

Notice of Rulemaking Hearing

Notice is hereby given that the Nebraska Commission on Law Enforcement and Criminal Justice will hold a rule-making hearing pursuant to Neb. Rev. Stat. §84-907 on the 9th day of August 2019, at 9:30 a.m. to be held in the Nebraska State Office Building, Lower Level A, Lincoln, Nebraska.

The purpose of the hearing is to take testimony and evidence about adoption of Title 78, Chapter 10, entitled Nebraska criminal Justice Information System (NCJIS) Rules and Regulations. This title has been drafted pursuant to Neb. Rev. Stat. §81-1447 through 81-1451, and has been proposed to establish policies for the governance and proper requirements to access the Nebraska Criminal Justice Information System. This chapter establishes the criteria required to protect and safeguard Criminal Justice Information, to ensure compliance, and to establish sanctions for misuse, and to establish guidance for audits. The subject matter and scope of this rule-making action is: the proper use and compliance with the rules governing the NCJIS system; which shall apply to all criminal justice agencies as defined in Neb. Rev. Stat. §29-3509, and non-criminal justice agencies who utilize the Nebraska Criminal Justice Information System.

Draft or working copies of the proposed rule is available at the offices of the Secretary of State, Regulations Division, Room 343, State Capitol, Lincoln, NE. 68509. The description of the fiscal impact may be inspected and obtained at the Nebraska Crime Commission, 301 Centennial Mall South, P.O. Box 94946, Lincoln, NE. 68509.

All interested persons may attend and testify orally or by written submission at the hearing. Interested persons may also submit written comments prior to the hearing, which will be made part of the hearing record at the time of the hearing if received by the Nebraska Commission on Law Enforcement and Criminal Justice on or before July 31, 2019. If auxiliary aids or reasonable accommodations are needed to participate in the hearing, please call the Crime Commission, (402) 471-2194, by no later than July 31, 2019.



Don Arp Jr.

Executive Director, Nebraska Crime Commission

DRAFT/FINAL FISCAL IMPACT STATEMENT

Agency: Nebraska Commission on Law Enforcement and Criminal Justice	
Title: 78	Prepared by: Mike Fargen
Chapter: 10 (New)	Date prepared: 04/11/2019
Subject: NCJIS (Nebraska Criminal Justice Information System)	Telephone: 402-471-3992

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(x)	(x)	(x)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & a Description of Impact:

State Agency: NA

Political
Subdivision: NA

Regulated
Public: NA

If indeterminable, explain why:

Title 78 – Nebraska Commission on Law Enforcement and Criminal Justice

Chapter _ Nebraska Criminal Justice Information System Rules and Regulations

001 Purpose - These regulations provide Criminal Justice Agencies and Noncriminal Justice Agencies with the proper requirements to access the Nebraska Criminal Justice Information System (NCJIS), to protect and safeguard Criminal Justice Information, and ensure compliance and establish sanctions for misuse, and auditing guidance.

002 Scope - This regulation shall apply to all criminal justice agencies (defined in Neb. Rev. Stat. §29-3509) and noncriminal justice agencies who utilize the Nebraska Criminal Justice Information System.

003 Authority - These regulations are promulgated pursuant to Neb. Rev. Stat. §81-1423

004 Applicability - These regulations are applicable to all authorized agencies and users of the Nebraska Criminal Justice Information System (NCJIS) and to any agency requesting access to NCJIS from the Committee.

005 Definitions - The following words and terms, when used in these regulations, shall have the following meaning unless the context clearly indicates otherwise.

005.01 "Access" means the physical or logical (electronic) privilege to view, modify, or make use of criminal justice information, whether directly or indirectly.

005.01A "Direct Access" means access to CJIS via authorized and approved NCJIS credentials (i.e., ACF2User ID and password).

005.05B "Indirect Access" means access to criminal justice information, in oral, online or printed form, by an individual without approved NCJIS credentials for direct access.

005.02 "Administrative leave" means a temporary leave from employment, including without limitation, extended leave, military leave, family medical leave, or suspension from an agency.

005.03 "Criminal Justice Agency" or "CJA" is defined as a court, a governmental agency, or any subunit of a governmental agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

005.04 "Noncriminal Justice Agency" or "NCJA" is an entity or any subunit thereof that provides services primarily for purposes other than the administration of criminal justice.

