

1.1.E.5 Inmate Criminal History

I Policy Index:



Date Signed: 04/30/2020
Distribution: Public
Replaces Policy: 1E.9
Supersedes Policy Dated: 05/20/2019
Affected Units: Adult Units
Effective Date: 04/30/2020
Scheduled Revision Date: April 2021
Revision Number: 19
Office of Primary Responsibility: DOC Administration

II Policy:

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

III Definition(s):

Criminal History:

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

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 Procedure(s):

1. Inmate Self-Report:

- A. Newly received inmates sentenced to the South Dakota DOC will be interviewed by Central Records staff to obtain an accurate assessment of the inmate's criminal history (See DOC policy 1.4.A.2 [Inmate Admission](#)).
- B. Data gathered during the initial interview and admission process 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 at the South Dakota State Penitentiary complex.
- D. Case managers will complete the *Escape Behavior* form (See [Attachment 2](#)) for each new admission inmate (excluding Federal inmates) 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 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 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 identified as having a misdemeanor conviction. The Secretary 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. A manual or automated log of each user with authorized access to NCIC criminal history results/responses or inquiries submitted, shall be located by the computer used to access the NCIC with notations of the user's identifying information (name or other ID). Records of NCIC 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 or NCIC records.

3. Inmate NCIC Records:

- A. Authorized and trained DOC Central Records staff will access the NCIC III to request the results of an inmate's criminal history. Results shall be included in the inmate's comprehensive criminal history. The NCIC will be queried for all new admits, parole violators and prior to an inmate being discharged or released to parole or suspended sentence or when an inmate receives an additional sentence(s) (does not include Federal inmates).
- B. Unit staff where the inmate is housed is responsible for ensuring a warrants check is completed prior to an inmate being placed on work release, furlough, classification to minimum custody status, CTP, extension of confinement, 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 Central Records staff will conduct a warrant check to determine if an inmate has any active felony warrants, detainers, felony holds, pending felony changes 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 the agency holding an outstanding warrant, felony hold or detainer for the inmate. 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, Federal, (including FBI or ICE)) has been requested for an inmate, 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 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 inmate.
 - 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 inmate's legal file.
 - 7. If a warrant or detainer is withdrawn or cancelled, 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 inmate is required to abide by or has previously agreed to 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 and compare an inmate's presentence investigation (PSI), if one was completed, to verify the inmate's criminal history (See DOC Policy 1.1.E.1 [Adult Offender Case Records Content and Management](#)).
- B. Felony convictions will be recorded in Section III of the Criminal History Verification form.

- 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 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 self-reported information provided by the inmate 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 inmate, will be contacted to document the inmate's criminal history.
- B. A copy of the *Criminal History Verification* form and NCIC III results may be sent to the receiving institution for inclusion in the inmate's institutional file.
- C. The original Criminal History Verification form and NCIC III results 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 located at the South Dakota State Penitentiary 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 §§ [23-5-10](#), [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.1 -- [Adult Offender Case Records Content and Management](#)

DOC policy 1.1.E.2 -- [Date Computation](#)

VI Revision Log:

Removed revisions from June 2002 to March 2009.

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.

June 2018: **Reviewed** with no changes.

April 2020: **Reviewed** with no changes.

Mike Leidholt (original signature on file)

Mike Leidholt, Secretary of Corrections

04/30/2020

Date

Attachment 2: Escape Behavior Form

The **Escape Behavior** form is located at:

<M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\Escape Behavior Form.doc>

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													
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II. Escape - Non-secure facility/custody: <input type="checkbox"/> YES <input type="checkbox"/> NO													
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