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**IDAPA 11
TITLE 10
CHAPTER 02**

11.10.02 – RULES GOVERNING STATE CRIMINAL HISTORY RECORDS AND CRIME INFORMATION

000. LEGAL AUTHORITY.

These rules are authorized by Sections 67-3001, 67-3003, 67-3004, 67-3007, and 67-3010, Idaho Code. (3-20-14)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 11.10.02, “Rules Governing State Criminal History Records and Crime Information.” (3-20-14)

02. Scope. The rules relate to the governance and operation of criminal history records and crime information. (3-30-01)

002. WRITTEN INTERPRETATIONS.

There are no written interpretation of these rules. (3-30-01)

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (3-30-01)

004. MAILING ADDRESS AND OFFICE HOURS.

The mailing address is Idaho State Police, Bureau of Criminal Identification, 700 S. Stratford, Suite 120, Meridian, ID 83642. Office Hours are 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. (3-21-12)

005. -- 009. (RESERVED)

010. DEFINITIONS.

Except as otherwise specifically provided, the terms defined in Section 67-3001, Idaho Code, shall have the same meaning in these rules. Any other terms defined in Section 67-3001 shall be given their ordinary and commonly understood meaning. (3-20-14)

01. Acquittal. The legal certification by a jury or judge that a person is not guilty of the crime charged. (3-20-14)

02. Criminal Summons. Shall include any summons, information or indictment issued in a criminal proceeding or action. (3-20-14)

03. Dismissal. Termination of a criminal action without further hearing or trial in the interest of justice. (2-5-19)T

04. Expunge. To erase or destroy, to declare null and void outside the record, so that it is noted in the original record as expunged, and redacted from all future copies. (3-20-14)

05. Serious Misdemeanor. A crime, that if convicted, could be punishable by imprisonment in a county jail. (3-20-14)

011. ABBREVIATIONS.

Except as otherwise specifically provided, any terms abbreviated in Chapter 30, Title 67, Idaho Code, shall have the same identification and meaning in these rules. (3-20-14)

012. -- 020. (RESERVED)

021. EXPUNGEMENT PROCEDURE.

The procedure for any criminal history record expungement shall be as follows: (3-20-14)

01. Application. A person seeking to expunge their criminal history record must submit the proper application to the Bureau of Criminal Identification as provided by the Bureau. (3-20-14)

02. Required Information Included. The applicant must also include a copy of one of the following to the Bureau of Criminal Identification: (3-20-14)

a. Criminal citation; or (3-20-14)

b. Criminal Summons, Complaint, and Affidavit of Service by the county sheriff's office; or (3-20-14)

c. Indictment; or (3-20-14)

d. Information. (3-20-14)

03. Certified Copy of Order of Acquittal or Order of Dismissal. (2-5-19)T

a. The applicant must also include a certified copy of the court's order of acquittal finding the applicant was not guilty of the crime charged; or (2-5-19)T

b. A certified copy of the dismissal order, showing that all charges related to that arrest were dismissed. (2-5-19)T

04. Return of Incomplete Application. The Bureau of Criminal Identification shall return an application to the applicant, if the application is incomplete or if the required documents are not provided. (3-20-14)

022. TRANSMITTAL OF CRIMINAL HISTORY RECORDS.

The transmittal of criminal history arrest fingerprint(s) may be via electronic submission from a live-scan or card scanner over a secured and approved network or by hard copy through regular mail. (3-20-14)

023. PROCEDURE FOR CONTESTING THE ACCURACY AND COMPLETENESS OF A CRIMINAL HISTORY RECORD CONTAINED IN AGENCY FILE.

01. Challenge Accuracy of Records. A person may challenge the accuracy and correctness of their criminal history records contained in the Bureau's database. (3-20-14)

a. The applicant must submit to fingerprinting through either the Bureau of Criminal Identification or other law enforcement agency. A fingerprinting fee may apply. (3-20-14)

02. Notification of Fingerprints Not Matched. If the applicant's fingerprints do not match those contained in the Bureau's database, the applicant will be notified by certified mail. (3-20-14)

03. Documentation of Erroneous Information. If the applicant's fingerprints match, but the applicant has documentation showing the information is in error, the applicant may submit such information to the Bureau of Criminal Identification. (3-20-14)

04. Correction of Records. The Bureau of Criminal Identification will correct its records per the direction of the law enforcement agency where the initial criminal action arose or appropriate court order. (3-20-14)

024. -- 030. (RESERVED)

031. FEES FOR SERVICES.

01. Fingerprint Check. The Bureau shall charge a fee of not more than twenty-five dollars (\$25) for each fingerprint check requested for other than law enforcement purposes. (3-21-12)

02. Name Check. The Bureau shall charge a fee of not more than twenty dollars (\$20) for each name check requested for other than law enforcement purposes. (3-21-12)

03. Rolling Fingerprint. The Bureau shall charge a fee of not more than ten dollars (\$10) for rolling a set of fingerprints and no more than five dollars (\$5) for each additional copy of such rolled fingerprints. (3-21-12)

032. NON-EXPANSION OF SERVICES.

Nothing within these rules shall be construed to alter or expand the services which will be provided to those requesting fingerprint checks and name checks. (7-1-96)

033. -- 999. (RESERVED)

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