

KANSAS DEPARTMENT OF CORRECTIONS

 INTERNAL MANAGEMENT POLICY AND PROCEDURE	SECTION NUMBER 05-101D	PAGE NUMBER 1 of 8
	INFORMATION TECHNOLOGY AND RECORDS: Utilization, Confidentiality, Privacy, Security and Dissemination of Information Contained within Agency Records	
Approved By:  Secretary of Corrections	Original Date Issued: 12-10-15	Replaces Version Issued: 12-10-15
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APPLICABILITY:	<input type="checkbox"/> ADULT Operations Only	<input type="checkbox"/> JUVENILE Operations Only	<input checked="" type="checkbox"/> DEPARTMENT-WIDE
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POLICY STATEMENT

Appropriate and reasonable safeguards shall be implemented to ensure that information contained in agency records is safeguarded from unauthorized access and improper disclosure. (ACO 2-1E-01, 2-1E-06, 2-1E-08, ACI 3-4092, 3-4377, 4-APPFS-3D-28, 4-APPFS-3D-34)

Departmental employees and contract employees shall have access to offender and former offender records on a need to know basis and only to the extent that such access is necessary for the performance of their assigned duties. Information shall be shared with other criminal justice agencies and units of government, the media and the public consistent with applicable statutes and regulations regarding privacy and confidentiality. (ACO 2-1E-01, 2-1E-06, ACI 3-4377) Appropriate and uniformly determined fees shall be charged for provision of access to, or copies of, records maintained by the Department including both offender specific and other agency records.

DEFINITIONS

Community Service Providers: Non-criminal justice agencies or individuals based in the community who provide a professional service for offenders.

Conviction Data: Information indicating that an individual pled guilty or nolo contendere or found guilty to criminal charges or that the individual was convicted or adjudicated.

Criminal History Record Information (CHRI): Conviction or non-conviction data initiated or collected by a criminal justice agency on a person pertaining to a reportable event.

Dissemination: The release of information contained in KDOC files (paper or electronic) to individuals or agencies other than Department of Corrections personnel or its contractors. Confirming the existence or non-existence of a criminal history record for an outside agency constitutes dissemination.

Electronic Medical Records System (EMR): Computerized system for medical, dental and mental health information pertaining to the offender.

Former Offender: A person sentenced to the custody of the Secretary of Corrections who was previously assigned to a KDOC facility or contract facility but who has been lawfully released from incarceration. This includes parolees, probationers, those released on conditional release and post incarceration supervision, and those discharged from a sentence.

Offender: A person who has been sentenced to the custody of the Secretary of Corrections who is currently assigned to a KDOC facility, contract facility, or housed in another state pursuant to the Interstate Corrections

Compact. This also includes persons from other jurisdictions who are housed in KDOC facilities pursuant to the Interstate Corrections Compact.

Non-Conviction Data: Information disclosing (1) law enforcement authorities have chosen not to refer a matter for prosecution; (2) a prosecutor has chosen not to commence criminal or juvenile offender proceedings; (3) proceedings have been indefinitely postponed; (4) the dismissal or acquittal of a particular case or individual; and (5) an arrest record without a disposition if an interval of one year has elapsed from the date of arrest, no conviction has resulted, and no active prosecution of charges is pending.

Non-Criminal History Record Information (Non CHRI): Any information contained in KDOC records, whether initiated by the KDOC or received by the KDOC from another source, about an offender or former offender that pertains to matters other than reportable CHRI events.

Records: Information concerning the offender's criminal, personal, and medical history and behavior and activities while in custody including, but not limited to commitment papers, court orders, detainers, personal property receipts, visitors lists, photographs, fingerprints, custody level, disciplinary infractions and actions taken, grievance reports, work assignments, program participation and miscellaneous correspondence. This information may be computerized and contained in the Management Information System, Total Offender Activity Documentation System, Electronic Medical Records System, and electronic juvenile information system, hard copies, or imaged files of documents contained in various files within a facility, parole office and/or Central Office Records. The term also includes documents, in both electronic and hard copy format, which pertain to subject matter(s) other than specific offenders.

Reportable Event: Those events listed in KSA 22-4705. The source of this information shall be the FBI record, except in known instances where pending actions have been documented by correspondence from other criminal justice agencies.

