



RHODE ISLAND DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE

	POLICY NUMBER: 28.22-3 DOC	EFFECTIVE DATE: 02/08/21	PAGE 1 OF 6
	SUPERCEDES: 28.22-2 DOC	DIRECTOR:  <small>Please use BLUE ink.</small>	
SECTION: PROBATION AND PAROLE		SUBJECT: PROBATION AND PAROLE CASE MANAGEMENT: CONFIDENTIALITY	
AUTHORITY: Rhode Island General Laws (RIGL) § 42-56-10 (22), Powers of the director; §38-2-2(d)(4), Public records/personal privacy; §12-28-3, Victim's rights; § 12-19-6; Pre-sentence reports			
REFERENCES: 42 United States Code 290 dd-3 and ee-3, and 42 CFR Part 2, Confidentiality of Alcohol and Other Drug Records; Center for Substance Abuse Treatment, Combining Substance Abuse Treatment with Intermediate Sanctions for Adults in the Criminal Justice System (Treatment Improvement Protocol Series); Health Insurance Portability and Accountability Act (HIPAA) of 1996; the most recent version of RIDOC policy 1.06 DOC, Public Information/Media Access ; 1.07 DOC, Public Access to Departmental Records - Inmate Information ; 3.14 DOC, Code of Ethics and Conduct			
INMATE / PUBLIC ACCESS?		X YES	
AVAILABLE IN SPANISH?		X NO	

I. PURPOSE:

To delineate staff responsibilities with respect to appropriately obtaining, releasing and safeguarding records and information related to current and past Adult Probation and Parole offenders.

II. POLICY:

The Rhode Island Department of Corrections' (RIDOC's) Adult Probation and Parole unit recognizes the need to establish and maintain the proper balance among factors affecting the security, confidentiality, and availability of offender records. Such factors include the right of public access to state records; reasonable privacy for offenders and victims,

including protections provided by law, regulation, and ethical considerations; and the safety and well-being of crime victims, other identifiable individuals, and the community at large.

III. PROCEDURES:

A. Public Records: The Rhode Island statute governing access to public records (RIGL § 38-2-2) designates “all documents...or other material...made or received...in connection with the transaction of official business by any agency” of the state as public records, unless covered under various categories of exceptions.

1. Pertinent exceptions include personal records related to individual offenders, their medical or psychological histories and treatment, personal finances, welfare and employment security, etc. Additional exceptions are made for law enforcement records under certain circumstances.
2. For the purposes of this agency, offender information is deemed public when involving an adult includes:
 - a. name;
 - b. age;
 - c. city or town of residence;
 - d. objective arrest and charge information; and
 - e. court disposition(s).

Such information can be released to members of the public, law enforcement agencies, service agencies, crime victims, members of the media (through the Director, Chief of Information and Public Relations, or designee) or other individuals or bodies with or without the consent of the adult offender.

3. Even non-confidential information will generally not be disclosed when such disclosure “could reasonably be expected to constitute an unwarranted invasion of personal privacy,” consistent with §38-2-2(4) (D) (c).

- B. Protected Information: Aside from the specific items of information indicated above, records and information received from and about Adult Probation and Parole offenders are generally considered confidential and kept secure.
1. Access to confidential information is limited to individuals, agencies, organizations, or institutions which are authorized to release or obtain specific information by means of explicit written consent from the offender in question; or to those individuals, agencies, organizations, or institutions which are so authorized by law, regulation, and/or policy and procedures for reasons related to law enforcement and public safety.
 2. Substance Abuse, Medical, and Mental Health Evaluation and Treatment Information: The confidentiality of information related to substance abuse evaluation and treatment is governed by strict federal and state statutes, regulations, and policies. Similar protections exist for medical, psychological, psychiatric, mental health and related records.
 - a. Specific written consent is required for disclosure of all such information.
 - b. Re-disclosure of such information is prohibited, except as specified on a written consent form signed by the offender.
 - c. Such information may be used only in connection with official duties related to the instant case(s). The information may not be used in other proceedings, for other purposes, or with respect to other individuals than those providing the written consent. It may not be used to investigate or to bring criminal charges against an individual, except that a court may order disclosure for this purpose under circumstances delineated in federal regulations.
- C. Signed Authorization to Release Confidential Information: Confidential information may be required by Adult Probation and Parole from another person or agency in accordance with conditions set forth in a signed, valid, and proper consent form ([Authorization for Release of Confidential Information](#)) which has not expired or been revoked. Similarly, confidential Probation and Parole information and records may be disclosed to another agency in accordance with signed authorization.
1. Adult Probation and Parole may not release confidential reports received from another agency (including but not limited to medical, psychological,

psychiatric, and substance abuse evaluation and treatment records), except as specified on a written authorization form signed by the offender.

