



State of North Carolina
Department of Correction
Division of Prisons

POLICY & PROCEDURES

Chapter: D
Section: .0600
Title: **Access to Information/
Offender Records**
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References

Related ACA Standards

5th Edition Standards for Adult Correctional Institutions 5-ACI-1E-01, 5-ACI-1E-04, 5-ACI-1E-05, 5-ACI-1F-01, 5-ACI-1F-02, 5-ACI-1F-03, 5-ACI-1F-13

.0601 OFFENDER RECORDS

- (a) Except for the information and documents identified in Section .0601 (b) below, **offender** records are confidential by law and, therefore, must be maintained in a secure and confidential manner. **Offender** records include all information and documents contained in the Unit Record Jacket, the Combined Records Offender Jacket, and records of the automated Offender Population Unified System (OPUS). These records exist in several formats; *i.e.*, as paper records with forms, memos, letters, etc., as well as automated computer screen presentations, screen-prints, and batch printed reports. Other administrative and operational files on **offenders** maintained by **Prison** authorities are also confidential. It should be noted that confidentiality of **offender** grievances is specifically addressed in Chapter G. 0300, Administrative Remedy Procedure, Section .0312, Record Maintenance and Confidentiality. Without authorization from Prisons Administration, **offender** records may not be released. They will be maintained in a secure and confidential manner. Under no circumstances are **offenders** to have access to their records, whether as forms, screens, or printed formats (*Goble v. Bounds*, 188 S.E. 2nd 347, 1972). Staff will divulge record details only as authorized herein and only to the extent necessary to meet correctional and rehabilitation objectives. Each facility must establish procedures to inform consultants and contractual personnel who work with **offenders** of **Prisons** and facility policies on confidentiality of information. The consultants and contractual personnel must be informed in writing and agree to abide by the policies on Access to Information/**Offender** Records.
- (b) **Offender Information - Matters of Public Record** The following information about **offenders** is considered public information and may be released upon request. Copies may be provided at the expense of the requester. Otherwise and except as provided in this Section, no **offender** records may be released to anyone. Unauthorized release of confidential **offender** records by departmental employees will be cause for immediate dismissal or other appropriate disciplinary action.

The items listed **below (1-22)** can be viewed by the public through the Public Access Information System on the Department of **Public Safety** web site. Other contents of **offender** files shall not be disclosed to unofficial agencies or persons without the specific authorization of the **Commissioner** of Prisons, who will secure the advice of the department's legal counsel when the legality of release or withholding is at issue.

- (1) Offender's name and alias
- (2) Offender OPUS number
- (3) Age
- (4) Race
- (5) Gender
- (6) Offense(s) of which convicted
- (7) Conviction date
- (8) Court where sentenced
- (9) Sentence length
- (10) Date of sentencing
- (11) Admission date
- (12) Felon or misdemeanor status
- (13) Admission location
- (14) Date of arrival at or transfer from a prison
- (15) Program placement and progress (excluding mental health, substance abuse and sex offender treatment, in accordance with confidentiality rules)
- (16) Custody classification
- (17) Control status
- (18) Disciplinary offenses and dispositions
- (19) Escapes and captures
- (20) Dates regarding release
- (21) Presence or absence of detainers
- (22) Dates regarding custody review and parole review

(c) Medical, Mental Health and Substance Abuse Treatment Records

(1) Medical Records

The content of offender medical records (except for psychiatric and psychological treatment) may be released to an attending physician or legal counsel of an offender (or former offender) with a valid authorization for release of information. The personal representative of a deceased offender may consent to disclosure of medical information by submitting a valid authorization for release of information.

Disclosure of confidential medical information is permissible in specific situations required by North Carolina public health laws. This information may include reports of birth, death, cancer, communicable disease, rabies, abortion, blindness and postmortem investigations.

A valid authorization for release of confidential medical information should meet the following requirements:

- (A) Be in writing (faxes or copies are acceptable),

- (B) Be addressed to the health care provider (North Carolina Department of **Public Safety**, North Carolina Division of Adult Corrections Prisons, or individual correctional facility),
- (C) Contain information sufficient to identify the patient. Name (required), and at least one of the following is required: **offender** number, date of birth, Social Security Number,
- (D) Identify the individual or entity authorized to receive the information (i.e. John Smith, M.D., or the Law Firm of Smith and Smith),
- (E) Identify the information that is to be released,
- (F) Specify a date, event, or condition on which the authorization will expire unless revoked earlier (authorizations over 1 year are considered expired unless otherwise specified on the authorization),
- (G) Indicate that the authorization is subject to revocation by the patient or legal representative (except to the extent action has already been taken),
- (H) Be signed by the patient or the patient’s legal representative; if other than the patient. The relationship of the party signing for the patient must be stated,
- (I) Be dated after the patient’s treatment. The date of signature must be the same or later than the date of information to be released.
- (J) Contain a promise or representation that medical records may be discussed with but will not be given directly to, the offender/client.

