

6VAC20-120-40. Collection.

A. Responsibility.

Responsibility for collecting and updating criminal history record information rests with:

1. State officials and criminal justice agencies having the power to arrest, detain, or hold convicted persons in correctional facilities;
2. Sheriffs of cities or counties;
3. Police officials of cities, counties and towns;
4. Other local law-enforcement officers or conservators of the peace who have the power to arrest for a felony (see §19.2-390 of the Code of Virginia);
5. Clerks of court and court agencies or officers of the court; and
6. Other criminal justice agencies or agencies having criminal justice responsibilities which generate criminal history record information.

B. Reportable offenses.

The above officials and their representatives are required to submit to the Central Criminal Records Exchange, on forms provided by the Central Criminal Records Exchange, a report on every arrest they complete for:

1. Treason;
2. Felonies or offenses punishable as a misdemeanor under Title 54.1 of the Code of Virginia;
3. Class 1 and 2 misdemeanors under Title 18.2 except an arrest for a violation of Article 2 (§18.2-266 et seq.) of Chapter 7 of Title 18.2; violation of Article 2 (§18.2-415 et seq. of Chapter 9 of Title 18.2, or §18.2-119; or violation of any similar ordinance of a county, city or town.

In addition to those offenses enumerated above, the Central Criminal Records Exchange may receive, classify and file any other fingerprints and records of arrest or confinement submitted to it by any law-enforcement agency or correctional institution.

The chief of police, sheriff, or criminal justice agency head is responsible for establishing a system to ensure that arrest forms are completed and submitted in a timely and accurate fashion.

C. Timelines of submission.

1. Arrests. Arrest reports for all offenses noted above, except as provided in this section, and a fingerprint card for the arrested individual shall be forwarded to the Central Criminal Records Exchange in accordance with the time limits specified by the Department of State Police. A copy of the Central Criminal Records Exchange arrest form shall also be sent to the local court (a copy of the form is provided for the courts) at the same time.

The link between the arrest report and the fingerprint card shall be established according to Central Criminal Records Exchange requirements. Arrests that occur simultaneously for multiple offenses need only be accompanied by one fingerprint card.

2. Nonconvictions. For arrests except as noted in subdivision 3a below, the clerk of each circuit and district court shall notify the Central Criminal Records Exchange of the final action on a case. This notification must always be made no more than 30 days from the date the order is entered by the presiding judge.

3. Convictions.

a. For persons arrested and released on summonses under §19.2-74 of the Code of Virginia, the chief law-enforcement officer or his designee, who may be the arresting officer, shall furnish fingerprint cards and a completed copy of the Central Criminal Records Exchange form to the Central Criminal Records Exchange. The form shall be completed immediately upon conviction unless an appeal is noted. In the case of an appeal, officials responsible for reporting the disposition of charges shall report the conviction within 30 days after final action of the case.

b. For arrests except as noted in subdivision 3 a above, the clerk of each circuit and district court shall notify the Central Criminal Records Exchange of the final action on a case. This notification must always be made no more than 30 days after occurrence of the disposition.

4. Final disposition. State correctional officials shall submit to the Central Criminal Records Exchange the release status of an inmate of the state correctional system within 20 days of the release.

D. Updating and accuracy.

Arresting officers and court clerks noted above are responsible for notifying the Central Criminal Records Exchange in a timely fashion, and always within 30 days, of changes or errors and necessary corrections in arrests, convictions, or other dispositions, concerning arrests and dispositions that the criminal justice agency originated. In the case of correctional status or release information, correctional officials are responsible for notifying the Central Criminal Records Exchange within the same time limits of updates or changes in correctional status information. Forms for updating and correcting information are provided by the Central Criminal Records Exchange.

Each criminal justice agency is required to supply timely corrections of criminal history record information the agency has provided to a criminal justice or noncriminal justice agency for a period of two years after the date of dissemination.

E. Locally maintained and nonreportable offenses.

Criminal history record information generated by a criminal justice agency and maintained in a locally used and maintained file, including criminal history record information on offenses not required to be reported to the Central Criminal Records Exchange but maintained in local files, as well as criminal history record information maintained by the Central Criminal Records Exchange, shall adhere to the standards of collection, timeliness, updating and accuracy as required by these regulations. Arrests shall be noted and convictions or adjudications recorded within 30 days of court action or the elapse of time to appeal.

F. Except as provided in §§ [15.2-1722](#), [16.1-299](#), and [19.2-390](#), nothing contained in this article shall be construed as requiring any criminal justice agency to collect, maintain, or update criminal history record information, as defined in § [9.1-101](#), when such information is already available and readily accessible from another criminal justice agency.

Statutory Authority

§9.1-102 and Article 3 (§9.1-126 et seq.) of Chapter 1 of Title 9.1 of the Code of Virginia.

Historical Notes

Derived from VR240-02-1 §2.2, eff. April 1, 1986; amended, Virginia Register Volume 6, Issue 4, eff. January 1, 1990; Volume 10, Issue 7, eff. February 1, 1994.

Editor's Note

Pursuant to the revision authority of the Virginia Code Commission, the statutory authority was updated in February 2003.