



Operating Procedure

Effective Date September 1, 2015	Number 050.6
Amended	Operating Level Department
Supersedes Operating Procedure 050.6 (2/1/13)	
Authority COV §§2.2-3700 through 3714, §2.2-3800 through 3809, §8.01-217, §8.01-413, §9.1-101, §9.1-133, §19.2-299, §19.2-389, §32.1-127.1:03, §53.1-40.10	
ACA/PREA Standards 4-4098; 4-ACRS-7D-11; 2-CO-1E-06	
Office of Primary Responsibility Director of Offender Management Services	

Subject
OFFENDER ACCESS TO RECORD INFORMATION

Incarcerated Offender Access
Yes No

FOIA Exempt Attachments Yes No
Yes No

I. PURPOSE

This operating procedure provides information to offenders on how they may access information contained in their Department of Corrections files for their own use and for individuals or agencies providing legal assistance, health care, or other services to the offender.

II. COMPLIANCE

This operating procedure applies to all units operated by the Department of Corrections (DOC). Practices and procedures shall comply with applicable State and Federal laws and regulations, Board of Corrections policies and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

III. DEFINITIONS

Alcohol and Drug Abuse Information - Information regarding the identification, diagnosis, prognosis, or treatment of an offender related to participation in an alcohol or drug program

Case File - A confidential computer record maintained in VACORIS, ICOTS, and/or written record maintained in a P&P Office regarding the offender which includes documentation of all action which has occurred in the case

Case Record - The case management record established and maintained for each offender in a Community Corrections facility

Community Corrections Facility - A residential facility operated by the Department of Corrections to provide the Detention Center Incarceration program in accordance with [COV §53.1-67.8](#) or the Diversion Center Incarceration Program in accordance with [COV §53.1-67.7](#).

Correctional Status Information (CSI) - Records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision (Reference Code of Virginia [§9.1-101](#))

Criminal History Record Information (CHRI) - Records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal charges, and any disposition arising there from. The term shall not include juvenile record information, criminal justice intelligence information, criminal justice investigative information, or correctional status information. (Reference Code of Virginia [§9.1-101](#))

Criminal Justice Agency - A Court or government agency, or any sub-unit thereof, which performs the administration of criminal justice pursuant to a statute or Executive Order, as defined in Code of Virginia [§9.1-101](#)

Expungement - The removal of a document or materials, or the deletion, erasure, blotting out, or striking out of a portion of a document or materials, as though the expunged material had not existed, so that all mention of a particular matter contained in the offender's historical hard copy or VACORIS record, if applicable is completely eradicated from those records. VACORIS maintains a historical record of all

actions related to an offender's incarceration and may be amended to correct erroneous information.

Facility - Any Community Corrections facility or institution

Facility Folder - A two part folder established at reception for each new offender received into the DOC on or after August 1, 2015 for the storage of the Property Envelope and facility specific information not uploaded to VACORIS

Health Record - A file that contains information relative to the offender's medical, dental, and mental health condition, and treatment. The health record is maintained at the facility of assignment and follows the offender throughout the term of incarceration.

Historical Hardcopy Record - The original offender criminal record, established at reception for each offender in an institution prior to August 1, 2015, containing all original incarceration documents

ICOTS - The Interstate Compact Offender Tracking System which is an internet-based computer system where all Compact activities are processed and recorded

Institution - A prison facility operated by the Department of Corrections - includes major institutions, field units, and work centers.

Mental Health Information - Any information relative to the offender's mental health status or treatment, including that part of the offender's health record which deals primarily with mental health issues

Offender Notification Information - Records, reports, and notices that are generated specifically for the information and receipt of an offender, regarding a specific matter involving the offender, including, but not limited to, responses to offender grievances, classification actions, disciplinary reports, and legal update sheets

Official Record - All offender-specific information maintained by the Department of Corrections; the official record may include the Historical Hardcopy Record and Facility Folder (institutions), case record (Community Corrections facilities), case files (Probation and Parole Offices), offender health records, and all offender-specific computerized records, including ICOTS, maintained in VACORIS by the Department of Corrections

Post Sentence Report (PSR) -An abbreviated form of the Pre-Sentence Investigation report that may be completed when the court does not order a PSI. The PSR shall be handled and disseminated under the same restrictions as a PSI.

