

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Form #2

FILED
JUN 6 1 26 PM '97
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WEST VIRGINIA STATE POLICE TITLE NUMBER: 81

RULE TYPE: PROCEDURAL; CITE AUTHORITY WV CODE 15-2-24

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: N/A

TITLE OF RULE BEING AMENDED: N/A

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 11

TITLE OF RULE BEING PROPOSED: WEST VIRGINIA UNIFORM CRIME REPORTING
PROGRAM; GENERAL GUIDELINES AND REPORTING REQUIREMENTS

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 7, 1997 AT 10:00 am. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

SUPERINTENDENT c/o S.W. Cogar

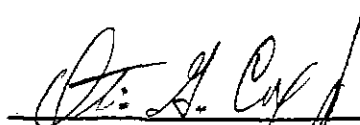
725 Jefferson Rd.

S. Charleston, WV 25309-1698

- Contact number: (304)746-2112

- FAX number: (304)746-2405

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$4.80

West Virginia State Police
Title 81
Series 11

Summary of Proposed Rule

This procedural rule is written to provide general guidelines and establish reporting requirements, such as the prescribed form, content, time and manner for Uniform Crime Reporting (UCR) submission. This procedural rule would also set a deadline for conversion from summary based UCR reporting to incident based reporting.

This is mandated by §15-2-24(i) but also has been necessitated by updating the Uniform Crime Reporting to incident based reporting.

West Virginia State Police
Title 81
Series 11

Circumstances Requiring This Rule

West Virginia Statute §15-2-24(i) states that "all state, county and municipal law enforcement agencies shall submit to the [Criminal Identification] bureau uniform crime reports..." It also assigns the bureau "the duty... to adopt and promulgate rules and regulations prescribing the forms, general content, time and manner of submission of such Uniform Crime Reports." It also emphasizes that neglect or refusal to submit the UCR reports constitutes a misdemeanor, neglect of duty and misfeasance in office and subjects the reporting individual to removal from office.

Since 1971, West Virginia has been reporting crime statistics by employing the summary based reporting method. In the late 1980's, the Federal Bureau of Investigation (FBI) in conjunction with the International Association of Chiefs of Police (IACP) and National Sheriff's Association (NSA) developed an enhanced crime reporting method termed National Incident Based Reporting System (NIBRS). In 1988, the Association of State UCR Programs (ASUCRP) endorsed the system and agreed that the FBI should continue its effort to implement the system nationally.

In July 1990, the West Virginia State Police was awarded approximately \$250,000 by the U.S. Department of Justice, Bureau of Justice Statistics (BJS) to seed the implementation of NIBRS in West Virginia. The monies funded a steering committee composed of about 40 representatives from various law enforcement agencies (this committee developed a statewide incident reporting form), the development of a state IBR repository software, furnishing the state UCR program with computer hardware and software, printing and distributing of the incident report form and its accompanying guide manual and 42 regional law enforcement in service training sessions on the new system and report form. All law enforcement agencies received a supply of the incident report forms. Over 1,500 law enforcement officers received training on the system and forms. All agencies have repeatedly been informed since 1990 on the conversion to incident based reporting.

The BJS grant ran until mid-1994. Since the conclusion of the grant, all the State Police's 61 detachments and 31 other law enforcement agencies have purchased computers and IBR compliant software. Eighteen of these contributors are certified. In addition, 17 agencies submit IBR data by mailing copies of their incident reports to the state UCR program and the UCR staff does the data entry directly into the state repository system. It should be noted that although many agencies do not submit IBR data to the UCR program by disk or by mailing copies of the form, many currently employ the IBR report form, provided by the state UCR program, as their offense form.

