



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		Policy Number 400-04	PAGE NUMBER 1 OF 3
		DISTRIBUTION: Public	
		SUBJECT: Offender Criminal History	
Related Standards:	None	EFFECTIVE DATE: November 01, 2023	
		SUPERSESSION: 04/26/2021	
DESCRIPTION: Offender Services	REVIEW MONTH: October	 <b>KELLIE WASKO</b> SECRETARY OF CORRECTIONS	

## I. POLICY

A criminal history will be established for each offender sentenced to the South Dakota Department of Corrections (DOC).

## II. PURPOSE

The purpose of this policy is to provide guidelines for regulating user and terminal agency access to the NCIC data system. This system is to be used for official criminal justice purposes only.

## III. DEFINITIONS

### Criminal History:

Arrest information, conviction information, disposition information, and corrections information compiled by DOC staff (see SDCL § 23-5-10, 23-5).

### NCIC III:

A computerized index of criminal justice information (i.e., criminal record history information, fugitives, and stolen properties, missing persons). The FBI, federal, state, local, and foreign criminal justice agencies, and authorized courts all may contribute information to the index. Includes identifiable descriptions, notations or arrests, detentions, indictments, formal criminal charges, dispositions, sentences, correctional supervision, and releases.

### Warrant:

A wanted person entry in the state and national computerized databases. A warrant is required by law enforcement to initiate a wanted person arrest.

## IV PROCEDURES

### 1. NCIC III Access Constraints:

- A. Access to NCIC III records shall be restricted to authorized 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 once every five (5) years.
  1. Staff with a felony conviction may not access the NCIC III.

SECTION	SUBJECT	DOC POLICY	Page 2 of 3
Offender Services	Offender Criminal History	400-04	Effective: 11/01/2023

2. The secretary of corrections (SOC) will be notified of any staff member identified as having a misdemeanor conviction. The SOC or designee will determine if the staff member may access the NCIC III, taking into consideration risk, job responsibilities, time elapsed since the conviction, tenure with the department, etc.
- C. Each authorized and trained central records staff person with access to the NCIC III, must be issued an individual password to access NCIC III. Passwords must not be shared or given to unauthorized staff. Access to the NCIC III shall be restricted to a minimal number of central records staff sufficient to perform criminal history searches within the system, as required.
  - D. Information/results obtained from searches submitted to the NCIC III shall be utilized for official purposes only and only disseminated to DOC staff with a legitimate need to know the information. Information/results 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 results/responses received shall be kept confidential and stored in a secure location. Paper copies of results/responses should not be retained unless absolutely necessary.
    2. All paper copies of results/responses shall be properly disposed of when no longer required. All disposed paper copies will be shredded by staff with authorization to access NCIC results/responses.
  - E. Staff will not submit names or make inquiries to the NCIC III when off-duty, or for or on behalf of any unapproved person, or for any unauthorized purpose.
  - F. An automated log of each user with authorized access to NCIC criminal history results/responses or inquiries submitted, shall be kept electronically. Records of NCIC access shall be maintained for a minimum of one (1) 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 or NCIC records.

## 2. Offender NCIC Records:

- A. Authorized and trained DOC central records staff will access the NCIC III to request the results of an offender's criminal history. Results shall be included in the offender's comprehensive criminal history. The NCIC will be queried for all new admits, parole violators, and prior to an offender being discharged or released to parole or suspended sentence, or when an offender receives an additional sentence(s) (does not include Federal offenders).
- B. Unit staff where the offender is housed are responsible for ensuring a warrants check is completed prior to an offender being placed on work release, classification to minimum custody status, discharge, or any other release from custody. A warrants check shall be completed by submitting an inquiry to the NCIC III.
  1. Authorized and trained staff will conduct a warrant check to determine if an offender has any active felony warrants, detainers, and/or felony holds.
  2. An active felony warrant is defined as a felony charge which an offender has not been sentenced and the jurisdiction issuing the warrant plans to take custody of the offender.
  3. A Hit Confirmation Request will be made to the agency holding an outstanding warrant, felony hold, or detainer for the offender. The agency will have an opportunity to place an official hold on the offender.
  4. When an official hold, warrant, and/or detainer (in-state, out-of-state, Federal, (including FBI or ICE)) has been requested for an offender, this will be noted on the Hold/Warrant/Detainer screen in COMS. The offender's unit staff and the offender will be promptly notified of the hold, warrant and/or detainer.
  5. Records staff will request the responding agency provide the SD DOC with documentation, (preferably a hard copy) verifying the warrant or detainer and any related information, such as verification the agency intends to extradite the offender.
  6. All communications or documentation received, whether verbal, written, or transmitted by electronic means pertaining to a warrant, felony hold, or detainer will be kept in the offender's digital file.

SECTION	SUBJECT	DOC POLICY	Page 3 of 3
Offender Services	Offender Criminal History	400-04	Effective: 11/01/2023

7. If a warrant or detainer is withdrawn or cancelled, central records staff will request written verification of the action and will update the Hold/Warrant/Detainer screen in COMS. Any binding conditions or agreements the offender is required to abide by, or has previously agreed to, will be documented in the offender's digital file.

C. Information regarding felony convictions will be recorded in COMS.

### **3. Presentence Investigation Report:**

- A. DOC central records staff will review and compare an offender's presentence investigation (PSI), if one was completed, to verify the offender's criminal history.
- B. Felony convictions will be recorded in COMS.
- C. All official statements of fact and official information provided by the judge or state's attorney in lieu of a presentence investigation report, shall be kept in the offender's digital file (see SDCL §23A-27-32 & 23A-27-34).

### **4. Criminal History Verification:**

- A. A criminal history verification will be completed to document the offender's felony convictions, parole/probation violations, and any escape or absconding history.
  1. Any discrepancies between the PSI, NCIC III, and self-reported information provided by the offender will be resolved and documented.
  2. If no PSI or NCIC III information exists, other sources such as court services or law enforcement agencies within jurisdictions identified or associated with the offender, will be contacted to document the offender's criminal history.
- B. 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. RESPONSIBILITY**

The director of Prisons is responsible for the annual review and revision of this policy as needed.

## **VI. AUTHORITY**

SDCL §§: 23-5, 23-5-10, 23A-27-32, 23A-27-34

## **VII. HISTORY**

October 2023  
April 2021  
April 2020  
June 2018  
April 2017  
April 2016  
April 2015  
April 2014  
February 2013  
March 2012

## **ATTACHMENTS**

1. DOC Policy Implementation / Adjustments