

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.

A record subject may, upon submission of a written request and verification of identity, 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 January 1, 2016.

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 include fingerprint comparison or presentation of a current government-issued photo-identification, 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 January 1, 2016.

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 shall present a power of attorney, 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; amended effective January 1, 2016.

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 to any criminal justice agency in North Dakota to inspect the subject's criminal history record, if any, retained by that agency and by the bureau. 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 January 1, 2016.

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.

A request for inspection of a criminal history record must be made in person at a criminal justice agency by the record subject or an authorized representative of the record subject. Requests made by mail or any other means from out-of-state may not be processed by the receiving agency or the bureau.

History: Effective November 1, 1987; amended effective January 1, 2016.

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 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; amended effective January 1, 2016.

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 shall also respond negatively if no record is found for the individual. The agency or the bureau shall notify the individual in writing of the reason for the negative response and the right to challenge the denial.

History: Effective November 1, 1987; amended effective January 1, 2016.

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.

Individuals inspecting criminal history records may make notes of the information in the record but may not receive a copy of the record unless the record subject intends to challenge the information in the record. If a record subject challenges information in a criminal history record, the criminal justice agency or the bureau shall limit copies of the record to those portions of the record that have been challenged.

History: Effective November 1, 1987; amended effective January 1, 2016.

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 agency or the bureau denies a record subject the right to inspect the subject's criminal history record, the subject may challenge 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 shall allow inspection of the records requested or respond to the record subject with written findings why the denial is upheld.

History: Effective November 1, 1987; amended effective January 1, 2016.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3

10-13-07-10. Challenge of completeness and accuracy.

A record subject may challenge the completeness or accuracy, or both, of specific criminal history record entries pertaining to the record subject and request incomplete or inaccurate entries be corrected. Upon challenge, the criminal justice agency originating the record entries shall 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 shall specify in writing the incomplete or inaccurate entries and what are complete or correct entries.

History: Effective November 1, 1987; amended effective January 1, 2016.

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 an originating criminal justice agency corrects criminal history record entries, 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 the corrections.

History: Effective November 1, 1987; amended effective January 1, 2016.

General Authority: NDCC 12-60-16.3

Law Implemented: NDCC 12-60-16.3