

## 1.1.E.1 Adult Offender Case Records Content and Management

### I Policy Index:



**Date Signed:** 04/30/2020  
**Distribution:** Public  
**Replaces Policy:** 1E.1  
**Supersedes Policy Dated:** 08/07/2019  
**Affected Units:** Adult Units  
**Effective Date:** 04/30/2020  
**Scheduled Revision Date:** April 2021  
**Revision Number:** 19  
**Office of Primary Responsibility:** DOC Administration

### II Policy:

The Department of Corrections (DOC) will ensure maintenance, collection, organization, security, retention, and disposition of adult offender case records.

### III Definition(s):

#### **Case Records:**

The entirety of documents, records, descriptions, and other information necessary to document the history of the offender and their adjustment, including rehabilitative progress, shall be kept by the DOC (See SDCL §§ [24-2-17](#), [24-2-19](#), [24-15-1](#), [24-15A-14](#) and [1-15-20](#)).

#### **Criminal History:**

Arrest information, conviction information, disposition information and any correction information.

#### **Legal File/Record:**

File or record containing legal documents and information necessary to calculate an offender's date computations (See [Attachment 1](#)), including but not limited to, the judgement of conviction.

#### **Offender:**

Any inmate sentenced, committed to or placed in any facility or program under the control of the DOC, or parolee under parole or suspended supervision by South Dakota Parole Services.

#### **Sex Offender Management Program (SOMP):**

The sex offender management program is operated by the DOC. This includes sex offender specific assessments, A&O psychosexual screens, STOP programming, psychosexual reports, community release planning, assistance in community supervision, development and promotion of a community treatment provider network, and sex offender community treatment and supervision standards.

## IV Procedure(s):

### 1. Collection of Offender Case Records and Legal Files:

- A. DOC Central Records shall collect, gather, record and maintain legal files and records for each offender sentenced to the custody of the DOC. The record shall be initially documented or updated when an offender is admitted to the facility (ACA 4-4095).
  1. If an offender returns to a DOC facility after receiving final discharge of all previous sentences which he/she was serving, the subsequent admission shall be a new admission (new booking), which shall require a new record be created.
  2. Any additional sentences received by an offender while under the custody or supervision of the DOC will be included in the offender's legal file.
  3. The offender's driver license or state ID, birth certificate, social security card and other identification documents/records may be kept in the offender's legal file (See DOC policy 1.1.A.7 [Inmate Identification Procedures](#)).
- B. The DOC shall maintain files, documentation and records (a case record) of each offender's adjustment, rehabilitative progress, medical history, disciplinary conduct and other facts considered pertinent by the Warden (See SDCL § [24-2-19](#)). The case record shall contain a complete history of the offender, including the offender's criminal history. The DOC shall be the lawful custodian of all offender records and files (See SDCL § [23-5-11](#)).
- C. The Warden shall direct that a true record of the conduct of each offender be maintained, including all infractions committed by the offender (offenses in custody) (See SDCL §§ [24-2-17](#) and [24-25A-5](#)). Offender disciplinary matters are included in inmate case records; however, disciplinary matters are not open records and not subject to public inspection or copying, pursuant to SDCL §[1-27-1.5](#). Pursuant to SDCL § [1-15-20](#), inmate disciplinary matters consist of all matters relating to individual inmate behavior and to all matters relating to the maintenance of order, control, and safety within any institution under the supervision of the Department of Corrections.
- D. The Warden shall direct staff to take, make and preserve photographs, impressions, measurements, descriptions and records relating to all offenders for the purpose of identifying the offender and to prevent escape or facilitate the recapture of an offender (See SDCL § [23-5-6](#)).
- E. The Executive Director of the Board of Pardons and Paroles or his/her designee shall generate an adequate case history of each offender that can be accessed by the Director when making recommendations to the Board of Pardons and Paroles regarding the offender. The case history shall include assessment results, including identified risks and needs of the offender and copies of records relevant to the supervision and treatment of the offender, including any violations committed. The case history shall serve as a guide to the offender's needs and shall be maintained as part of the offender's case record.
- F. The format and organization of hard copy material in legal and institutional files will be standardized at all DOC institutions, as described in [Attachments 1](#) and [2](#). Electronic offender case records will be developed and stored in the Comprehensive Offender Management System (COMS) in an approved and standardized format.