Pre-Sentence Investigation (PSI) - A special individual background investigation and report prepared by probation and parole officers for the Courts and Parole Board. The PSI is sealed upon final order by the court and may be made available only by court order except that the Court or the Department of Corrections may make a copy available to criminal justice agencies or agencies where the offender is referred for treatment or supervision. (Reference Code of Virginia §19.2-299)

VACORIS - The computer-based Virginia Department of Corrections offender information management system

IV. PROCEDURE

A. Privacy and Confidentiality of Offender Record Information

1. Information pertaining to the records, offenses, personal history, and private affairs of offenders is for official use only.
2. The Virginia Freedom of Information Act exempts "all records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment." It is the policy of the DOC that all offender record information is exempt and considered to be confidential, and therefore, is not releasable, except as specified in this operating procedure, Operating Procedure 050.1, *Offender Records Management* (not accessible to incarcerated offenders) or as authorized by the Director or designee.
3. The confidentiality of offender medical, dental, mental health, and substance abuse records and information is further governed and restricted by relevant state and federal laws and regulations.

4. Other than as provided in this operating procedure, an offender shall have no access to the Official Record of their incarceration. (4-4098, 4-ACRS-7D-11, 2-CO-1E-06)
 5. Under no circumstances are offenders to handle or have access to information contained in another offender's active record, including but not limited to criminal, classification, medical, mental health, educational, counseling, disciplinary or grievance records, personal information such as the names and addresses of visitors, phone lists, offender account and spend sheet information, or any other records relating to an offender's imprisonment. Under no circumstances are offenders to handle or have access to the Social Security account number of other individuals pursuant to *United States Code* 42 U.S.C. 405(c)(2)(C).
- B. The Director of Offender Management Services, Chief of Corrections Operations, Regional Operations Chief, Regional Administrator, and Facility Unit Head, or their designees, have the authority to disseminate offender record information:
1. Upon receipt of a written request
 2. In accordance with this operating procedure and Operating Procedure 050.1, *Offender Records Management*
 3. With offender consent if applicable
 4. After advising the requester of applicable charges in the copying of records
 5. With the original request and copy of the response maintained by the DOC Unit releasing the information
 6. The DOC does not release criminal records information for employment or background checks.
- C. The Virginia Freedom of Information Act (COV §2.2-3700 et seq.) does not apply to offenders because §2.2-3703., C., explicitly excludes offenders incarcerated in a state, local, or federal correctional facility.
- D. Access to Official Record Information (4-4098, 4-ACRS-7D-11, 2-CO-1E-06)
1. Copies of certain documents will be provided to offenders if they request them and pay for them in advance:
 - a. Offender notification information as specified in this operating procedure
 - b. Medical, dental, and mental health records in accordance with this operating procedure and Operating Procedure 701.3, *Health Records*
 - c. Offender orientation materials
 - d. Operating procedures designated as offender accessible
 - e. Legal and other materials that are provided in the offender law library
 2. Offender Notification Information should routinely be provided to the offender in accordance with applicable procedures. After original notification, copies of the information should be released:
 - a. To the offender only upon advance payment of applicable copying charges
 - b. To another person, agency, or organization at request of the offender only upon receipt of an original [Consent for Release of Information](#) 050_F14 signed by the offender and payment of applicable copying charges
 3. Parole Board Information
 - a. Parole decision letters are offender notification information and may be disclosed as noted above.
 - b. Other Parole Board documents may be released only by the Parole Board. Any request for such documents should be submitted to the Parole Board in writing.
 4. Release of Criminal History Record Information (CHRI):
 - a. CHRI shall not be released from DOC records to offenders or their representatives.
 - b. An offender may request a copy of his own criminal history record information (CHRI), pursuant

to COV §19.2-389 A. (11), by writing to the Virginia State Police, Central Criminal Records Exchange (CCRE) for criminal history record information which is required to be reported to the CCRE or to the criminal justice agency required to maintain the record if such information is not required to be reported to the CCRE. (Reference COV §19.2-389 D)

- c. Offender requests for a copy of their own criminal history information must be made to their local State Police agency or by writing directly to:

