



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-018500 Confidential Information

Issued: 02/09/98

Effective: 02/09/98

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Alisha Tafoya Lucero, Cabinet Secretary

Original Signed and Kept on File

AUTHORITY:

- A. NMSA 1978, Chapter 14, as amended.
- B. Policy *CD-010100*

REFERENCE:

- A. Policy CD-032200, "Code of Ethics".
- B. ACA Standards 2-CO-1C-23, 2-CO-1E-01, 2-CO-1E-06 thru 2-CO-1E-08, and 2-CO-1F-06; *Standards for the Administration of Correctional Agencies*, 2nd Edition.
- C. ACA Expected Practices 5-ACI-1C-20, 5-ACI-1C-23, 5-ACI-1E-05 and 5-ACI-6C-03 (M), *Performance Based Standards and Expected Practices for Adult Correctional Institutions*, 5th Edition.
- D. ACA Standard 4-APPFS-3C-03, *Standards for Adult Probation and Parole Field Services*, 3rd Edition.
- E. ACA Standard 1-CTA-1C-11, *Standards for Correctional Training Academies*, 1993.

PURPOSE:

To establish guidelines for handling confidential information.

APPLICABILITY:

All personnel in the New Mexico Corrections Department (NMCD), persons under contract to the Corrections Department, and volunteers.

FORMS:

None

ATTACHMENTS:

Confidential Informant Tracking Log Attachment (*CD-0185001.A*)

DEFINITIONS:

- A. *Confidential Information*: Any information not defined as a public record under the Inspection of Public Records Act, including but not limited to:
 - 1. Records pertaining to physical or mental examinations and mental treatment of persons

confined to any institution;

2. Letters of reference concerning employment, licensing or permits, information regarding an employee's mental or physical health;
 3. Letters or memoranda which are matters of opinion in personnel files or students' cumulative files, including evaluations;
 4. Law enforcement records that reveal confidential sources, methods, information or individuals accused but not charged with a crime; or
 5. Grievances and other matters under investigation (regarding both personnel and inmates) are considered confidential, as are lists of informants.
- B. Public Records: All documents, papers, letters, books, maps, tapes, photographs, recordings or other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body and relate to public business, whether or not the records are required by law to be created or maintained and, which are subject to inspection by the public pursuant to the Inspection of Public Records Act.
- C. Records Custodian: The Department's individually designated employee(s) responsible for the maintenance, care or keeping of the Department's Public Records, regardless of whether the records are in that person's actual physical custody and control.

POLICY:

Confidential information shall be transmitted only to authorized persons with a legitimate operational need to know.



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AUTHORITY:

Policy *CD-018500*

PROCEDURE: [4-APPFS-3C-03]

Confidential information shall be documented and maintained in the following manner:

A. All confidential information shall be assigned an identifier including:

1. Initials of staff member attaining information: (John Doe = **JD**)
2. Confidential source number: (**#1**)
3. Date received: (**11-15-05**)
4. Prison facility, including level, or probation and parole location: (**PNM-North**) or (**R1-Las Vegas District Office**)

Examples:

JD#1(11-15-05) PNM-North

JD#1(11-15-05) R1-Las Vegas District Office

B. All documented confidential information requires a Confidential Informant Identifier Page. The confidential identifier page shall be documented separate from the actual confidential information.

Examples:

Confidential Identifier	Staff Name	Source Name	NMCD#
JD#1(11-15-05) PNM-North	John Doe	Betsy Ross	13579
JD#2(11-15-05) R1-Las Vegas District Office	John Doe	George Washington	99531

C. If the confidential information involves STIU or Special Management placements, at least four (4) of the eight (8) following criteria will be documented in order to determine the credibility of the confidential information:

1. The identity of the staff member receiving the confidential information;
2. Specific details of any conduct attributed to the inmate;
3. The informant's basis for knowledge of the confidential information;
4. Whether the informant's previously provided information which proved accurate and useful;
5. The content of any statements attributed to the inmate being classified;
6. The prison location where the information was received from the confidential informant;

