



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-052700 PPD Release of Information and
Public Records

Issued: 2/21/94
Effective: 2/21/94

Reviewed/Revised: 04/07/22

Alisha Tafoya Lucero, Cabinet Secretary

Original Signed and Kept on File

AUTHORITY:

NMSA 1978, Section 29-10-1 through 29-10-8, 31-21-6, 31-21-7 (F) (H), as amended.
The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) P.L. No. 104-191,110
Stat. 1983 (1996),

REFERENCE:

ACA Standards 4-APPFS-1C-01, *Performance Based Standards for Adult Probation and Parole Field Services*, 4th Edition.

PURPOSE:

To provide a mechanism that responds to requests for information from the public and communication media.

APPLICABILITY:

All New Mexico Corrections Department (NMCD) Probation and Parole Division (PPD) staff, volunteers, interns, consultants and parties working under contract with the Probation and Parole Division.

ATTACHMENTS:

Waiver of Liability Attachment (*CD-052701.A*)

DEFINITIONS:

- A. Confidential Information: For the purposes of the Probation and Parole Division, documents of a confidential nature are as follows:
- Admission summaries;
 - Address of Offender;
 - FBI/Arrest records;
 - Urinalysis reports;
 - Pre-sentence Reports;
 - Psychological Assessments/treatment records;
 - Pre-Parole Reports; and
 - Victim information.

- B. Communication Media: Representatives of general circulation newspapers and news magazines sold through newsstands and/or mail subscriptions to the general public, news programs of radio and television stations that hold Federal Communications Commission licenses and news services that provide material to these news outlets.
- C. Criminal Justice Agency: (1) courts; (2) a government agency or any sub-unit thereof which performs the administration of criminal justice/law enforcement pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice/law enforcement.
- D. Director: Director of Probation and Parole Division (PPD) or designee.
- E. Matters of Public Record (Offender File): As defined by case law and as interpreted by the Attorney General's Office, an Offender's public records shall include record material that relates to matters of mathematical computations, such as Judgment and Sentences, Commitments, parole and probation release dates, parole eligibility dates and good time figuring sheets.

For the purpose of the PPD, matters of public record are as follows:

- Offender's name - true and committed;
 - Current Offender register number;
 - Current place of incarceration or supervision, except those supervised or imprisoned out-of-state;
 - Current age; date of birth;
 - Race;
 - Offense(s);
 - County of conviction; and
 - Sentence information.
- F. Medical Emergency: A health care situation resulting from unforeseen circumstance that requires immediate action to preserve life.
- G. Non-Conviction Data: Arrest information without disposition, if an interval of one year has elapsed from the date of arrest and no active prosecution of the charge is pending. Information disclosing that the police have elected not to refer the matter to a prosecutor. Information disclosing that a prosecutor has elected not to commence criminal proceedings. Information disclosing that criminal proceedings have been indefinitely postponed. A dismissal and an acquittal, except an acquittal by reason of mental disease or defect.
- H. Offender: An adult placed under, or made subject to, supervision, probation and/or parole, as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

- I. PIO: The NMCD Public Information Officer assigned to Central Office.
- J. PPD Staff: Employees of the Probation and Parole Division (PPD).
- K. Privileged Information: All social records, including pre and post-sentence reports, pre-parole reports, supervision history. This information can only be released pursuant to NMSA 1978, Section 31-21-6, as amended.

POLICY:

- A. The PPD shall provide information to the public and the media of events within the Division's areas of responsibility, in accordance with law and Department policy.
- B. Requests from federal, state, and local legislative and executive bodies for information concerning programs and specific cases shall be responded to promptly and fully by agency staff, in accordance with provisions relevant to the right to privacy.
- C. The agency has a public information process that fosters contact with the public and the media. Employees and media representatives are informed of the process. **[4-APPFS-1C-01]**
- D. The agency is committed to informing the public and the media of events within the agency's area of responsibility.
- E. The Director or designee shall review all case information and address confidentiality requirements prior to authorizing the dissemination of the information to the public through the PIO or region manager.



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AUTHORITY:

Policy *CD-051200*

PROCEDURES:

A. Public Agency Requests for Information/Offender Management System Record Information:

All requests for information shall be made in writing to the Director or his or her designee. All written requests for information concerning offender files, operations and policies and procedures of the PPD shall be responded to immediately or as soon as is practicable under the circumstances, but not later than fifteen (15) days after receiving a written request and may be responded to by the staff member to whom the request is submitted. If the respondent is unsure of the accuracy of his or her proposed response, his or her immediate supervisor should be contacted. The supervisor will instruct the respondent on the proper response, after consultation with the Office of General Counsel.

Requests from federal, state, and local legislative and executive bodies for information concerning programs and specific cases shall be responded to promptly and fully by agency staff, in accordance with provisions relevant to the right to privacy.

The Department encourages contacts with the public and communication media. This policy and procedure shall be disseminated to employees and to the media representatives through the department web site. [4-APPFS-1C-01]

All information in the Offender Management System will follow the guidelines stated within this policy.