Although more effective, the incident based reporting system is definitely more detailed and more costly to operate. This procedural rule is needed to give general guidelines, establish reporting requirements and establish a deadline for conversion to the

enhanced IBR reporting system. The state is too far into the conversion process to turn back and it is counterproductive to operate both the summary and incident based system. Also the state UCR program does not have the resources to maintain dual systems.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: West Virginia Uniform Crime Reporting Program, general guidelines and reporting requirements

Type of Rule: Legislative Interpretive Procedural

Agency: Department of Military Affairs and Public Safety

Address: West Virginia State Police

725 Jefferson Road, South Charleston WV 25309

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$	\$	\$503,200	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT			503,200		
OTHER					

2. Explanation of the above estimates:

There are 348 UCR contributors which includes the State Police's 61 detachments and the Department of Natural Resources (DNR) Law Enforcement Division's 55 detachments. All the State Police detachments plus another 27 agencies are equipped with hardware and software. In addition, it is estimated that 62 agencies would not be required to submit by disk, only by form submission. The DNR detachments could be handled by a total of 5 computers situated at their company level. This leaves 148 contributors that would need at a minimum, one computer (at least at 486) and one license to IBR compliant software. It is estimated that the computer would cost approximately \$1,800 and the software license for \$1,600 for a total of \$3,400 per agency or a total of \$503,200 for all 148 agencies.

Rule Title: West Virginia Uniform Crime Reporting Program, general guidelines and reporting requirements.

3. Objectives of these rules:

To establish reporting requirements such as the form, general content, time and manner of submission as mandated by §15-2-24(i) & (j) and to aid in the conversion from summary based to incident based uniform crime reporting.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

The economic impact would fall on the remaining 41 county sheriff's departments and 101 municipal or campus police departments that would need to convert their UCR method of submission to submitting IBR data on computer disk.

C. Economic Impact on Citizens/Public at Large.

Date: June 2, 1997

Signature of Agency Head or Authorized Representative

Colonel Thomas G. Gink

FILED

JUN 6 1 26 PM '97

TITLE 81
PROCEDURAL RULE
WEST VIRGINIA STATE POLICE

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 11
WEST VIRGINIA UNIFORM CRIME REPORTING PROGRAM; GENERAL
GUIDELINES AND REPORTING REQUIREMENTS.

§81-11-1. General.

1.1. Scope - This procedural rule explains the intent of the West Virginia Uniform Crime Reporting Program and the reporting requirements of the contributing law enforcement agencies.

1.2. Authority - W. Va. Code §15-2-24 (i) and (j) and §48-2A-9(d).

1.3. Filing Date -

1.4. Effective Date -

§81-11-2. Definitions.

As used in this rule, unless in a context that clearly requires a different meaning, the term:

2.1. Approved -- software that meets the specifications listed in the FBI's publications Uniform Crime Reporting National Incident-Based Reporting System, Volume 1- Data Collection Guidelines, Volume 2-Data Submission Specifications and Volume 4- Error Message Manual and the specifications listed in the West Virginia NIBRS implementation data fields and the West Virginia file document layout. For a vendors' software to be approved, the software must produce zero percent errors when utilizing test data. Another method of a vendor achieving approval status is when a UCR contributing agency employing the software becomes certified.

2.2. Certified -- a contributing agency that is submitting IBR data on computer disk whose data complies with the specifications listed in the FBI's publications Uniform Crime Reporting National Incident-Based Reporting Systems Volume 1- Data Collection Guidelines, Volume 2 - Data Submission Specifications and Volume 4 - Error Message Manual and the specifications listed in the West Virginia NIBRS implementation data fields and the West Virginia file document layout. The agency must submit 3 months in succession of actual crime incident data with zero percent errors to achieve certification.

2.3. Contributing Agency -- a West Virginia law enforcement agency that has been assigned an Originating Identifier (ORI) by the Federal Bureau of Investigation (FBI) and is mandated by §15-2-24 (i) and (j) to submit uniform crime reports in the form, content, time and manner prescribed by the Criminal Identification Bureau of the West Virginia State Police.

2.4. Incident Based Reporting (IBR) -- an enhanced crime reporting system in which law enforcement agencies collect detailed data regarding individual crime incidents and arrests and submits them in separate "reports". In West Virginia the prescribed data elements and data values utilize the NIBRS standards, plus other elements and values qualified in the West Virginia NIBRS implementation data fields and the West Virginia file document layout. These West Virginia fields and values also include the information required for collection by the WV Family Violence Prevention Act §48-2A-9.