Department of State Police
Central Criminal Records Exchange
P. O. Box 27472
Richmond, VA 23261-7472
 - d. Offenders do not have a right to review their P&P case file or case record in Community Corrections facilities except for those misdemeanor offenses which are not reportable to the State Police; however, there may be mitigating circumstances where the P&P Officer determines there is a need to show the offender their criminal investigative information or criminal history. Good judgment tempered with supervisor guidance is suggested whenever a P&P Officer is considering such an action.
 - e. The DOC may release CHRI to criminal justice agencies and other agencies or entities as authorized by the Code of Virginia, in accordance with Operating Procedure 050.1, *Offender Records Management*.
5. Alcohol and Drug Abuse Record Information (Reference 42CFR2) may be released:
- a. To the offender only upon receipt of a [Consent for Release of Alcohol and Drug Abuse Record Information](#) 050_F15 or a [Consent for Release of Information \(PPS 20\)](#) 920_F8 signed by the offender
 - b. To any other person, agency or organization at the request of the offender only upon receipt of a [Consent for Release of Alcohol and Drug Abuse Record Information](#) 050_F15 or a [Consent for Release of Information \(PPS 20\)](#) 920_F8 signed by the offender.
 - c. Without an offender's written consent only in accordance with state and federal statutes and Operating Procedure 050.1, *Offender Records Management*
 - d. Reasonable charges should be made for such copies in accordance with this operating procedure
6. Release of Medical, Dental and Mental Health Records
- a. In accordance with this operating procedure, Operating Procedure 701.3, *Health Records*, and the Code of Virginia, offenders may request copies of their medical, dental, and mental health records. Pursuant to COV §8.01-413(B) and §32.1-127.1:03(E) copies of such records will be provided within 15 days of the request, provided that the offender pays for such copies in advance of receiving them.
 - b. Copies of Medical and Dental Records should be provided:
 - i. To the offender, an attorney or physician, agency or organization, or other person at the request of the offender upon receipt of a properly completed and signed [Consent for Release of Confidential Health and/or Mental Health Information](#) 701_F8; the *Consent* should be notarized unless it is signed by the offender in the presence of a correctional employee who signs as a witness to the signature.
 - ii. To a medical or mental health facility and persons or other entities, in accordance with COV §53.1-40.10, without offender written consent
 - iii. To any criminal justice agency, without offender consent, upon receipt of a Court order authorizing such release
 - c. Copies of Mental Health Records should be provided under the same conditions as Medical and Dental Records, as noted above (using [Consent for Release of Confidential Health and/or Mental Health Information](#) 701_F8), except that copies of any records specifically noted by a physician or clinical psychologist treating the offender that review of the records by the offender would be

harmful to his health or well-being, shall not be provided to the offender or anyone authorized to act on his behalf, except as provided for by COV §8.01-413(B).

i. Any decision to deny the request for copies of records based on such statement may be reviewed by another physician or clinical psychologist, in accordance with COV §32.1-127.1:03(F).

ii. The offender is responsible for any costs or fees associated with such review; the DOC bears no responsibility for such costs.

d. Reasonable charges should be made for such copies in accordance with this operating procedure.

7. Release of Pre-sentence, Post Sentence and Progress Reports:

a. Pre-sentence Investigations (PSI) and Post Sentence Reports (PSR) may be released by the Department of Corrections as needed for an offender referred to another agency or program for the continuation of treatment or supervision.

b. Progress Reports may be released only under the same conditions as CHRI records.

8. Per COV §9.1-133, the following information is not subject to review or correction by offenders

a. Investigative information not connected with a criminal prosecution or litigation including investigations of rule infractions in correctional facilities, and background checks for security clearances.

b. Correctional information about an offender including counselor reports, diagnostic summaries, and other sensitive information not explicitly classified as criminal history record information.

9. Release of Offender Records to the Public and Media

a. The Virginia Freedom of Information Act, Privacy Protection Act, and other laws govern the dissemination and the confidentiality of information maintained by state agencies. These regulations have a direct effect on the type of information about offenders that can be released to the public and the media. When responding to requests for information about individual offenders, DOC staff may release only the following information to the public:

- The offender's projected parole eligibility, mandatory parole, and/or good time release dates at the time of the inquiry.
- The offender's incarceration or parole status and location
- A confined offender's mailing address for purposes of correspondence (see Operating Procedure 050.1, *Offender Records Management*, for limitations)
- Information concerning an offender's visiting status and privileges. (Copies of visiting lists, phone lists, and correspondence logs are not to be released).
- Release of information concerning apprehension, arrest, prosecution, or adjudication of charges against an offender and information in the event of an offender escape or death should be handled in accordance with Operating Procedure 025.1, *Public Access to Hearings, Meetings, and Public Records*.
- Release of offender record information to the media should be handled in accordance with Operating Procedure 025.1, *Public Access to Hearings, Meetings, and Public Records* and Operating Procedure 022.1, *Mass Media Relations*.

b. All requests for offender record information made under the Virginia Freedom of Information Act will be denied, citing COV §2.2-3706., F., 6., which excludes "all records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment."

c. Release of information contained in offender medical, dental, and mental health records is further excluded under COV §2.2-3705.5.

10. Copying Charges for Release of Information shall be in accordance with Operating Procedure 050.1, *Offender Records Management*, which shall apply if the charges change from those listed in this operating procedure.

a. Copying charges should not apply to information provided to DOC units, other Virginia state agencies, other law enforcement agencies, or to entities where the offender is being referred by

DOC for services or treatment.

