State of Iowa Department of Corrections

Policy and Procedures

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Chapter 1: ADMINISTRATION & MANAGEMENT
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Subject: RELEASE OF INFORMATION
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1. PURPOSE

To outline the procedures that the Iowa Department of Corrections (IDOC) staff shall follow to ensure the privacy of all information contained in records of incarcerated individuals/clients confined in IDOC facilities and/or supervised by Districts, and to process public record requests.

2. POLICY

It is the policy of the IDOC that information/records regarding incarcerated individuals/clients receiving services or who have previously received services or supervision of IDOC including third party records may only be released in accordance with the following standards and procedures. Requests for records/information on current incarcerated individuals/clients shall be made to the region or location of where they are incarcerated/supervised. If the individual is no longer incarcerated/supervised; then the request shall be made to IMCC Records Repository. NOTE: This policy does not specifically relate to medical information, which shall only be released in accordance with IDOC Policy **HSP-304** *Review/Release of Medical Information*.

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3. DEFINITIONS – As used in this document:

A. Master File – The hard copy Treatment and Legal Files. Items not found in the master file are located in the Iowa Corrections Offender Network (ICON) computer system.

B. Durable Power of Attorney (POA) for Healthcare Decisions (Medical Power of Attorney) - A power of attorney is a written document by which one person gives to another person (the attorney-in-fact) the authority to act on behalf of the first person in one or more matters.

C. Guardian Ad Litem/Guardianship - A "guardianship" is a legal action in which the court appoints a "guardian" who has the legal authority and duty to care for a "protected person" who is a minor or because of the person's mental or physical limitations.

D. Conservator/Conservatorship - A "conservatorship" is a legal action in which the court appoints a "conservator" to manage the financial affairs or daily life of a "protected person" who is a minor or is someone incapable of

managing the person's affairs.

4. PROCEDURES

Treatment and Legal incarcerated individual/client records are maintained in a secure location at each facility and are accessible to authorized staff.

A. Incarcerated Individual/Client Authorization for Release

1. A release of information must be signed by an incarcerated individual or former incarcerated individual/client prior to the release of confidential information to a third party, such as a family member, friend or their attorney.

2. The **Code of Iowa 904.602(6)** Confidential information described in subsection 2 may be disclosed to public officials for use in connection with their official duties relating to law enforcement, audits and other purposes directly connected with the administration of their programs. Agencies receiving confidential information must agree to maintain the information as confidential.

3. The original *Consent for the Release of Confidential Information form* **AD-CR-04 F-2**, shall be scanned into ICON > Offender Attachments and labeled as Attachment Type "Releases of Information" and contact information updated in the incarcerated individual/client file in ICON under Case Management > Release of Information.

B. Institutional/District Procedures

The Wardens and District Directors shall develop and maintain procedures which shall ensure the privacy and security of records maintained by the IDOC. These procedures must include the identification of individuals or agencies receiving information.

C. Employee Use of Incarcerated Individual/Client Information

1. Each employee/contractor/volunteer/intern of the IDOC shall be aware of the consequences and penalties prescribed in **Iowa Code**

904.602(11) and 904.603 pertaining to the unauthorized release of information.

2. Institution and district procedures shall outline the specific privacy requirements that apply to each employee/contractor/volunteer/ intern and ensure they are incorporated into training. (Also see IDOC Policy **AD-PR-29** *Confidentiality of Information)*

D. General IDOC Dissemination of Information

1. The IDOC processes, stores, and disseminates information pertaining to incarcerated individuals/clients currently or previously under supervision.

2. The IDOC assumes no liability for loss or exchange of information disseminated from IDOC records.

3. Any office, agency or individual authorized to receive confidential information will be notified to maintain the confidential status of the information. (Refer to **AD-CR-04 F-3** *Notice of Confidential Information*) Confidential information will be labeled or stamped as "Confidential".