005.05 "Authorized Agency" means any CJA/NCJA as defined above that has access to NCJIS.

005.06 "Authorized User" means any employee, intern, extern, contractor, volunteer, or other individual or group of individuals, acting on behalf of an Authorized Agency, who has been appropriately vetted by the Authorized Agency and has been granted access to CJI or NCJI via NCJIS.

005.07 "Commission" means the Nebraska Commission on Law Enforcement and Criminal Justice.

005.08 "Committee" means the Criminal Justice Information Systems (CJIS) Advisory Committee was established by the Commission in 1995 in response to recommendations from the Nebraska

Intergovernmental Data Communications Advisory Council (NIDCAC). The CJIS Advisory Committee provides advice and direction on issues relating to data sharing and use of information technology among criminal justice agencies. The Committee advises the Commission on criminal justice information system issues, establishes and promotes standards for data processing and communication, facilitates the development and coordination of state and local criminal justice information systems, provides an avenue for cooperation and coordination among state and local information systems and establishes future directions for data sharing.

005.09 "Criminal justice information" or "CJI" refers to all CJIS data necessary for Authorized Agencies to perform their mission and enforce the laws, including but not limited to: biographic or biometric data, identity history, person, organization, property, division of motor vehicles information, and/or case or incident history. In addition, CJI refers to the CJIS-provided data necessary for Authorized Agencies to make hiring decisions.

005.09A "Biographic data" means information about individuals associated with a unique case, and not necessarily connected to identity data. Biographic data does not provide a history of an individual, only information related to a unique case.

005.09B "Biometric data" means data derived from one or more intrinsic physical or behavioral traits of humans typically for the purpose of uniquely identifying individuals from within a population. Used to identify individuals, to include, but is not limited to: fingerprints, palm prints, iris scans, and facial recognition data.

005.09C "Identity history" means textual data that corresponds with an individual's biometric data, providing a history of criminal or civil events for the identified individual.

005.09D "Property data" means information about vehicles and personal property associated with a crime

005.09E **"Case or incident history"** means all relevant information gathered about an individual, organization, incident, or combination thereof, arranged so as to serve as an organized record to provide analytic value for a criminal justice organization. In regard to criminal justice information, it is the information about the history of incidents

005.10 "Patrol Criminal History" or "PCH" means a subset of CJI. Rules that govern the access, use and dissemination of PCH are found in C.F.R. Title 28, Part 20 otherwise known as Criminal history record information "CHRI". This includes identifiable descriptions and notations of arrests, detentions, indictments, information or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision and release. Procedures for storage and dissemination of PCH (CHRI) are outlined in Nebraska Administrative Code Title 78 Chapter 3. PCH(CHRI) shall have the same meaning as found in Neb. Rev. Stat. §29-3506.

005.11 "National Crime Information Center" or "NCIC" means an information system that stores CJI that can be queried by appropriate Federal, state, and local law enforcement and other criminal justice agencies. The following files are restricted and accessed via NCJIS and applicable to the U.S. Department of Justice Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Security Policy. Additionally, the following files fall under the guidelines:

005.11A Sex Offender Registry Files

005.11B Protection Order Files

005.12 "Criminal Justice Information System" or "CJIS" means the computer hardware, software and communication network used for the collection, warehousing, and timely dissemination of relevant

CJI to qualified law enforcement, criminal justice agencies, the courts, governmental agencies, and other agencies.

005.13 The "Nebraska Criminal Justice Information System" or "NCJIS " is a secure data portal available to select individuals employed by a criminal justice agency based on their job duties. It provides access to a variety of criminal justice data for operational use. NCJIS allows access to a variety of data in a cost effective and direct method. The Nebraska Criminal Justice Information System is a cooperative project between state and local criminal justice agencies within the state of Nebraska. This project is hosted by the Commission.

005.13A "Nebraska Data Exchange Network" or "NDEN" means the secure portal that allows authorized non-criminal justice users to access a variety of data. NDEN is a subset of NCJIS.

005.14 "Improper Access or Breach" means any improper dissemination, unauthorized use, or obtaining CJI, directly or indirectly, whether oral, online or printed form, without statutory authority or reasons specified in the MOU, and shall include access for the purpose of confirming the existence or non-existence of CJI or CJIS, or the transmission or non-transmission of information improperly obtained.

005.15 "Secondary dissemination" means the promulgation of CJI from an Authorized Agency to an agency or individual not authorized.

