

CHAPTER 22**RECORDS****Authority**

N.J.S.A. 30:1B-6 and 30:1B-10.

Source and Effective Date

R.1999 d.236, effective July 19, 1999.
See: 31 N.J.R. 1136(a), 31 N.J.R. 1924(c).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 22, Records, expires on January 15, 2005. See: 36 N.J.R. 1869(a).

Chapter Historical Note

Chapter 22, Records, was adopted as R.1988 d.305, effective July 5, 1988. See: 20 N.J.R. 723(a), 20 N.J.R. 1561(a).

Subchapter 4, Expungement or Sealing of Records, was adopted as R.1989 d.582, effective November 20, 1989. See: 21 N.J.R. 2852(a), 21 N.J.R. 3665(b).

Pursuant to Executive Order No. 66(1978), Chapter 22, Records, expired on July 5, 1993.

Chapter 22, Records, was adopted as new rules by R.1994 d.113, effective March 7, 1994. See: 25 N.J.R. 5754(a), 26 N.J.R. 1228(b). Pursuant to Executive Order No. 66(1978), Chapter 22 expired on March 7, 1999.

Chapter 22, Records, was adopted as new rules by R.1999 d.236, effective July 19, 1999. See: Source and Effective Date.

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(a) The purpose of this chapter is to establish policies and procedures for:

1. The release and examination of inmate and parole records; and
2. The expungement or sealing of inmate and parolee records.

10A:22-1.2 Scope

This chapter shall be applicable to the records of those inmates sentenced to the custody of the Commissioner of the Department of Corrections.

10A:22-1.3 Definitions

The following terms, when used in this chapter, shall have the following meanings:

“Data file” means a collection of data stored on a computer.

“Request” means a written request, sufficiently clear to understand the information being sought.

“Responsible health authority” means a designated person within a correctional facility who shall be a physician or health administrator responsible for arranging health services to all inmates.

“Staff” means all personnel who are directly hired or contracted by the Department of Corrections or by a contract vendor(s).

SUBCHAPTER 2. RELEASE AND EXAMINATION OF INMATE AND PAROLEE RECORDS**10A:22-2.1 Records and information**

(a) Inmate and parolee records which contain personal identifying information pertaining to a victim(s) or family member(s) of a victim(s) shall not be released to or examined by the inmate/parolee, or representative thereof unless:

1. The requested public records or information is necessary to assist in the defense of the inmate/parolee; and

2. The inmate/parolee or representative thereof has motioned the court and received a determination by the court that the information is necessary to assist in the inmate's/parolee's own defense.

(b) The inmate/parolee or representative thereof shall submit the determination by the court to the Administrator or parole supervisor and to the Commissioner or designee for review and release authorization determination.

10A:22-2.2 Public records and information

(a) The following information, documents and data files regarding an inmate or parolee shall be available for public inspection and copying in accordance with the fee schedule established in this subchapter:

1. Name;
2. Number;
3. Sentence;
4. Place of incarceration; and
5. Order of Commitment.

10A:22-2.3 Confidential records and information

(a) The following types of records are designated confidential and shall not be disclosed to unauthorized persons or agencies.

1. Reports which are evaluative, diagnostic or prognostic in nature furnished with a legitimate expectation of confidentiality and which, if revealed to the inmate, parolee or others, could be detrimental to the inmate, parolee, victim(s), family member(s) of victim(s), or could jeopardize the safety of individuals who signed the reports, or were parties to the decisions, conclusions or statements contained therein;

2. Information the disclosure of which could have a substantial adverse impact on the security or orderly operation of the correctional facility;

3. Information or reports which would invade or jeopardize privacy rights of the inmate, parolee, victim(s), family members of a victim(s) or others;

4. Disclosures which would jeopardize internal decision making or policy determinations essential to the effective operation of any correctional facility or the Department of Corrections;

5. Disciplinary and criminal investigative reports, including those from informants, disclosure of which would:

- i. Impede ongoing investigations;
- ii. Create a risk of reprisal; or
- iii. Interfere with the security or orderly operation of the correctional facility;

6. Information, data files, documents, reports, or records prepared by New Jersey State Parole Board employees, or which pertain to parole determinations or supervision as established in N.J.A.C. 10A:71-2.1; and

7. Such other records as the Commissioner or designee, or Administrator, based on their experience and exercise of judgment, believe must be kept confidential to ensure maintenance of the safe, secure and orderly operation of the correctional facility and/or Department of Corrections.