2. No more information than is requested and required shall be released.
3. Referrals made by Adult Probation and Parole staff to agencies outside the RIDOC for benefits, monitoring, treatment, counseling, or other offender services, in connection with which staff provide personal offender information and/or expect progress reports, are to be accompanied by an [Adult Probation and Parole Authorization to Release Confidential Information](#) form signed by the offender.
4. Authorization forms prepared under the auspices of another individual or agency requesting or releasing confidential information may be accepted, provided the form complies with federal and state standards.
5. At a minimum, any authorization form generated or accepted by Adult Probation and Parole must include the following:
 - a. Name or title of the person, agency, or general program description being asked to disclose information.
 - b. Name or title of the person or agency to whom the information is to be disclosed.
 - c. Name of the individual about whom information is being requested.
 - d. Specific nature of the information being requested, or authorization for unrestricted disclosure.
 - e. Purpose or need for the disclosure.
 - f. Statement prohibiting re-disclosure except as specifically provided by the authorization or by regulations.
 - g. Statement that the authorization cannot be revoked by the offender until there has been a formal and effective termination or change in legal status (for court mandated program participation); and/or statement that the offender may revoke the authorization at any time (for non-mandated services); and/or a date, event, or condition upon

which the consent expires automatically if not already revoked (for mandated or non-mandated services).

h. Subject's signature and date of signature.

D. Disclosure Without Offender Authorization: Under limited circumstances, certain information may be disclosed without specific offender consent.

1. Information released to Adult Probation and Parole under the terms of a written authorization form may be shared with RIDOC staff who has a need to know as part of their official duties.
2. Records generated in connection with investigation and/or supervision by Adult Probation and Parole, objective information other than that related to substance abuse, medical, or mental health evaluations or treatment and information which is deemed public (name, age, city or town of residence, charge, and disposition) may be disclosed to law enforcement or judicial authorities, or to other individuals with a legitimate purpose and need for the information, in connection with law enforcement, investigation or prosecution of crime, pre-sentence investigation, or monitoring compliance with court orders.
3. Public Safety: Public safety considerations sometimes override individual rights to reasonable privacy and/or public rights to access information.
 - a. Staff may be permitted or even compelled to disclose otherwise confidential information to law enforcement authorities, threatened or imperiled individuals, medical or treatment personnel, or other appropriate persons. These disclosures must be consistent with federal and state laws governing disclosure of confidential health care information to include the Health Insurance Portability and Accountability Act (HIPAA).
 - b. Conversely, circumstances may arise in which the disclosure of otherwise public information could be foreseen to contribute to a threat to the safety of one or more individuals; in such cases, staff may be permitted or even compelled to withhold the release of otherwise public information, such as the identity or location of an offender.

- c. The duty to warn or protect outweighs considerations of privacy, confidentiality, and public access to information when a reasonable and prudent person perceives credible evidence of a threat of violence, a foreseeable threat, or an imminent threat; when there is an identifiable victim(s) or when a medical emergency requires disclosure.
 - d. No more confidential information should be disclosed (or withheld) than is required under the circumstances.
 - e. Such situations are to be referred to the attention of the Associate Director of Community Corrections prior to taking action, if practical and if safety concerns allow; after the fact otherwise.
- E. Court Subpoenas: Subpoenas of case records and/or requiring court appearances by staff are to be referred to the agency Keeper of the Records (Associate Director of Community Corrections). This individual is responsible for determining how to respond to such a subpoena, consulting with RIDOC Legal Counsel as appropriate.
- F. Media Requests: All media requests for information shall be referred to the RIDOC Chief of Information and Public Relations. No Departmental employee acting in his or her official capacity shall speak to media representatives, except with the approval of the Director or the Chief of Information and Public Relations. (The executive committees of bargaining units are permitted to speak to the media about legitimate union business or matters which relate to collective bargaining or contract administration only). See the most recent version of RIDOC policies 1.06 DOC, [Public Information/Media Access](#) and 3.14 DOC, [Code of Ethics and Conduct](#).