005.16 "Serious motor vehicle violation" means any violation of the motor vehicle code that is classified as a felony or driving while under the influence.

005.17 "Data Owner" means the act of having legal rights and complete control over a single piece or set of data elements.

005.18 "Non-Public Information" refers to any documents, facts, figures, or data that have not been released by the data owner.

006 Committee - The Committee is comprised of representatives from a variety of state and local criminal justice agencies appointed by the Commission's Executive Director. The Committee will work to create and maintain NCJIS for authorized state and local criminal justice and non-criminal justice users that supports operations, policy analysis, and public safety and that is accurate, timely, complete, appropriately secured to protect privacy rights, cost effective and accessible.

007 Data Agreements – The NCJIS Project Manager shall administer and maintain interagency data agreements with all data owners that participate in the NCJIS/NDEN data exchange. Data agreements are made between the data owner and the Committee. Data agreements shall be examined every five (5) years for completeness and applicability. Data agreements shall include, but not be limited to, the following:

007.01 All instances of an Improper Access or Breach shall be reported to the data owner.

007.02 The NCJIS Project Manager will notify the data owner in writing by email, fax or U.S. Mail when an Improper Access or Breach investigation concludes.

007.03 A CJA/NCJA that creates, stores, or maintains information on NCJIS are considered the owners of those records and maintain all rights and responsibilities of ownership of those records.

007.04 The data owner is responsible for the accuracy and completeness of the records it exchanges through NCJIS/NDEN

007.05 The NCJIS Project Manager must validate and certify that data provided is accurate and complete. A CJA/NCJA that fails to comply with validation and certification of data accuracy and completeness could have data removed or data exchanges suspended.

008 Public Inquiry – All NCJIS person queries conducted within one year of the request date are allowable for the public to request information about oneself. This relates only to data made available within NCJIS and does not include any queries made at the federal level.

008.01 Individuals or authorized agents must provide a Certification of Identity Form made available by the NCJIS Project Manager within 60 days of the request. An Authorized Agent is allowed to submit on behalf of individuals authorized by law.

008.02 The NCJIS Project Manager shall request release of query results from any law enforcement agency prior to release to ensure the public inquiry individual is not currently being investigated.

008.03 The NCJIS Project Manager shall provide;

008.03A Date of query

008.03B Data set accessed

008.03C Authorized Agency and Authorized User querying the system.

008.04 The NCJIS Project Manager shall follow the protocol as established in this chapter for Improper Access or Breach of NCJIS if there is a determination of possible misuse.

009 Access and Use - Access to NCJIS shall be restricted to an authorized CJA. Access to NDEN shall be authorized for NCJA.

009.01 NCJIS/NDEN Agency (CJA/NCJA) access shall be submitted to the NCJIS Project Manager via an application process.

009.01A The NCJIS Project Manager may require additional information or explanation when it has questions about the CJA/NCJA's qualifications or application materials. An application is not complete or in proper form until the NCJIS Project Manager has received all required and requested documents, materials, and information.

009.01B A CJA/NCJA requesting access to CJIS must demonstrate statutory authority or specific reasons authorized by this chapter.

009.01C Approval of the CJA/NCJA application, which may be in whole, in part, or as modified by the Committee, shall require a two-thirds majority vote of the Committee.

009.01D Upon approval of the CJA/NCJA application, which may be in whole, in part, or as modified by the Committee, the CJA/NCJA shall enter into a memorandum of understanding (MOU) with the Committee.

009.01D1 Changes to the NCJIS/NDEN MOU shall be drafted by the NCJIS Project Manager, and approved by the Committee.

009.01D2 The NCJIS/NDEN MOU shall explain all responsibilities and expectations regarding the use and dissemination of information relative to the NCJIS

009.01E The Committee's decision to approve, modify, or deny the CJA/NCJA application is final

and is not subject to appeal or further review.

009.01F CJA/NCJA access to NCJIS/NDEN is granted upon a fully executed MOU between the CJIS Project Manager and the authorized agency designee.

009.02 CJA/NCJA that access any data on NCJIS shall comply with these rules.

009.03 Except as permitted in these rules and/or authorized by statute or MOU, information from NCJIS/NDEN or other information systems shall not be disseminated to an unauthorized agency, entity, or person.