## 2. Maintaining and Safeguarding Offender Records/Files:

- A. All hard copies of documents that must be kept within an offender's legal file will be sent to the DOC Central Records office located in Sioux Falls, SD.
- B. Hard copies of documents included in an offender's case record shall be stored in the offender's institutional file, which will be maintained by staff at the institution where the offender is housed. The file shall be transferred to the offender's unit team or parole agent whenever the offender is transferred to another DOC facility. Transfer of the records/file should occur within 72 hours of transfer or release (ACA 4-4096). Confidentiality of the file shall be maintained at all times when files are transferred.
- C. Each offender's legal and institutional file will be clearly identifiable and shall be safeguarded from unauthorized access or improper use (ACA 4-4095 and DOC policy 1.1.E.3 [Offender Access to DOC Records](#)). The security of electronic case records is controlled by the use of an active directory to manage individual permissions assigned to staff, which allows access to all or portions of an offender's stored records in COMS.
- D. Offenders may access their case record, provided this is not otherwise deemed confidential, consistent with applicable state statutes regarding the procedures and conditions for reviewing such records/files (ACA 4-4098). The Secretary or designee may prohibit the release of information, including offender records, to offenders or their agents, if the release would jeopardize the safety or security of a person, the operation of a correctional facility, or the safety of the public (See SDCL § [1-27-1.13](#)). Offender's may contact their unit staff to request access or copies of specified case records.

## 3. Pre-Sentence Investigation (PSI):

- A. When an offender is sentenced to the DOC, a copy of the offender's pre-sentence report received by the DOC will be filed with the Board of Pardons and Paroles and Central Records. DOC staff and members of the Board of Pardons and Paroles may utilize information contained in the pre-sentence investigation (PSI), including any pre-plea report used as the PSI report and the psycho-sexual assessment, to develop an individualized rehabilitation program for the offender. The PSI may not be disclosed to the offender without a written order from the sentencing judge or the sentencing judge's successor (See SDCL § [23A-27-10](#)).
- B. The report shall contain the offender's prior criminal record and information about his/her characteristics, financial condition, circumstances surrounding his/her behavior that may be helpful in providing correctional treatment/programming for the offender, and other such other information as may be required by the sentencing court (See SDCL § [23A-27-6](#))
  - 1. The original PSI will be maintained in the offender's legal file. One (1) copy will be made for the inmate's institutional file and a copy may be provided/forwarded to the Sex Offender Management Program (SOMP) staff (when applicable). The PSI will be available as an IWP document attached to the Legal Cases screen in the Comprehensive Offender Management System (COMS).
  - 2. All hard copies of an inmate's PSI, such as those made for the institutional file and SOMP file, will be stamped "Confidential" and may not be further copied. Any scanned image of the PSI saved into a database or other electronic records shall include a watermark "Confidential" on the saved pages of the PSI. Electronic and paper copies of an inmate PSI's shall only be accessible to those staff with permissions assigned.
  - 3. DOC officials may share information contained in the PSI, including any pre-plea report used as the PSI report and the psycho-sexual assessment, with Department of Health (DOH) staff, Department of Social Services (DSS) staff, Sex Offender Management Program (SOMP) staff, contract or halfway

house staff, out of state corrections staff or law enforcement staff assisting the DOC in developing and providing a rehabilitation program for the offender (See SDCL § 23A-27-10). DOC staff may NOT provide an outside agency with a copy of an offender's PSI. Offender PSIs are a court record and not accessible to the public (See SDCL § 15-15A-7(s)).

