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**EMAIL TO:** All Sheriffs  
**FROM:** Eddie Caldwell  
Executive Vice President and General Counsel  
North Carolina Sheriffs' Association  
**SENT:** March 20, 2020  
**SUBJECT:** Suspending Fingerprinting Services for the General Public During  
a Declared State of Emergency

With the rapidly evolving COVID-19 pandemic, law enforcement officials must decide which services they can continue to provide safely to the general public and which services should be limited or suspended during the pandemic. To this point, many law enforcement officials have asked whether or not a sheriff can be required to continue providing fingerprinting services for the general public during the coronavirus pandemic.

The short answer is no, there is no legal obligation upon the Office of Sheriff to have sheriff's office personnel continue to provide fingerprinting services for the general public. It is within the discretion of the sheriff to suspend this type of service during a state of emergency.

While there are many statutes that require fingerprinting for occupational licensing, employment, and for other purposes, these statutes do not require a sheriff's office to conduct the fingerprinting service. For example, under G.S. 58-33-48, applicants for an insurance producer's license must provide fingerprints that are certified by an authorized law enforcement officer. Other examples include applications for licenses to practice in healthcare (e.g., G.S.143B-949); applications for an ABC permit (G.S. 18B-902); and applications for public adjuster licenses (G.S. 58-33A-15).

Notably, none of these statutes mandate that any one specific law enforcement agency, such as a sheriff's office, provide the fingerprinting service. **Therefore, a sheriff may use discretion regarding the decision to offer or suspend fingerprinting services for the general public.**

The processing of Concealed Handgun Permits (CHP) under our General Statutes is treated differently in terms of who conducts fingerprinting. Pursuant to G.S.14-415.13, a CHP applicant must submit a full set of fingerprints to the sheriff and the



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fingerprinting must be “administered by a sheriff.” G.S. 14-415.15 requires a sheriff to either issue or deny the CHP permit within 45 days of receiving both the mental health records of the applicant and all other information required from the applicant under G.S. 14-415.13 (such as the fee, application, safety course certificate and signed release). The statute does not appear to prohibit a sheriff from suspending CHP fingerprinting services during a declared state of emergency. Furthermore, G.S. 14-415.20 states that a sheriff “shall not incur any civil or criminal liability as the result of the performance of the sheriff’s duties under this Article.” Based on this statutory language, any sheriff suspending CHP fingerprinting services during a declared state of emergency would be protected from any civil or criminal liability related to the temporary suspension of this service due to public safety concerns, such as the coronavirus pandemic.

Finally, please remember that fingerprinting for certain arrests are mandatory and may not be suspended, even during a state of emergency. This is because our General Statutes mandate fingerprinting, as explained below.

Pursuant to G.S. 15A-502, it “**shall be the duty** of the arresting law enforcement agency” to fingerprint individuals who have been charged with: a felony, domestic criminal trespass or other criminal offense involving domestic violence, impaired driving misdemeanor offenses, or possession of a controlled substance. Fingerprinting is also required for the misdemeanor offense of assault, stalking, or communicating a threat if the person is under a domestic hold pursuant to G.S. 15A-534.1. There are no exceptions in the law to the fingerprinting requirement for these criminal offenses. In addition, pursuant to G.S. 7B-2102, a law enforcement officer or agency “shall fingerprint” juveniles who have committed more serious offenses that do not qualify for diversion in juvenile court. This applies to juveniles 10 years of age or older who commit non-divertible offenses, who are in the physical custody of law enforcement or the Division of Adult Correction and Juvenile Justice, and where a complaint has been prepared for filing against the juvenile.

If you have any questions regarding a sheriff’s discretion to suspend fingerprinting services for the general public during a declared state of emergency, do not hesitate to contact Matthew Boyatt, NCSA Deputy General Counsel, at [mboyatt@ncsheriffs.net](mailto:mboyatt@ncsheriffs.net) or at 919-459-6467.

Thanks....Eddie C.



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