009.04 Improper Access/Use Disclosure or Dissemination

009.04A An Authorized User shall not access, use, disclose or disseminate nonpublic information or CJI from NCJIS/NDEN or other information systems for personal benefit, profit, to benefit other persons, non-profit business dealings, any political (e.g. lobbying or campaigning) party candidate or issue or for any illegal activity.

009.04B An Authorized User shall not access NCJIS/NDEN or other information systems to confirm the existence or non-existence of nonpublic information or CJI. An authorized user who intentionally violates section 009.04 shall be considered to have committee official misconduct as defined in Neb. Rev. Stat. §28-924, and shall be referred for criminal investigation and prosecution.

009.04C An Authorized User shall not access, use, disclose, or disseminate nonpublic information or CJI from NCJIS/NDEN or other information systems without a connection to the official duties of criminal justice or specific statutory authorization.

009.05 By acknowledging the responsibilities of an Authorized User pursuant to Section 011, all Authorized Users shall be required to acknowledge relevant data owner's privacy protection laws including the state and federal criminal and civil penalties associated to misuse of records. An authorized user who violates specified data owner privacy protection laws is subject to the corresponding state and federal criminal and civil penalties associated with the data owner.

010 Responsibilities of an Authorized Agency. The Authorized Agency head or designee shall ensure all authorized users attend the NCJIS User training and appoint an agency administrator who will attend the NCJIS Administrator training. Authorized Agencies must ensure that Authorized Users within their agency comply with these regulations.

010.01 Authorized Agencies are responsible for deactivating an Authorized Users account immediately upon an Authorized Users:

010.01A Departure (transfer, termination, resignation, or retirement) from the agency.

010.01B Administrative leave from the agency, if the administrative leave exceeds 24 hours or results in loss of agency privileges, identification credentials, or departmental weapon.

010.01C Arrest, charge, or conviction of a criminal violation or offense in any jurisdiction immediately upon receiving notification of the same.

010.01D Upon notification or discovery of any arrest, charge, or conviction of a criminal violation or offense in any jurisdiction, the Authorized Agency head or Administrator shall notify the Executive Director of the Commission. A notice of denial will include the following:

010.01D1 Name of Authorized User who was suspended; and

010.01D2 Date of the arrest, conviction, or violation.

010.01E Upon discovery of an Authorized User's Improper Access or Breach, the Authorized Agency head or Administrator shall notify the NCJIS Project Manager. A notice of Improper Access or Breach will include the following:

010.01E1 Name of Authorized User;

010.01E2 Date/Dates of Improper Access or Breach;

010.01E3 Data Source of Improper Access or Breach

010.01E4 Reason for deactivating; and

010.01E5 Date of Discovery.

010.02 Authorized Agencies are required to follow the Records Retention and Destruction that govern the disposal of PCH and NCIC files. Whether the information is in a physical form (printout) or an electronic form (hard drive, flash drive, etc.) the information must be disposed of in such a way that unauthorized people cannot retrieve it. For most agencies, this means ensuring printed information is shredded onsite by the user. Information retrieved via NCJIS is highly confidential and shall be afforded security to prevent unauthorized access to or use of that data. To prevent the misuse or improper dissemination of information, any printed information must be immediately destroyed after its intended use. Documents stored in electronic form (hard drive, flash drive, etc.) must be disposed of in such a way that unauthorized people cannot retrieve it. Under no circumstances should printed information be maintained in any agency files or records, including, without limitation, in personnel files.

010.03 Printed information shall be destroyed by shredding as follows:

010.03A In-state information, including NCJIS information, may be shredded onsite or delivered to an approved shredding vendor. Regardless of who destroys the records, they must follow the destruction protocols used by the U.S. Department of Justice, Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Security Policy at §5.8 (Media Protection).

010.03B Patrol Criminal History must be shredded onsite and witnessed or carried out by authorized personnel. Paper shredding service providers are prohibited from shredding printed information offsite, but may conduct agency supervised onsite shredding. Regardless of who destroys the records, they must follow the destruction protocols used by U.S. Department of Justice, Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Security Policy at §5.8 (Media Protection).

010.04 Electronic Information shall be destroyed as follows:

010.04A The agency shall sanitize, that is, overwrite at least three times or degauss electronic media prior to disposal or release for reuse by unauthorized individuals. Inoperable electronic media shall be destroyed (cut up, shredded, etc.). The agency shall maintain written documentation of the steps taken to sanitize or destroy electronic media. Agencies shall ensure the sanitization or destruction is witnessed or carried out by authorized personnel and follow the destruction protocols used by the U.S. Department of Justice, Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Security Policy at §5.8 (Media Protection).

