

Title 272 - NEBRASKA STATE PATROL

Chapter 2. ADMINISTRATION OF THE SECURITY, PRIVACY, AND DISSEMINATION OF THE CRIMINAL HISTORY INFORMATION ACT.

001 - DEFINITIONS

001.01 The following words and terms, when used in this Chapter, shall have, unless the context clearly indicates otherwise, the following meanings.

001.02 Act - Neb. Rev. Stat., §29-3501 to 3528.

001.03 Administration of criminal justice - The activities directly concerned with the detection, apprehension, detention, pretrial release, pretrial diversion, post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.

001.04 Commission - Shall mean the Nebraska Commission on Law Enforcement and Criminal Justice.

001.05 Criminal history record information - Information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of issuance of arrest warrants, arrests, detentions, charges, and any disposition arising from such arrests, charges, sentencing, correctional supervision, and release. Criminal history record information shall not include intelligence or investigative information.

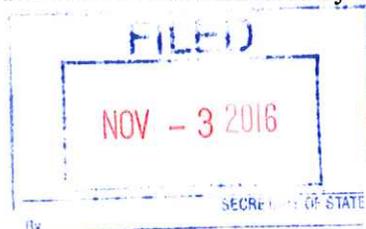
001.06 Complete - With reference to criminal history record information, complete shall mean that arrest records shall show the subsequent disposition of the case as it moves through the various stages of the criminal justice system; and accurate shall mean containing no erroneous information of a material nature.

001.07 Criminal history record information system - Shall mean a system including the equipment, facilities, procedures, agreements, and organization thereof for the collection, processing, preservation, or dissemination of criminal history record information.

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- 001.08 Criminal justice agency - Shall mean:
- 001.08A Courts; and
- 001.08B A government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.
- 001.09 Direct access - Having the custodial authority to handle and control the actual documents or automated or computerized documentary record which constitutes the criminal history data base.
- 001.10 Disposition - Information disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings, and also information disclosing the nature of the termination of the proceedings at each step of the criminal justice process.
- 001.11 Intelligence information - Information concerning practices, characteristics, habits, possessions, associations or financial status, of any person reasonably suspected of criminal activity.
- 001.12 Investigative Information - Information assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing and may include modus operandi information. As used in these regulations, this term shall include information concerning internal affairs investigations and disciplinary files of the respective agencies.
- 001.13 Operator - The agency, person, or group of persons designated by the governing body of the jurisdiction served by a criminal history record information coordinate and supervise the system.

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- 001.14 Patrol - Shall mean the Nebraska State Patrol.
- 001.15 Person - Any natural person, corporation, partnership, firm or association.
- 001.16 Person in interest - The person who is the primary subject of a criminal justice record or any representative designated by such person, except that if the subject of the record is under legal disability, person in interest shall mean the person's parent or duly appointed legal representative.

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002 - COMPLETENESS AND ACCURACY

- 002.01 As to each written indication, contained in a repository's records that a criminal charge has been brought against an individual, the repository shall maintain a complete and accurate criminal record as to that charge.
- 002.02 A complete and accurate criminal history record shall include:
- 002.02A The full name and aliases of the individual charged.
- 002.02B An accurate statement of the crime charged, including the title of the offense.
- 002.02C The final or latest disposition of the charge.
- 002.02D The sentence imposed for a conviction of the charge.
- 002.03 The timely recording and reporting of dispositions, the taking and filing of fingerprint impressions, shall be conducted in the manner set forth in Neb. Rev. Stat. §29-3516, 3517 (Reissue 1979) , as amended.

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003 - DISSEMINATION

- 003.01 For purposes of dissemination, the following are public records:
- 003.01A Complete criminal history record information;
 - 003.01B Posters, announcements, lists for identifying or apprehending fugitives or wanted persons, photographs taken in conjunction with an arrest for purposes of identification of an arrested person;
 - 003.01C Original records of entry such as police blotters, offense reports, or incident reports;
 - 003.01D Court records of any judicial proceedings;
- 003.02 Criminal history record information, as used in this regulation, shall not include intelligence or investigative information.
- 003.03 Criminal history record information consisting of a notation of an arrest, without subsequent disposition after an interval of one year and no active prosecution is pending, shall not be disseminated to persons other than criminal justice agencies except when the subject of the record:
- 003.03A Is currently the subject of prosecution or correctional control as a result of a separate arrest;
 - 003.03B Is currently an announced candidate for or holder of public office; or
 - 003.03C Has made a notarized request for the release of such record to a specific person; or
 - 003.03D Is kept unidentified, and the record is used for purposes of surveying or summarizing individual or collective law enforcement agency activity or practices, or the dissemination is

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requested consisting only of release of criminal history record information showing (a) dates of arrests, (b) reasons for arrests, and (c) the nature of the dispositions, including but not limited to reasons for not prosecuting the case or cases.

