



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES		POLICY NUMBER 1.1.E.03	PAGE NUMBER 1 OF 5
		DISTRIBUTION:	Public
		SUBJECT:	Offender Access to DOC Records
RELATED STANDARDS:	None	EFFECTIVE DATE:	December 15, 2023
		SUPERSESION:	05/17/2021
DESCRIPTION: Administration and Management - Case Records	REVIEW MONTH: December	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) that the records of individual offenders, facilities, staff, and agency operations are the property and responsibility of the DOC. Certain records held or created by the DOC are deemed confidential. Offenders may access public records in accordance with state law (SDCL § 1-27), consistent with DOC policy and administrative rule. The provisions of this policy do not supersede more specific provisions regarding public access or confidentiality of records cited elsewhere in state or federal law.

II. PURPOSE

The purpose of this policy is to establish procedures for maintaining the security and confidentiality of DOC facilities and offenders, while promoting the exchange of information as requested by offenders while in the custody of the DOC.

III. DEFINITIONS

Custodian of Records:

The person who maintains the record.

Public Record Officer:

The secretary of the Department of Corrections (DOC) or designee, to which an official request for a record is directed (SDCL §§ 1-27-42 and 1-27-43).

Record:

Includes all documents, regardless of physical form, belonging to the state, agency, department, commission, council, or committee.

IV. PROCEDURES

1. Offender Requests for Records:

- A. Offender requests for records may be initiated by contacting unit staff, the offender's supervising parole agent, or other person or entity with authority over the record(s) requested by the offender.

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- B. Those receiving the request shall determine the person or entity with authority to review and respond to the offender's request. If the request is for access to public records that are not part of the offender's records, the request may be forwarded to the custodian of the record or designee.
1. The custodian or designee shall consider the request and determine an appropriate response, which may include charging the offender a fee of up to five cents (\$0.05¢) per copy/sheet. If the request is for public records, and the estimated time to locate, assemble, and reproduce the record is projected to exceed one (1) hour, the offender may be assessed an additional fee. The identified record(s) may be held until payment has been received by the DOC (SDCL § 1-27-35).
 2. If the offender's request for public records is projected to exceed fifty dollars (\$50.00) in total costs, the custodian shall provide an estimate of the cost to the offender prior to assembling the record(s). The custodian shall wait for written confirmation from the offender stating his/her acceptance of the cost and agreement to pay the cost (SDCL § 1-27-36), before locating, assembling, and reproducing the requested record(s).
 - a. Upon receipt of written acceptance from the offender, staff will assign the actual cost to request. The offender will be informed of the actual cost and shall submit payment for the costs due.
 - b. The custodian may exercise discretion in waiving or reducing the cost associated with fulfilling the records request, if determined to be in the public interest (SDCL § 1-27-36).
- C. An offender's request for a record held by the DOC may be denied if release of the record is contrary to state or federal law, rules regarding public access, DOC policy, or contradicts the legitimate penological interests of the DOC.
1. Information or records that could be used to locate or harass an offender's victim(s) or family; or that disclose confidential or privileged information about the victim(s) or family, will not be released to an offender.
- D. If an offender's informal request for a public record is denied in whole or part by the custodian, a formal written request may be made by the offender and sent to the public records officer (SDCL § 1-27-37).
1. The public records officer will respond in writing to the offender's written request no later than ten (10) business days from receipt of the request. The response will state one of the following:
 - a. Approval of the request, in whole or in part. The records may be provided immediately or held, subject to receipt of payment for the designated cost, or
 - b. Denial of the request for records - which will include a written statement of the reasons for the denial, or
 - c. Acknowledgement of receipt of the request and an estimate of the time and any known costs to respond to the request.
 - 1) If the request is unclear, the public record officer may require the offender clarify the request or provide additional information about the request. If the offender fails to respond within ten (10) business days, no further action is required by the public records officer.
 2. If the public records officer fails to respond to an offender's written request within ten (10) business days, the request shall be deemed denied.
- E. The custodian, or the public records officer, or designee shall maintain a record of all requests for records which are denied (SDCL § 1-27-1.4).
- F. In response to any offender request for records described within chapter 1-27, the public records officer may redact any portion of a record provided to an offender which contains information precluded from public disclosure, or any portion, which if released, would unreasonably invade personal privacy, threaten public safety or security of the institution, or disrupt the normal operations of the DOC (SDCL § 1-27-1.10)