- C. The PSI of any offender convicted of a felony sex crime shall include a psycho-sexual assessment, the offender's sexual history, an identification of precursor activities to sexual offending; intellectual, adaptive and academic functioning, social and emotional functioning, previous legal history, previous treatment history, victim selection and age, risk to the community, and treatment options recommended (See SDCL § 22-22-1.3).
- D. The psycho-sexual assessment prepared as part of the report by a court services officer is considered confidential, pursuant to SDCL § 23A-27-47, and shall not be released to unauthorized persons without order from the court.
- E. The state's attorney of the county in which the offender was convicted shall furnish the Warden with an official statement of the facts and circumstances constituting the crime the offender was convicted, with all information accessible to the state's attorney, in regard to the offender's history, prior to conviction, and other records or information that may be support the offender is capable of again becoming a law abiding citizen. If a PSI has been prepared, this may be furnished to the Warden/DOC in lieu of the state's attorney official statement/report (See SDCL § 23A-27-32).

#### 4. Release of Case Records:

- A. Offender case records developed, maintained and stored by the DOC are the property of the DOC and shall be a permanent record of the department.
  - 1. Mental health summaries, psychological, psychiatric information, chemical dependency discharge summaries, and records or information created by Behavioral Health staff or medical staff, including records of outside medical staff stamped "confidential", may require the author's permission and a signed release from the offender (See Attachment 3) before being released outside of the DOC.
- B. The DOC shall make an offender's case records accessible to the members of the Board of Pardons and Paroles, its executive director, the Secretary of Corrections and any person specifically delegated for such access by the Secretary for the purpose of providing proper supervision to the offender and to identify and guide a response to the offender's needs when released to parole supervision (See SDCL § 24-15A-14). Those delegated such access include any agency which will assume custody, supervision or management of the offender, such as a contract facility, law enforcement, out of state correctional agency, court services, etc.
  - 1. The circuit court may order or subpoena an offender's records to be open to inspection by others not granted access through statute by providing such notice to the Secretary of Corrections. The Secretary shall have opportunity to a hearing if he/she objects to the inspection of the records. The Secretary shall have ten days after receipt of the notice to inform the court of his/her request for a hearing (See SDCL § 24-15A-14).
- C. The DOC may release offender case records, including an offender's criminal history, photographs, fingerprints or other identifying information relating to an offender, and other such information or records as may be required, to the Attorney General/Department of Criminal Investigations, law enforcement, Federal and state probation, the court or agent of the court and others designated by the Secretary or designee.

- D. Certain information contained within an offender's case record may be released to victims and the public for purpose of community and victim notification and to governmental entities, which is defined as any department, division, or other public agency or any municipal county, state or national government, pursuant to SDCL §§ [24-2-20](#) and [24-2-20.1](#) (See DOC policy 1.1.E.4 *Victim Notification*). Offender information released to the public is limited to the following:
1. Name and any known aliases; Year of birth or age; Race and gender; Location of incarceration; Community of residence; Custody status and conditions of supervision; Any Department of Corrections sentence identification number; Any crime of conviction; Number of felony convictions; Sentence, time suspended, jail time credit, and revoked good-time credits; Offense, sentence, admission, release, and parole eligibility dates; Dates of pending hearings and final determinations of parole, suspended sentence, pardon, and commutation hearings; Status as an offender, parolee, or person who has completed a prison term; County of conviction; Plea; Citizenship status; Birth town, state, and country; and identification photograph and physical description.
- E. When requested for modification of sentence, parole, pardon or early release, the Warden shall furnish only to the sentencing court, Secretary of Corrections, Board or Pardons and Paroles or Governor, any requested offender's case record/file (See SDCL §§ [24-2-20](#) and [24-2-17](#)).
- F. The DOC shall not publish, transfer or circulate any impression, measurement, description, record, or photograph (except criminal booking photograph) of any offender obtained in accordance with SDCL § [23-5-6](#), outside of the DOC, except to duly authorized law enforcement officers/agencies, pursuant to SDCL § [23-5-7](#).
- G. Case records for offender's currently serving the incarceration portion of a Suspended Imposition of Sentence (SIS) shall be treated the same as those offenders sentenced to the custody of the DOC, with the following stipulation:
1. Case records for offenders incarcerated under a SIS who successfully complete and discharge their sentence are deemed confidential and may be not be subject to release without proper authority, (usually an order from the court).
- H. Offender case records released to a sentencing judge will generally be communicated in the form of a progress report or Parole Services memo describing the offender's conduct while incarcerated and/or while under parole supervision.
- I. Progress reports are prepared by the offender's assigned unit staff and may be released to a judge, a court services worker representing the judge, the prosecuting attorney, the offender's attorney, or other correctional agencies.