- 003.04 When disseminating criminal history record information to a noncriminal justice agency, organization or individual, the Patrol shall edit the criminal history record information so that the recipient receives only that data to which he or she is entitled. In no event shall the agency provide the noncriminal justice recipient with an exact copy of the criminal history record.
- 003.05 When disseminating criminal history record information, a record shall be kept indicating the agency, organization or individual to whom the information is disseminated, the date of the dissemination, the record subject and the items released.
- 003.06 State statutes require a search of both state and federal records for certain licenses - e.g. Liquor licenses, private investigator licenses, and charitable gaming licenses. Federal records obtained by the Nebraska State Patrol for this purpose will be disseminated only to the authorized agency for licensing purposes.

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004 - UNIFORM SCHEDULE OF FEES

- 004.01 Individuals and noncriminal justice agencies and organizations requesting Nebraska criminal history record information, whether for individual access and review or for other purposes shall pay a nonrefundable fee of \$15.00 for each request made. For requests which require a search of both state and federal records, the fee shall be \$16.00 in addition to the fee charged by the Federal Bureau of Investigation. Fees may be paid by cash, check or money order and shall be payable to the Nebraska State Patrol. With prior approval, fees may also be paid by electronic and wire transfers or by state approved credit and debit cards. The Superintendent, at his or her discretion under appropriate circumstance, may waive the fee.
- 004.02 Effective September 1, 2016, the fee shall decrease to \$12.50 for each request for a state record and shall increase to \$35.25 in addition to the fee charged by the Federal Bureau of Investigation for each search requiring both a state and national record. Requests for records received or postmarked prior to September 1, 2016, shall be processed at the old rates. Criminal history record information can also be requested and paid for on-line with a credit card or electronic check. Convenience fees may apply.

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005 - ACCESS AND REVIEW

- 005.01 Complete criminal history record information shall be a public record open to inspection and copying by any person during normal daylight business hours, excluding weekends and holidays.
- 005.02 Any person in interest, shall be entitled to review criminal history record information for determining its accuracy and completeness. The applicant shall provide satisfactory verification of identity which shall include name, date and place of birth and, when identification is doubtful, a set of fingerprint impressions may be taken by the agency. The review authorized by this chapter shall be limited to a review of criminal history record information. Upon payment of the fee specified in Section 004 of this chapter, the person in interest may obtain a copy of the criminal history record information.
- 005.03 Any person in interest, who finds that the criminal history information is inaccurate or incomplete, may seek administrative review as provided in Rules and Regulations #1 of the Commission.
- 005.04 If the requested criminal history record or other public record, as defined in this regulation is not in the custody or control of the person to whom application is made, such person shall notify the applicant immediately. If requested by the applicant, such notification will be in writing and shall state the agency, if known, which has custody or control of the record in question. If the criminal history record or public record is in custody and control of the person to whom application is made but is not available at the time the applicant asks to see it, the custodian shall notify the applicant and if requested by the applicant, custodian shall set a date and hour within three working days at which time the record shall be available for inspection. A request for criminal history information on more than twenty subjects shall be completed within 15 working days.
- 005.05 A request by mail for a copy of a complete criminal history record information by a person not the subject of the record, must be notarized and include a check or money order for the amount specified in Section 004 of this chapter.

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006 - SECURITY

006.01 The Major in charge of Investigative Services for the Patrol shall, in cooperation with the Section Commander of Criminal Identification and the Computer Systems Coordinator, develop and implement a plan to insure:

006.01A The physical security of criminal history record information; and

006.01B The protection of such information from unauthorized access, disclosure or dissemination.

006.01C This section shall not be construed to inhibit or limit dissemination of criminal history record information as authorized in other sections of this chapter.

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