12 NCAC 04H .0102 is proposed for adoption as follows:

12 NCAC 04H .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. This term does not include identification information such as fingerprint records or other biometric data to the extent that such information does not indicate formal involvement of the individual in the criminal justice system.

(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.

57 (12) "CJIS Security Policy" means a document published by the FBI CJIS Information Security Officer
58 that provides criminal justice and non-criminal justice agencies with a minimum set of security
59 requirements for the access to FBI CJIS systems to protect and safeguard criminal justice information
60 whether in transit or at rest.
61 (13) "Class B Misdemeanor" includes any act committed or omitted in violation of any common law, duly
62 enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North
63 Carolina, either civil or military, for which the maximum punishment allowable for the designated
64 offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred
65 includes imprisonment for a term of more than six months but not more than two years. Specifically
66 excluded are motor vehicle or traffic offenses designated as being misdemeanors under the laws of
67 jurisdictions other than the State of North Carolina with the following exceptions: either first or
68 subsequent offenses of driving while impaired if the maximum allowable punishment is for a term of
69 more than six months but not more than two years, and driving while license permanently revoked or
70 permanently suspended. "Class B Misdemeanor" shall also include acts committed or omitted in
71 North Carolina prior to October 1, 1994 in violation of any common law, duly enacted ordinance,
72 criminal statute, or criminal traffic code of this state for which the maximum punishment allowable
73 for the designated offense included imprisonment for a term of more than six months but not more
74 than two years.
75 (14) "Convicted" or "conviction" means, for purposes of DCIN user certification, the entry of:
76 (a) a plea of guilty;
77 (b) a verdict or finding of guilt by a jury, judge, magistrate, or other adjudicating body, tribunal,
78 or official, either civilian or military; or
79 (c) a plea of no contest, nolo contendere, or the equivalent.
80 (15) "Criminal Justice Agency" means the courts, a government agency, or any subunit thereof which
81 performs the administration of criminal justice pursuant to statute or executive order and which
82 allocates more than 50 percent of its annual budget to the administration of criminal justice. State and
83 federal Inspector General Offices are included in this definition.
84 (16) "Criminal Justice Board" means a board composed of heads of law enforcement or criminal justice
85 agencies that have management control over a communications center.
86 (17) "CSA" means CJIS System Agency. The CSA is a state, federal, international, tribal, or territorial
87 criminal justice agency on the CJIS network providing statewide (or equivalent) service to its criminal
88 justice agency users with respect to the CJIS data from various systems managed by the FBI. In North
89 Carolina, the CSA is the SBI.
90 (18) "CSO" means CJIS System Officer. The CSO an individual located within the CSA responsible for
91 the administration of the CJIS network on behalf of the CSA. In North Carolina, the CSO is
92 employed by the SBI.
93 (19) "DCI" means the Division of Criminal Information. DCI is the agency established by the Attorney
94 General of North Carolina in accordance with Article 3 of Chapter 114 of the North Carolina General
95 Statutes. The North Carolina State Bureau of Investigation's Criminal Information and Identification
96 Section is a part of DCI.
97 (20) "DCIN" means the Division of Criminal Information Network. DCIN is the computer network used
98 to collect, maintain, correlate, and disseminate information collected by CIIS under Article 3 of
99 Chapter 114 of the North Carolina General Statutes. DCIN also provides access to information
100 collected by other Federal, State, and local entities necessary for the administration of criminal justice.
101 (21) "DCIN User" means a person who has been certified through the DCIN certification process.
102 (22) "Device" means an electronic instrument used by a DCIN user to accomplish message switching,
103 DMV inquiries, functional messages, or DCIN, NCIC, Nlets on-line file transactions.
104 (23) "Direct Access" means having the authority to:
105 (a) access systems managed by the FBI CJIS Division, whether by manual or automated means,
106 not requiring the assistance of, or intervention by, any other party; or
107 (b) query or update national databases maintained by the FBI CJIS Division including national
108 queries and updates automatically or manually generated by the CSA.
109 (24) "Disposition" means information on any action that results in termination or indeterminate suspension
110 of the prosecution of a criminal charge.
111 (25) "Dissemination" means any transfer of information, whether orally, in writing, or by electronic means.
112 (26) "DMV" means the North Carolina Division of Motor Vehicles.