7. The date the information was received; and/or,
 8. Efforts made to corroborate the information.
- D. The security staff member who develops the confidential information shall be responsible for documenting at least four of the eight above criteria and provide copies to the Deputy Warden and Classification Supervisor. The Confidential Informant Identifier page shall be submitted to the STIU Coordinator.
- E. All confidential information will be submitted to the respective Facility Deputy Warden, or respective Probation and Parole District Supervisor.. Any confidential information used for facility placement, investigation documentation, incident documentation, or probation and parole supervision status pertinent to respective inmates, probationers, or parolees shall be maintained in relevant files (i.e., institutional file, STG working file/validation file under category of other, Classification Bureau files, probation and parole files). However the Confidential Informant Identifier Page **shall not** be maintained in any inmate, probationer or parolee file.
- F. It shall be the responsibility of the STIU Coordinator or District Supervisors to maintain an ongoing Confidential Informant Tracking Log (CD-0185001.A) for all confidential information. STIU Coordinators and District Supervisors shall file and maintain the original confidential information in their respective offices, in a secure manner (i.e., a safe, a file cabinet or desk that can be locked).
- G. STIU will attempt to corroborate if the confidential source has provided reliable information and shall document the findings on the Confidential Informant Identifier form.
- H. The Classification Bureau will maintain a copy of all confidential information used for placements.
- I. Access to Confidential files will be restricted to authorized persons with a legitimate operational need to know.
- J. All other access must be approved by the respective Records Custodian or the respective Probation and Parole District Supervisor.
- K. Consultants and contract personnel who work with inmates shall be informed in writing about the institution's policies on confidentiality of information and must agree to abide by them. **[5-ACI-1C-23]**
- L. Institutions shall maintain a current, accurate, confidential personnel record on each employee. Information obtained as part of a required medical examination (and/or inquiry) regarding the medical condition or history of applicants and employees is collected and maintained on separate forms and in separate medical files and treated as a confidential medical record. **[5-1C- 4067]** **[2-CO-1C-23]** **[1-CTA-1C-11]**
- M. Institutions shall use a "release of information consent form" that complies with applicable federal and state regulations. Unless the release of information is required by statute, the inmate signs the consent form prior to the release of information and a copy of the form is maintained in the inmate's case record. **[5-ACI-1E-05]** **[2-CO-1E-07]**

- N. Case record management includes, but is not limited to, the establishment, use, content, privacy, security, preservation, and destruction of case records. Case records shall be safeguarded from unauthorized and improper disclosure. **[2-CO-1E-01] [2-CO-1E-08]**
- O. Access to information in case records shall be governed. **[2-CO-1E-06]**
- P. The principle of confidentiality applies to an offender's health records and information about an offender's health status. **[5-ACI-6C-03 (M)]**
- The active health record is maintained separately from the confinement case record.
 - Access to the health record is in accordance with state and federal law.
 - To protect and preserve the integrity of the facility, the health authority shares with the Secretary, Deputy Secretary of Operations or the Warden information regarding an offender's medical management.
 - The circumstances are specified when correctional staff should be advised of an offender's health status. Only that information necessary to preserve the health and safety of an offender, other offenders, volunteers, visitors, or the correctional staff is provided.
 - Policy determines how information is provided to correctional and classification staff, volunteers, and visitors to address the medical needs of the offender as it relates to housing, program placement, security and transport.
 - The release of health information complies with the Health Insurance Portability and Accountability Act (HIPAA), where applicable, in a correctional setting.
- Q. The NMCD shall govern the security of information and data collection system, including verification, access to data, and protection of the privacy of offenders and staff. **[2-CO-1F-06]**
- R. The NMCD ensures confidentiality of information, consistent with state and federal laws and regulations. Staffs, contractors, interns, volunteers and others who work with offenders are trained in and agree, in writing, to abide by confidentiality agreements. **[4-APPFS-3C-03]**
- S. Confidential information shall be secured when not in use and shall be transmitted only by secure means.
- T. Disposal of documents containing confidential information shall be by staff shredding or burning.
- U. Inmates, felons and misdemeanants under the New Mexico Corrections Department's supervision shall be provided only a summary of confidential information to which they are specifically and clearly entitled by law or policy.
- V. Each division director shall prepare a list of the most common categories of confidential materials generated by that division. This list shall be made available to division staff.
- W. If moving confidential information between offices, it shall be clearly marked as confidential and placed in an envelope or container that is also marked as confidential.
- X. Confidential information shall not be discussed where it can be heard by unauthorized persons. Such information shall only be discussed with and communicated to authorized persons with a legitimate need to know, e.g., an inmate's physical or mental condition should be shared with the Warden if it is relevant to the safety and security of the facility.

Y. Consultants and contract personnel who work with inmates shall be informed in writing about the institution's policies on confidentiality of information and agree to abide by them. **[5-ACI-1C-23]**

