

CHAPTER 22

RECORDS

Authority

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

Source and Effective Date

R.1994 d.113, effective March 7, 1994.
See: 25 N.J.R. 5754(a), 26 N.J.R. 1228(b).

Executive Order No. 66(1978) Expiration Date

Chapter 22, Records, expires on March 7, 1999.

Chapter Historical Note

Chapter 22, Records, became effective July 5, 1988 with Subchapter 2, Release and Examination of Inmate and Parolee Records, adopted as R.1988 d.305. 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 expired on July 5, 1993, and subsequently was adopted as new rules by R.1994 d.113. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. RELEASE AND EXAMINATION OF INMATE AND PAROLEE RECORDS

- 10A:22-2.1 Public records
- 10A:22-2.2 Confidential records
- 10A:22-2.3 Limitation on inmate and parolee records
- 10A:22-2.4 Availability of information to non-Department of Corrections agencies or individuals
- 10A:22-2.5 Availability of information to Department of Corrections' personnel
- 10A:22-2.6 Availability of medical record summaries to inmates
- 10A:22-2.7 Procedure for release of confidential inmate or parolee records
- 10A:22-2.8 Records authorized by the inmate or parolee for inspection or release
- 10A:22-2.9 Litigation
- 10A:22-2.10 Juvenile records
- 10A:22-2.11 Reimbursement for costs of copying

SUBCHAPTER 3. (RESERVED)

SUBCHAPTER 4. EXPUNGEMENT OR SEALING OF RECORDS

- 10A:22-4.1 Procedures for expungement of records
- 10A:22-4.2 Expungement of disciplinary records
- 10A:22-4.3 Procedures for sealing juvenile records

SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. RELEASE AND EXAMINATION OF INMATE AND PAROLEE RECORDS

10A:22-2.1 Public records

(a) The following information and documents regarding an adult inmate or parolee shall be available for public inspection and copying:

1. Name;
2. Number;
3. Sentence;
4. Place of incarceration;
5. Order of Commitment; and
6. Any documents filed in a court of competent jurisdiction.

10A:22-2.2 Confidential records

(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 or parolee, 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 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. Such other records as the Commissioner or Superintendent, based on their experience and exercise of judgment, believe must be kept confidential to ensure maintenance of discipline and the orderly operation of the correctional facility and/or Department of Corrections.

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

10A:22-2.3 Limitation on inmate and parolee records

(a) Information on adult inmate or parolee records other than that outlined in N.J.A.C. 10A:22-2.1 shall not be released to or examined by any unauthorized person or agency except as set forth in this subchapter.

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

10A:22-2.4 Availability of information to non-Department of Corrections agencies or individuals

(a) Information from adult inmate and parolee records shall be provided to law enforcement agencies or individuals, who request such information in the performance of their public duties, and shall be in accordance with N.J.A.C. 10A:22-2.7.

(b) Adult 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) Selected records of adult inmates or parolees 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 Veteran's 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 psychiatric doctors.

Amended by R.1994 d.113, effective March 7, 1994.
See: 25 N.J.R. 5754(a), 26 N.J.R. 1228(b).

10A:22-2.5 Availability of information to Department of Corrections' personnel

(a) Information from inmate and parolee records shall be provided to Department of Corrections' personnel who need relevant information for use in connection with their work responsibilities. Only the amount of information necessary or relevant in connection with staff performance of duties shall be provided.

(b) Medical and psychiatric/psychological records or information shall be provided as limited below:

1. The complete file shall be available to medical or psychological treatment staff, involved in treating the inmate and/or drafting reports concerning his or her condition; and

2. Medical or psychiatric/psychological information may be made available to Department of Corrections' personnel, to whom the information is relevant in connection with the staff person's need to make a decision concerning the inmate such as, job placement, discipline, and parole. Only that amount of information that is necessary to permit proper exercise of discretion shall be provided.

(c) In the event a question arises as to the disclosure of medical or psychiatric/psychological information to Department of Corrections' personnel, the question shall be referred to the Superintendent for review and the decision of the Superintendent shall be final.

Amended by R.1991 d.415, effective August 5, 1991.
See: 23 N.J.R. 1512(a), 23 N.J.R. 2312(b).

Further delineation of to whom and when inmate records can be provided.

Amended by R.1994 d.113, effective March 7, 1994.
See: 25 N.J.R. 5754(a), 26 N.J.R. 1228(b).

10A:22-2.6 Availability of medical record summaries to inmates

(a) An inmate may obtain a copy of a summary of his or her medical records by submitting a written request, on Form MR-022, to the Superintendent or designee.

(b) The Superintendent or designee shall forward the approved Form MR-022 to the supervisor of the Medical Department.

(c) The supervisor of the Medical Department or designee shall provide a copy of the medical record summary to the inmate within 30 calendar days.

(d) Where available, a summary of the medical record shall be provided to the inmate and shall contain a computer print-out of 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 record summaries are not available by computer or a document cannot be duplicated, arrangements may be made for the inmate to review his or her medical records under supervision of a member of the medical staff.

(f) Copies of psychological/psychiatric records shall not be provided to inmates (see N.J.A.C. 10A:22-2.8(a)1, Records authorized by the inmate or parolee for inspection or release).

(g) Only objective data shall be supplied. Information may be withheld if, in the opinion of the Medical Director or Superintendent, 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.