2.5. National Incident Based Reporting System (NIBRS) -- the IBR system developed for reporting crime figures to the FBI. Prescribed data elements and data values to describe each incident and arrest are to be found in the publications, Uniform Crime Reporting National Incident-Based Reporting Systems, Volumes 1, 2 and 4.

2.6. Summary Based Reporting -- the traditional system of crime reporting where law enforcement agencies tally the number of occurrences of Part I Offenses as well as arrest data for both Part I and Part II offenses and submit aggregate counts of the collected data in monthly summarized reports indirectly to the FBI through the State UCR Program. The guidelines for summary reporting are found in the FBI publication Uniform Crime Reporting Handbook.

2.7. Uniform Crime Reporting (UCR) -- is a city, county and state law enforcement program which provides a nationwide view of crime based on submission of statistics by law enforcement agencies throughout the country. The crime data is submitted to the State UCR program which forwards the data to the national UCR program which is administered by the Federal Bureau of Investigation (FBI). The authorization for the state UCR program in West Virginia is found in §15-2-24 (i) and (j).

§81-11-3. Purposes.

3.1. The quantitative statistical data derived from the Uniform Crime Reporting (UCR) program will provide assistance in determining the overall scope of the reported criminal activity in West Virginia and will aid in making effective management studies and criminal analysis possible.

3.2. To prescribe the forms, general content, time and manner of submission of the Uniform Crime Reports as mandated in §15-2-24(i).

§81-11-4. Objectives.

4.1. Collect from all state law enforcement agencies, crime data as defined by state statute and by national Uniform Crime Reporting definitions.

4.2. Assure accuracy in the data collected by developing and adhering to submission standards.

4.3. Enhance the effectiveness and usefulness of the data provided by converting from the summary based method of reporting to incident base reporting as recommended and endorsed by International Association of Chiefs of Police, the National Sheriff's Association, the FBI and the national Association of State UCR Programs.

4.4. Provide law enforcement administrators with crime statistics for administrative and operational use.

4.5. Determine the occurrence of crime, victims of crime and the offenders within the state and their characteristics in order to find the proper focus for crime prevention and enforcement.

4.6. Inform the Governor, Legislature and other governmental officials and the public as to the nature of the crime problem in West Virginia, its magnitude and its trends.

§81-11-5. Information Collected.

5.1. UCR contributors are to report the individual offense data known to them in the following crime categories: murder, manslaughter, rape, robbery, felonious assault/malicious wounding, burglary, breaking and entering, breaking without entering, petit and grand larceny, motor vehicle theft, joyriding, arson, misdemeanor assault and/or battery, controlled substance violations and domestic violence violations.

5.2. With the conversion to the Incident Based Reporting (IBR) System, individual offense data will also be reported on bribery, counterfeiting/forgery, destruction of property, embezzlement, extortion/blackmail, fraud, gambling, kidnapping, pornography, prostitution, sexual assault, sexual abuse, incest, stolen property, weapon law violation, bad checks, vagrancy, disorderly conduct, DUI, leaving the scene, hit and run, traffic accidents resulting in death, public intoxication, non-violent family offenses, liquor law violations, runaways, trespassing and hate crimes.

5.3. Additional offense information concerning victims, property, suspects/offenders, homicide and/or aggravated assault circumstances, circumstances in which an officer(s) is killed or assaulted is to be submitted. Additional reports on persons arrested are to be submitted to provide information concerning the age, sex, race, residency and personal description of all persons arrested.

5.4. This information is specified by the Federal Bureau of Investigation's (FBI) Uniform Crime Reporting National Incident-Based Reporting System, Volume 1 - Data Collection Guidelines, Volume 2 - Data Submission Specifications and Volume 4 - Error Message Manual and the West Virginia NIBRS implementation data fields and the West Virginia file document layout.

5.5. Annually, numerical data on sworn and non-sworn employees is also to be collected from each participating law enforcement agency.