(b) Prior to the inspection or release of any confidential information, a request shall be submitted to the Administrator and to the Commissioner or designee for an authorization determination.

(c) Confidential information approved for inspection or release shall be only that specific information directly related to the stated purpose for which the information is requested.

(d) Those documents deemed to be confidential shall be plainly marked "Confidential Material—Do Not Release to Unauthorized Persons."

(e) If a document required to be released in accordance with this chapter contains information deemed confidential pursuant to (a) above, the information deemed confidential shall be redacted prior to the release or examination of the document.

10A:22-2.4 Limitation on inmate and parolee records and information

(a) Information on inmate or parolee records other than that outlined in N.J.A.C. 10A:22-2.2 shall not be released to or examined by any unauthorized person or agency except as set forth in this chapter.

(b) Juvenile offender records shall be strictly safeguarded from public inspection.

10A:22-2.5 Availability of records and information to non-Department of Corrections agencies or individuals

(a) Information from inmate and parolee records shall be provided to law enforcement agencies or individuals, who request such information in the performance of their public duties in accordance with N.J.A.C. 10A:22-2.8.

(b) Inmate or parolee records may be made available to the following non-Department of Corrections agencies or individuals:

1. Courts of competent jurisdiction;
2. The Attorney General;
3. A county prosecutor;
4. The New Jersey State Parole Board;

5. A county probation department; and
6. Police departments.

(c) The Administrator or designee shall determine the records of inmates or parolees that shall be made available to government agencies or other authorized non-Department of Corrections individuals upon request. These agencies and individuals include, but are not limited to, the following:

1. The Social Security Administration;
2. The Veterans Administration;
3. Attorneys of record in pending cases, or investigating claims;
4. Law enforcement agencies other than those in (b) above; or
5. Medical or mental health doctors.

10A:22-2.6 Availability of records and information to staff

(a) Information from inmate and parolee records shall be provided to staff who have a clear and specific need to know the information for use in connection with their work responsibilities as determined by the Administrator or designee. The amount of information necessary or relevant for staff performance of duties shall be determined by the Administrator or designee.

(b) Medical and mental health records or information shall be provided as determined by the Administrator and the responsible health authority and as limited below:

1. The complete file shall be available to medical or mental health staff involved in treating the inmate and/or drafting reports concerning the inmate's condition; and

2. Medical or mental health information may be made available to Department of Corrections staff to whom the information is relevant in connection with the staff person's need to make a decision concerning the inmate such as, but not limited to, job placement, discipline and parole. Only that amount of information that is necessary shall be provided to authorized staff.

(c) In the event a question arises as to the disclosure of medical or mental health information to staff, the question shall be referred to the Administrator for review and decision which shall be final.

10A:22-2.7 Availability of medical record summaries to inmates

(a) An inmate may obtain a copy of a computer generated medical record summary by submitting a written request, on Form MR-022, to the Administrator or designee.

(b) The Administrator or designee shall forward the approved Form MR-022 to the responsible health authority. Form MR-022 shall be forwarded to the Medical Department for placement in the appropriate inmate file.

(c) The responsible health authority or designee shall provide a copy of the computer generated medical record summary to the inmate within 30 days.

(d) Where available, a summary of the medical record shall be provided to the inmate and shall contain a computer generated report containing the following:

1. A health care summary;
2. A medical test(s) summary;
3. An x-ray(s) summary; and/or
4. A pharmacy history.

(e) In those cases in which computer generated medical record summaries are not available, the medical record summary may be duplicated and provided to the inmate.

