NOTE: This policy is only applicable to non-law enforcement agencies

The State of North Dakota, as the employer, may conduct criminal history record checks on potential or current employees, and reserves the right to conduct additional record checks as a condition of continued employment if deemed necessary. This policy is applicable to Criminal History Record Information (CHRI) and fingerprint-based requests through the North Dakota Bureau of Criminal Investigation (NDBCI). A state agency may only conduct criminal history records checks if express authority has been provided by state or federal law.

The state agency must have a user agreement in place with NDBCI to request any CHRI.

The agency must identify specific positions that will have access to the CHRI. The name of those employees residing in those positions must be reported to NDBCI. If there are any updates to personnel NDBCI needs to be made aware of those changes. Authorized personnel will be given access to view and handle the records after completing the FBI required training. Employees must sign a Statement of Misuse prior to handling, encountering, or discussing any information presented in the CHRI.

The state agency must provide the individual with two fingerprint cards if applicable; SFN 60688 Criminal History Record Check Request, the state agency authorized to request CHRI must complete the top portion; and Applicant Verification form. The individual will be provided proper instructions on completing the required forms and where to obtain the required fingerprint images. State agencies needing fingerprints completed may send individuals to the ND Highway Patrol Capitol Security location in the State Capitol building (see NDHP website for availability and request forms). In cases where the fingerprints are obtain through the use of live scan and are electronically sent to BCI, no fingerprint cards will be involved in the process.

The individual must provide the fingerprint technician a valid photo identification to verify his/her identity.

The individual must return the completed fingerprint cards which need to be in a sealed envelope if applicable, SFN 60688, and Applicant Verification Form to the authorized personnel. The state agency must maintain proper chain of custody procedures to protect the integrity of the individual’s fingerprints.

When the authorized personnel receive the fingerprint cards they must review to ensure the proper information is completed. If the proper information is not listed then the authorized personnel must complete that information. The form and fingerprint cards must be placed in a sealed envelope with an authorized personnel’s initials on the flap before they are mailed or sent via inside mail to NDBCI.

NDBCI will return the CHRI information in a sealed envelope marked “confidential”. Only the authorized personnel will open the envelope and the CHRI for the purposes it was intended for.

Upon receipt of the CHRI, authorized personnel will review the information and make a “favorable” or “unfavorable” recommendation based on the state agency’s authority. CHRI cannot be shared with other entities for any purpose, including subsequent hiring determinations.

Falsification, including misrepresentation or failure to disclose relevant information as part of the recruitment and application process, may disqualify a candidate from employment consideration.
The individual may be asked to provide additional information related to information presented on their CHRI. If an individual believes his/her criminal history record is inaccurate or incomplete, he/she must notify the state agency within five working days of his/her intent to challenge the report.

- To challenge a North Dakota criminal history record, the individual must contact NDBCI at 701-328-5500.
- To challenge a FBI criminal history record, the individual must contact the FBI at 304-625-5590.

**SECONDARY DISSEMINATION:** The receiving agency may only give a copy of CHRI to the subject of the record. If a copy is given then the agency must document that as secondary dissemination. The log should clearly identify the following: date of dissemination, name of subject, subject identification for authentication, the name and identification of the person releasing the information, purpose for which the information is requested. The secondary dissemination logs must be kept for a minimum of three years. The individual has the right to request a copy of his/her CHRI. Only the individual may receive a copy of their CHRI and must pick up the copy at the state agency location.

**PHYSICAL LOCATION:** The results of the records check must be stored to ensure only authorized agency personnel have access. CHRI must be maintained at all times in a secure location (i.e., locked file cabinet or locked room) to prevent access or viewing by unauthorized personnel. Only authorized personnel will have access to the key. The information received from the Federal Bureau Investigation (FBI) and the State of North Dakota must be kept separate (i.e. different file folders).

If CHRI are stored electronically, the agency must comply with technical information security requirements. The requirements for electronic storage and access of CHRI are contained in the FBI CJIS Security policy (available at FBI CJIS Security Policy Resource Center’s website). Electronic security, encryption, and storage protection requirements in the policy applies to agencies converting hardcopy CHRI into electronic format after receipt.

**AUDITS:** NDBCI will conduct routine audit of the agency’s compliance with state and federal laws every three years. The FBI conducts triennial audits of the state of North Dakota and will visit selected agencies.

**RETENTION:** Each agency should refer to their records retention schedule, but at a minimum, the Information Technology Department Record Management Division has placed Criminal History Record Checks on the General Schedule. Authorized personnel must shred CHRI when the retention period has expired.

**EMPLOYEE RESPONSIBILITIES:** If at any time during employment, an employee is charged with or convicted of a crime he/she must disclose the necessary information to their immediate supervisor or agency human resources. Any employee who is determined to have violated this policy will be subject to disciplinary action up to and including termination of employment.