

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09C .0104

DEADLINE FOR RECEIPT: December 6, 2024

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Generally, to the Rule: Paragraph (a) refers to “criminal justice agencies” (which is a defined term) and Paragraph (b) refers to “law enforcement [agencies.]” If these are the same thing, be consistent in terms. If they are different, explain the difference.

Page 1, Line 14: Where is “law enforcement agency” defined? The Commission has defined “criminal justice agency” in 12 NCAC 09A .0103 (which has the same definition as in G.S. 17C-2(2)). Explain the difference?

Page 1, Lines 24-25, Paragraph (c): This nearly verbatim from the G.S. 17C -15(c). Why is the Paragraph necessary pursuant to G.S. 150B-(a)(3)?

Page 1, Lines 26-27, Paragraph (d): This nearly verbatim from the G.S. 17C -15(a). Why is the Paragraph necessary pursuant to G.S. 150B-(a)(3)?

Page 1, Line 27: The Commission has not defined “critical incident data.” Accordingly, the directive to the Division is ambiguous. Or is (a)(9) the critical incident data? If so, label it as such.

Page 1, Line 28, Paragraph (e): What form of notice? In writing? When must notice be provided? Within five days of The Divisions receipt of the F-27?

Page 1, Line 31: Explain the authority to enter the officer’s name in the database prior to the determination by the Superior Court? In short, the instructions are an incorrect statement of G.S. 17C-15 that an officer a right to a superior court determination “prior to being placed in the database.” On line 31, should “was” be “should be”?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: November 22, 2024

1 12 NCAC 09C .0104 is adopted as published in 39:02 NCR 66-67 as follows

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3 **12 NCAC 09C .0104 AGENCY HEAD RESPONSIBILITIES: CRITICAL INCIDENT REPORTING**

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5 (a) For all criminal justice agencies in the State that employ personnel certified by the North Criminal Justice
6 Education and Training Standards Commission, the Agency head shall submit the Critical Incident Report, (F-27), to
7 the Criminal Justice Standards Division no later than 30 days after making the determination that an incident involving
8 any use of force by a law enforcement officer that resulted in death or serious bodily injury to a person has occurred.
9 The Critical Incident Report (F-27) shall contain the following:

- 10 (1) date of incident
11 (2) location of incident
12 (3) person(s) involved and their participation
13 (4) whether the incident involved serious bodily injury or death

14 (b) In addition to the reporting in paragraph (a) of this rule, the Agency head for any law enforcement agency in the
15 State that employs personnel certified by the North Criminal Justice Education and Training Standards Commission,
16 shall submit the Annual Critical Incident Report, (F-27A), to the Criminal Justice Standards Division no later than the
17 following January 15th of each year, listing all incidents involving any use of force by a law enforcement officer that
18 results in death or serious bodily injury to a person. The Annual Critical Incident Report (F-27A) shall contain the
19 following:

- 20 (1) the total number of incidents involving the use of force resulting in death or serious bodily injury
21 (2) date of incident
22 (3) location of incident
23 (4) whether the incident had previously been reported on the Critical Incident Report (F-27)

24 (c) Information contained in the submitted Critical Incident Report, (F-27) and the Annual Critical Incident Report,
25 (F-27A), that is confidential under State or federal law shall remain confidential.

26 (d) The Division shall develop and maintain a statewide database for use by law enforcement agencies that tracks all
27 critical incident data in North Carolina that is reported to the Division.

28 (e) The Division shall give notice to any law enforcement officer who is reported to the Division as having been
29 involved in a critical incident. The notice will contain language notifying the officer that, if the officer disputes being
30 involved in a critical incident, the officer has a right to request a hearing in superior court for a determination of
31 whether the officer's involvement was properly placed in the database

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33 *History Note: Authority G.S. 17C-15; G.S. 17-6*
34 *Eff. January 1, 2025*