2. Restricted Information:

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- A. The DOC may deny access, (including producing copies of the record) to the following information, records, and documents (SDCL §§ 1-27-1.5, 1-27-1.13 and 24-2-20) (this is not intended to be an inclusive list of restricted or protected records):
1. Records that include the identity of cooperating individuals, confidential informants, or witnesses, if such disclosure may subject the individual to risk or harm.
 2. Maps, diagrams, blueprints, building plans, videos/recordings, schematics, or infrastructure records for any building, facility, or grounds owned, leased, or operated by the DOC that house offenders, or any information regarding the security system, computer, and/or communications network, schedules, or other information of the DOC, that through disclosure, may compromise the security of critical systems of the facility or department. Exceptions may be approved by the warden or associate warden for offenders working on construction/maintenance projects within the facility to review certain non-safety or security sensitive blueprints or maps if under the direct supervision of DOC staff, i.e., the immediate work supervisor.
 3. Records that contain information, files, operational manuals, policies, processes, procedures, responses, such as post orders or emergency response manual, or other like information that, if released, could jeopardize or endanger safety, security, or disciplined operation. **Note:** An exception may be granted for an offender's attorney requesting such information that may be subject to disclosure.
 4. Certain records that contain reports, memoranda, or other documents prepared specifically for the South Dakota State Attorney General's Office, DOC legal counsel, or any other attorney retained by the State of South Dakota or department, subject to any privilege recognized in chapter 19-13.
 5. Any records containing emergency or disaster response plans, protocol, training, strategic, or tactical information; safety or security audits and reviews; lists of emergency or disaster response personnel, materials, or location of said material or personnel; or listings of security equipment.
 6. Records that include the personal correspondence, memoranda, notes, calendars, appointment logs, or other personal records or documents of any public official.
 7. Records deemed confidential or made closed or confidential by court order, state, or federal law or rule.
 8. Any record, where a determination is made by the secretary of corrections, the executive director of the Board of Pardons and Paroles, or warden that the release of a record could result in:
 - a. Substantial risk of retaliation; or
 - b. Disclosure of the DOC's position in litigation.
 9. Access to professional records or evaluations may be denied if it is determined by the SOC, warden, or director that the content of the record, if known by an offender, could result in disruption of the offender's rehabilitation.
 10. Records of offender NCIC III reports obtained or held by the DOC.
 11. Certain offender records that include an offender's history and conduct developed and maintained by the DOC, including but not limited to written or electronically generated or stored documentation or records of the offender's institutional adjustment and rehabilitative progress (SDCL §§ 24-2-17, 24-2-19, 24-15A-14, 24-15-1 and 24-2-20).
 12. Any record that contains information intended to prevent or mitigate criminal acts; protect the security and safety of the public; or manage and respond to emergencies.
 13. Any record that includes documents, databases, or personnel records, which if disclosed separately or in combination with other information, would constitute an unreasonable release of personal identifying information (PII), e.g., social security numbers, birth dates, passport numbers, driver license numbers, personal pin numbers, passwords/pass codes, debit, credit card, or bank account numbers.
- B. In no case will an unauthorized or unapproved person be given access to or provided an offender's legal or institutional file/record. No offender will be provided access to another offender's legal or medical records or receive such records through any unauthorized means.

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- C. DOC staff will not disclose records that include the contents of an offender's pre-sentence investigation (PSI) to unauthorized persons, without written order from the sentencing judge or his/her successor (SDCL § 23A-27-10).
- D. An offender will not be provided certain records generated and deemed confidential by Parole staff (SDCL §§ 24-15-1 and 24-15A-14). Parole staff may apply exceptions if the request is for records pertinent to the offender which is not otherwise held in confidence by law.
- E. Offenders are not permitted to access to databases that contain records of other offender's classification levels, crimes, release dates, disciplinary records, or social security numbers.
- F. An offender will not be provided the original copy of his/her social security card or birth certificate record if the card or record was obtained through the processes and procedures contained within DOC policy. The record or card will be released to the offender upon final discharge from DOC custody.

3. Release of Information to an Offender:

- A. An offender will be provided:
 - 1. One (1) free copy of his/her commitment papers documenting the judgment and sentence upon admission.
 - 2. One (1) free copy of any amended commitment papers at or about the time the amended paperwork is received by the DOC.
 - 3. One (1) free copy of any warrants, holds, or detainers on or about the time the record is received by Central Records staff.
- B. An offender may request additional copies of his/her institutional records, including paper or electronic records, by submitting a written request (kite) to his/her assigned unit team or parole staff. A fee may apply.
- C. An offender wishing to review his/her own health records generated while he/she was in DOC custody, may submit a written request to the chief clinical officer or designee (for medical records) or the chief of behavioral health or designee (for behavioral health records). The request shall describe the specific record(s) requested. Health records generated by outside providers may remain the property of the provider and may require authorization prior to release from the provider. Requests for health records that are not part of the offender's institutional health record, which were generated while the offender was in DOC custody, must be sent by the offender to the record holder. For offenders still in custody, the request should be made by submitting a kite to clinical services.
 - 1. Clinical services staff shall respond to requests by an offender to access his/her health record.
 - 2. Offenders may be provided copies of specified health records by clinical services staff, as deemed appropriate. The offender may be assessed a fee for the duplication cost of five cents (\$0.05¢) per sheet.
 - 3. Offenders requesting records of psychological or psychiatric evaluations, reports, or files contained within their institutional health records may be required to obtain written permission from the author of the material prior to release of the record.

4. Progress Reports:

- A. Progress reports are prepared by the offender's assigned unit staff and approved by the warden. The report may be released to a judge, court service worker representing the judge, prosecuting attorney, offender's attorney, or other correctional agencies.

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- B. The request to prepare a progress report must come from the sentencing judge, a court services worker, the prosecuting attorney, the offender's attorney, or other correctional agencies.
1. An offender may not request a progress report on his/her own behalf.

V. RESPONSIBILITY

The director of Prisons and director of Clinical and Correctional Services are responsible for the annual review and maintenance of this policy.

VI. AUTHORITY

SDCL §§ 1-27, 1-27-1.10, 1-27-1.13, 1-27-1.4, 1-27-1.5, 1-27-35, 1-27-36, 1-27-37, 1-27-42, 1-27-43, 19-13, 23A-27-10, 24-2-17, 24-2-19, 24-2-20, 24-15-1, 24-15A-14

VII. HISTORY

December 2023
May 2021
April 2020
July 2019
November 2018
May 2018
April 2017
April 2016
April 2015
April 2014

ATTACHMENTS (*Indicates document opens externally)

1. DOC Policy Implementation / Adjustments