113 (27) "DMV Information" includes vehicle description and registration information, and information
114 maintained on individuals to include name, address, date of birth, license number, license issuance and
115 expiration, control number issuance, and moving vehicle violation or convictions.
116 (28) "DOC" means North Carolina Department of Adult Correction.
117 (29) "End User Interface" means software that is utilized by a certified user to connect to DCIN and
118 perform message or file transactions.
119 (30) "Expunge" means to remove criminal history record information from the DCIN and FBI
120 computerized criminal history and identification files pursuant to state statute.
121 (31) "FBI" means the Federal Bureau of Investigation.
122 (32) "FFL" means Federal Firearm Licensee. A FFL is any individual, corporation, company, association,
123 firm, partnership, society, or joint stock company that has been licensed by the federal government to
124 engage in the business of importing, manufacturing, or dealing in firearms or ammunition in
125 accordance with 18 USC § 923.
126 (33) "III" means Interstate Identification Index. III is the FBI CJIS service that manages automated
127 submission and requests for criminal history record information that is warehoused subsequent to the
128 submission of fingerprint information.
129 (34) "Inappropriate Message" means any message that is not related to the administration of criminal
130 justice.
131 (35) "Incident Based Reporting" or "I-Base" is a system used to collect criminal offense and arrest
132 information for each criminal offense reported.
133 (36) "INTERPOL" means International Criminal Police Organization.
134 (37) "N-DEx" means Law Enforcement National Data Exchange. N-DEx is the repository of criminal
135 justice records, available in a secure online environment, managed by the FBI Criminal Justice
136 Information Services (CJIS) Division. N-DEx is available to criminal justice agencies throughout
137 North Carolina, and its use is governed by federal regulations.
138 (38) "NCIC" means National Crime Information Center. NCIC is an information system maintained by the
139 FBI that stores criminal justice information which can be queried by Federal, state, and local law
140 enforcement and other criminal justice agencies.
141 (39) "NFF" means the National Fingerprint File. NFF is an FBI maintained enhancement to the Interstate
142 Identification Index whereby only a single fingerprint card is submitted per state to the FBI for each
143 offender at the national level.
144 (40) "Need-to-know" means for purposes of the administration of criminal justice, for purposes of criminal
145 justice agency employment, or for some other purpose permitted by local ordinance, state statute, or
146 federal regulation.
147 (41) "NICS" means the National Instant Criminal Background Check System. NICS is the system
148 mandated by the Brady Handgun Violence Protection Act of 1993 that is used by Federal Firearms
149 Licensees (FFLs) to instantly determine via telephone or other electronic means whether the transfer
150 of a firearm would be in violation of Section 922(g) or (n) of Title 18, United States Code, or state
151 law, by evaluating the prospective buyer's criminal history. In North Carolina, NICS is used by
152 sheriff's offices throughout the state to assist in determining an individual's eligibility for either a
153 permit to purchase a firearm or a concealed handgun permit.
154 (42) "Nlets" means the International Justice and Public Safety Network.
155 (43) "Non-Criminal Justice Agency" or "NCJA" means any agency or sub-unit thereof whose charter does
156 not include the responsibility to administer criminal justice, but may need to process criminal justice
157 information. A NCJA may be public or private. An example is a 911 communications center that
158 performs dispatching functions for a criminal justice agency (government), a bank needing access to
159 criminal justice information for hiring purposes (private), or a county school board that uses criminal
160 history record information to assist in employee hiring decisions (public).
161 (44) "Non-Criminal Justice Information" means any information or message that does not directly pertain
162 to the necessary operation of a law enforcement or criminal justice agency. Examples of messages
163 that are non-criminal justice include, but are not limited to:
164 (a) accessing any DMV file for:
165 (i) political purposes;
166 (ii) vehicle repossession purposes; and
167 (iii) to obtain information on an estranged spouse or romantic interest;
168 (b) a message to confirm meal plans;

