

<p>ANNE ARUNDEL COUNTY DEPARTMENT OF DETENTION FACILITIES ADMINISTRATIVE DIRECTIVE</p>	<p>AD NO: 08.01 DATE: April 7, 2023 SUBJECT: Case Records TITLE: Access to Inmate Files and Computer Information FOR PUBLIC RELEASE: Yes</p>
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I. Reference: Title 28, Code of Federal Regulations, § 20.1, et seq.; State Article § 10-611 through § 10-630; Health-General Article, Maryland Annotated Code, § 4-301 through § 4-307 & § 4-309; Criminal Procedure Article, § 10-201, § 10-214, § 10-215, § 10-217 through § 10-220, § 10-231, § 10-238, § 10-239, § 10-242, § 10-243, § 11-205, § 11-301, § 11-508; Correctional Services Article § 3-601 through § 3-603 & § 3-606, § 3-307; Code of Maryland Regulations 12.02.07.04, 12.02.24.07, 12.15.01.10, 12.15.01.11; MCCS.08A

II. Applicable to: Anne Arundel County Department of Detention Facilities (AACDDF)

III. Purpose: To provide procedures for the access to and release of information in inmate/offender files and computer system programs.

IV. Policy: It shall be the policy of the AACDDF to ensure the confidentiality of all inmate/offender files and to disclose their contents only in accordance with the above referenced statutes.

A. Institutional records shall include information contained in Commitment files, Programs Files and other documents created by Departmental staff. Institutional records shall not include medical, addictions and/or mental health records that shall, for the purpose of this directive, be considered medical information and released in accordance with applicable statutes. Medical information developed by staff employed by the County Health Department shall be considered that Department's records and may only be released in accordance with its regulations. The contents of an inmate's institutional records shall not be disclosed in whole or in part, except to:

1. An employee of any criminal justice agency, any State unit or a federal or local law enforcement unit, if disclosure is in furtherance of the employee's lawful duties.
2. The inmate's/offender's attorney, providing s/he satisfactorily establishes his/her identity and presents written authorization.
3. The inmate, or former inmate, providing the information is not relevant to a pending criminal proceeding.

4. Any person authorized by a court order providing s/he satisfactorily establish his/her identity.
5. Any person expressly authorized by law.
6. Any AACDDF employee if disclosure is in furtherance of their institutional duties.
7. A provider of medical services if the medical record is necessary to ensure proper medical treatment of the inmate.
8. A person or agency under contract with a criminal justice agency to provide specific services required to perform any of its criminal justice functions, providing the disclosure is in furtherance of the performance of its contractual duties.
9. Anne Arundel County Office of Law.
10. A judge or a State court.
11. A State's Attorney.

B. Charge Information

1. Pretrial – The following information on pending charges will not be considered Criminal History Record Information (CHRI) and may be communicated orally or in writing to the general public or any criminal or non-criminal justice agency:
 - a. Full name
 - b. Charge(s)
 - c. Bond
 - d. Detained or Released
 - e. Manner inmate/offender released (posted bond, etc.)
2. Sentenced – The general release of sentence information shall be limited to whether or not the inmate/offender in question is in the facility and a discharge date. Any further information shall be considered CHRI and shall only be released to those agencies listed in Section IV.A. of this policy, subject to the following informational restrictions:

- a. Sentenced offense
 - b. Starting date of sentence
 - c. Current expiration date
 - d. Current status – work release/trustee
 - e. Pending court appearance
 - f. Court case offense numbers
 - g. Detainers from other jurisdictions
3. Criminal Record – Release of CHRI as it appears on the criminal record shall be limited to criminal justice agencies with a need to know.
 4. Dissemination – Whenever CHRI is disseminated in accordance with IV.B.2 or 3, the staff member providing this information shall enter the following information on a Dissemination Log (Appendix 1) to be maintained in the first section of the Commitment and Programs files.
 - a. Date of inquiry
 - b. Purpose of request
 - c. Name/Agency of person making inquiry
 - d. Information disseminated
 - e. Date disseminated
 - f. Disseminated by (name of AACDDF employee releasing the information)
- C. Personal History – Release of information concerning an inmate’s past or present residence, phone number, employment or any other personal history information shall be limited to person/agencies specified in Section IV.A of this policy.