New Rule, R.1992 d.54, effective February 3, 1992.
See: 23 N.J.R. 3424(a), 24 N.J.R. 471(a).

Old section 10A:22-2.6 "Procedure for release of confidential inmate or parolee records" recodified to 10A:22-2.7.

Amended by R.1994 d.113, effective March 7, 1994.

See: 25 N.J.R. 5754(a), 26 N.J.R. 1228(b).

Amended by R.1996 d.558, effective December 2, 1996.

See: 28 N.J.R. 4156(a), 28 N.J.R. 5074(b).

Administrative correction.

See: 29 N.J.R. 424(c).

10A:22-2.7 Procedure for release of confidential inmate or parolee records

(a) Information, 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 the New Jersey Department of Corrections personnel pursuant to N.J.A.C. 10A:71-2.1(a) and (c).

(b) The only confidential information which shall be released shall be the specific information that is directly related to the stated purpose for which the information is requested.

(c) 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.

(d) If Department of Corrections staff cannot determine whether confidential information should be released, the Office of the Attorney General shall be contacted for guidance.

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

Amended by R.1990 d.284, effective June 4, 1990.

See: 22 N.J.R. 898(a), 22 N.J.R. 1725(a).

Prohibits Department employees from releasing confidential materials prepared by State Parole Board employees.

Recodified from 10A:22-2.6 by R.1992 d.54, effective February 3, 1992.

See: 23 N.J.R. 3424(a), 24 N.J.R. 471(a).

Old section was "Records authorized by the inmate or parolee for inspection or release" recodified to 10A:22-2.8.

Amended by R.1994 d.113, effective March 7, 1994.

See: 25 N.J.R. 5754(a), 26 N.J.R. 1228(b).

10A:22-2.8 Records 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 adult inmate or parolee:

1. Medical records, except for psychiatric or psychological;
2. Dental records;
3. Educational records;
4. Work records;
5. Any document listed in N.J.A.C. 10A:22-2.1; and
6. Such other material as may be authorized for release under N.J.A.C. 10A:22-2.4(c).

(b) All records released under this section are subject to deletion of confidential information (see N.J.A.C. 10A:22-2.2).

Recodified from 10A:22-2.7 by R.1992 d.54, effective February 3, 1992.
See: 23 N.J.R. 3424(a), 24 N.J.R. 471(a).

Old section was "Litigation" recodified to 10A:22-2.9.

10A:22-2.9 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.

Recodified from 10A:22-2.8 by R.1992 d.54, effective February 3, 1992.
See: 23 N.J.R. 3424(a), 24 N.J.R. 471(a).

Old section was "Juvenile records" recodified to 10A:22-2.10.

Amended by R.1994 d.113, effective March 7, 1994.

See: 25 N.J.R. 5754(a), 26 N.J.R. 1228(b).

10A:22-2.10 Juvenile records

(a) Social, medical, psychological, 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.

Recodified from 10A:22-2.9 by R.1992 d.54, effective February 3, 1992.
See: 23 N.J.R. 3424(a), 24 N.J.R. 471(a).

Old section was "reimbursement for costs of copying" recodified to N.J.A.C. 10A:22-2.11.

Amended by R.1994 d.113, effective March 7, 1994.

See: 25 N.J.R. 5754(a), 26 N.J.R. 1228(b).

Amended by R.1995 d.213, effective April 17, 1995.

See: 27 N.J.R. 436(b), 27 N.J.R. 1618(a).

10A:22-2.11 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.

Recodified from N.J.A.C. 10A:22-2.10 by R.1992 d.54, effective February 3, 1992.

See: 23 N.J.R. 3424(a), 24 N.J.R. 471(a).

Amended by R.1994 d.113, effective March 7, 1994.

See: 25 N.J.R. 5754(a), 26 N.J.R. 1228(b).

SUBCHAPTER 3. (RESERVED)**SUBCHAPTER 4. EXPUNGEMENT OR SEALING OF RECORDS****10A:22-4.1 Procedures for expungement of records**

(a) Pursuant to N.J.S.A. 2C:52 et seq., whenever a correctional facility, Bureau Chief or an administrative unit head receives an Order from the Courts or from the Bureau of Correctional Information and Classification Services (C.I.C.S.) 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 Bureau of Correctional Information and Classification Services.

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

1. Classification;
2. Identification;

3. Medical;
4. Education;



5. Professional services;
6. Payroll;
7. Business Office;
8. Management control;
9. Operations;
10. Internal Affairs; 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 Bureau of Correctional Information and Classification Services.

(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 Bureau of Correctional Information and Classification Services.

(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 correction to (a).
See: 22 N.J.R. 29(d).

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 a correctional facility, Bureau Chief or an administrative unit head receives an Order from the Courts or from the Bureau of Correctional Information and Classification Services (C.I.C.S.) directing the sealing of juvenile records, all records concerning the inmate set forth in the Court Order shall be forwarded to the Bureau of Correctional Information and Classification Services for placement in the established sealed records file.

(b) All index references shall be marked "NOT AVAILABLE" or "NO RECORD".

(c) When correctional facility administrators receive inquiries for information relative to sealed juvenile records, the appropriate response shall be that there are no records with respect to such juveniles.

(d) Any future Court Orders concerning juvenile records shall be forwarded to the Bureau of Correctional Information and Classification Services.

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