

CHAPTER 18 – DIVISION OF CRIMINAL INFORMATION

SUBCHAPTER 18A – ORGANIZATIONAL FUNCTIONS AND DEFINITIONS

SECTION .0100 – GENERAL PROVISIONS

14B NCAC 18A .0101 SCOPE

(a) The rules in this Chapter are the rules of the North Carolina State Bureau of Investigation, Division of Criminal Information (DCI).

(b) The FBI Criminal Justice Information Services (CJIS) Security Policy is incorporated by reference herein and shall automatically include any later amendments or editions that may be published by the FBI. The policy is available at no charge on the FBI website: <http://www.fbi.gov/about-us/cjis/cjis-security-policy-resource-center/view>.

*History Note: Authority G.S. 114-10; 114-10.1;
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14B NCAC 18A .0102 DEFINITIONS

As used in this Chapter:

- (1) "ACIIS" means Canada's Automated Criminal Intelligence and Information System.
- (2) "Administration of criminal justice" means the:
 - (a) detection of accused persons or criminal offenders;
 - (b) apprehension of accused persons or criminal offenders;
 - (c) detention of accused persons or criminal offenders;
 - (d) pretrial release of accused persons or criminal offenders;
 - (e) post-trial release of accused persons or criminal offenders;
 - (f) prosecution of accused persons or criminal offenders;
 - (g) adjudication of accused persons or criminal offenders;
 - (h) correctional supervision of accused persons or criminal offenders;
 - (i) rehabilitation of accused persons or criminal offenders;
 - (j) collection of criminal history record information;
 - (k) storage of criminal history record information;
 - (l) dissemination of criminal history record information;
 - (m) screening of persons for the purpose of criminal justice employment; or
 - (n) administration of crime prevention programs to the extent access to criminal history record information is limited to law enforcement agencies for law enforcement programs (e.g. record checks of individuals who participate in Neighborhood Watch or safe house programs) and the result of such checks will not be disseminated outside the law enforcement agency.
- (3) "Advanced authentication" means an alternative method of verifying the identity of a computer system user. Examples include software tokens, hardware tokens, and biometric systems. These alternative methods are used in conjunction with traditional methods of verifying identity such as user names and passwords.
- (4) "AOC" means the North Carolina Administrative Office of the Courts.
- (5) "Authorized recipient" means any person or organization who is authorized to receive state and national criminal justice information by virtue of being:
 - (a) a member of a law enforcement/criminal justice agency approved pursuant to Rule .0201 of this Subchapter; or
 - (b) a non-criminal justice agency authorized pursuant to local ordinance or a state or federal law.
- (6) "CCH" means computerized criminal history record information. CCH can be obtained through DCIN or through N-DEX.

- (7) "Certification" means documentation provided by CIIS showing that a person has been trained in the abilities of DCIN devices, and has knowledge for accessing those programs that are developed and administered by CIIS for local law enforcement and criminal justice agencies.
- (8) "CHRI" means criminal history record information. CHRI is information collected by and maintained in the files of criminal justice agencies concerning individuals, consisting of identifiable descriptions, notations of arrest, detentions, indictments or other formal criminal charges. This includes any disposition, sentencing, correctional supervision, and release information.
- (9) "CIIS" means Criminal Information and Identification Section. CIIS is a section of DCI that manages all CJIS programs within North Carolina, including DCIN.
- (10) "CJI" means criminal justice information. CJI is all of the FBI CJIS provided data necessary for law enforcement agencies to perform their mission and enforce laws, including biometric information, identity history person, organization, property, and case or incident history data. In addition, CJI refers to FBI CJIS provided data necessary for civil agencies to perform their mission including data used to make hiring decisions.
- (11) "CJIS" means Criminal Justice Information Services. CJIS is the FBI division responsible for the collection, warehousing, and dissemination of relevant criminal justice information to the FBI and law enforcement, criminal justice, civilian, academic, employment, and licensing agencies.
- (12) "CJIS Security Policy" means a document published by the FBI CJIS Information Security Officer that provides criminal justice and non-criminal justice agencies with a set of security requirements for the access to FBI CJIS systems to protect and safeguard criminal justice information whether in transit or at rest.
- (13) "Class B misdemeanor" includes any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of more than six months but not more than two years. Specifically excluded are motor vehicle or traffic offenses designated as being misdemeanors under the laws of jurisdictions other than the State of North Carolina with the following exceptions: either first or subsequent offenses of driving while impaired if the maximum allowable punishment is for a term of more than six months but not more than two years, and driving while license permanently revoked or permanently suspended. "Class B Misdemeanor" shall also include acts committed or omitted in North Carolina prior to October 1, 1994 in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of this state for which the maximum punishment allowable for the designated offense included imprisonment for a term of more than six months but not more than two years.
- (14) "Convicted" or "conviction" means, for purposes of DCIN user certification, the entry of:
 - (a) a plea of guilty;
 - (b) a verdict or finding of guilt by a jury, judge, magistrate, or other adjudicating body, tribunal, or official, either civilian or military; or
 - (c) a plea of no contest, nolo contendere, or the equivalent.
- (15) "Criminal justice agency" means the courts, a government agency, or any subunit thereof which performs the administration of criminal justice pursuant to statute or executive order and which allocates more than 50 percent of its annual budget to the administration of criminal justice. State and federal Inspector General Offices are included in this definition.
- (16) "Criminal justice board" means a board composed of heads of law enforcement or criminal justice agencies that have management control over a communications center.
- (17) "CSA" means CJIS System Agency. The CSA is a state, federal, international, tribal, or territorial criminal justice agency on the CJIS network providing statewide (or equivalent) service to its criminal justice agency users with respect to the CJIS data from various systems managed by the FBI. In North Carolina, the CSA is the SBI.
- (18) "CSO" means CJIS System Officer. The CSO an individual located within the CSA responsible for the administration of the CJIS network on behalf of the CSA. In North Carolina, the CSO is employed by the SBI.
- (19) "DCI" means the Division of Criminal Information. DCI is the agency established by the Attorney General of North Carolina in accordance with Article 3 of Chapter 114 of the North Carolina