NOTE: PERSONAL HISTORY INFORMATION MAY NOT BE RELEASED TO BONDSMAN.

- D. Medical Records – Requests for disclosure of an inmate’s/offender’s medical records shall be accompanied by a Release of Information form (Appendix 2) signed by the inmate that includes a witness’ signature and designates the agency, individual, etc. to whom the records are to be released. Medical records may also be disclosed in accordance with Maryland Law – Md.Code § 4-301, et.seq.
- E. Inmate/Offender Review of Records – an inmate or former inmate may review his/her file only after submitting a written request to the Correctional Facility Administrator (CFA) and only after it is approved (see section V.B.1). If the request is approved, the inmate/former inmate may review his files except for the following information:
1. Pre-Sentence Investigations (PSI) – May be released only in the case for which the inmate is incarcerated. Other PSIs must be requested through the Division of Parole and Probation.
 2. Psychological/Psychiatric Consultation or Evaluation Reports – May only be reviewed with an institutional Psychologist or Psychiatrist present and upon receipt of authorization from the agency/individual that conducted the evaluation.
 3. Medical Records – Inmates/Offenders may review medical records in accordance with IV.D. of this policy and only in the presence of a qualified health care professional.
 4. Parole Violation or Summary Report – May be reviewed only with Division of Parole and Probation.
 5. Police Documents/Criminal History Reports – Any records containing CHRI as defined in this policy may not be reviewed by an inmate/offender or former inmate. Inmates/Offender wishing to review CHRI must request same through the Maryland Criminal Justice Information System.
 6. Pretrial Verification Information – Any information received from references may not be released without a court order.
 7. Victim Information – Any information concerning victims or witnesses, including notification requests, may not be released.
- F. Media Requests – The following information may be disclosed to any newspaper or news media:
1. Name

2. Offense
 3. Bond
 4. Date Received
 5. Date Released
 6. Only the Assistant Correctional Facility Administrator (ACFA), Correctional Facility Administrator (CFA) or Superintendent shall release all other information.
- G. Research Projects – Researchers must receive written approval from the Superintendent and provide written assurance that s/he has an agreement with the Secretary of Public Safety and Correctional Services or Chief Judge of the Court of Appeals that the information shall be used solely for research purposes. The research product shall not identify inmates/offenders by name.
- H. Prospective Employers – Requests for disclosure of inmate/offender records shall be accompanied by an original statement signed by the inmate and requesting release of specific information. The statement shall include a witness signature and designate the agency and individual to whom the records are to be released. The requesting party must also produce a document bearing a CRCR stamp that expressly authorizes release. All such requests are to be reviewed by the CFA or ACFA. Dissemination shall be logged in accordance with IV.B.4 of this policy.
- I. Expungement
1. Inmate/Offender Request – If at any time information not defined as CHRI is believed to be incorrect, the inmate may request that the information be corrected, modified or deleted. A request to correct, modify or delete information in the record must be made in writing to the Superintendent, and must include an explanation as to the basis for the request. Upon review, the Superintendent shall:
 - a. Order the correction, modification or deletion if the error is verified through an investigation and the error is not related to CHRI.
 - b. Advise the inmate in writing of any delay or disapproval.
 - c. Designate an individual to correct, modify or delete all records as directed.

