

NH DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE DIRECTIVE	CHAPTER <u>General Administration</u> STATEMENT NUMBER <u>1.40</u>
SUBJECT: <b>PUBLIC RECORDS AND PUBLIC ACCESS TO DOC RECORDS</b>  PROPONENT: <u>Jeff Lyons, Public Information Officer</u> <i>Name/Title</i> <u>Commissioner's Office 271-5602</u> <i>Office Phone #</i>	EFFECTIVE DATE <u>04/01/08</u> REVIEW DATE <u>04/01/09</u> SUPERSEDES PPD# <u>1.40</u> DATED <u>06/15/07</u>
ISSUING OFFICER:  <hr/> <i>William Wrenn, Commissioner</i>	DIRECTOR'S INITIALS _____ DATE _____ APPENDIX ATTACHED: YES _____ NO _____
REFERENCE NO: See reference section on last page of PPD.	

I. PURPOSE:

To establish a policy and procedure to implement RSA 91-A, the State's Right-to-Know Law.

II. APPLICABILITY:

To all staff

III. POLICY:

It is the policy of the Department of Corrections that:

- A. The State's Right-to-Know Law, RSA 91-A, makes pre-existing information in State agencies' files available to the public with certain limitations. If the information is contained in a public record and does not fall within one of the statutory exemptions, the public must be provided reasonable access to that record upon request.
- B. The Right-to-Know Law exempts the following Department of Corrections' records from the general rule of public accessibility:
  - 1. Documents from the Parole Board, and documents prepared for the Parole Board;
  - 2. A record pertaining to internal personnel practices; confidential, commercial, or financial information; personnel medical, welfare, investigative reports for law enforcement purposes and other files whose disclosure would constitute an invasion of privacy.

IV. PROCEDURE:

- A. The law also provides that:
  - 1. A person does not have to explain why the information is wanted or to what use it will be put.
  - 2. The agency is expected to be cooperative with requests for information.
  - 3. The agency is required to make a diligent effort to produce the record, although if a record does not exist there is no requirement for the agency to create it, nor is the agency required to change the format of data for a requestor.

4. The agency does not have to copy the record for a requestor, but if a copy machine is available, the agency can authorize its use and can charge the requestor the actual cost for copying. See PPD 7.42 Photocopying Services for a full price schedule.
  5. A requestor may inspect the public documents on the premises during regular business hours.
  6. A requestor may not remove records from the premises without permission.
  7. The requestor may employ a copy service to copy the information.
- B. Department of Corrections' records will be made available in compliance with the law; however, records that fall into the following categories will not be released to requestors without the express permission of the Commissioner. See exception at Paragraph C.
1. Data from other sources. If this information is requested, the person desiring the information should go to the originating source.
  2. Mental health/medical information, since it falls into the category of client privilege.
  3. Information that was provided with the understanding that it would be kept confidential. Release of such information would violate a confidence.
  4. Information relating to the security of activities and facilities.
  5. Information relating to surveillance or supervision activities that would reveal law enforcement techniques.
  6. Personnel folders and information relating to hiring, promotion, discipline, criminal records, terminations or similar personnel matters.
  7. Fiscal management data that is not public information.
  8. Legal advice from the Attorney General's Office or other legal counsel employed by the State.
  9. Information relative to court cases under litigation in which the State or its agents are a party.
  10. Internal memoranda, position papers, recommendations, suggestions and similar information, which were developed or furnished in preparation for an agency decision.
  11. Information about offenses or offenders under investigation.
  12. Information that would invade the privacy of any person, including inmates, personnel, patients, and probationers/parolees, and is not already in the public domain.
- C. Exceptions:
1. Requests for information from law enforcement agencies that fall into any of the categories enumerated in Paragraph B will be honored if there is an apparent legitimate need for the information in an ongoing investigation and a sense of urgency in the request from the law enforcement agency. If in doubt about releasing information to law enforcement agencies, the issues should be transferred to the Office of the Commissioner.
  2. Information in Paragraph B1 may be released if the requestor has an authentic written authorization from the originating agency for us to release it.
  3. Information in Paragraphs B2, 6 and 11 may be released if each person whose privacy might be violated has executed a written authorization for such release.
- D. Requests for criminal records of inmates should be referred to the Director of Safety.

## REFERENCES:

Standards for the Administration of Correctional Agencies  
Second Edition Standards

Standards for Adult Correctional Institutions  
Fourth Edition Standards

Standards for Adult Community Residential Services  
Fourth Edition Standards

Standards for Adult Probation and Parole Field Services  
Third Edition Standards

Other

**RSA 91-A NH Right to Know**

**NH Attorney General's Right to Know Memorandum, published Feb. 2007**

**PPD 7.42 Photocopying Services**

LYONS/pf