4. Information included in incarcerated individuals/clients' files shall be released by the IDOC under the following circumstances:

    a. The information is public; or

    b. The confidential information is being released to an office, agency or individual authorized to receive the information as described above; or

    c. The incarcerated individual/ex-incarcerated individual or client/ex-client has properly authorized the person/ agency to release/receive the information; or

    d. Court ordered. The court order must specify records to be released (not the entire file).

    e. Durable Power of Attorney (POA) for Healthcare Decisions (Medical Power of Attorney), Guardian Ad Litem, Conservatorship - Generally, verification of the paperwork appointing the individual to these roles should be sufficient.

However, a copy of the document should be obtained to confirm that it is properly signed, not expired, and grants the authority to release the requested information. Otherwise, these appointed individuals shall sign a *Consent to Release of Information Form* **AD-CR-04 F-2**.

E. Disclosure of Incarcerated Individual/Client Records

1. Incarcerated individual/client and incarcerated individual/client's attorney access:

    a. Access via incarcerated individual/client written consent.

    b. Copy charge.

        1) IDOC records are protected and released as published in accordance with Iowa Administrative Code 201-5 and pursuant to **Iowa Code Chapter 22.11**.

        2) These standards apply to all IDOC records, policies, reports, meeting minutes, and any other documents that are not confidential pursuant to **Iowa Code Chapters 22.7 and 904.602(2)** and Iowa Administrative Code 201-5.

        3) A public records request shall be acknowledged in writing, where contact information has been provided, within two business days after receipt by the lawful custodian. An acknowledgment must include the name and contact information of the person responsible for processing the public records request.

        4) The following procedures shall apply regarding access by inspection/review, searching or copying of department records. When the search, supervisory review, or copying time exceeds 30 minutes, the fee assessed is charged according to the hourly rate of the employee(s) fulfilling the records request.

            a) Photocopy charge - $.15 per page. This fee is in addition to the hourly rate of the employee fulfilling the records request.

b) No fees when complying with a subpoena for criminal records or when it takes less than 30 minutes to process a record request.

5) The IDOC shall charge the requestor actual postage required to mail documents.

6) If the total cost of the records examination or copying cost shall exceed $25.00, the requestor may be required to submit an advance deposit of the expected fee. (**AD-CR-04 F-1** *Copy Fee Charge*). If the requestor has previously failed to pay a fee for copies of records, the requestor may be required to pay the previous unpaid fee and make an advance deposit of the expected current fee (even if both are less than $25.00) prior to receiving copies of the records.

7) The fee assessed is charged according to the hourly rate of the employee(s) fulfilling the records request.

8) All funds generated from this policy shall be deposited into each institution/district or the Central Office appropriated fund.

9) All checks/cashier's checks/money orders from members of the public shall be made payable to the Treasurer, State of Iowa, Department of Corrections.

10) Fees assessed to incarcerated individuals/clients shall be deducted from the incarcerated individual's account by way of store order. Fees shall be assessed to CBC clients per local procedure.

2. Denied requests may be grieved by the incarcerated individual/client through the grievance process. See DOC Policy **IO-OR-06** *Incarcerated Individual/Client Grievance Procedures*.

3. Requests that have been denied may be appealed to the IDOC Chief of Staff.

4. Third-party information shall not be disseminated. Requestors shall be referred to the original source of the information if these records are requested.

F. Notarization of Incarcerated Individual/Client Document

1. Designated institutional/district employees shall be responsible for substantiating the validity of an incarcerated individual/client's signature that requires notarization. If valid, the signature shall be notarized free of charge.

2. Pursuant to the **Iowa Code Chapter 9E**, a notary public may exercise reasonable discretion in performing, or declining to perform notarial services.

G. Incarcerated Individual/Client/Other Access to File Information

1. The following list is designed to provide guidance in determining the access of incarcerated individuals/clients to records in their own files. This list shall give direction with regard to how specific documents are to be handled in accordance with IDOC policy.

2. Incarcerated individuals/clients are allowed to have printed and redacted copies of their Board of Parole Client/Inmate Request Form which can be found in ICON under Reports>BOP>BOP Client/Inmate Request Form.

