

1.1.E.5 Inmate Criminal History

I Policy Index:



Date Signed: 06/13/2017
Distribution: Public
Replaces Policy: 1E.9
Supersedes Policy Dated: 06/06/2016
Affected Units: Adult Units
Effective Date: 06/16/2017
Scheduled Revision Date: April 2018
Revision Number: 16
Office of Primary Responsibility: DOC Administration

II Policy:

A criminal history will be established for each inmate sentenced to and received by the Department of Corrections (DOC).

III Definition(s):

Criminal History:

Arrest information, conviction information, disposition information and corrections information compiled by DOC staff.

NCIC III:

National Crime Information Center (NCIC) III is a computerized index of criminal justice information (i.e. - criminal record history information, fugitives, and stolen properties, missing persons). Data contained in NCIC is provided by the FBI, federal, state, local and foreign criminal justice agencies, and authorized courts. Information on NCIC includes identifiable descriptions, notations or arrests, detentions, indictments, formal criminal charges, dispositions, sentences, correctional supervision, and release.

Warrant:

A wanted person entry in the state and national computerized databases required by law enforcement to initiate most arrests.

IV Procedure(s):

1. Inmate Self Report:

- A. Newly admitted inmates will be interviewed by DOC staff to obtain an accurate assessment of the inmate's prior felony record (See DOC policy 1.4.A.2 [Inmate Admission](#)).
- B. Data gathered from the inmate during the interview (self- report) will be listed on Section I of the *Criminal History Verification* form (See [Attachment 1](#)).

- C. DOC staff will date and initial the form and forward this to the DOC Central Records Office in Sioux Falls.
- D. Case management staff will complete the *Escape Behavior* form (See [Attachment 2](#)) for each new admission inmate and any inmate who does not have this information documented in the Comprehensive Offender Management System (COMS).

2. NCIC III Access Constraints:

- A. Access to the NCIC within Central Records shall be restricted to authorized and trained staff only.
- B. Each staff member considered for access to the NCIC III shall be screened by the DOC. A criminal background check will be conducted on each potential user of the NCIC III a minimum of every 5 years.
 - 1. Staff with a felony conviction may not access the NCIC III.
 - 2. The Secretary of Corrections will be notified of any staff member with a misdemeanor conviction. The Secretary or designee will determine if the staff member with a misdemeanor conviction may access the NCIC III.
- C. Each authorized and trained Central Records staff person with access to the NCIC III shall be issued an individual password to access the system. Passwords must not be shared or provided to unauthorized staff. Access to the NCIC III shall be restricted to a minimum number of Central Records staff, sufficient to perform the NCIC III searches as required.
- D. Information obtained from the NCIC III shall be utilized for official purposes and shall only be disseminated to DOC staff who have a legitimate need-to-know. Information and reports shall not be disclosed to any unauthorized person or outside source or for unauthorized or unofficial purposes. Such disclosure is strictly prohibited.
 - 1. All NCIC reports/records shall be kept confidential and stored in a secure location. Paper reports/records should not be retained unless necessary.
 - 2. All paper reports/records to be disposed of when no longer necessary will be promptly and properly shredded by staff who are authorized to access the report/record when the report/record is no longer necessary or is no longer required to be retained.
- E. Staff will not run names or make inquiries through NCIC III while off-duty or for or on behalf of any unapproved agency or person.
- F. A manual or automated log of each user accessing criminal history inquiries with notations of the user's identifying information (name or other ID) shall be located by the computer in the Central Records office with access to the NCIC III. Records of access within the log shall be maintained for a minimum of one year.
- G. All visitors accessing the Central Records office must be supervised by a Central Records staff member to ensure no unauthorized person accesses the NCIC III.