General Statutes. The North Carolina State Bureau of Investigation's Criminal Information and Identification Section is a part of DCI.

- (20) "DCIN" means the Division of Criminal Information Network. DCIN is the computer network used to collect, maintain, correlate, and disseminate information collected by CIIS under Article 3 of Chapter 114 of the North Carolina General Statutes. DCIN also provides access to information collected by other federal, state, and local entities necessary for the administration of criminal justice.
- (21) "DCIN user" means a person who has been certified through the DCIN certification process.
- (22) "Device" means an electronic instrument used by a DCIN user to accomplish message switching, DMV inquiries, functional messages, or DCIN, NCIC, Nlets on-line file transactions.
- (23) "Direct access" means having the authority to:
 - (a) access systems managed by the FBI CJIS Division, whether by manual or automated means, not requiring the assistance of, or intervention by, any other party; or
 - (b) query or update national databases maintained by the FBI CJIS Division including national queries and updates automatically or manually generated by the CSA.
- (24) "Disposition" means information on any action that results in termination or indeterminate suspension of the prosecution of a criminal charge.
- (25) "Dissemination" means any transfer of information, whether orally, in writing, or by electronic means.
- (26) "DMV" means the North Carolina Division of Motor Vehicles.
- (27) "DMV information" includes vehicle description and registration information, and information maintained on individuals to include name, address, date of birth, license number, license issuance and expiration, control number issuance, and moving vehicle violation or convictions.
- (28) "DOC" means North Carolina Department of Adult Correction.
- (29) "End user interface" means software that is utilized by a certified user to connect to DCIN and perform message or file transactions.
- (30) "Expunge" means to remove criminal history record information from the DCIN and FBI computerized criminal history and identification files pursuant to state statute.
- (31) "FBI" means the Federal Bureau of Investigation.
- (32) "FFL" means federal firearm licensee. A FFL is any individual, corporation, company, association, firm, partnership, society, or joint stock company that has been licensed by the federal government to engage in the business of importing, manufacturing, or dealing in firearms or ammunition in accordance with 18 USC § 923.
- (33) "III" means Interstate Identification Index. III is the FBI CJIS service that manages automated submission and requests for criminal history record information.
- (34) "Inappropriate message" means any message that is not related to the administration of criminal justice.
- (35) "Incident based reporting" or "I-Base" is a system used to collect criminal offense and arrest information for each criminal offense reported.
- (36) "INTERPOL" means International Criminal Police Organization.
- (37) "N-DEx" means Law Enforcement National Data Exchange. N-DEx is the repository of criminal justice records, available in a secure online environment, managed by the FBI Criminal Justice Information Services (CJIS) Division. N-DEx is available to criminal justice agencies throughout North Carolina, and its use is governed by federal regulations.
- (38) "NCIC" means National Crime Information Center. NCIC is an information system maintained by the FBI that stores criminal justice information which can be queried by federal, state, and local law enforcement and other criminal justice agencies.
- (39) "NFF" means the National Fingerprint File. NFF is an FBI maintained enhancement to the Interstate Identification Index whereby only a single fingerprint card is submitted per state to the FBI for each offender at the national level.
- (40) "Need-to-know" means for purposes of the administration of criminal justice, for purposes of criminal justice agency employment, or for some other purpose permitted by local ordinance, state statute, or federal regulation.
- (41) "NICS" means the National Instant Criminal Background Check System. NICS is the system mandated by the Brady Handgun Violence Protection Act of 1993 that is used by FFLs to instantly determine via telephone or other electronic means whether the transfer of a firearm would be in