To assist requesters of records, the following are provided as examples of authority to consent to release of medical records:

<u>Offender Status</u>	<u>Authorizing Individual</u>
An adult of sound mind	Patient
Minor	Parent or Legal Guardian
Deceased	Executor of Estate/Next of Kin
Legally judged incompetent	Legal Guardian
Emancipated Minor	Patient
Minor and the parent is also a minor	Parent

(2) Mental Health Records

The content of **offender** mental health records may be released to the attending psychologist, psychiatrist, or governmental agencies directly involved in mental health, rehabilitation, disability services or evaluations with a valid authorization for release of

information. Mental health records may be released to an **offender**'s legal counsel or other requestors upon written request, accompanied by a valid authorization. The request must specify with reasonable clarity, the particular records of treatment needed. If the mental health records do not contain reference to the treatment with which the attorney is concerned, the attorney will be so advised. The attorney or other requester to whom mental health records are released shall promise in writing not to allow the **offender**, former **offender** or their families direct access to the records, but may discuss the contents of the record with the **offender** or former **offender**. The attorney or requestor will not reveal the contents of the records to other persons, except mental health professionals, such as psychologist or psychiatrist, who may be employed as an expert witness. If an attorney or requestor shall violate his/her promise to maintain the confidentiality of the mental health records, he/she and/or the firm with which he/she is associated shall lose the privilege of having access to mental health records.

Upon receipt of a court order to release mental health information to an **offender**, the **Behavioral Health Services Director** will review all mental health records prior to release to an **offender** to determine if any material contained in the requested records poses risk or harm to another person, or would violate the confidence of a third party. In such instances, the **Behavioral Health Services Director** may appeal to the court.

Photocopies of medical/mental health records will be provided at the expense of the requester.

(3) Substance Abuse Treatment Records

No records pertaining to substance abuse treatment, including but not limited to participation in substance abuse treatment programs, may be released unless the written consent of the patient/**offender** specifically references such treatment and waives the privilege concerning records thereof as maintained by the Department of **Public Safety**.

(d) **Offender** Photographs.

(1) Offender photographs are made available for public access under selected circumstances by the Secretary of **Department of Public Safety** through an electronic link from the North Carolina Department of **Public Safety** Internet Home Page.

(2) Availability of Other **Offender** Photographic Identification Devices

Offender photographs, official identification pictures, or photographs as otherwise maintained by the Department, may not be released except as allowed herein. The policy governing release of such materials shall be to contribute to public safety and security, not to respond to general or specific instances of curiosity or notoriety.

(A) **Offender** photographs and descriptions, including **offender** identification cards, maintained by the Department as part of the official record may be released to law enforcement officials for the purpose of public safety if authorized by the facility **Warden**, designated officer in charge, or any superior command or division

authority. Release under this subsection will be authorized only for the retaking and return to custody of an escaped offender.

(B) Release of photographic records may also be authorized to local, state, or federal agencies and to other law enforcement officials to aid in the apprehension of criminal suspects. Release of photographic records to the news media may also be authorized in circumstances where identification is essential for official purposes. Releases for notoriety, general interest, or curiosity reasons are not authorized. Requests for release to law enforcement officials under this subsection should be addressed to the Identification Branch of Prisons. Requests for release to the news media under this subsection must be addressed to the Department of Public Safety Communications Office.

(C) Photographs may not otherwise be released except as authorized by the Secretary of the Department of Public Safety. Releases authorized by the Secretary of the Department of Public Safety will be issued through the Department of Public Safety Communications Office.

- (e) Offender records may also be released to official federal, state and local law enforcement agencies when their representatives present proper credentials. Such agencies must agree to maintain the confidential nature of the material or information. Materials will be provided to the courts upon request. Medical and mental health records may only be released with the offender's written consent or with a court order in accordance with section .0601 (c) of this policy.
- (f) Offender records may be released in response to a court order or subpoena.

.0602 RESEARCH

- (a) Persons or agencies may request access to offender records or privileged information regarding offenders for research purposes. The request must be submitted in writing through the Commissioner of Prisons to the Director of Rehabilitative Programs and Services for approval. Information requested for the purposes of research activities may be released by the Commissioner if:
- (1) The researcher has professional standing in the pertinent field or is supervised directly by such a person.
 - (2) The benefits of the proposed research has the potential to promote better or more efficient operation of the Department of Public Safety.
 - (3) The proposed activity does not adversely affect any of the Department of Public Safety's programs or operations.
- (b) Where there are several research requests, the Director of Rehabilitative Programs and Services in cooperation with the Commissioner of Prisons will determine priorities. Innovative research

efforts that may lead to direct improvement in program services will be granted priority. Efforts intended primarily for the benefit of the researcher will be assigned the lowest priority.

- (c) When a researcher is allowed access to **offender** records or privileged information regarding **offenders**, he must pledge that any information taken from the file will be used solely for research purposes. Also, he must promise not to disclose the identity of **offender** subjects or use or release any material that would have a direct adverse effect on the individual **offender** involved.



Commissioner of Prisons

June 17, 2020

Date

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