§81-11-6. Jurisdictional Reporting.

6.1. The purpose of jurisdictional guidelines for reporting crime statistics is to accurately depict the nature and volume of crime for a particular community or jurisdiction, not to claim or take "credit" for the number of investigations, arrests, etc. Throughout West Virginia there are several hundred law enforcement agencies, some of which have overlapping jurisdictions. To be certain that a crime is not counted more than once by overlapping jurisdictions, the following guidelines are to be adopted:

6.1.1. Arson investigated by the WV State Fire Marshall's office and their subsequent arrests are to be counted by the State Fire Marshall's office.

6.1.2. Those campus police agencies that possess an ORI and are identified as a UCR contributing agency count crimes and their subsequent arrests that occur on college/university property. Campus police are to count arsons and their subsequent arrests, if they are not being investigated by the WV State Fire Marshall's office.

6.1.3. Municipal police departments count crimes and their subsequent arrests that occur within the city limits. If a crime occurs on college/university property which lies within the city limits, the municipal police department is to count the crime and arrest, if it is not being investigated by the campus police. Municipal police departments are to count arsons and their subsequent arrests if they are not being investigated by the WV State Fire Marshall's office.

6.1.4. County law enforcement agencies and state police detachments are to count crimes and their subsequent arrests that happen in the county outside the limits of the municipalities. County law enforcement agencies and state police detachments are to count arsons and their subsequent arrests if they are not being investigated by the WV State Fire Marshall's office.

6.1.5. A crime that occurs in one jurisdiction should not be counted by another campus police department, municipality, sheriff's department, state police detachment or state fire marshall's investigator, even though more than one agency participated in the investigation or arrest of the subject of that crime.

§81-11-7. Records Needed.

7.1. Data needed for UCR reporting are readily available through a good recordkeeping system. Basic records should include:

7.1.1. Permanent records of crime, traffic, administrative matters and such other activities as considered necessary.

7.1.2. Control for recording and counting every complaint received.

7.1.3. Reports of the investigation of each complaint received.

7.1.4. Information on persons arrested, charges made, disposition and other facts about the arrested person, including age, sex, race, residence and physical descriptors.

§81-11-8. Reporting Requirements Established.

8.1. The UCR program is currently operating under the Summary Based reporting system. The minimum reporting requirements established for the Summary Based UCR system are:

8.1.1. Any law enforcement agency, discovering, receiving a report or investigating any offense occurring in its jurisdiction that would constitute a crime as defined by the FBI's Uniform Crime Reporting Handbook as a Part I or Part II offense, shall report the facts to the West Virginia UCR program monthly.

8.1.2. Any law enforcement agency arresting, citing or issuing a summons to any person (including the handling of a juvenile) for any crime which occurred in its jurisdiction shall report these facts to the West Virginia UCR program monthly.

8.1.3. Any law enforcement agency which receives a report of an alleged incident of family or household abuse shall report the information mandated by §48-2A-9(d) to the West Virginia UCR program monthly.

8.1.4. These reports shall be made on the forms provided by or approved by the West Virginia UCR Program.

8.1.5. The completed report is due by the 7th of the month following the end of the reporting period.

8.2. The UCR reporting system is undergoing a conversion to an enhanced reporting system, Incident Base Reporting (IBR), which is designed to more effectively meet current and future information needs as it pertains to crime reporting. As of January 1, 1999 all agencies are to have made the conversion to IBR and begun the certification process.

The minimum reporting requirements established for incident based reporting are:

8.2.1. Any law enforcement agency discovering, receiving a report of or investigating any offense occurring in its jurisdiction that would constitute a crime as defined by the FBI's Uniform Crime Reporting, National Incident-Based Reporting System, Volume 1 - Data Collection Guidelines as a Group A or Group B offense shall report these facts to the West Virginia UCR program monthly.

8.2.2. Any law enforcement agency arresting, citing or issuing a summons

to any person (including the handling of a juvenile) for any crime which occurred in its jurisdiction shall report these facts to the West Virginia UCR program monthly.