violation of Section 922(g) or (n) of Title 18, United States Code, or state law, by evaluating the prospective buyer's criminal history. In North Carolina, NICS is used by sheriff's offices throughout the state to assist in determining an individual's eligibility for either a permit to purchase a firearm or a concealed handgun permit.

- (42) "Nlets" means the International Justice and Public Safety Network.
- (43) "Non-criminal justice agency" or "NCJA" means any agency or sub-unit thereof whose charter does not include the responsibility to administer criminal justice, but may need to process criminal justice information. A NCJA may be public or private. An example is a 911 communications center that performs dispatching functions for a criminal justice agency (government), a bank needing access to criminal justice information for hiring purposes (private), or a county school board that uses criminal history record information to assist in employee hiring decisions (public).
- (44) "Non-criminal justice information" means any information or message that does not directly pertain to the necessary operation of a law enforcement or criminal justice agency. Examples of messages that are non-criminal justice include:
 - (a) accessing any DMV file for:
 - (i) political purposes;
 - (ii) vehicle repossession purposes; and
 - (iii) to obtain information on an estranged spouse or romantic interest;
 - (b) a message to confirm meal plans;
 - (c) a message to have a conversation; and
 - (d) a message to send well wishes during a holiday or birthday.
- (45) "Official record holder" means the agency that maintains the master documentation and all investigative supplements of a restricted file entry or unrestricted file entry.
- (46) "Ordinance" means a rule or law promulgated by a governmental authority including one adopted and enforced by a municipality or other local authority.
- (47) "ORI" means Originating Agency Identifier, which is a unique alpha numeric identifier assigned by NCIC to each authorized criminal justice and non-criminal justice agency, identifying that agency in all computer transactions.
- (48) "Private contractor" means any non-governmental non-criminal justice agency that has contracted with a government agency to provide services necessary to the administration of criminal justice.
- (49) "Re-certification" means renewal of a user's initial certification every two years.
- (50) "Restricted files" means those files maintained by NCIC that are protected as criminal history record information (CHRI), which is consistent with Title 28, Part 20 of the United States Code of Federal Regulations (CFR). Restricted files consist of:
 - (a) Gang Files;
 - (b) Known or Appropriately Suspected Terrorist (KST) Files;
 - (c) Supervised Release File;
 - (d) Immigration Violator Files;
 - (e) National Sex Offender Registry Files;
 - (f) Historical Protection Order Files of the NCIC;
 - (g) Identity Theft Files;
 - (i) Protective Interest File; and
 - (j) Person With Information (PWI) data within the Missing Person File.
- (51) "Right-to-review" means the right of an individual to inspect his or her own criminal history record information.
- (52) "SAFIS" means Statewide Automated Fingerprint Identification System. SAFIS is a computer-based system for reading, encoding, matching, storing, and retrieving fingerprint minutiae and images.
- (53) "SBI" means the North Carolina State Bureau of Investigation.
- (54) "Secondary dissemination" means the transfer of CCH/CHRI information to anyone legally entitled to receive such information that is outside the initial user agency.
- (55) "SEND message" means messages that may be used by DCIN certified users to exchange official information of an administrative nature between in-state law enforcement/criminal justice agencies and out-of-state agencies by means of Nlets.
- (56) "Servicing agreement" means an agreement between a terminal agency and a non-terminal agency to provide DCIN terminal services.