## 5. Disposition of Records:

- A. Upon final discharge of an offender from the DOC, the offender's legal file and institutional file will be stored in a designated, secure location for five (5) years from the date of final discharge, after which, the files will be turned over to an approved contractor for shredding and proper disposal.
1. Exception may apply to offender records that are part of ongoing legal cases, as identified by DOC legal staff or others with authority to hold offender records.

## V Related Directive(s):

SDCL §§ [1-15-20](#), [1-27-1.13](#), [15-15A-7 \(s\)](#), [22-22-1.3](#), [23-5-6](#), [23-5-7](#), [23-5-11](#), [23A-27-10](#), [23A-27-47](#), [24-2-1](#), [24-2-17](#), [24-2-18](#), [24-2-19](#), [24-2-20](#), [24-15-1](#) and [24-15A-14](#).

DOC policy 1.1.E.3 – [Offender Access to Records](#)  
DOC policy 1.1.E.4 – [Victim Notification](#)

## VI Revision Log:

Removed revisions from June 2002 to March 2009.

**April 2010:** Revised formatting of Section 1. Added SOMP staff, halfway houses, and/or other DOC staff within ss (A3) and added SDCL 23A-27-10 to ss (A3) both within Pre-Sentence Investigation). Replaced inmate with offender in title of DOC policy 1.1.E.3. Added signature line and date for custodial parent or guardian, added reference that guardian signature only applies when offender is a minor and clarified signature line for offender within Attachment 3.

**May 2011:** Added definition of Sex Offender Management Program. Deleted “STOP” and Replaced with “SOMP” in Section 3 1. & 2. Deleted 4. “Information in the PSI may be required to defend the State against civil claims brought by the offender” from Section 3. A. Added “Attorney General” to Section 4 A. Deleted “that is considered public record” from Section 4 b. Deleted F. “Offender photos and physical descriptions may be released to a duly authorized law enforcement officer at any time and to the public when the subject of the photograph becomes a fugitive from justice or escapes from a penal institution” from Section 4. Deleted 3. “Parole information in the legal file may not be released to or reviewed by anyone other than members of the Board of Pardons and Paroles, Parole staff, Central Records staff, the Secretary of Corrections and any person specifically delegated for such access by the Secretary of Corrections or otherwise ordered by a Circuit Court” from Section A. 4. Added G. and H. to Section 4. Deleted attachment 4 from policy.

**May 2012:** Deleted “Department of Human Services” and Replaced with “Department of Social Services” in Section 3 A. 3. Deleted “Division of Drug and Alcohol” and Replaced with “Behavioral Health” in Section 4. A. 2.

**May 2013:** Added “or the PSI may be available as an IWP document attached to the Legal Cases screen in the Corrections Offender Management System (COMS)” in Section 3 A. 1.

**April 2014:** Reviewed with no changes made to the policy.

**April 2015:** Deleted D. in Section 2. Added “all copies of the PSI will” in Section 3 A. 2. Added “and other law enforcement agencies” in Section 3 A. 3. Added “or a court order or subpoena” to Section 4 A. 2.