8.2.3. Any law enforcement agency who receives a report of an alleged incident of family or household abuse shall report the information mandated in §48-2A-9(d) to the West Virginia program monthly.

8.2.4. Any law enforcement agency discovering, receiving a report of or investigating any offense that manifest evidence or prejudice based on race, religion, sexual orientation, ethnicity, disability, political affiliation or sex shall report these facts to the West Virginia UCR program monthly.

8.2.5. These reports will be submitted by one of two methods. The West Virginia UCR program will determine a contributor's method of submission based on an agency's volume of activity and West Virginia UCR program's available resources. These methods are:

8.2.5.1. Diskette

Disk Size - - - 3.5

Code Set - - - ASCII

8.2.5.1.1. The data elements must comply with the specifications qualified in the FBI's publications Uniform Crime Reporting - National Incident-Based Reporting System Volume 1 - Data Collection Guidelines, Volume 2 - Data Submission Standards, Volume 4 - Error Message Manual and the West Virginia NIBRS implementation data fields.

8.2.5.1.2. The data file format must comply with the specifications qualified in the FBI publication Uniform Crime Reporting National Incident Based Reporting System, Volume 2 - Data Submission Standards and the West Virginia file document layout.

8.2.5.1.3. The disks must be on high or double density and used exclusively for submitting UCR reports.

8.2.5.2. Form Submission - Reports shall be made on the forms provided by or approved by the West Virginia UCR program. Only copies of the reports are to be submitted to the West Virginia UCR program, the originals of the reports are to remain on file at the contributing agency.

8.2.5.3. The complete reports, whether submitted by disk or on forms are due by the 7th of the month following the end of the reporting period.

§81-11-9. Certification and Approval.

9.1. Data cannot be utilized unless it is accurate. To ensure accuracy, a contributing

agency that submits by diskette will undergo the certification process.

9.1.1. A contributing agency will be considered IBR certified once it has submitted three (3) months of data in succession with 0% errors.

9.1.2. A software vendor can achieve approval status by submitting test data (provided by the State UCR program) to the West Virginia UCR program with 0% errors or if a UCR contributing agency utilizing their software receives certification.

9.2. An agency may lose certification or a vendor may lose approval status if an agency's monthly submission has greater than 4% errors.

§81-11-10. Supplies and Services offered to UCR contributors

Obtainable by writing, telephoning or faxing the UCR office at:

West Virginia State Police
725 Jefferson Road
South Charleston WV 25309

Phone: 304-746-2159/2237
Fax: 304-746-2402

- 10.1. Summary based reporting forms (until Jan. 1, 1999).
- 10.2. Summary based tally books and tally sheets (until Jan. 1, 1999).
- 10.3. Prepaid envelopes.
- 10.4. IBR incident/offense forms.
- 10.5. IBR incident/offense form guide manual.
- 10.6. Conversion tables (converts West Virginia criminal code to the appropriate UCR summary based and NIBRS codes).
- 10.7. WV NIBRS Implementation Data Fields and File Document Layouts.
- 10.8. IBR test data.
- 10.9. FBI Publications:
 - 10.9.1. Uniform Crime Reporting, National Incident-Based Reporting System, Volume 1: Data Collection Guidelines.

10.9.2. Uniform Crime Reporting, National Incident-Based Reporting System, Volume 2: Data Submission Specifications.

10.9.3. Uniform Crime Reporting, National Incident-Based Reporting System, Volume 3: Approaches to Implementing an Incident-Based Reporting IBR System.

10.9.4. Uniform Crime Reporting, National Incident-Based Reporting System, Volume 4: Error Message Manual.

10.9.5. Uniform Crime Reporting Handbook (until Jan. 1, 1999).

10.9.6. Hate Crime Data Collection Guidelines.

10.9.7. Training Guide for Hate Crime Data Collection.

10.10. Provide one-on-one training in the UCR office on proper UCR submission, upon request.

10.11. Provide regional training on proper UCR submission, upon request.