PROCEDURES

I. Administration of Criminal History Record Information (CHRI) System (ACI 3-4092, 4-APPFS-3D-28, 4-APPFS-3D-34)

- A. The responsibility for administering and monitoring the dissemination of CHRI in Kansas is vested in the Kansas Bureau of Investigation (KBI), which has been designated as the central repository for CHRI for the State of Kansas.
- B. KSA 22-4707 details restrictions on dissemination of CHRI. Kansas Administrative Regulations 10-9-1 through 10-15-1 of the KBI further specify the conditions under which CHRI may be disseminated.
- C. All departmental, divisional, and section/unit offices that regularly handle or disseminate CHRI information shall maintain a current copy of controlling statutes and regulations of the KBI pertaining to CHRI.

II. Dissemination of CHRI

- A. Responding to requests for CHRI
 - 1. Non-conviction data including that which may be cited or referenced in various reports and documents maintained in KDOC records, may be released only to criminal justice agencies.
 - a. Dissemination of non-conviction CJIS data obtained through any KCJIS system is subject to the secondary dissemination policies of NCIC, CJIS, and KCJIS governance bodies.
 - b. Any copies made of the CHRI record/abstract must be considered secondary dissemination requiring a log entry even if the copy remains within the agency. See Section VI. for more information on logging of dissemination.

2. CHRI conviction data may be released to any person, other than another offender or former offender. A signed release by the offender or former offender on whom such CHRI conviction data is released is not required.
3. Except as provided elsewhere in this IMPP, responses to requests for CHRI conviction data on an identifiable offender shall be limited to:
 - a. Commitment data
 - (1) Name.
 - (2) Physical description.
 - (3) Photograph.
 - (4) Date of birth.
 - b. Sentence data
 - (1) Offense.
 - (2) Date of offense.
 - (3) Number of counts upon which convicted/adjudicated.
 - (4) County of conviction/adjudication.
 - (5) Case number.
 - (6) Date of sentencing.
 - (7) Term imposed.
 - (8) Sentence structure.
 - (a) Concurrent or consecutive.
 - (b) Habitual criminal statute imposed/not imposed.
 - (9) Sentence begins date.
 - (10) Minimum sentence expiration date.
 - (11) Maximum sentence expiration date.
 - (12) Conditional release date.
 - (13) Aggregate controlling sentence.
 - c. Parole eligibility/supervised/conditional release date.
 - (1) Earliest parole eligibility/supervised/conditional release date.
 - (2) Current parole eligibility/supervised/conditional release date
 - d. Custody level.
 - e. Disciplinary record.

- f. Location.
 - (1) The location of an offender housed in another state under the provisions of the Interstate Corrections Compact may, for security reasons, be limited to the fact the offender is housed in another state.
- 4. Responses to requests for CHRI conviction data on identifiable former offenders shall be the same as those on current offender except that:
 - a. The dates of admission to and release from KDOC custody and the type of release shall be provided instead of the parole eligibility or conditional release date.
 - b. The level of supervision shall be provided.
 - c. The county of supervision shall always be provided.
 - (1) **ADULT:** The street address shall be provided if the controlling offense was committed on or after 07/01/97.
- 5. A response to a request for CHRI shall be provided as soon as possible.
 - a. No request shall be returned, delayed or denied because of any technicality, unless it is impossible to determine the identity of the offender or former offender to whom the request pertains.
 - b. Only that information which is requested shall be provided.
 - c. In the event information is requested which cannot be released pursuant to this IMPP, the response shall include an explanation of the provisions of this IMPP that limit the release of information.

B. Non-requested dissemination

- 1. When it is considered to be in the public's best interest to do so, or, when such dissemination would assist law enforcement agencies in an investigation or the apprehension of an offender or former offender, the Departmental Director of Communications, any warden/superintendent or parole director may release CHRI conviction data.

III. Dissemination of Non-CHRI (ACO 2-1E-06)

- A. Non-CHRI may be released only after the offender has signed a Consent for Release of Confidential Information form (Attachment A). (ACO 2-1E-07, ACI 3-4096)
 - 1. A specific authorization is necessary for the release of medical, behavioral health, alcohol/substance abuse and sex offender treatment records and academic and vocational education records. (ACI 3-4377)
 - a. If the information is proposed for release *from* KDOC or one of its designated contractors to a third party, the offender must complete Part A of Attachment A.
 - b. If the information is proposed for release from a third party *to* the KDOC or one of its designated contractors, the offender must complete Part B of Attachment A.
 - 2. A copy of the completed form(s) shall be maintained in the offender's Medical Master File or in the offender's case file, if on supervision in the community. (ACO 2-1E-07, ACI 3-4096)

IV. Dissemination of Juvenile Offender Non-CHRI

- A. Non-CHRI may be released only as provided by K.S.A. 38-2310, 38-2311 and 38-2316.