- b. Copying charges will apply to all requests by offenders and the public for offender record information.
 - i. Copying charges should be collected before providing the requested information. Charges may be billed with the delivery of records at the discretion of the Facility Unit Head.
 - ii. The charges will be the sum of:
 - (a) A charge for each page or copy
 - (b) The cost of postage plus a handling charge, when the copies are sent through the U.S. Postal Service or private mail carrier.
 - (c) Reasonable costs, not to exceed the actual cost of labor for additional research required to locate and copy records that are not readily available for copying, such as records that are archived or are maintained on microfilm or computer databases.
 - (d) Per page copying charges and handling charges should be based on memoranda issued by Offender Management Services for information from VACORIS and the historical hardcopy record or facility folder and by Health Services for Health Record information.
 - iii. The requester should be advised of the fees in writing using the *Sample Copying Charge Letter* (see Operating Procedure 050.1, *Offender Records Management*) as a guide. Upon receipt of the check or money order, made payable to the "Department of Corrections", the copies should be provided and the check/money order deposited in accordance with financial systems procedures.

11. Appeal of Request Denials:

- a. Institutional offenders may appeal denial of information access through the Offender Grievance Procedure.
- b. Community Corrections offenders may appeal denial of information access through the Facility Unit Head.

E. Expungement

1. An offender who becomes aware of erroneous information in their Official Record may request to the Facility Unit Head that the erroneous information be expunged from the record.
2. If the information is confirmed to be erroneous, the Facility Unit Head will submit a request to have the erroneous information expunged from offender's official record.
 - a. Institutions will use [*Expungement or Amendment of Offender Record Material*](#) 050_F13 to submit expungement requests to the Manager, Classification and Records or designee.
 - b. Community Corrections facilities will submit expungement requests to the Regional Administrator.
3. Institutional offenders may appeal expungement decisions through the Offender Grievance Procedure.
4. Community Corrections offenders may appeal expungement decisions through the Facility Unit Head.

F. Offender Name Changes

1. Names on offender records
 - a. VACORIS name - the offender's legal name, usually the birth name or a legal name change
 - b. Term name - the name shown on the offender's current sentencing order(s)
2. In accordance with the Code of Virginia and case law, offenders are permitted to legally change their names.
3. Offenders will be permitted to use a legal name change, in addition to the name under which they were sentenced in accordance with the following provisions:
 - a. It is the offender's responsibility to provide documentation of the legal name change.

- b. The DOC is not compelled, for record keeping purposes, to change its files to reflect an offender's legal change of name as the term name unless the DOC receives a court order which amends the original sentencing order.
- c. Absent the above order, the DOC will acknowledge in the official record that the offender has had his name changed legally by recording it as the VACORIS name by virtue of an attested copy of the court order.
 - i. Facility staff shall not change the VACORIS name.
 - ii. The facility shall submit the attested copy of the Court order showing the legal name change to Central Classification Services to have the VACORIS name changed to the new legal name.
- d. All documents printed from VACORIS will use the VACORIS name, which should be the name the offender uses for DOC business and communication. The offender shall be allowed to send or receive mail using either name, but the offender number should appear on all correspondence.
- e. Some courts require that the offender applying for a name change provide a copy of criminal history information.
 - i. The offender may request a summary of felony conviction records by providing the documentation from the court that confirms application for a name change and instructions from the Court to provide that information.
 - ii. A sentence summary from VACORIS may be used for this purpose once payment of copying charges by the offender has been made in accordance with this operating procedure. The database should be researched and all DOC criminal history, including prior numbers for the offender, should be included.
 - iii. Copies of the sentence summaries should be sent directly to the Court, with a notation made in VACORIS indicating the request, the information provided and date it was sent.

V. REFERENCES

Operating Procedure 022.1, *Mass Media Relations*

Operating Procedure 025.1, *Public Access to Hearings, Information, and Meetings*

Operating Procedure 050.1, *Offender Record Management*

Operating Procedure 701.3, *Health Records*

VI. FORM CITATIONS

[Expungement or Amendment of Offender Record Material](#) 050_F13

[Consent for Release of Information](#) 050_F14

[Consent for Release of Alcohol and Drug Abuse Record Information](#) 050_F15

[Consent for Release of Confidential Health and/or Mental Health Information](#) 701_F8

[Consent for Release of Information \(PPS 20\)](#) 920_F8

VII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years from the effective date.

Signature Copy on File

7/21/15

A. David Robinson, Chief of Corrections Operations

Date