

PLAN FOR FINGERPRINTING CRIMINAL DEFENDANTS AND REPORTING DISPOSITION OF CRIMINAL CHARGES

I. FINGERPRINTING REQUIREMENTS

- A. **Felony Arrests:** Pursuant to N.C.G.S. 15A-502, it shall be the duty of the arresting law enforcement agency to cause a person 16 years of age or older charged with the commission of a felony to be fingerprinted.

An agency making a felony arrest may enter into arrangements with other agencies for the purpose of furnishing such fingerprints upon its behalf, however, the procedure contained in VI of this plan must be followed.

- B. **Juveniles:** No juvenile less than sixteen (16) years of age shall be fingerprinted except by Order of a Court unless a felony charge is transferred to the Superior Court for trial. When jurisdiction over a juvenile is transferred to Superior Court, the Courtroom Clerk shall notify the Sheriff who shall immediately cause the juvenile to be fingerprinted as in the case of an adult.

When fingerprints are taken on a juvenile, it shall be plainly noted on both SBI and FBI fingerprint cards **“Juvenile Bound Over to Superior Court.”**

- C. **Grand Jury Indictments:** A defendant charged with a felony by Grand Jury Indictment, which was not originally initiated by a warrant or the original warrant was disposed in District Court, shall be fingerprinted for such charges.

The prosecutor shall direct the defendant to be fingerprinted for such charges by the law enforcement agency that investigated the defendant’s case. If a primary investigating agency cannot be determined, then the Sheriff should be directed to fingerprint the defendant.

When fingerprints are taken for Grand Jury Indictments the charges should be recorded within the charge block on each fingerprint card as follows:

Grand Jury Indictment (the offenses)

- D. **Additional Charges:** The prosecutor shall upon the addition of felony charges to the original indictment, not listed under the same court docket number, notify the original arresting agency who shall cause the subject defendant to be fingerprinted for additional charges not originally recorded.

- E. **Out-of-County Warrants:** When an agency serves an out-of-county warrant on an individual for a felony or other offense required by their Judges Plan to be fingerprinted, such agency should:
1. Fingerprint the subject on the SBI and FBI fingerprint cards bearing their own Originating Routing Identifier (ORI) Number and address.
 2. Complete the final disposition report bearing their own ORI Number and address.
 3. The charge should be recorded on the fingerprint card and final disposition report with the statement “out-of-county warrant,” the name of the county issuing the warrant and the charge. Example: Out-of-County warrant from Wake County for breaking, entering and larceny.
 4. Complete and submit the fingerprint cards to the SBI as soon as possible.
 5. Attach the final disposition report to the original process charging the individual, allowing it to flow back to the originating county and Clerk of Court.
 6. The Clerk of Court from the originating county should record the fingerprint information.

If the originating county receives the individual, routine fingerprinting is not required or encouraged because it will result in duplication of arrest information in the CCH file. If fingerprints are taken they should be for local record keeping purposes and not submitted to the SBI when the arresting agency has already completed the process.

If an agency arrests a felon for another county, and the arresting agency is also charging this subject with a felony, the arresting agency is responsible for fingerprinting on two (2) separate sets of SBI and FBI fingerprint cards and disposition reports. The steps listed above should be followed on the out-of-county charge. The normal procedures should be followed on the arresting agency’s charge.

- F. **Inmate Arrests:** In the event that a warrant is served on an inmate or other person in the custody of any penal institution for a felony charge and the arresting agency is unable to take custody of such inmate, then the prosecutor shall insure that said inmate be fingerprinted at the first appearance before the court by the Sheriff’s Department.
- G. **Fugitive and Governor Warrants:** All subjects arrested or served with a Fugitive or Governor Warrant shall be fingerprinted. When fingerprints are taken for Fugitive and Governor Warrants, it shall be recorded within the charge block on each fingerprint card as follows:

Fugitive/Governor Warrant and the State

- H. **Rejected Felony Arrest Fingerprint Card:** In the event a fingerprint card for a felony charge is rejected by the SBI for illegibility reasons and returned to arresting agency, the

arresting agency should notify the prosecutor who should obtain an appropriate court order to re-fingerprint when defendant appears in court. The original Check Digit Number and Date of Arrest should be used on this re-fingerprint process.

- I. **Misdemeanor Arrest:** Pursuant to the National Child Protection Act (NCPA) as amended by the Violent Crime Control and Law Enforcement Act of 1994 (Crime Control Act), it shall be the duty of the arresting law enforcement agency to cause a person 16 years of age or older charged with the commission of an identifiable misdemeanor offense, as set forth by AOC, against a child, an elderly person or individuals with disabilities to be fingerprinted.