V. Offender and Former Offender Access to Their Records (ACO 2-1E-06, ACI 3-4095)

- A. An offender or former offender shall have limited access to his/her own records as follows:
1. May receive a copy of conviction data from the FBI record in accordance with K.A.R. 10-13-1 and 10-13-2.
 2. May schedule an appointment with a member of the clinical staff to discuss the contents of a medical record, clinical evaluation and/or treatment record prepared by a clinical staff member.
 - a. The offender or former offender shall not be furnished a copy.
- B. If the offender or former offender feels that the information request has been improperly denied, the offender/former offender may request a meeting with the facility warden/superintendent or designee or parole director or designee.

VI. Documentation of Dissemination

- A. The dissemination of any CHRI shall be logged in the individual's file on the CHRI Dissemination Log, (Attachment B) or documented in the contact notes for offenders on community supervision.
- B. The Central Office, or facility providing the CHRI, shall attach or stamp the following notice to non-conviction data before it is disseminated:
1. **This information is restricted as to use and dissemination. Civil and criminal penalties exist for misuse. See Kansas Criminal History Plan. Kansas Department of Corrections.**

Date: _____ Released By: _____

Logged By: _____
 2. The above notice is not required if information is furnished for the purpose of processing a charge through the criminal justice system and if it relates only to the charge currently in process.
- C. The signed Consent for Release of Confidential Information form (Attachment A), executed prior to the release of any information, shall serve as documentation of the dissemination of non-CHRI material.
1. A copy of the completed form shall be maintained in the offender's Master File or parole case file, for offenders on supervision in the community. (ACO 2-1E-07, ACI 3-4096)

VII. ADULT: Release of Attorney's and Diagnostic Reports

- A. Under no circumstances shall the contents of either the County/District Attorney's or Defense Attorney's report be released to offenders or former offenders.
- B. The diagnostic report prepared by the El Dorado Correctional Facility Reception and Diagnostic Unit (EDCF-RDU) for male offenders or, in the case of female offenders, Topeka Correctional Facility Reception and Diagnostic Unit (TCF-RDU) may be disclosed in accordance with K.S.A. 75-5266 which permits dissemination to the sentencing court, the County/District Attorney, the attorney for the defendant or offender, the Prisoner Review Board and its staff, the wardens and

the Classification Committees of state correctional facilities, and other persons as designated by the Secretary.

1. The wardens of the El Dorado Correctional Facility, the Topeka Correctional Facility, or the Secretary of Corrections or designee may provide the psychiatric evaluation reports at their discretion to the defendant or offender, the members of the offender's family or the offender's friends or the superintendent, warden, or director of any other state institution.
 2. Community Corrections agencies and State and Federal Court Service and Probation Officers have also been designated by the Secretary as appropriate recipients of the diagnostic report.
- C. The diagnostic report may be released to criminal justice agencies not specified above, only with the approval of the Secretary or designee, Deputy Secretary, warden of EDCF or, in the case of reports concerning female offenders, the warden of TCF.
- D. Community service providers desiring to receive either EDCF-RDU or TCF-RDU diagnostic reports shall be required to execute an Agreement for Review of Diagnostic Reports with the Department of Corrections which stipulates the conditions under which the report will be provided and used.
1. Agencies and individuals who provide services to KDOC through a contract or Memorandum of Agreement (MOA) may receive authorization for the receipt of diagnostic reports through those agreements.
 - a. When authorization for the diagnostic report is given through a contract or MOA the Agreement for Review of Diagnostic Reports is not required.
 2. The executed Agreement for Review of Diagnostic Reports form (Attachment C) shall be retained in the Central Office. A list of agencies with a signed Agreement form shall be maintained and made available to KDOC staff via the intranet.
 3. The processing of the Agreement forms and maintenance of the providers list on the intranet shall be the responsibility of;
 - a. The Director of Classification or designee for the Facilities Management division and the correctional facilities;
 - b. The Parole Operations Manager or designee, for the Community and Field Services division, and
 - c. The Reentry Administrator or designee, for the Reentry division.
 4. The signed Agreements shall be maintained by the legal division in Central Office.
- E. KDOC staff are authorized by the Secretary to release the diagnostic report to community resource providers who have signed the Agreement when it is necessary to facilitate mental health, medical or substance abuse services for the offender.
1. The Release of Information form (Attachment A) shall be used and signed by the offender prior to the distribution of the RDU report.
- F. Whenever an EDCF-RDU or TCF-RDU diagnostic report is released to a non-criminal justice agency, the report shall be edited and all non-conviction data or references to such data shall be blackened out.

