

NH DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE DIRECTIVE	CHAPTER <u>General Administration</u> STATEMENT NUMBER <u>1.40</u>
SUBJECT: RIGHT TO KNOW ACCESS TO NHDOC RECORDS PROPONENT: <u>Jeffrey Lyons, Public Information Officer</u> <i>Name/Title</i> <u>Commissioner's Office 271-5602</u> <i>Office</i> <i>Phone #</i>	EFFECTIVE DATE <u>09/14/18</u> REVIEW DATE <u>09/14/20</u> SUPERSEDES PPD# <u>1.40</u> DATED <u>3/25/10</u>
ISSUING OFFICER: <u>Helen E. Hanks, Commissioner</u>	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. All right to know requests shall be forwarded to the Public Information Officer upon receipt.
- B. 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.
- C. 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 (RSA 91-A:5,II);
 - 2. Documents prepared for Pardon Boards (RSA 91-A:5,II);
 - 3. A record pertaining to internal personnel practices; confidential, commercial, or financial information; academic examinations; personnel medical, welfare, investigative information compiled for law enforcement purposes, and other files whose disclosure would constitute an invasion of privacy (RSA 91-A:5,IV).
 - 4. Non-Public Sessions: Consideration of security-related issues bearing on the immediate safety of security personnel or inmates at the ... state correctional facilities by the commissioner of the department of corrections, or their designees (RSA 91-A:3(g)).

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 Public Information Officer or designated respondent is required within 5 business days of the request,
 - a) to make all of the record available,
 - b) to make a redacted document available if some portions of the record are exempt as defined in Section B (Also see Section D)
 - c) deny all or part of the request in writing with reasons that cite the specific exemptions in RSA 91-A:3, RSA 91-A:4, or RSA 91-A:5 and also defined in Section B.,
 - d) or furnish written acknowledgment of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied
 - e) Once this is established it is incumbent upon the agency to provide the documents in the specified time frame.
 5. 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.
 6. A requestor may inspect the public documents on the premises during regular business hours.
 7. A requestor may not remove records from the premises without permission.
 8. 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. Financial Services 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 individuals in our custody that is not included in court records
 12. Information about individuals in our custody under investigation.
 13. Information that would invade the privacy of any person, including individuals in our care and custody, personnel, patients, and probationers/parolees, and is not already in the public domain.
 14. Personal school records of individuals in our care and custody.

- 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, 11, 12, and 14 may be released if each person whose privacy might be violated has executed a written authorization for such release.
 4. The Right-to-Know Law does not apply to court records.
- D. Redacted Records
1. In cases when part of the record is disclosable and part of the record is exempt from disclosure, the Public Information Officer shall redact the confidential sections but provide the rest of the record (s)
 2. The description of the redaction shall show specific facts that the release of the requested document(s) would constitute an invasion of privacy under RSA 91-A:5, including a description of how the requested material includes records pertaining to internal personal practices, confidential, medical, financial information, or other information subject to the exemptions of RSA 91-A:5;
 3. Indication of redacted material will be by blacking it out or highlighting it with a solid black line in the following manner: [REDACTED].
 4. All other non-redacted sections in the record shall be disclosed if the material is disclosable under the law.
- E. Requests for criminal records of individuals in our custody should be referred to the Department 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 March 2015.
<https://www.doj.nh.gov/civil/documents/right-to-know.pdf>
PPD 7.42 Photocopying Services

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