3. Inmate NCIC Records:

- A. Authorized and trained DOC Central Records staff will access the NCIC III to gather information to be included in the inmate's criminal history. The NCIC will be queried for all new admits, parole violators, prior to an inmate being discharged or released to parole or suspended sentence and when an inmate receives an additional sentence(s).
- B. Unit staff where the inmate is housed is responsible for ensuring a warrant check is completed by accessing the NCIC III prior to an inmate being placed on work release, furlough or classification to minimum custody status.
 - 1. Authorized and trained Central Records staff will conduct a warrant check utilizing NCIC III to determine if an inmate has an active felony warrant, detainer, official felony hold, pending felony change or pending sentencing documents for additional felony convictions.
 - 2. An active felony warrant is defined as a felony charge which an inmate has not been sentenced and the jurisdiction issuing the warrant plans to take custody of the inmate.
 - 3. A Hit Confirmation Request will be made to an agency holding an outstanding warrant, felony hold or detainer. The agency will have an opportunity to place an official hold on the inmate.
 - 4. When an official hold, warrant and/or detainer (in-state, out-of-state, or Federal, (including FBI or ICE)) has been requested, this will be noted on the Hold/Warrant/Detainer screen in COMS. The inmate's unit staff and the inmate will be promptly notified of the hold, warrant and/or detainer.
 - 5. Records staff will request the responding law enforcement agency provide the SD DOC documentation, (preferably a hard copy) of the warrant or detainer and other related information, as well as documentation verifying whether the agency intends to extradite the inmate.
 - 6. All communications and/or documentation received, whether verbal, written or transmitted by electronic means pertaining to an offender's warrant, felony hold or detainer will be kept in the inmate's legal file.
 - 7. If a warrant is withdrawn or a detainer cancelled, Records staff will request written verification of the action and update the Hold/Warrant/Detainer screen in COMS. Any conditions, agreements or understandings the offender is required to and/or has agreed to abide by upon discharge or release to supervision/ suspended sentence relating to the warrant and detainer will be documented in the inmate's legal file.
- C. Information regarding felony convictions will be recorded in Section II of the Criminal History Verification form.

4. Presentence Investigation Report:

- A. DOC Central Records staff will review the presentence investigation (PSI), if one was provided, to further confirm the inmate's felony convictions (See DOC Policy 1.1.E.1 [Adult Offender Case Records Content and Management](#)).
- B. Information regarding felony convictions will be recorded in Section III of the Criminal History Verification form.

- C. All official statements of fact and information provided by the judge or state's attorney in lieu of a presentence investigation report shall be kept in the inmate's legal file (See SDCL § [23A-27-32 & 23A-27-34](#)).

5. Criminal History Verification:

- A. The Criminal History Verification form (See [Attachment 1](#)) will be completed to document the inmate's felony convictions, parole/probation violations and any escape or absconding history.
1. Any discrepancies between the PSI, NCIC III and inmate self-report will be resolved and documented on the form.
 2. In cases where no criminal history is available through the PSI or NCIC III, other sources such as court services and/or law enforcement agencies within jurisdictions identified or associated with the inmate will be contacted to determine and/or verify the inmate's criminal history.
- B. A copy of the Criminal History Verification form and NCIC III information will be sent to the receiving facility for inclusion in the inmate's institutional file.
- C. The original Criminal History Verification form and NCIC III information will be forwarded to either the parole office or Central Records for final review and verification of felony convictions.
1. The Executive Director of Parole or his/her designee will review the information and date and sign the Criminal History Verification form for old system inmates (See SDCL § [24-15-3](#) and DOC policy 1.1.E.2 [Date Computation](#)).
 2. Central Records staff will review the information and date and sign the Criminal History Verification form for new system inmates (See SDCL § [24-15A-32](#) and DOC policy 1.1.E.2 [Date Computation](#)).
- D. The original Criminal History Verification form and NCIC III information for each inmate will be maintained in the DOC Central Records office, Sioux Falls, for inclusion in the inmate's legal file.
- E. Any prior South Dakota convictions and current convictions in the Current Booking will automatically be populated in the Criminal History section in COMS. Out-of-state convictions or South Dakota convictions not sentenced to the SD DOC must be entered into the Criminal History section manually.

V Related Directive(s):

SDCL §§ [23A-27-32 & 23A-27-34](#), [24-15-3](#) and [24-15A-32](#).
DOC policy 1.4.A.2 -- [Inmate Admission](#)
DOC policy 1.1.E.2 -- [Date Computation](#)
DOC Policy 1.1.E.1 -- [Adult Offender Case Records Content and Management](#)

VI Revision Log:

June 2002: **Added** that designee of Director of Parole can review and verify number of felony Convictions. **Added** section requiring Central Records staff to enter criminal history on database. **Removed** procedure requiring copy of NCIC and verification form in parole files.
June 2003: **Corrected** two typos. **Updated** the numbering on the Criminal History Verification form.
May 2004: **Revised** the policy statement. **Clarified** when a NCIC III report will be used. **Noted**

those agencies having outstanding warrants are given the opportunity to place an official hold.

Included parole/probation violations and escape history in the criminal history verification.

Revised attachment 1.