Also, it shall be the duty of the arresting law enforcement agency to cause a person 16 years of age or older charged with the commission of any misdemeanor offense committed because of the victim's race, color, religion, nationality, or country of origin (Hate Crimes) shall be fingerprinted.

This Order gives discretion to the arresting officer/agency whether to fingerprint other misdemeanor cases. If fingerprints are taken and submitted to the SBI, all fingerprint procedures set forth in this plan shall be followed.

- J. **Chapter 20 Offenses (DMV):** No arresting agency shall obtain a photograph or fingerprints from a person charged with a Class 2 or 3 misdemeanor under Chapter 20 of the General Statutes "Motor Vehicles."

DWI level 1 through 5 can be fingerprinted and photographed.

- K. **Magistrates Duties Upon Issuing Original Process:** Any magistrate issuing the original copy of the criminal process for any felony offense and an identifiable misdemeanor offense, as set forth by AOC, against a child, an elderly person or individual with disabilities or Hate Crimes shall clearly mark on the face of the original process that the defendant shall be fingerprinted.

II. FINGERPRINTING PROCEDURES

- A. **Fingerprint Documents:** When a person is fingerprinted a set of inked impressions should be obtained on each of the following forms and the same name and charges shall be listed as on the original criminal process.

If the name on the original process is not the True Name or additional alias names are known, then these names should be listed on all fingerprint documents.

1. A fingerprint card furnished by the Federal Bureau of Investigation;
2. A fingerprint card furnished by the State Bureau of Investigation;

The Two-Part Fingerprint Card package, with the Check-Digit Number, contains both the SBI Arrest Fingerprint Card and Final Disposition Report bound together.

Roll inked fingerprint impressions as usual on both the SBI and FBI fingerprint cards. Include palm prints on the back of the SBI fingerprint card.

Complete all descriptive data and arrest information on both cards.

In the event an error is made on the Check-Digit SBI fingerprint card start over with a new two-part package destroying the set in error.

NOTE: If there is more than one (1) date of arrest, then the arrested individual must be fingerprinted on all three (3) documents for each separate date of arrest. Multiple charges may be listed on one (1) card as long as there is only one (1) date of arrest.

- B. **Submission of Fingerprint Cards:** The arresting law enforcement agency or the agency charged with the responsibility of fingerprinting the defendant shall complete the FBI and SBI fingerprint cards and forward them by First Class Mail or State Courier Service immediately to:

State Bureau of Investigation
Division of Criminal Information
3320 Old Garner Road
Raleigh, North Carolina 27626-0500
Attention: Identification Section

- C. **SBI Final Disposition Report:** The arresting law enforcement agency or agency charged with the responsibility of fingerprinting defendant shall complete a Disposition Report Form, one per arrest card. Be sure information listed below corresponds with both SBI and FBI cards. Fingerprints are not required on this form.

1. the name of arresting agency and ORI Number;
2. the date of arrest;
3. the offenses charged (as listed on criminal process);
4. the defendant's full name (as listed on criminal process and alias names);
5. defendant's date of birth;
6. defendant's sex and race;
7. defendant's social security number;
8. agency arrest number (OCA#);
9. signature, title and date.

In the event an error is made on the Final Disposition Report, generally the error can be corrected on the form, however, if not use a blank form transposing the Check-Digit Number from the SBI card to the upper right corner of the form.

- D. **Delivery of Report to Magistrate:** The arresting agency shall cause the Final Disposition Report to be stapled to the original copy of the criminal process charging the defendant. The booking officer shall transpose the Check-Digit Number and Date of Arrest from the two-part fingerprint card onto each Warrant, Magistrate's Order, or Order of Arrest, and then deliver the criminal process to the Magistrate or Clerk of Court.

Transposing the unique Check-Digit Number and Date of Arrest to each original copy of the criminal process charging the defendant is the Most Important Step.