VIII. Security and Checking Out/Accessing Files (ACO 2-1E-01, 2-1E-08, ACI 3-4092, 4-APPFS-3D-28, 4-APPFS-3D-34)

- A. All offender records shall be secured in accordance with K.A.R. 10-11-1.

- B. No person at a facility or central office shall check out or access files unless his/her name has been placed on a list of approved file users maintained by the Records Specialist or facility Chief Records Officer.
 - 1. The placement on and removal of names from this list shall be requested by memorandum through the staff member's supervisor.
 - 2. The Secretary and management team members shall determine the names of those persons who shall have access to offender records for their respective staffs.
 - 3. Wardens/superintendents or their designees shall determine the names of those persons within their respective facilities who shall have access to offender records.
- C. All records removed from the Records Office shall be returned by the close of the working day.
 - 1. In those instances when records are removed from the Records Office and it would be impractical to return them each night, provisions shall be made to retain them at an alternate locked location.
- D. No offender records shall be removed from the building or facility where normally housed without the prior approval of the Records Specialist or Chief Records Clerk.
- E. Parole Directors shall determine the staff in their respective regions that shall have access to offender records and establish a system to ensure the security and confidentiality of records.
 - 1. Case files containing offender records shall be provided to the assigned parole officer for maintenance and storage during release planning and while the offender is on supervision in the community.
 - 2. Case files may be removed from the parole office, by authorized users, when necessary for offender supervision or other business purposes. Records shall be stored in a secure manner while outside of the parole office.
 - 3. Inactive case files shall be stored in a location designate by the Parole Supervisor. A system shall be in place to identify when a file is removed from the area and by whom.

IX. Uniform Fee Schedules for Record Research, Generation, and Copying

- A. Copies of records shall be provided, where appropriate and within statutory constraints, throughout the Department for fees that shall be fixed on a case by case basis, predicated upon the actual salary and production costs incurred, and as related to the expertise involved in extracting and copying the records involved.
 - 1. Fee structures are established as follows for both per-copy cost and for research of records.
 - a. Records searches requiring manipulation of data, authorship of applications to manipulate or retrieve data, or storage of data shall be charged out at a minimum of \$55.00 for the first hour or any fraction thereof, and such additional salary costs as may be incurred for each additional hour or fraction thereof.
 - b. Record searches requiring data retrieval of printouts or scheduled listings of Departmental data shall be charged out at the rate of the actual salary costs involved in the retrieval of the data, plus a printing cost equal to or less than \$0.25 per page.
 - c. Straight copies of documents requiring no retrieval costs or manipulation of data shall be charged out at a rate equal to or less than \$0.25 per single sided page.

2. Fees related to copying and/or data retrieval costs may be paid by approved credit cards and checks.
 - a. Cash will not be accepted under any circumstances.
 - b. Each warden/superintendent, Parole Director, and the Fiscal Officer in the Central Office shall develop procedures for the collection of such fees.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None.

REFERENCES

KSA 22-4705, 22-4707, 38-2310, 38-2311, 38-2316, 45-219, 45-221, 75-712, 75-5221, 75-5266
KAR 10-0-1 through 10-15-1
IMPP 05-105
ACO 2-1E-01, 2-1E-06, 2-1E-07, 2-1E-08
ACI 3-4092, 3-4095, 3-4096, 3-4377
APPFS 4-APPFS-3D-28, 4-APPFS-3D-34

ATTACHMENTS

Attachment	Title of Attachment	Page Total
A	Consent for Release of Confidential Information	2 pages
B	CHRI Dissemination Log	1 page
C	Agreement for Review of Diagnostic Reports	1 page

**Kansas Department of Corrections
Consent for Release of Confidential Information**

Part A: From KDOC and/or Designated Contractors to Third Party

Subject Name _____

Date of Birth _____ Dept. of Corrections Number _____

This authorization allows and requests _____ to release information as designated below to:

Individual / Organization Name:

Individual / Organization Address:

The information indicated below is to be released for the purposes of assisting the above-referenced individual or organization make determinations about the subject, an individual in the custody of the Secretary of Corrections.