April 2005: **Clarified** that the pre-sentence investigation will be reviewed if provided. **Revised** information under the NCIC III section to reflect current practice. **Revised** the procedures for final criminal history verification. **Added** reference to policy 1.1.E.2.

May 2006: **Revised** the maintenance procedure for the criminal history verification form.

Deleted the reference to a discrepancy between the felony count.

May 2007: **Added** additional escape behavior information that can be added in the criminal history database.

April 2008: **Revised** formatting of policy in accordance with DOC policy and Operational Memorandum Management 1.1.A.2. **Replaced** "can" with "will" in (subsection E of the Criminal History Verification section) when referring to DOC staff contacting Central Records with additional escape behavior items. **Added** "Executive" to "Director" in (subsection C-1 of the Criminal History Verification section). **Revised** (subsection E of the Criminal History Verification section) to include an escape behavior report will be completed and forwarded to Central Records. **Revised** Attachment 1 and 2 with headers, footers, a hyperlink and updated the template pictures in the policy. **Revised** Attachment 2's heading to "Escape Behavior Form" vs. "Escape/Supervision Behavior Form" and made consistent with the WAN. **Added** Attachment 2, Escape Behavior Form to the policy.

March 2009: **Added** positive ID to Attachment 1.

April 2010: **Revised** formatting of Section 1. **Revised** formatting of Attachments 1 and 2.

April 2011: **Deleted** "criminal history tracking system" and **Replaced** with "index of criminal justice information (i.e.-criminal record history information, fugitives, stolen properties, missing persons) to the NCIC III Definition. **Added** "and as required by DOC policy or institutional operational memorandums (OM's) to Section 2 A. **Added** reference to DOC Policy 1.1.E.1 Adult Offender Case Records Content and Management to Section 3 A. **Added** "or other sources" & "and verify" and "within jurisdictions identified or associated with an offender" to Section 4. A. 2.

March 2012: **Added** definition of Warrant. **Added** "prior to classification to minimum status, prior to an inmate being placed on work release or granted a furlough, prior to being discharged or released to parole or suspended sentence to Section 2 A. **Added** "felony hold or detainer to Section 2 A. 2. **Added** "warrant and/or detainer (in-state, out-of-state, or Federal (including FBI or ICE)) to Section 2 A. 3. **Added** 4, 5, and 6 to Section 2 A. **Added** "and any impact the warrant(s) have on the offender's classification/custody." In Section 2 B. **Added** "within jurisdictions identified or associated with the offender" in Section 3 A. 2.

February 2013: **Deleted** "prior to an inmate being placed on work release or granted a furlough" and **Replaced** with "The unit staff where the offender is housed will have their facility staff run a warrant check on NCIC III prior to an inmate being placed on work release or granted a furlough" in Section 2 A. **Deleted** "the mainframe query sentence (QS) screen" and **Replaced** "the Hold/Warrant/Detainer screen in COMS" in Section 3 A. 3. **Deleted** "Central Records staff will enter the criminal history information in the criminal history database. If DOC staff obtains other "escape behavior" items, they will complete an Escape Behavior Form (See Attachment 2) and forward this to Central Records. Records staff will include this additional information in the database; i.e. jumping bond, misdemeanor escapes, juvenile adjudications for escape, etc." and **Replaced** with "Any prior South Dakota convictions and the current convictions in the Current Booking will automatically be populated in the Criminal History section in COMS. Only out-of-state or South Dakota convictions not sentenced to the DOC must be entered into the Criminal History section directly/manually." in Section 4 E.

April 2014: **Added** definition of "Criminal History". **Replaced** Attachment 1.

April 2015: **Deleted** "Felony convictions contained in the criminal history may impact an inmate's classification status and parole release date" in policy statement. **Added** "Data contained in NCIC is provided by the FBI, federal, state, local and foreign criminal justice agencies and authorized courts" to the definition of NCIC. **Deleted** "search" and replaced with "establish" in Section 2 A. **Deleted** "prior to an inmate's classification to minimum status and **Replaced** with "when an inmate is returned as a

parole violator” in Section 2 A. **Added** “prior to an inmate’s classification to minimum status” in Section 2 A. 1. **Added** “promptly” and **Deleted** “A copy will be placed in the inmate’s legal file” in Section 2 A. 3. **Deleted** B. in Section 2. **Deleted** “determine the number of” and **Replaced** with “further confirm the inmate’s” in Section 3 A. **Added** “or absconding” in Section 4 A.

April 2016: **Added** C. to Section 3.