III. **MAGISTRATES CONFIRMING FINGERPRINT REQUIREMENTS AND PROCEDURES**

- A. **Felony Arrests:** Any Magistrate receiving the original copy of the criminal process for a felony charge shall confirm the defendant has been fingerprinted and all fingerprinting requirements and procedures in this plan have been followed. The Magistrate should confirm the Check-Digit Number has been transposed to each original process.
- B. **Misdemeanor Arrests:** Any Magistrate receiving the original copy of the criminal process for **an identifiable misdemeanor offense, as set forth by AOC, against a child, an elderly person or individual with disabilities or Hate Crimes shall confirm the defendant has been fingerprinted.** Any Magistrate receiving the original copy of the criminal process for **other misdemeanor offenses shall ascertain from the agency whether the defendant was fingerprinted.** If the defendant was fingerprinted, the Magistrate shall confirm all fingerprinting requirements and procedures in this plan have been followed. The Magistrate should confirm the Check-Digit Number and Date of Arrest has been transposed to each original process.
- C. **Condition of Release:** If fingerprint impressions have not been obtained prior to the arrestee being taken before a Magistrate for a charge which requires fingerprinting, the Magistrate is authorized to require the arrestee to submit to fingerprinting as a condition of pretrial release.
- D. **Arrest Without Warrant:** If an arrest is made without a warrant and the Magistrate finds probable cause, the normal fingerprinting procedure should be followed.

If an arrest is made without a warrant and the Magistrate finds no probable cause, the arrestee is released without being fingerprinted. If fingerprint impressions have been taken, said prints shall not be forwarded to the State Bureau of Investigation and the Final Disposition shall not be sent to the Clerk.

- E. **Noncompliance:** If the Magistrate determines the arresting agency has not complied with the fingerprint requirements and procedures in this plan, the Magistrate shall immediately notify the Judge who may order that a Show Cause Order be issued against the arresting officer.

IV. REPORTING DISPOSITION OF CRIMINAL CASES

- A. **Requirements of Disposition Reporting:** Dispositions of criminal cases, as defined in G.S. 15A-1381, for **all felony charges and identifiable misdemeanor offenses, as set forth by AOC, against a child, an elderly person or individual with disabilities and Hate Crimes or other misdemeanor charges fingerprinted by the arresting agency shall be reported to the SBI** by the Clerk of Superior Court as promptly as practicable but in no event later than thirty (30) days after the date of disposition.
- B. **Submission of Final Disposition Data:** The Clerk of Superior Court's office shall be responsible for entering the Check-Digit Number and Date of Arrest into the Administrative Office of the Courts (AOC) computer file when receiving the original process charging the defendant that requires reporting of the final disposition to the SBI because fingerprints were taken. When the case is disposed of, the appropriate information regarding the final disposition of the case shall be reported to the SBI by causing the disposition to be forwarded to the SBI through the AOC computer file or in a manner approved by the SBI.
- C. **Confirming Receipt and Submission of Disposition Reporting:** Any clerk receiving the original copy of the criminal process for a **felony charge or if the defendant has not been identifiable misdemeanor offense, as set forth by AOC, against a child, an elderly person or individual with disabilities and Hate Crimes or other misdemeanor charges fingerprinted by the arresting agency shall confirm the defendant has been fingerprinted and the SBI Disposition Report Form is attached and/or the Check-Digit Number and Date of Arrest appears on the criminal process.**

If the defendant has not been fingerprinted or the SBI Disposition Report Form is not attached, or the Check-Digit Number and Date of Arrest does not appear on the original process, the Clerk shall notify the District Attorney who shall:

- 1) Require the defendant be fingerprinted, or require the arresting agency to provide the SBI Disposition Form or the Check-Digit Number and Date of Arrest.
- 2) Enter the code for the subject not fingerprinted into the AOC computer so a message will be printed on the court calendar that the subject needs to be fingerprinted when they appear in court.

If the Check-Digit Number does not appear on the criminal process, the Clerk shall transpose the Check-Digit Number and Date of Arrest to the original process.

NOTE: The clerk may make a notation on the court jacket that Disposition Report Form was received and it was completed and submitted to the SBI.

- D. **Appealed Cases:** If a defendant appeals his conviction in District Court to Superior Court, do not report the final disposition until disposed of in Superior Court or defendant withdraws appeal.

If a case is appealed to the Appellate Division it shall be reported to the SBI "Case Appealed To Appellate Division". When the opinion is received from Appellate Court the date of opinion and decision shall be reported.

If judgment is modified or a new trial granted by Appellate Court it shall be reported to the SBI. When the final disposition after the opinion is received, a new judgment or modification shall be reported.

- E. **Consolidated Cases:** When a Court Docket Number has been consolidated with another Court Docket Number with the same Date of Arrest.

1. Each charge and Docket Number should be listed.
2. Specify that all charges were consolidated for one judgment.
3. Record the final disposition (judgment) on one of the disposition sheets.