- d. Order all deleted materials removed from the files, logs, microfilm and other appropriate forms and placed in a file folder envelope that is secured with evidence tape, labeled with the individual's name and date of expungement and filed in the designated secure location. These files shall only be opened upon an order of the court. Where removal of information is not possible, such as a logbook, a copy of the page shall be placed in the aforementioned envelope with the original being censored from the page.
2. Inmate/Offender Requests – Expungement of CHRI – inmate requests for expungement of CHRI shall be submitted to the Criminal Justice Information System.
 3. Court Ordered – Upon receipt of Expungement Orders, the Superintendent shall direct the CFA to comply with all directions on the Order. The CFA shall complete the process within 30 days and advise the Court and individual affected of same. Expunged materials shall be removed/deleted and stored as directed in Section IV.I.1.d.
- J. Maryland Second Chance Act Records Shielding – This act allows one (1) lifetime shielding event limiting the amount of these orders. In addition to being a once in a lifetime event, the defendant is not afforded shielding if subsequent events have occurred until three (3) years after the last crime and closure of probation.
1. Upon court order, the Records Manager or designee shall seal any shielded automated record but leave the actual record in storage pending permanent destruction in accordance with the Records Retention and Disposal Schedule.
 2. Once shielded, the Administrative Secretary shall add the inmate's name and shielded case number to the Expungement Log with notes that the case is merely shielded.

NOTE: IRON MOUNTAIN RECORDS CAN ONLY BE OBTAINED BY THE RECORDS MANAGER OR DESIGNEE AND S/HE SHALL HAVE THE EXPUNGEMENT LOG REVIEWED IF THEY COME ACROSS A REQUEST FOR INFORMATION WHERE THE CASE HAS BEEN SEALED.

- a. Shielding only occurs for Disorderly Conduct, Disturbing the Peace, Failure to Obey a Reasonable and Lawful Order, Malicious Destruction of Property in the Lesser Degree, Trespass on Posted Property, Possession or Administering a Controlled Dangerous

Substance, Possession or Administering a Non-Controlled Dangerous Substance, Use of or Possession with Intent to Use Drug Paraphernalia, Driving without a License, Driving While Privilege is Canceled, Suspended, Refused or Revoked, Driving while Uninsured, or a Prostitution Offense if the conviction is for prostitution and not assignation. A shielded record shall remain fully accessible by: A criminal justice unit for legitimate criminal justice purposes; Health Agency boards, Governmental Licensing Agencies, a person who cares for or supervises children or vulnerable adults; Natalie M. Laprade Medical Cannabis Commission; prospective or current employers or government licensing agencies that are subject to a statutory or regulatory requirement or authorization to inquire into the criminal background of an applicant or employee for purposes of carrying out that requirement or authorization; background investigator or the defendant or his/her attorney.

NOTE: THE DEFENDANT DOES NOT HAVE TO LIST A SHIELDED CONVICTION ON APPLICATIONS – BUT IF A BACKGROUND INVESTIGATOR FINDS SAME, THEY CAN REVIEW THE ACTUAL RECORDS.

K. Copies of Institutional Records

1. Requests for copies of materials in an inmate's/offender's file shall be made in writing to the CFA or Superintendent.
2. The CFA or Superintendent shall approve/disapprove the request in writing in accordance with policies.
3. The Superintendent reserves the right to charge \$1.00 per page for copies of materials.

V. Procedure


- A. Requests for information that are not of an immediate nature shall be accepted on a routine basis by Records and Case Management staff.
 1. Information may be disclosed only when the staff member receiving the inquiry is satisfied that:
 - a. All applicable conditions set forth in this policy have been met.