April 2017: **Revised** definition of NCIC III. **Added** new Section 2. **Added** “authorized and trained” in Section 3 A. and B. 1.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

06/13/2017

Date

Attachment 1: Criminal History Verification

The **Criminal History Verification** form is located on the state's WAN.

A copy may be printed using **Microsoft Word 97** as follows:

1. Click [here](#) to access the **Criminal History Verification** by:
 - a. Placing mouse on the word "here" above
 - b. Press and hold the "Ctrl" key on the keyboard
 - c. Click the left button of mouse.
- 2.. Or Select **File/New** from the Menu Bar / Select the **DOC** tab / Select **Criminal History Verification**.

South Dakota Department of Corrections Policy Distribution: Public	Attachment: Escape Behavior Form Please refer to DCC policy 1.1.E.5 Inmate Criminal History
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CRIMINAL HISTORY VERIFICATION

NAME: _____ NUMBER: _____
Felony convictions self report (Initial): _____ SORR: _____

1. _____ 2. _____ 3. _____
4. _____ 5. _____ 6. _____

Felony convictions NCIC III _____ Felony convictions PSI: _____ (Initial): _____ Positive
ID: N Y

Crime: _____	Docket: _____	Sent Date: _____	Off Date: _____	State: _____
Crime: _____	Docket: _____	Sent Date: _____	Off Date: _____	State: _____
Crime: _____	Docket: _____	Sent Date: _____	Off Date: _____	State: _____
Crime: _____	Docket: _____	Sent Date: _____	Off Date: _____	State: _____
Crime: _____	Docket: _____	Sent Date: _____	Off Date: _____	State: _____
Crime: _____	Docket: _____	Sent Date: _____	Off Date: _____	State: _____
Crime: _____	Docket: _____	Sent Date: _____	Off Date: _____	State: _____

Parole Violations: _____
Probation Violations: _____
Escape History: Secure _____
Non Secure: _____
Probation Absconding: _____
Parole Absconding: _____ Date: _____
Central Records Review Completed: _____ Date: _____
Parole Dept Review: _____ Date: _____
Other: _____

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Attachment 2: Escape Behavior Form

The **Escape Behavior Form** is located on the state's WAN.

A copy may be printed using **Microsoft Word 97** as follows:

1. Click [here](#) to access the **Escape Behavior Form** by:
 - a. Placing mouse on the word "here" above
 - b. Press and hold the "Ctrl" key on the keyboard
 - c. Click the left button of mouse.
- 2.. Or Select **File/New** from the Menu Bar / Select the **DOC** tab / Select **Escape Behavior Form**.

The gray areas indicate the information that is to be entered.

South Dakota Department of Corrections Policy Distribution: Public	Attachment: Escape Behavior Form Please refer to DOC policy 1.1.E.5 Inmate Criminal History												
ESCAPE BEHAVIOR FORM													
<p>Directions: An Escape/Supervision Behavior Form will be completed by Central Records staff for each offender upon admission to the DOC. Case management staff will complete an Escape/Supervision Behavior form on inmates incarcerated who do not yet have this information loaded on the Criminal History database. An answer must be indicated (either "YES" or "NO") for each of the six sections. Completed forms should be forwarded to Rick Leslie, in the Classification and Transfer Office, who will ensure that information is loaded onto the Criminal History Database.</p>													
Inmate Name: <input style="width: 80%;" type="text"/>	DOC #: <input style="width: 20%;" type="text"/>												
Inmate admitted to DOC as a Probation Violator? <input type="checkbox"/> YES <input type="checkbox"/> NO	Inmate admitted to DOC as a Probation Violator with a new sentence? <input type="checkbox"/> YES <input type="checkbox"/> NO												
I. Escape - Secure facility/custody: <input type="checkbox"/> YES <input type="checkbox"/> NO													
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 70%;">Escape Behavior Description</th> <th style="width: 15%;">Month/Year</th> <th style="width: 15%;">State</th> </tr> </thead> <tbody> <tr><td>Escape-secure facility/custody</td><td></td><td></td></tr> <tr><td>Escape-secure facility/custody</td><td></td><td></td></tr> <tr><td>Escape-secure facility/custody</td><td></td><td></td></tr> </tbody> </table>	Escape Behavior Description	Month/Year	State	Escape-secure facility/custody			Escape-secure facility/custody			Escape-secure facility/custody			
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II. Escape - Non-secure facility/custody: <input type="checkbox"/> YES <input type="checkbox"/> NO													
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