(f) Copies of mental health records shall not be provided to inmates.

(g) Information may be withheld if, in the opinion of the responsible health authority or Administrator, release of the information would:

1. Be harmful to the inmate;
2. Jeopardize the safety or well-being of other individuals;
3. Compromise the privacy rights of other individuals; and/or
4. Have a substantial adverse impact on the orderly operation of the correctional facility.

(h) Photocopies of the medical record summaries shall be provided in accordance with this section to nonindigent inmates at the rate of \$.10 per page and at no charge to the indigent inmate as defined in N.J.A.C. 10A:1-2.2.

10A:22-2.8 Procedure for release of confidential inmate or parolee records and information

(a) In accordance with N.J.A.C. 10A:71-2.1, information, data files, documents, reports, or records prepared by New Jersey State Parole Board employees, or which pertain to parole determinations or supervision, shall not be released by staff from the New Jersey Department of Corrections.

(b) Prior to inspection or release of confidential information, a request shall be submitted to the Administrator and to the Commissioner or designee for an authorization determination.

(c) Confidential information approved for inspection or release shall be only that specific information directly related to the stated purpose for which the information is requested.

(d) Requests for confidential information shall be rejected when:

1. The request is unrelated to the stated purpose of the request; and
2. The request is unauthorized by law.

(e) The Division of Law shall be contacted for guidance when necessary to determine whether confidential information should be authorized for release.

(f) In the event a request for release of information is denied, the material shall not be released without a court order.

10A:22-2.9 Records and information authorized by the inmate or parolee for inspection or release

(a) The following categories of records may be inspected by or released to authorized persons or agencies, upon written consent of the inmate or parolee:

1. Medical records;
2. Mental health records or a mental health summary of treatment(s) which shall:
 - i. Be limited to mental health care/treatment reports;
 - ii. Not include any psychological/psychiatric evaluations or reports prepared for the New Jersey State Parole Board; and
 - iii. Not include any psychological/psychiatric evaluations or reports prepared for administrative purposes such as, but not limited to, evaluations prepared for the Institutional Classification Committee;
3. Dental records;
4. Educational records;
5. Work records; and
6. Such other material as may be authorized for release under N.J.A.C. 10A:22-2.5.

(b) All records released under this section are subject to the deletion of confidential information (see N.J.A.C. 10A:22-2.3).

10A:22-2.10 Litigation

All requests for release of information or records concerning any matter which is the subject of pending or ongoing litigation shall be referred to the Deputy Attorney General of record, for handling pursuant to the applicable rules of court.

10A:22-2.11 Juvenile records and information

(a) Social, medical, mental health, legal and other records pertaining to juveniles shall be strictly safeguarded from public inspection.

(b) Juvenile records shall be made available only to the following agencies or persons:

1. Courts of competent jurisdiction;
2. A county probation department;
3. The Attorney General;
4. A county prosecutor;
5. The juvenile's parent(s) or guardian;
6. The attorney of the juvenile;
7. The Division of Youth and Family Services, if providing care or custody of the juvenile;
8. A law enforcement agency of New Jersey, another state or the United States for the purposes of law enforcement; or
9. Any person or agency interested in a case or in the work of the agency keeping the records, by order of the court for good cause shown; and
10. Any institution to which the juvenile is currently committed.

(c) Pursuant to N.J.S.A. 2A:4A-60, at the time of charge, adjudication or disposition, information as to the identity of a juvenile charged with an offense, the offense charged, the adjudication and disposition shall, upon request, be disclosed to:

1. The victim or a member of the victim's immediate family;
2. Any law enforcement agency which investigated the offense;
3. The person or agency which filed the complaint;
4. Any law enforcement agency in the municipality where the juvenile resides;
5. A party in a subsequent legal proceeding involving the juvenile, upon approval by the court; or
6. The principal, on a confidential basis, of the school where the juvenile is enrolled for use by the principal and such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety, or discipline in the school or to planning programs relevant to the juvenile's educational and social development provided that no record of such information shall be maintained except as authorized by regulation of the Department of Education.