- (57) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession of the United States.
- (58) "Statute" means a law enacted by a state's legislative branch of government.
- (59) "TAC" means Terminal Agency Coordinator. A TAC is an individual who serves as a point of contact at a local agency in matters relating to DCIN or CJIS information systems. A TAC administers CJIS and CIIS system programs within the local agency and oversees the agency's compliance with both CIIS rules and CJIS system policies.
- (60) "Terminal agency" means any agency that has a device under its management and control that is capable of communicating with DCIN.
- (61) "Training module" means a manual containing guidelines for users on the operation of DCIN and providing explanations as to what information may be accessed through DCIN.
- (62) "UCR" means the Uniform Crime Reporting program whose purpose it is to collect a summary of criminal offense and arrest information.
- (63) "Unrestricted files" means those files that are maintained by NCIC that are not considered "Restricted Files."
- (64) "User agreement" means an agreement between a terminal agency and CIIS whereby the agency agrees to comply with all CIIS rules.
- (65) "User identifier" means a unique identifier assigned by an agency's Terminal Agency Coordinator to all certified DCIN users that is used for gaining access to DCIN and for identifying certified users.

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14B NCAC 18A .0103 FUNCTION OF DCIN

Users of DCIN may:

- (1) transmit or receive any criminal justice related message to or from any device connected to DCIN;
- (2) enter into or retrieve information from North Carolina's:
 - (a) recovered vehicle file;
 - (b) sex offender registry; and
 - (c) concealed handgun permit file
- (3) enter into or retrieve information from DCIN user certification and class enrollment files;
- (4) enter into or retrieve information from NCIC's restricted and unrestricted files;
- (5) access NCIC's criminal history data;
- (6) obtain, on a need-to-know basis, the criminal record of an individual by inquiring into the state Computerized Criminal History (CCH) file maintained by CIIS, or CCH files maintained by other states and the Federal Bureau of Investigation (FBI) through III;
- (7) communicate with devices in other states through Nlets with the capability to exchange automobile registration information, driver's license information, criminal history record information, corrections information, and other law enforcement related information;
- (8) obtain information on North Carolina automobile registration, driver's license information and driver's history by accessing DMV maintained files;
- (9) obtain registration information on all North Carolina registered boats, and inquire about aircraft registration and aircraft tracking;
- (10) obtain information on those individuals under the custody or supervision of DOC; and
- (11) access, enter, and modify information contained within the National Instant Criminal Background Check System (NICS).

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SECTION .0200 – REQUIREMENTS FOR ACCESS

14B NCAC 18A .0201 ELIGIBILITY FOR ACCESS TO DCIN

- (a) Only agencies that have obtained an ORI and have complied with Rule .0202 of this Section may access DCIN.
- (b) Any agency in North Carolina desiring an ORI shall make a written request to DCI. DCI shall request an ORI from NCIC.
- (c) If the request is denied by NCIC, DCI shall provide written findings to the requesting agency detailing the reasons for the denial and providing the requesting agency information on the necessary elements to obtain an ORI.

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14B NCAC 18A .0202 MANAGEMENT CONTROL REQUIREMENTS

Each device with access to DCIN and those personnel who operate devices with DCIN access must be under the direct and immediate management control of a criminal justice agency, criminal justice board or an FBI approved non-criminal justice agency. The degree of management control shall be such that the agency head, board or approved agency has the authority to:

- (1) set policies and priorities concerning the use and operation, configuration, or maintenance of devices or computer networks accessing DCIN;
- (2) hire, supervise, suspend or dismiss those personnel who will be connected with the operation, configuration, maintenance, or use of devices or computer networks accessing DCIN;
- (3) restrict unauthorized personnel from access or use of devices accessing DCIN; and
- (4) assure compliance with all rules and regulations of the FBI and SBI in the operation of devices with access to DCIN or use of all information received through DCIN.

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14B NCAC 18A .0203 NON-TERMINAL ACCESS

- (a) A non-terminal criminal justice agency may gain access to DCIN through a criminal justice agency that has direct access to the network. The servicing agency (agency providing access) shall enter into a servicing agreement with the non-terminal agency (agency receiving service) as described in Rule .0303 of this Subchapter.
- (b) The agreement shall:
- (1) authorize access to specific data;
 - (2) limit the use of data to purposes for which given;
 - (3) insure the security and confidentiality of the data consistent with these procedures; and
 - (4) provide sanctions for violation thereof.
- (c) Access shall be granted only if the terminal agency agrees.
- (d) Any servicing agency which fails to enforce penalties that are placed upon the non-terminal agency is in violation of this Rule and subject to the provisions of 14B NCAC 18C .0102(e).

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SECTION .0300 - AGREEMENTS