010.05 Authorized Agencies must maintain secondary dissemination logs consistent with the U.S. Department of Justice, Federal Bureau of Investigation (FBI), and the Criminal Justice Information Services

(CJIS) security policy.

010.06 User Access to NCJIS – To determine if a user credential should be granted to an individual, the Agency Head or Administrator shall consider whether the individual has any of the following:

010.06A Been charged with or convicted of a criminal offense or serious motor vehicle violation;

010.06B An active warrant or capias;

010.06C An active Protection from Abuse Order or Protection Order entered against him/her.

010.06D Intentionally falsified any official record;

010.06E Improperly accessed NCJIS previously; or

010.06F Engaged in any other activity that could endanger the security, privacy, or integrity of NCJIS.

010.07 Disclosure of Familial Relationships. All Authorized Agencies shall report familial relationships within their agency administration to the NCJIS Project Manager.

011 Responsibilities of the Authorized User. All Authorized Users within an agency shall annually electronically acknowledge that they have read and understand regulations. Depending on the level of access provided, these acknowledgements may vary by agency type and user type.

011.01 Authorized User Account. Any deviation from the following will initiate the NCJIS Project Manager to deactivate an authorized users account. Violation of these rules will be reported to the appropriate authorities and may result in administrative, criminal, or other adverse disciplinary action.

011.01A Authorized Users shall maintain a valid email address provided by the agency or authorized user employer, which is accessed by only the authorized user. Authorized Users are intended to be government employees, and shall not set up forwarding of email to non-government email or other accounts.

011.01B Authorized Users must hold themselves to the highest ethical standards and must conduct themselves in a manner that will ensure the security, integrity, and confidentiality of the information contained within NCJIS.

011.01C Authorized Users shall only access information contained within NCJIS for a reason authorized by statute or MOU.

011.01D Authorized Users agree to comply with these regulations, and any and all NCJIS data owner statutory guidelines.

011.01E Authorized Users must annually electronically acknowledge that they have read and understand these regulations. Failure to make the proper acknowledgements will disable the users account and electronically notify the NCJIS Project Manager.

011.01F Authorized Users must complete NCJIS training prior to being granted an Authorized User credential. The Authorized Agency Administrator may approve temporary or conditional access to NCJIS by an Authorized User before completing NCJIS User training.

011.01G Authorized Users are required to follow the Records Retention and Destruction procedures provided in Section 010 that require NCJIS, PCH and NCIC information be disposed of

securely.

011.01H Authorized Users who improperly access or become aware of improper access of NCJIS by another user, or by any other entity, shall immediately report the violation to their agency head, management, or directly to the NCJIS Project Manager or designee, and shall cooperate with and assist in the conduct of any administrative investigation pursuant to Section 016.

011.01I Authorized Users who have been arrested, charged, convicted of a criminal offense, a serious motor vehicle offense, or a violation in any jurisdiction shall notify their agency head or designee within 24 hours of the arrest, charge, or conviction in writing by email, fax or U.S. Mail.

011.01J Authorized Users must annually read and acknowledge the acceptable use policies in NCJIS. Authorized Users employed with an agency of the State must annually read and acknowledge their agency technology and information acceptable use policy.

011.01K Authorized Users must maintain secondary dissemination logs consistent with the U.S. Department of Justice, and Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Security policy.

011.01L Authorized Users shall not use personal electronic devices to access NCJIS unless the NCJIS Project Manager has approved an Authorized Agency Personally Owned Device Policy. A personally owned device is one that is purchased by an individual and was not issued by the Authorized Agency or the Commission.

011.01M Authorized Users shall consent to monitoring of all their search or other activity on NCJIS.

011.01N Authorized Users shall not knowingly reveal credentials to anyone or permit anyone to use their NCJIS account, or permit an unauthorized person access to an NCJIS enabled device, or use an account not specifically assigned to them, masquerade as another user, or otherwise misrepresent an identity and privileges.

011.02 Authorized User Administration Account. The Authorized Agency head or Administrator shall certify for completeness and accuracy a list of Authorized Users for access to NCJIS. The list shall be certified as is, or corrected to delete, add, or change Authorized Users. The Authorized Agency Administrator shall comply with the request from the NCJIS Project Manager within 60 days of said request. Failure to comply will result in the NCJIS Project Manager deactivating accounts based on inactivity.

