

*State of North Carolina
Department of Correction
Division of Prisons*

POLICY & PROCEDURES

Chapter: D
Section: .0600
Title: **Access to Information/
Inmate Records**
Issue Date: 09/01/06
Supersedes: 05/22/01

.0601 INMATE RECORDS

- (a) Except for the information and documents identified in Section .0601 (b) below, inmate records are confidential by law and, therefore, must be maintained in a secure and confidential manner. Inmate 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 inmates maintained by Division authorities are also confidential. It should be noted that confidentiality of inmate grievances is specifically addressed in Chapter G. 0300, Administrative Remedy Procedure, Section .0312, Record Maintenance and Confidentiality. Without authorization from Division of Prisons Administration, inmate records may not be released. They will be maintained in a secure and confidential manner. Under no circumstances are inmates to have access to their records, whether as forms, screens, or printed formats. Staff will divulge record details only as authorized herein and only to the extent necessary to meet correctional and rehabilitation objectives.
- (b) The following inmate records will be made available for examination upon request. Copies may be provided at the expense of the requester. Inmate records available under this subsection include the inmate's or former inmate's name, age, race, sex, offense of which convicted, court where sentenced, length of sentence, date of sentencing, date of arrival at or transfer from a prison, program placements and progress, custody classification, disciplinary offenses and dispositions, escapes and captures, dates regarding release, and the presence or absence of detainers. Otherwise and except as provided in this Section, no inmate records may be released to anyone. Unauthorized release of confidential inmate records by departmental employees will be cause for immediate dismissal or other appropriate disciplinary action.
- (c) Medical, Mental Health and Substance Abuse Treatment Records
- (1) Medical Records
- The content of inmate medical records (except for psychiatric and psychological treatment) may be released to an attending physician or legal counsel of an inmate (or former inmate) with a valid authorization for release of information. The personal representative of a deceased inmate 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 Correction, North Carolina Division of Prisons, or individual correctional facility),
- (C) Contain information sufficient to identify the patient. Name (required), and at least one of the following is required: inmate 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 inmate/client.

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

Inmate Status

Authorizing Individual

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 inmate 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 inmate's legal counsel 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 Mental Health Services Director or his designee will review mental health records prior to their release to determine if any material contained in the requested records poses risk of harm to another person, or would violate the confidence of any third party. If the requested records do contain such material, information shall be released in a manner in which said material is deleted or summarized, to avoid risking harm to other persons or violating third party confidences. The attorney to whom mental health records are released shall promise in writing not to allow the inmate (or former inmate) direct access to the records, but may discuss the contents of the record with the inmate (or former inmate). The attorney 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 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.

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/inmate specifically references such treatment and waives the privilege concerning records thereof as maintained by the Department of Correction.

(d) Inmate Photographs.

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

(2) Availability of Other Inmate Photographic Identification Devices

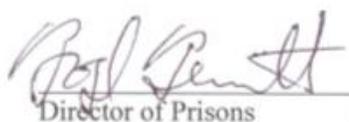
Inmate photographs, official identification pictures, or photographs as otherwise maintained by the Department, may not be released except as allowed herein. The policy governing release of such materials shall be to contribute to public safety and security, not to respond to general or specific instances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

- (A) Inmate photographs and descriptions, including inmate 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/Superintendent, 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 inmate.
 - (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 the Division of Prisons. Requests for release to the news media under this subsection must be addressed to the Special Assistant for Communications.
 - (C) Photographs may not otherwise be released except as authorized by the Secretary of Correction. Releases authorized by the Secretary of Correction will be issued through the Special Assistant for Communications.
- (e) Inmate 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 inmate's written consent or with a court order in accordance with section .0601 (c) of this policy.

.0602 RESEARCH

- (a) Persons or agencies may request access to inmate records or privileged information regarding inmates for research purposes. The request must be submitted in writing through the Director of Prisons to the Manager of Research and Planning for approval. Information requested for the purposes of research activities may be released by the director 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 Correction.
 - (3) The proposed activity does not adversely affect any of the Department of Correction's programs or operations.

- (b) Where there are several research requests, the Manager of Research and Planning in cooperation with the Director 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 inmate records or privileged information regarding inmates, 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 inmate subjects or use or release any material that would have a direct adverse effect on the individual inmate involved.

 9-1-06
Director of Prisons Date

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