

**CHAPTER 22
RECORDS**

Authority

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

Source and Effective Date

R.2009 d.272, effective August 13, 2009.
See: 41 N.J.R. 2202(a), 41 N.J.R. 3301(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 22, Records, expires on August 13, 2016. See: 43 N.J.R. 1203(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: 31 N.J.R. 1136(a), 31 N.J.R. 1924(c).

Chapter 22, Records, was readopted as R.2004 d.317, effective July 23, 2004. See: 36 N.J.R. 1869(a), 36 N.J.R. 3880(b).

Chapter 22, Records, was readopted as R.2009 d.272, effective August 13, 2009. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

10A:22-1.1 Purpose

(a) The purpose of this chapter is to establish provisions for:

1. The release and examination of inmate records;
2. The expungement or sealing of inmate records; and
3. Requests for government records pursuant to N.J.S.A. 47:1A-1 et seq.

Amended by R.2004 d.317, effective August 16, 2004.
See: 36 N.J.R. 1869(a), 36 N.J.R. 3880(a).

In (a), substituted "provisions" for "policies and procedures" in the introductory paragraph, substituted references to inmate records for inmate and parole records in 1 and 2, added 3.

10A:22-1.2 Scope and applicability

The rules in this chapter shall be applicable to the records of the Department of Corrections.

Amended by R.2004 d.317, effective August 16, 2004.
See: 36 N.J.R. 1869(a), 36 N.J.R. 3880(b).

Rewrote the section.

10A:22-1.3 Definitions

The following terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Custodian" or "custodian of records" means any individual appointed by the Commissioner to administer the provisions of the Open Public Records Act in the Department of Corrections.

"Data file" means a collection of data stored on a computer.

"Government record" or "record" means any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of official business by any officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received in the course of official business by any such officer, commission, agency, or authority of the State or of any political subdi-

vision thereof, including subordinate boards thereof. The terms shall not include inter-agency or intra-agency advisory, consultative, or deliberative material. A government record shall not include information which is deemed to be confidential in accordance with N.J.S.A. 47:1A-1 et seq.

“Open Public Records Act” or “OPRA” means N.J.S.A. 47:1A-1 et seq. as amended and supplemented.

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

Amended by R.2004 d.317, effective August 16, 2004.
See: 36 N.J.R. 1869(a), 36 N.J.R. 3880(b).

Inserted “Custodian” or “custodian of records”, “Government record” or “record” and “Open Public Records Act” or “OPRA”.
Amended by R.2006 d.151, effective May 1, 2006.
See: 38 N.J.R. 96(a), 38 N.J.R. 1836(a).

In the introductory paragraph, deleted a comma; in the definition of “Government record” or “record”, deleted “his or her or its” before “official business”, substituted “of any political subdivision thereof, including subordinated boards thereof” for “that has been received in the course of his or her or its official business by any such officer, commission, agency, or authority of the State”, and added the last sentence; and deleted the definition of “Staff”.

Amended by R.2009 d.272, effective September 8, 2009.
See: 41 N.J.R. 2202(a), 41 N.J.R. 3301(b).

Deleted definition “Responsible health authority”.

10A:22-1.4 Forms

(a) The following form related to a request for a government record shall be obtained from the Department of Corrections record custodian, the Department of Corrections website at www.state.nj.us/corrections, or at correctional facilities:

1. Form 110 Department of Corrections Request for Government Records.

New Rule, R.2004 d.317, effective August 16, 2004.
See: 36 N.J.R. 1869(a), 36 N.J.R. 3880(b).

10A:22-1.5 Identity theft prevention and reporting

(a) Pursuant to the Identity Theft Prevention Act at N.J.S.A. 56:11-44 et seq. and definitions relative to the security of personal information at N.J.S.A. 56:8-161, in order to prevent identity theft, Departmental staff shall be responsible for safeguarding “personal information” as this term is defined in N.J.A.C. 10A:1-2.2. Additionally, Departmental staff shall be responsible for taking reasonable steps to ensure that all records containing personal information are not lost, stolen, inappropriately accessed or released, and for complying with any related internal management procedures.

(b) In the event that an incident that may constitute a breach of security is suspected or discovered, the staff member discovering the suspected breach of security shall report same to their immediate supervisor. Supervisory/administrative staff shall ensure that any such incident is reported through the administrative chain of command to the Commissioner. For purposes of rules regarding identity theft, “breach of security” means unauthorized access to electronic files, media or data containing personal information that compro-

mises the security, confidentiality or integrity of personal information when access to the personal information has not been secured by encryption or by any other method or technology that renders the personal information unreadable or unusable. Good faith acquisition of personal information by an employee for a legitimate business purpose is not a breach of security, provided that the personal information is not used for a purpose unrelated to Departmental business or subject to further unauthorized disclosure.

(c) All reports related to identity theft shall be provided to the Commissioner or designee in accordance with internal management procedures. The Commissioner or designee shall report the incident of identity theft to the Department of Law and Public Safety, Division of State Police for investigation and handling as appropriate.

New Rule, R.2007 d.64, effective February 20, 2007.
See: 38 N.J.R. 4622(b), 39 N.J.R. 652(b).

SUBCHAPTER 2. GOVERNMENT RECORDS

10A:22-2.1 Information pertaining to a victim(s)

(a) Pursuant to N.J.S.A. 47:1A-2.2, a person convicted of any indictable offense under the laws of this State, any other state or the United States shall be denied access to a government record if the record contains personal information pertaining to the person’s victim(s) or family member(s) of a victim(s).

(b) An exception to (a) above may be made only if a court, upon motion by the requester or his or her representative, has determined that the information is necessary to assist in the defense of the requester. The inmate or representative thereof shall submit the determination by the court to the custodian of records for review and release authorization determination.

Amended by R.2004 d.317, effective August 16, 2004.
See: 36 N.J.R. 1869(a), 36 N.J.R. 3880(b).
Rewrote the section.

10A:22-2.2 Designation of custodian of records

(a) The Commissioner, Department of Corrections shall designate a custodian or alternate custodians as may be determined necessary and who shall be responsible for accepting requests for access to records held or controlled by the Department.

(b) Contact information for the custodian of records for the Department of Corrections is as follows:

1. Custodian of Records

Office of External Affairs
Department of Corrections
PO Box 863
Trenton, New Jersey 08625-0863; or