized to have access to the criminal justice data information sharing system.
9. The attorney general shall review all applications for access and determine whether or not to authorize the applicant access.

History: Effective _____.

General Authority: NDCC 54-12-34

Law Implemented: NDCC 54-12-34

10-18-01-04. Security requirements.

1. The criminal justice data information sharing system, including its system design and access requirements, is a critical infrastructure and part of a security system plan under North Dakota Century Code section 44-04-24.
2. Authorized individuals and authorized agencies shall keep access passwords and procedures secure and may not disclose access passwords and procedures to individuals or agencies that do not have access to the criminal justice information sharing system.
3. Unauthorized disclosure of any part of the criminal justice information sharing system may result in denial, suspension, or revocation of access to the authorized individual or an authorized agency.

4. Authorized individuals and agencies shall comply with the security requirements under 28 C.F.R. Part 20 and NCIC.

History: Effective _____.

General Authority: NDCC 54-12-34

Law Implemented: NDCC 54-12-34

10-18-01-05. Denial, suspension, or revocation of access.

1. The attorney general may not grant an application for access:
 - a. If the individual applicant has pled guilty to, pled nolo contendere to, or has been found guilty of, a felony offense in any state court or federal court,
 - b. If the individual applicant has pled guilty to, pled nolo contendere to, or has been found guilty of, any offense in any state court or federal court involving domestic violence, identify theft, or fraud,
 - c. If the individual applicant has pled guilty to, pled nolo contendere to, or has been found guilty in a military court for a violation of the military code of justice resulting in a sentence of imprisonment, dishonorable or bad conduct discharge, or both.
 - d. If the individual applicant or the individual applicant's employing agency has committed fraud, falsification, or material representation in the application for access.
2. The attorney general may deny an application for access if a complaint, indictment, or information has been filed against the individual applicant in any state or federal court charging the individual with a felony offense or an offense involving making false statements in a governmental matter or making a false statement in an official proceeding and the individual is under oath or equivalent affirmation, or charging the individual with an offense involving giving false information to a law enforcement officer.
3. If the individual applicant has pled guilty to, pled nolo contendere to, or has been found guilty of, a class A misdemeanor offense, or equivalent offense, in any state or federal court, the attorney general may grant

- access not less than five years from the date of conviction, release from incarceration, or expiration of parole or probation, whichever is the latest.
4. If the individual applicant has pled guilty to, pled nolo contendere to, or has been found guilty of, a class B misdemeanor offense, or equivalent offense, in any state or federal court, but excluding first-time offenses for issuing checks with insufficient funds or without an account and first-time criminal traffic offenses, the attorney general may grant access not less than two years from the date of conviction, release from incarceration, or expiration of parole or probation, whichever is the latest.
 5. The attorney general may suspend or revoke an authorized user's access for a violation of this article or for a violation of any part of the access agreement.
 6. The attorney general may suspend or revoke an authorized user's access if the authorized user has been arrested or charged with a felony offense, an offense involving violence or domestic violence, or an offense involving fraud or identity theft.
 7. The attorney general may suspend or revoke an authorized user's access if the authorized user has used access for non-criminal justice purposes or has disseminated or misused information obtained from the criminal justice information system for non-criminal justice purposes.
 8. The attorney general may suspend or revoke an agency's access if the agency fails to report to the attorney general that an employee of the agency who is an authorized user has been charged with, pled guilty to, pled nolo contendere to, or has been found guilty of, a felony or misdemeanor criminal offense in any state or federal court, has committed a violation of this article, or has violated any part of the access agreement.
 9. An agency, applicant, or authorized user shall cooperate with the attorney general in the investigation of an application for access, a breach of any security requirements, or a violation of these rules or the access agreement.

10. The attorney general may reconsider a determination to deny, suspend, or revoke access to an agency, applicant, or authorized user.

History: Effective _____.

General Authority: NDCC 54-12-34

Law Implemented: NDCC 54-12-34

10-18-01-06. Notification and review of denial, suspension, or revocation of access.

1. If the attorney general denies an application for access, or if the attorney general suspends or revokes access, the attorney general shall notify the agency, the applicant or authorized user, or both the agency and applicant or authorized user, in writing and shall state the reasons for denial, suspension, or revocation of access.
2. An agency, applicant, or authorized user whose access has been denied, suspended, or revoked may request review of the denial, suspension, or revocation within twenty days from the date the agency or individual has received notice of denial, suspension, or revocation of access.
3. The request for review must be in writing and mailed or delivered to the chief officer of the criminal justice information sharing system and set forth with particularity the basis of the request for review and must include any supporting documentation.
4. The advisory board shall conduct the review and any documentation submitted in support of the request for review and make a recommendation to the attorney general. The advisory board may request or allow the applicant, authorized user, or a representative of the agency to personally appear before the advisory board before it makes its recommendation to the attorney general. The determination and order of the attorney general is final and not subject to appeal or further review.

History: Effective _____.

General Authority: NDCC 54-12-34

Law Implemented: NDCC 54-12-34