   These records shall NOT be viewed electronically as they may contain confidential information which would need to be redacted (in printed form).

   These records shall be reviewed by the Treatment Director/Supervisor/Designee for confidential information or security concerns. Any additional printed copies shall be assessed fees. **Iowa Code 904.602**.

   a. Classification decisions and the justifications for these decisions:

      1) Pre-parole hearing findings

      2) Job reclassification decisions

      3) Program hearing findings

4) Change of custody findings

b. Approved Visiting list

c. Work performance evaluations.

d. Vocational/educational assessment

e. Sentencing Order

f. Detainers

g. Time computation sheets

h. Institutional and Residential Disciplinary and decision reports except confidential informant information

i. Field Reports of Violation/PPVI/Parole ROV

j. Notification of Parole Board decisions

k. Restitution plan

l. Intervention Summary (report printed from ICON)

m. Generic notes

n. Kiosk Messages

o. OMails

p. Security Standards specific to the request

3. Incarcerated individuals/clients may not be allowed to have access to the following records when the release of that information could result in physical or psychological harm to another person or the supervised individual or adversely affect an investigation into a supervised individual's possible violation of IDOC rules. Psychological and psychiatric information may be withheld if its release would jeopardize the incarcerated individual/client's treatment. If incarcerated individual/client access is allowed to a particular document, the documentation may be redacted pursuant to **Iowa Code section 904.602(9)**. Pursuant to **Iowa Code section 901.4**, this policy reflects a balance of incarcerated individual/client

due process rights with confidentiality of the Presentence Investigation (PSI). Note that an incarcerated individual/client may review but may not possess the PSI. **(Iowa Code section 901.4)** Decisions on allowing access and level of access shall be made by the Associate Warden of Treatment or the District Director/Designee for the following records:

a. Incarcerated individuals/clients may review the presentence investigation (PSI) of the current offense(s), as well as FBI and DCI rap sheets, Victim Impact Statements, Trial Information and Minutes of Testimony under staff supervision only. **Copies shall not be provided**. Electronic copies of these records will be printed so that the incarcerated individual/client may review them under staff supervision. Once the incarcerated individual/client is done reviewing the document, it will be shredded. The incarcerated individual/client will not be charged the $.15 copy fee for these printed records. A fee will be charged according to the hourly rate of the employee(s) fulfilling the search.

b. Correspondence with family, friends, and past and present employers of incarcerated individuals/clients of a personal or confidential nature

c. Risk assessments - The final score or level may be shared with the individual/client; However, the scoring sheet or a copy shall not be provided to them.

d. Progress reports

e. Social services questionnaires designed for professional use only

4. Incarcerated individuals/clients shall <u>not be allowed to have access to</u> the following records:

a. Internal security documents

b. ICON Event Log Report

c. Confidential information received from law enforcement personnel about the background of persons applying to be allowed to visit with incarcerated individuals/clients

d. Records alerts to include: enemies, notification requests, victim registration

e. Criminal investigation reports (i.e., Federal Bureau of Investigation and Division of Criminal Investigation criminal history documentation)

f. Personal History Data Sheet/Field History Data Sheet and picture

g. Transfer Instance

h. Investigative reports relating to disciplinary action

i. Presentence investigations (may review as noted in G.3. above, shall not have copies)

j. Victim impact statements (may review as noted in G.3. above, shall not have copies)

k. Minutes of testimony, including confidential informant information

l. Reception reports

m. Third party records. Incarcerated individuals/clients may be referred to the original source of the information if these records are requested (i.e., evaluations from mental health institutions, evaluations from other states or jurisdictions correctional institutions).

n. Psychological and psychiatric information of a technical nature including diagnosis and test materials designed for professional use only.

o. Grievance investigation. (Personnel investigation as a result of incarcerated individual/client grievances filed.)