**April 2016:** Added “and/or while under parole supervision” in Section 4 D.

**April 2017:** Added B. to Section 3. Added “Also see SDCL § 15-15A-7 (s)) the contents of the reports contained within the PSI may not be disclosed to the offender without written order from the sentencing judge or the sentencing judge’s successor (See SDCL § 23A-27-10)” in Section 3 C. Deleted D. in Section 3. Deleted F. in Section 4.

**April 2018:** Added new Section 5 and other sentence and structure changes within the policy.

**July 2019:** Added The case record shall contain a complete history of the offender, including the offender’s criminal history. The DOC shall be the lawful custodian of all offender records and files (See SDCL § 23-5-11) in Section 1 B. Added C. and D. to Section 1. Added “provided this is not otherwise deemed confidential” and Added “The Secretary or designee may prohibit the release of information, including inmate records, to offenders or their agents, if the release would jeopardize the safety or security of a person, the operation of a correctional facility, or the safety of the public (See SDCL § 1-27-1.13)” and Deleted “Exceptions may be made if permitting such access may result in harm to the offender or others, or providing such access is inconsistent with the penological interests of the DOC” - in Section 2 D. Added “The PSI may not be disclosed to the offender without a written order from the sentencing judge or the sentencing judge’s successor (See SDCL § 23A-27-10)” in Section 3 A. Deleted “The contents of these reports contained within the PSI may not be disclosed to the offender without written order from the sentencing judge or the sentencing judge’s successor (See SDCL § 23A-27-10)” in Section 3 D. Deleted “With the exception of case records authorized for release, pursuant to SDCL § 24-2-20, case records may only be released without the offender’s authorization to DOC staff, the Parole Board, the Executive Director of Parole, the Secretary of Corrections, sentencing court, Governor or others designated by the Secretary, unless otherwise ordered by a circuit court or subpoena after notice to the Secretary (See SDCL § 24-15A-14)” in Section 4 A. Added B. and C. to Section 4. Added “governmental entities, which is defined as any department, division, or other public agency or any municipal county, state or national government, pursuant to SDCL § 24-2-20 and 24-2-20.1” in Section 4 D. Added E. and F. to Section 4. Deleted F. “Records contained in the legal file/record and institutional records, excluding the PSI and any pre-plea report included within the PSI or used as the pre-sentence investigation report, and any psychological or psycho-sexual assessments, may be

released with an offender's authorization (signed release), to other agencies providing correctional services to the offender, e.g. halfway houses, treatment centers, etc." in Section 4.

**April 2020: Reviewed** with no changes.

*Mike Leidholt (original signature on file)*

Mike Leidholt, Secretary of Corrections

*04/30/2020*

Date



## Attachment 1: Legal File Content

The **Legal File Content** form is located at:

<M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\Legal File Content.doc>

South Dakota Department of Corrections Policy Distribution: Public		Attachment: Legal File Content Please refer to DOC policy 1.1.E.1 Adult Offender Case Records Content & Management	
<b>LEGAL FILE CONTENT</b>			
(Section contents are listed in order from the bottom to the top)			
<b>Section One</b> <i>(Multiple sentences are listed by sections in order from the bottom to the top)</i>			
1. Sentencing Appraisals 2. NCC Information 3. Sentencing Correspondence 4. Sentencing Documents 5. Amended Sentences 6. Commitments		7. Good Time Taken Through SDC.L § 24-3-18 8. Date Computation Worksheet 9. Discharge Certificate 10. Admission Worksheet 11. Audit Record	
<b>Section Two</b>			
1. Court Transcripts 2. Psycho-sexual Assessment 3. Pre-Service Investigation (PSI) 4. Table of Contents (this document)			
<b>Section Three</b>			
1. Release of Information 2. Holds/Detainers/Notifications			
<b>Section Four</b>			
1. Miscellaneous Information 2. FBI Cards/Physical Description/Pictures/ ID Documents			
<b>Section Five</b>			
1. Parole Board Action Steps 2. Parole/Suspended Sentence Agreements 3. Violation Reports 4. Orders Revoking Parole or Suspended Sentence 5. Findings of Fact/Conclusions of Law		6. Appraisals 7. Commitment/Pardon Envelope 8. Orders Establishing Sentence 9. Warrants	
<b>Section Six</b>			
1. Letters/Correspondence 2. Summary Sheets 3. Pre-Parole Placement Investigation 4. CD Discharge Summaries		5. STOP Reports 6. Unconvicted Sex Offender Reviews 7. Psychiatric/Psychological Reports 8. Compliance Reports	
[ ] Copy of the PSI in the STOP file.			
Initials			
Revised: 4/7/2009		Page 1 of 1	