B. Privileged Information:

As defined herein, privileged information can be disseminated only after approval of the sentencing judge or Parole Board pursuant to NMSA 1978, Section 31-21-6, as amended.

C. Confidential Information:

1. Confidential information, as defined herein, concerning all offenders may be disseminated only in the following circumstances.

2. When it is officially requested by a Federal, State, County, Municipal, or Tribal criminal justice agency having a legal right to obtain it; or
3. Through the Department's Public Information Officer with the direction of the Secretary; or
4. When a specific agreement exists between the Department for PPD and the requesting agency, organization, or individual to provide services to offenders supervised or incarcerated by the Department; or
5. When a court of competent jurisdiction requires via a court order the release of records; or
6. When the information is requested by the U. S. Bureau of Census for use in statistical purposes; or
7. In instances where public safety or security is in serious jeopardy, confidential material may be disclosed to prevent serious harm; or
8. When there is a major incident involving offenders which arouse significant public interest to warrant a response and when the dissemination of such information is approved by the Secretary of Corrections or the Director; or
9. When the information is part of announcements or posters relating to the escape, absconding and/or apprehension of an inmate(s) which is coordinated by the Department PIO; or
10. When a research agreement exists between the Department and the requesting agency, organization, or individual; or
11. When there is a medical emergency which requires release of the information in order to preserve life; and
12. When the information is approved for release by the Director or the designee.

D. Matters of Public Record:

Matters of Public Record, as defined herein, may be released to non-criminal justice agencies, organizations or other interested parties as requested.

E. Communications Media Access:

1. Non-emergency Media Access:
 - a. Any non-emergency requests by communications media regarding PPD activities will be forwarded to the appropriate Region Manager who will consult with the Director and PIO prior to authorizing any release of information or scheduling any media contact with PPD staff or offenders under supervision.
 - b. Media representatives who are authorized for contact with PPD staff or offenders under supervision will be escorted by the Region Manager or his designee at all times they are

in PPD facilities or engaged in field activities with PPD staff and shall be briefed on the identification of data and information protected by federal or state privacy laws, or federal and state freedom of information laws. The media representative(s) will sign the

Waiver of Liability Attachment (*CD-052701.A*) prior to beginning any activity in a PPD facility or vehicle.

- c. If the media representatives seek offender contact within PPD facilities or while accompanying PPD staff during field supervision, the accompanying staff will advise the offender of the nature of the activities of the media representative and of their right to release or not release information regarding themselves or their case. If the offender agrees to release information, he or she will sign a release of information through the media agency and the form will be made part of the file. During any field activities media representatives will not be allowed to enter the residence or place of employment of any offender and staff will not identify the residence or place of employment of any offender.
 - d. If the staff member accompanying the media representative believes that the media representative is attempting to circumvent any PPD policies or any of the agreed upon guidelines for their interview, the staff member will advise the media representative that the interview will be terminated if the behavior continues. If the behavior continues the staff member will advise the media representative that the interview is being terminated and will escort the media representative out of the PPD facility.
2. Emergency Media Access:
- a. If a media representative contacts any PPD staff member regarding the actions of any offender or staff member, the contacted staff member will not release any information, but will refer the media representative to the appropriate Region Manager and will immediately advise their supervisor and the Region Manager of the contact.
 - b. Prior to releasing any information, the Region Manager will investigate the actions being questioned by the media representative, and will advise the Director and PIO of the request. The Director will advise the Region Manager on how to proceed.
 - c. If any staff member becomes aware of any incident involving PPD staff or offenders under PPD supervision, which could, in his or her best judgment become the focus of media attention, the staff member will immediately report the incident through the chain of command to the Director, and the Deputy Secretary of Operations. The initial report will be by telephone and will be followed up in writing.

F. Public Relations:

1. Each District Supervisor will advise the established civic and fraternal organizations, public schools, and governmental bodies within their District of the availability of PPD staff to address their organizations regarding the mission and activities of the PPD. Any requests for staff to make presentations to any group or individual must be made through the District Supervisor.

2. The PIO will inform the public and media representatives of all special events and news releases and when necessary shall identify the areas in the division that are accessible to media representatives.
3. Each District Supervisor will maintain a file of any public speaking performed by staff members in that District. The file will note the date and location of the speaking engagement and the nature and size of the group addressed along with the name of the staff member who made the presentation.
4. When staff is making public presentations, they will conduct themselves in a professional manner and present a positive image of the PPD's mission and activities. They will refrain from commenting on details of specific cases or offenders regardless of their current supervision status.

**NEW MEXICO CORRECTIONS DEPARTMENT
PROBATION PAROLE DIVISION
Waiver of Liability**

I hereby understand that I am not an employee or agent of the State of New Mexico and have no authority to act on behalf of the State of New Mexico.

I will receive no compensation or benefits from the State.

I will participate only under direct supervision of a New Mexico Corrections Department employee.

I hereby agree to indemnify and hold harmless the New Mexico Corrections Department and the State of New Mexico for any of my acts or claims.

Media Representative Signature

Date

Witness's Signature

Date