10A:22-2.12 Reimbursement for costs of copying

(a) Pursuant to N.J.S.A. 47:1A-2, except as otherwise provided in this subchapter correctional facilities and other administrative units within the Department of Corrections may charge the following fees for copying records deemed to be public:

1. First through 10th page \$0.75 per page
2. Eleventh through 20th page \$0.50 per page

3. Over 20 pages \$0.25 per page

(b) Governmental agencies or officers who request records in the performance of their official duties shall be exempt from payment of fees for copying records.

(c) The copying fees for records other than records deemed to be public shall also be based on the fee schedule in (a) above.

(d) When or if fees for the copying of public records change in accordance with the N.J.S.A. 47:1A-2, these changes shall be published as a public notice in the New Jersey Register, and revised in (a) above through a notice of administrative change pursuant to N.J.A.C. 1:30-2.7.

SUBCHAPTER 3. (RESERVED)

SUBCHAPTER 4. EXPUNGEMENT OR SEALING OF RECORDS

10A:22-4.1 Procedures for expungement of records and information

(a) Pursuant to N.J.S.A. 2C:52-1 et seq., whenever the Administrator of a correctional facility, administrative supervisor or staff member receives an Order from the Courts or from the Central Reception and Assignment Facility (C.R.A.F.) directing the expungement of inmate records, all records and information that are subject to said Order of Expungement shall be removed from the files and forwarded to the C.R.A.F.

(b) Inmate records shall include, but not be limited to:

1. Classification;
2. Identification;
3. Medical/mental health;
4. Education;
5. Professional services;
6. Payroll;
7. Business office;
8. Management control;
9. Operations;
10. Special Investigations Division; and
11. Mail records.

(c) To avoid any confusion and/or complication relative to permanent numerical files that may be maintained in

various areas, a blank card reflecting only the appropriate number and in bold print, "NO RECORD," shall be inserted in place of the permanent record being removed.

(d) In the event there are reports, documents or material wherein more than one individual is mentioned, the name of the individual whose record has been expunged may be obliterated, rather than purging said record in its entirety.

(e) Any future Court Orders concerning the expunged records shall be forwarded immediately to the C.R.A.F.

(f) When an Order of Expungement is received and the individual named in such Order cannot be identified from the files, or if it is determined that the records have been transferred to another location or holding area, the Order shall be forwarded immediately to the C.R.A.F.

(g) When handling inquiries for information relative to records affected by Orders of Expungement, the appropriate response shall be "NO RECORD."

(h) Disclosure of any information and/or records which have been expunged by Order of the Court is punishable in accordance with N.J.S.A. 2C:52-30.

Administrative change.
See: 32 N.J.R. 303(a).

10A:22-4.2 Expungement of disciplinary records

When an inmate is adjudicated not guilty of a disciplinary charge, the inmate's records shall be expunged in accordance with the procedures outlined in N.J.A.C. 10A:4-9.26, Expungement.

10A:22-4.3 Procedures for sealing juvenile records

(a) Whenever the Administrator of a correctional facility, an administrative supervisor or staff member receives an Order from the Courts or from the Central Reception and Assignment Facility (C.R.A.F.) directing the sealing of juvenile records, all records concerning the inmate set forth in the Court Order shall be forwarded to the C.R.A.F. for placement in the established sealed records file.

(b) In accordance with the sealing of records statute at N.J.S.A. 2A:4A-62:

1. All index references shall be marked "NOT AVAILABLE" or "NO RECORD"; and

2. When a correctional facility Administrator, administrative supervisor or staff member receives inquiries for information relative to sealed juvenile records, the appropriate response shall be that there are no records with respect to such juveniles.

(c) Any future Court Orders concerning sealed juvenile records shall be forwarded to the C.R.A.F.

(d) Any subsequent conviction of a crime or adjudication of delinquency or in need of supervision has the effect of nullifying the sealing Order.