011.03 Authorized User Administrative Account Audit Responsibilities. The Authorized Agency head or Administrator shall perform quarterly annual audits of each random authorized user. Results shall be reported to the NCJIS Project Manager by April 30st, July 31st, October 31st, and January 31st for the previous quarters activity. This regulation is applicable to all Criminal and Noncriminal Justice agencies within the State of Nebraska in accordance with the provisions of Neb. Rev. Stat. §29-3502.

012 Commission Audit Responsibility Per Title 28 of the Code of Federal Regulations (CFR), Chapter 1, Part 20. Title 28 CFR Part 20.21 requires the state insure that annual audits of a representative sample of state and local criminal justice agencies are conducted to verify adherence with regulations established for handling of criminal justice records. The Commission is authorized to conduct random annual audits of criminal justice agencies to verify the compliance with the laws and regulations dealing with dissemination, security, and privacy of criminal history information per Neb. Rev. Stat. §81-1423.

012.01 Audits: Audits of authorized agencies will be conducted by the Commission either through staff or through contractors.

012.02 Authorized agencies will be selected through the format provided in the Nebraska Administrative Code, Title 78, Chapter 4

012.03 Audit for Cause: The Commission may initiate an audit without Authorized Agency Designee knowledge upon discovery of possibly misconduct.

013 Agency Approval/Denial Procedure

013.01 The NCJIS Project Manager or designee makes the determination to deny access

013.02 The NCJIS Project Manager will notify the Authorized Agency head or designee and the user in writing by email, fax, or U.S. Mail. A notice of denial will include the reasons for denial.

013.03 An appeal may be initiated by the Authorized Agency head or designee by submitting a request for a hearing in writing by email, fax or U.S. Mail to the attention of the NCJIS Project Manager of the Committee within fifteen (15) days of receipt of the notice of denial.

013.04 The Committee shall review the appeal and the Authorized Agency head or designee shall be given the opportunity to be heard by the Committee at the next scheduled Committee meeting, unless extenuating circumstances require a shorter period.

014 Suspension of NCJIS Access for Any Arrest or Criminal Offense of an Authorized User

014.01 Upon notification or discovery of an arrest for a criminal offense, violation, or serious motor vehicle offense, the Executive Director or designee will make the initial determination if the charge warrants a temporary suspension of the Authorized User's credentials if the Authorized Agency head or designee has not made the determination yet (See 010.01C).

014.02 If the NCJIS Project manager suspends the Authorized User's credentials, access will be suspended immediately and the NCJIS Project Manager will notify the Authorized Agency head or designee and the Authorized user who was suspended in writing by email, fax, or U.S. Mail of the reason(s) for the suspension.

014.03 An appeal may be initiated by the Authorized Agency head or designee or Authorized user by submitting a request for a hearing in writing by email, fax or U.S. Mail to the attention of the NCJIS Project Manager of the Committee within fifteen (15) days of receipt of the notice of suspension.

014.04 The Committee shall review the appeal and the Authorized Agency head or designee/Authorized user shall be given the opportunity to be heard by the Committee at the next scheduled Committee meeting, unless extenuating circumstances require a shorter period.

015 Suspension of NCJIS Access for Improper Access or Breach

015.01 Upon notification or discovery of any violation involving Improper Access or Breach, the Executive Director or designee will authorize an administrative investigation pursuant to Section 016. The Executive Director or designee will also make an initial determination as to whether the apparent violation warrants a temporary suspension of the Authorized User's credentials.

015.02 If the Executive Director or designee suspends the Authorized User's credentials, access will be suspended immediately and the NCJIS Project Manager or designee will notify the Authorized Agency head or designee and the Authorized User, separately, in writing by email, fax, or U.S. Mail of any suspension, of the following:

015.02A Name of Authorized User who was suspended; and

015.02B The alleged violation and date thereof.

016 Procedure for Conducting Administrative Investigations of Improper Access or Breach by an Authorized User

016.01 The Commission will conduct an administrative investigation of any Authorized User. The NCJIS Project Manager will compile the information for the Administrative Investigation.