- b. The records will be used solely for the legitimate purposes of the person or agency receiving them and not for any improper or unauthorized use.
 - c. The records will not be further disseminated to any person or agency not authorized to receive them.
 2. To ensure requests for disclosure are made by authorized persons/agencies and not by persons/agencies misrepresenting themselves, staff shall:
 - a. Disclose information orally on the telephone only to persons who they can positively identify.
 - b. Refuse to disclose information orally when the caller is not known or not recognized. In such instances, the staff member shall record the requesting party's name, organization, address, telephone number and terminate the call, stating that s/he shall return the call. The staff member shall verify the requesting party's identity and organization by checking the telephone directory. Any irregularities shall be reported to the Sergeant, Lieutenant, Criminal Justice Program Supervisor (CJPS) or ACFA and documented in an Incident Report. Return calls shall occur within a reasonable timeframe not to exceed 30 minutes.
 3. When any doubt exists as to the validity of the request or the identity of the person making the request, the staff member shall refuse to disclose the requested information and refer the requesting party to the Sergeant, Lieutenant, CJPS or ACFA.
 4. When it is determined that an individual/agency is not authorized to receive requested information, the staff member shall advise the individual of this restriction. Should the requesting party be dissatisfied s/he shall be referred to the Sergeant, Lieutenant, CJPS or ACFA.
 - a. Should the Sergeant, Lieutenant, CJP's or ACFA uphold the decision to deny disclosure, s/he shall prepare an Incident Report and forward it to the CFA.
 - b. Disclosure refusals referred to the CFA shall be discussed with the requesting party and the CFA within one (1) day following the refusal. Should the CFA uphold the refusal, s/he shall forward a letter to the requester within five (5) working days advising him/her of the reason(s) for the disapproval and his/her rights of appeal as outlined in Section V.B.2. All such letters shall be placed in the inmate's/offender's Program file and recorded on the Progress Sheet.

5. Disclosure of CHRI, in accordance with this directive, shall be recorded immediately on the Dissemination Log; disclosure of general, allowable information need not be recorded.
 6. Requests for disclosure submitted on agency letterhead may be honored by staff providing disclosure is in accordance with this policy.
- B. Requests for disclosure of inmate/offender records that are not of an immediate nature shall be handled as follows:
1. Inmates/Offenders requesting review of his/her files or release of information to another agency/individual shall submit an Inmate Request Form (Appendix 3) to the CFA.
 - a. The CFA shall approve/disapprove the Inmate Request Form within ten (10) business days following receipt and forward it to the appropriate CJPS or Health Services Administrator.
 - b. Upon receipt of an approved Inmate Request Form, the CJPS shall initiate a Release of Information form. The form shall be completed within ten (10) days, with copies of the Release of Information form filed in the Programs file and recorded on the Progress Sheet.
 2. When requests are disapproved, the CFA shall advise the requesting party in writing within ten (10) business days, offering reason for the disapproval. Additionally, the requesting party shall be advised that s/he may appeal the decision in accordance with the Administrative Procedure Act, State Government Article, Maryland Annotated Code, Section 10-611 through 10-630, et seq.
- C. Any individual approved to receive information or review files shall be required to produce positive identification prior to receiving information or reviewing files.
- D. Any requests not previously listed shall be reviewed by the CFA and approved/disapproved in accordance with the procedures contained in this Administrative Directive. The CFA, with the approval of the Superintendent, may seek review of any approval/disapproval by the County Attorney. Any requests for review shall be forwarded in writing to the County Attorney within ten (10) business days and a copy of the request forwarded to the requester. The CFA shall adhere to the decision rendered by the County Attorney.
- E. Inmates/Offenders or other person(s) authorized to review inmate files shall do so according to the following guidelines.

1. Be supervised by a Psychologist, Physician, Nurse or CJPS as directed by the ACFA or CFA.
2. The employee supervising the review shall maintain control of the specific file being reviewed at all times. The employee shall review each page with the inmate/offender or other person(s) ensuring that only information authorized by this policy is disclosed. Any questions as to the confidentiality of a particular report are to be immediately referred to the ACFA or CFA.
3. File reviews shall take place between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday, unless otherwise directed by the ACFA or CFA. The review shall occur at such times and places designated by the ACFA or CFA and occur within ten (10) business days following the date of approval.

This policy shall be reviewed at least annually and revised as necessary.



Christopher Klein
Superintendent

Rescinds: AD 8.1 dated August 1, 2002
AD 8.1 dated August 26, 2011
AD 8.1 dated October 15, 2012
AD 08.01 dated October 27, 2017
AD 08.01 dated April 8, 2020

Appendix 1 - Dissemination Log
Appendix 2 - Release of Information
Appendix 3 - Inmate Request Form