5. Criminal justice agencies and public officials in connection with official duties.

   Access to all records by necessity with a written request on their official letterhead. **Iowa Code section 904.602(6)** authorizes the DOC to release confidential information to public officials for use in

connection with their official duties relating to law enforcement, audits, and other purposes directly connected with the administration of their programs.

a. Law enforcement requests for video must be in writing on their official letterhead.

b. The preferred mode is for law enforcement to view the video in person (no copy).

c. If law enforcement insists on a copy of the video, then label it as "Confidential" and state they have the same duty of confidentiality as the IDOC under Iowa Code. If confidentiality is breached, there can be criminal and civil liability.

d. All other requests for video refer to **AD-GA-09** *News Media and the Public*.

6. Other agencies or persons for treatment purposes only:

   a. Access to any record directly related to an incarcerated individual/client's treatment plan unless, if released, would jeopardize security or affect an investigation.

   b. Access via incarcerated individual/client written request if not a public agency.

7. Public Access - If information released is considered to be confidential, the *Consent to Release of Information* **AD-CR-04 F-2**, must be attached to the request. Note: If an outside agency requires their form to be signed, the IDOC ROI shall also be signed by the incarcerated individual/client.

8. Release of the following information regarding an individual previously or currently under supervision may be made upon request:

   a. Name

   b. Age

   c. Sex

   d. Status (incarcerated individual, parolee, probationer)

e. Incarcerated individual/client ICON number

f. Location, **except home street address**

g. Duration of supervision, including release date(s)

h. Offense or offenses for which the incarcerated individual/ client was placed under supervision

i. Incarceration credit (jail credit, residential credit, etc.)

j. County of commitment

k. Arrest and detention orders

l. Physical (description)/Incarcerated individual/client photo

m. Type of service(s) received

n. General release destination (if already released - but not home address)

o. Field Reports of Violation (Probation, Parole, Release with Supervision/RWS) - As these have been filed with the courts, refer requesters to the Clerk of Court's office for the current supervision charges.

p. Disciplinary reports and decisions which have been referred to the county attorney or prosecutor for prosecution and the following information of all other disciplinary reports:

    1) The name and the subject of the investigation.

    2) The alleged infraction involved.

    3) The finding of fact and the penalty, if any, imposed as a result of the infraction.

    Note: There is an ICON Report for Discipline History that includes what is public info under **Iowa Code 904.602(1)(L)**. This is only available for Institution and Residential Discipline at this time and can be found in: Reports > Rules, Violations, and Discipline >

Institution Disciplinary Summary or, Reports > Rules, Violations, and Discipline > Residential Disciplinary Summary.

9. Medical information shall only be released in accordance with IDOC Policy **HSP-304** *Review/Release of Medical Information*. Psychological and psychiatric information may be withheld if its release would jeopardize the incarcerated individual/client's treatment.

H. Prohibition on the Use of Protected Health Information (PHI) for Certain Investigations and Liability

1. IDOC staff are prohibited from using or disclosing PHI to:

    a. Conduct criminal, civil, or administrative investigations into any person for the mere act of seeking, obtaining, providing, or facilitating reproductive health care.

    b. Impose criminal, civil, or administrative liability on any person for the mere act of seeking, obtaining, providing, or facilitating reproductive health care.

    c. Identify any person for the purposes mentioned above.

2. Nothing in this policy shall restrict the use or disclosure of PHI for the purpose of treatment, payment, or healthcare operations as permitted by the Health Insurance Portability and Accountability Act (HIPAA).

3. Before disclosing PHI for health oversight activities, judicial and administrative proceedings, law enforcement purposes, or disclosures to coroners and medical examiners, the requesting party must provide a signed attestation affirming that the use or disclosure is not for a prohibited purpose related to reproductive health care.

    a. The attestation must be signed under the penalty of perjury, and any false statement may result in legal consequences, including criminal penalties.

    b. All signed attestations shall be maintained by IDOC for a minimum of six years in accordance with HIPAA's documentation requirements.

I. News Media and/or Public Requests

Refer to IDOC Policy **AD-GA-09** *Contact with the News Media and the Public*.