016.02 The NCJIS Project Manager will serve as the investigator regarding any administrative investigation. The investigation will include, but not be limited to, data collection and an interview. The investigating party will schedule a date and time to interview the user at a mutually agreed upon location, if deemed necessary by the investigator.

016.03 At the conclusion of the interview, the investigator will advise the user of the possible sanctions which may be imposed by the Committee.

016.04 The investigator will fill out an electronic NCJIS Use Investigation Report detailing the facts of the investigation.

016.05 This report shall be shared with the Executive Director, who will have this information compiled into a registry administered by the NCJIS Project Manager. The NCIS Project Manager shall refer results of the investigation with the NSP CJIS Systems Officer for further examination of violations of the U.S. Department of Justice, Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Security Policy. Misuse of the National Crime Information Center or Criminal History Record Information is subject to additional federal criminal and/or civil penalties.

016.06 The NCJIS Use Investigation Report will be approved by the Executive Director, and reported to the Committee.

016.06A At the conclusion of the investigation, the facts of the investigation will be submitted to the Attorney General's office by the Executive Director to determine if there was any violation of Nebraska law warranting criminal prosecution.

016.06B At the conclusion of the investigation, the relevant results of the investigation will be submitted to the data owner by the NCJIS Project Manager for the data owner to determine if there was any violation of applicable laws.

016.07 At the conclusion of the investigation, the NCJIS Project Manager or designee will notify the Authorized Agency head or designee, and the Authorized User, separately, in writing by email, fax, or U.S. Mail of the following:

016.07A Name of Authorized User who was suspended;

016.07B The alleged violation and date thereof; and

016.07C Status of the matter following the administrative investigation.

016.08 An appeal may be initiated by the user by submitting a request for a hearing in writing by email, fax or U.S. Mail to the attention of the NCJIS Project Manager of the Committee within fifteen (15) days of receipt of the notice of suspension.

016.09 The Committee shall review the appeal and the user shall be given the opportunity to be heard by the Committee at the next scheduled Committee meeting, unless extenuating circumstances require a shorter period.

017 CJIS Hearings

017.01 All hearings will be conducted in accordance with the Nebraska Open Meetings Act and the Administrative Procedures Act.

017.02 Presence of the appellant is required. Failure to appear will result in the Committee hearing the appeal in the absence of the appellant or dismissal of the appeal.

017.03 At any hearing, a party may appear pro se or be represented by an attorney-at-law duly admitted to practice law in the State of Nebraska or appear at his or her own expense. The appellant will have the right to appear and testify at the hearing; the right to call witnesses and to present other evidence in the form of testimony and/or documents; and the right to cross-examine any witnesses who may testify at the hearing.

017.04 The Committee or its attorney may administer oaths, examine any witness, receive exhibits into evidence, and move the admissions of documents and things into evidence.

017.05 At any hearing involving Improper Access or Breach, the investigator or their designee shall attend and present the facts of the administrative investigation directly to the Committee.

017.06 The Committee will render a decision based on the preponderance of the evidence presented.

017.07 The Committee may affirm, modify, or reverse, in whole or in part, any decision to suspend, revoke, reject, or deny access to NCJIS, and may deny access.

017.08 A written decision shall be rendered by the Committee within the time required by the Administrative Procedures Act after the hearing, unless extenuating circumstances require a longer period.

017.09 The Committee's decision on appeal is final.

018 Sanctions

018.01 If the Committee determines there has been a violation of state or federal statutes, laws, or regulations by an Authorized Agency or Authorized User, it may impose any of the following sanctions, singularly or in combination:

018.01A Require retraining on the CJIS system, specifically the security training.

018.01B Require a log of all CJIS transactions for a specific period of time. The log will be provided to the NCJIS Project Manager or designee based on the time line imposed by the Committee.

018.01C Require monitoring of the authorized user for a specific period of time. The NCJIS Project Manager or designee may contact the user at any time, requesting justification as to why the User accessed a specific record.

018.01D Suspend the agency's or user's access for a specific period of time.

018.01E Suspend the agency's or user's access permanently.

018.01F Referral for revocation of law enforcement certificate. (Nebraska Administrative Code, Title 79, Chapter 9).

018.02 Failure to comply with any imposed sanctions will result in additional sanctions, up to and including permanent suspension.

018.03 The NCJIS Project Manager or designee will notify the Authorized Agency head or designee and the Authorized User, separately, in writing by email, fax, or U.S. Mail of any sanctions imposed by the Committee.