If a Court Docket Number has been consolidated with a different Date of Arrest it should be handled the same as above, except a copy of the judgment of the consolidated cases should be attached to each final disposition report.

V. **REPORTING OF INCARCERATION INFORMATION**

- A. **Requirements of Incarceration Reporting:** The Department of Correction shall be responsible for furnishing the State Bureau of Investigation with information concerning the receipt, escape, execution, death, release, pardon, parole, or discharge of individuals who have been sentenced to the Department of Correction's custody for any offenses which are mandated by statute to be collected and maintained by the State Bureau of Investigation.
- B. **Submission of Incarceration Data:** The Department of Correction shall provide all incarceration record information to the State Bureau of Investigation on the necessary forms provided by the State Bureau of Investigation or any other such method agreed to by the Department of Correction and the State Bureau of Investigation. Information on new admissions to prison will be furnished along with fingerprints taken of the prisoner during his processing as a new inmate. Upon receipt of fingerprints the State Bureau of

Investigation will transmit to the Department of Correction the State Identification Number for that prisoner. All subsequent records forwarded to the State Bureau of Investigation for the offender will include the State Identification Number.

The Department of Correction shall submit all incarceration record information promptly as practicable but in no event later than thirty (30) days after the date action was taken. When necessary forms are completed, the Department of Correction shall send them by First Class Mail or State Courier to or in a manner approved by the SBI:

State Bureau of Investigation
Division of Criminal Information
3320 Old Garner Road
Raleigh, North Carolina 27626-0500
Attention: Identification Section

VI. ARRESTS FOR ANOTHER AGENCY WITHIN THE SAME COUNTY

If an agency is serving a felony warrant or any warrant which will require fingerprinting under their Judges' Plan, for an offense jurisdiction (the jurisdiction in which the offense was committed), the following should occur:

1. The subject should be fingerprinted on the SBI and FBI fingerprint cards bearing the offense jurisdiction's ORI number and address. This procedure is necessary regardless of which agency does the actual fingerprinting. In those areas where one agency does the fingerprinting for several other agencies, it will be necessary to use the offense jurisdiction agency's fingerprint card. To better illustrate this situation, the following example is provided.

A fingerprintable offense has been committed in Agency A's jurisdiction. The suspect is apprehended by Agency B (in the same county) and transported to the county jail for fingerprinting. The subject will be fingerprinted on fingerprint cards containing Agency A's ORI number and address.

The following situation may also occur:

Agency A arrests an individual in their jurisdiction for an offense committed in their jurisdiction. They then transport the individual to the county jail or agency offering the fingerprinting service. Agency A should assure that the individual is fingerprinted on fingerprint cards with Agency A's ORI number and address to insure proper recording of the arresting agency.

2. Additionally the final disposition report should bear Agency A's ORI number and address.
3. Complete and submit the fingerprint cards to the SBI as soon as possible.
4. Attach the final disposition report to the original process charging the individual.

If it is necessary for multiple agencies to charge a subject, it will be necessary to submit separate sets of fingerprint cards and disposition reports bearing each agency's ORI number and address.

VII. LOCAL RECORDS

This plan does not prohibit a law enforcement agency from lawfully procuring inked fingerprint impressions for its files or for investigation and evidentiary purposes. Nothing in this plan shall prohibit any municipal or county law enforcement agency or Clerk of Court from compiling case disposition information for lawful purpose and its own use.

VIII. AMENDMENTS

This amended plan may be modified, altered or otherwise amended by the Senior Resident Superior Court Judge of the Superior Court District, by filing a copy of the amendment with the Director of the State Bureau of Investigation and the Clerk of Court within ten (10) days following its entry.

IX. FAILURE TO COMPLY WITH THIS AMENDED PLAN

Any person failing to comply with this plan, or failing to carry out a duty, or responsibility under this plan shall be punishable as for civil contempt pursuant to G.S. 5A, Article II.

X. This plan shall be filed with the Director of the State Bureau of Investigation. Copies shall be sent to the following local agencies: Caldwell County Sheriff's department, Burke County Sheriff's Department, Lenoir Police Department, Morganton Department of Public Safety, Hudson Police Department, Granite Falls Police Department, Valdese Police Department, Drexel Police Department, Glen Alpine Police Department, and Rhodhiss Police Department. This plan shall be published on websites established for Burke and Caldwell Counties.

This plan adopted this the 13th day of December 2004.

S/Beverly T. Beal

BEVERLY T. BEAL

**Senior Resident Superior Court Judge
25A Judicial District**