- Substance Abuse Evaluation, Treatment, and/or other therapeutic intervention*
- Psychological or Psychiatric Evaluation, Treatment, and/or other therapeutic intervention
- Medical Diagnosis, Treatment, and Recommendation Information
- General Case Management Information/Impressions
- Employment Records
- Scholastic Records
- Military Records
- Law Enforcement Records
- RDU Evaluation
- Criminal History Information
- Urinalysis and Other Test Results
- Disciplinary Case Records
- Other

This authorization shall run concurrent with the subject's criminal sentence, which expires:

I understand that this authorization may be withdrawn at any time. I release corrections officials and/or designated contractors from any liability for disclosing this information.

* I specifically waive the protections afforded to all records pertaining to substance abuse evaluations, treatments, or other therapeutic interventions as set forth at 42 U.S.C. 290a3 and 42 C.F.R., Part 2, with the exception of the prohibition on re-disclosure of that information without my express written consent.

Signature of Subject

Date

Signature of Parent, Guardian,
or Authorized Representative

Date

Witness

Date

PROHIBITION ON RE-DISCLOSURE: The information disclosed is from records whose confidentiality may be protected by State and Federal law. Further disclosure of this information is prohibited, except with the specific written consent of the person to whom it pertains. Violations may result in legal action and the imposition of a fine.

**Kansas Department of Corrections
Consent for Release of Confidential Information**

Part B: From Third Party to KDOC and/or Designated Contractors

Subject Name _____

Date of Birth _____ Dept. of Corrections Number _____

This authorization allows KDOC and designated contractors to request and obtain information as designated below from:

Individual / Organization Name:

Individual / Organization Address:

The information indicated below is to be released for the purposes of assisting the staff of the Department of Corrections or the designated contractor in making determinations about the subject.

- Substance Abuse Evaluation, Treatment, and/or other therapeutic intervention*
- Medical, Psychological or Psychiatric Evaluation, Treatment, and/or other therapeutic intervention
- Diagnosis, Treatment, and Recommendation Information
- General Case Management Information/Impressions
- Employment Records
- Scholastic Records
- Military Records
- Law Enforcement Records
- RDU Evaluation
- Criminal History Information
- Urinalysis and Other Test Results
- Disciplinary Case Records
- Other

This authorization shall run concurrent with the subjects criminal sentencing, which expires: _____

I understand that this authorization may be withdrawn at any time.

I release _____ from any liability for disclosing this information.

* I specifically waive the protections afforded to all records pertaining to substance abuse evaluations, treatments, or other therapeutic interventions as set forth at 42 U.S.C. 290a3 and 42 C.F.R., Part 2, with the exception of the prohibition on re-disclosure of that information without my express written consent.

Signature of Subject

Date

Signature of Parent, Guardian,
or Authorized Representative

Date

Witness

Date

PROHIBITION ON RE-DISCLOSURE: The information disclosed is from records whose confidentiality may be protected by State and Federal law. Further disclosure of this information is prohibited, except with the specific written consent of the person to whom it pertains. Violations may result in legal action against you and the imposition of a fine.

AGREEMENT FOR REVIEW OF DIAGNOSTIC REPORTS

Pursuant to KSA 75-5266, the Secretary of Corrections may authorize certain persons to have access to offender diagnostic reports prepared at either the El Dorado Correctional Facility RDU or Topeka Correctional Facility-RDU. The Department of Corrections has determined that agencies providing treatment programs, residential placement, community services, and/or public assistance agencies providing benefits and/or services to parolees or other selected felony offenders should have access to certain evaluation reports. Therefore, the Secretary hereby grants release of the Diagnostic Report to _____, for the purposes
(Name of Agency)

stated herein, subject to the following conditions.

1. The agency agrees to maintain confidentiality of the reports.
2. The agency agrees to make no disclosure of the reports or the contents thereof to any other agency, entity, or person except as provided by 38 U.S.C. § 7332 and 38 U.S.C. § 5701.
3. The agency agrees to restrict access to the reports to its employees who have been authorized to have such access.
4. The agency agrees to use the diagnostic report only for the purpose of assessing the offender's eligibility for placement in the program and/or for providing the offender with treatment services, community services, and/or benefits and/or services provided by public assistance agencies.

Subject to the terms set forth herein, the Secretary authorizes the agency to receive the diagnostic reports and the agency agrees to utilize the reports for the purposes stated herein, in accordance with the conditions set forth.

Name and Title of Agency Representative

Authorized by Secretary of Corrections

Date: _____

Signature

Date: _____