169 (c) a message to have a conversation; and
170 (d) a message to send well wishes during a holiday or birthday.
171 (45) "Official Record Holder" means the agency that maintains the master documentation and all
172 investigative supplements of a restricted file entry or unrestricted file entry.
173 (46) "Ordinance" means a rule or law promulgated by a governmental authority including one adopted and
174 enforced by a municipality or other local authority.
175 (47) "ORI" means Originating Agency Identifier, which is a unique alpha numeric identifier assigned by
176 NCIC to each authorized criminal justice and non-criminal justice agency, identifying that agency in
177 all computer transactions.
178 (48) "Private Contractor" means any non-governmental non-criminal justice agency that has contracted
179 with a government agency to provide services necessary to the administration of criminal justice.
180 (49) "Re-certification" means renewal of a user's initial certification every two years.
181 (50) "Restricted Files" means those files maintained by NCIC that are protected as criminal history record
182 information (CHRI), which is consistent with Title 28, Part 20 of the United States Code of Federal
183 Regulations (CFR). Restricted files consist of:
184 (a) Gang Files;
185 (b) Known or Appropriately Suspected Terrorist (KST) Files;
186 (c) Supervised Release File;
187 (d) Immigration Violator Files;
188 (e) National Sex Offender Registry Files;
189 (f) Historical Protection Order Files of the NCIC;
190 (g) Identity Theft Files;
191 (i) Protective Interest File; and
192 (j) Person With Information (PWI) data within the Missing Person File.
193 (51) "Right-to-review" means the right of an individual to inspect his or her own criminal history record
194 information.
195 (52) "SAFIS" means Statewide Automated Fingerprint Identification System.
196 (53) "SBI" means the North Carolina State Bureau of Investigation.
197 (54) "Secondary Dissemination" means the transfer of CCH/CHRI information to anyone legally entitled to
198 receive such information that is outside the initial user agency.
199 (55) "SEND message" means messages that may be used by DCIN certified users to exchange official
200 information of an administrative nature between in-state law enforcement/criminal justice agencies
201 and out-of-state agencies by means of Nlets.
202 (56) "Servicing Agreement" means an agreement between a terminal agency and a non-terminal agency to
203 provide DCIN terminal services.
204 (57) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto
205 Rico and any territory or possession of the United States.
206 (58) "State Automated Fingerprint Identification System" or "SAFIS" means a computer-based system for
207 reading, encoding, matching, storage and retrieval of fingerprint minutiae and images.
208 (59) "Statute" means a law enacted by a state's legislative branch of government.
209 (60) "TAC" means Terminal Agency Coordinator. A TAC is an individual who serves as a point of
210 contact at a local agency in matters relating to DCIN or CJIS information systems. A TAC
211 administers CJIS and CIIS system programs within the local agency and oversees the agency's
212 compliance with both CIIS rules and CJIS system policies.
213 (61) "Terminal Agency" means any agency that has a device under its management and control that is
214 capable of communicating with DCIN.
215 (62) "Training Module" means a manual containing guidelines for users on the operation of DCIN and
216 providing explanations as to what information may be accessed through DCIN.
217 (63) "UCR" means the Uniform Crime Reporting program whose purpose it is to collect a summary of
218 criminal offense and arrest information.
219 (64) "Unrestricted Files" means those files that are maintained by NCIC that are not considered "Restricted
220 Files."
221 (65) "User Agreement" means an agreement between a terminal agency and CIIS whereby the agency
222 agrees to comply with all CIIS rules.

223 (66) "User Identifier" means a unique identifier assigned by an agency's Terminal Agency Coordinator to
224 all certified DCIN users that is used for gaining access to DCIN and for the identification of certified
225 users.
226
227 *History Note:* *Authority G.S. 114-10; 114-10.1.*