## Attachment 2: Institutional File Content

The **Institutional File Content** form is located at:

<M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\Institutional File Content.doc>

South Dakota Department of Corrections Policy Distribution: Public	Attachment: Institutional File Content Please refer to DOC policy 1.1.E.1 Adult Offender Case Records Content Management
<b>INSTITUTIONAL FILE CONTENT</b>	
(Section contents are listed in order from the bottom to the top unless otherwise noted)	
<b>Section One</b>	
1. Intake Received Envelope 2. NCC Information 3. Sentencing Correspondence 4. Holds/Detainers/Notifications 5. Sentencing Documents	6. Date Computation Worksheets 7. Amended Sentences 8. Commitments 9. Good Time Taken Through SDCL § 24-2-18 10. Table of Contents (this document)
<b>Section Two</b>	
1. Court Transcripts 2. Pre-Sentence Investigation (PSI) 3. Copy of Unconvicted Sex Offender Review Documents	4. Psychological Information 5. Psychiatric Information 6. LSIR
<b>Section Three</b>	
1. Accident Reports 2. Incident Reports 3. Waivers 4. Release of Information	5. Receipts 6. Miscellaneous Information/Correspondence 7. Pictures/Physical Description
<b>Section Four</b>	
1. Classification Documents (newest documents placed on top) AIMS Code/Housing Documents (where applicable)	
<b>Section Five</b>	
1. Disciplinary (documents are grouped by disciplinary action. Newest document group placed on top)	
<b>Section Six</b>	
1. Grievance/Appeal Responses (grouped together) 2. Informal Resolution Requests/Responses (grouped together) 3. Administrative Remedy Requests/Responses (grouped together) (Newest document group is placed on top)	
<b>Section Seven</b>	
1. IPDV compliance Documents 2. Financial Documents: IFR Paperwork Offender Obligation Paperwork 3. CD Discharge Summary	
<b>Section Eight</b>	
1. Parole Plan 2. Parole Documents 3. Narratives 4. Monthly Reports	
Revised: 3/19/2009	Page: 1 of 1

### Attachment 3: Authorization for Release of Information

The **Authorization for Release of Information** form is located at:

<M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\Authorization for Release of Information.doc>

South Dakota Department of Corrections Policy Distribution: Public	Attachment: Authorization for Release of Information Please refer to DOC policy 1.1.D.1, 1.1.E.1 or 1.1.E.3 Relationship with Media (Adult Offender Case Records Content & Management Access to Records)
<b>AUTHORIZATION FOR RELEASE OF INFORMATION</b>	
I, _____, hereby authorize and request that the below information be	
released by _____ (Staff Member/Facility)	of the S.D. Department of Corrections to _____
Person and/or Organization & Address: _____ _____	for the purpose of: _____
Specific Information Authorized To Be Released: _____ _____ _____	
This authorization for release may be revoked by me at any time except to the extent that information has been released based on this authorization prior to receipt of notice of revocation.	
Offenders Signature: _____	Date: _____
Custodial Parent or Guardian Signature: _____ <i>Only applies if offender is a minor</i>	Date: _____
Staff Witness Signature: _____	Date: _____
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