	DEPARTMENT OF CORRECTIONS AND REHABILITATION DEPARTMENT ADMINISTRATION POLICY AND PROCEDURES	EFFECTIVE DATE: January 01, 2024	POLICY NO.: ADM.05.02
		SUPERSEDES (Policy No. & Date): ADM.05.02 of June 20, 2008	
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1.0 PURPOSE

To establish guidelines and procedures for the release and/or disclosure of Department information to the public.

2.0 SCOPE

This policy applies to all administrators, supervisory, and clerical personnel who are responsible for the control, security, and maintenance of Department information.

3.0 REFERENCES, DEFINITIONS & FORMS

.1 References

- a. Hawaii Revised Statutes (HRS), §92F, §334, and §846.
- b. DCR Policy ADM.05.01, Access Control to Department Confidential Information.

.2 Definitions

- a. Agency: any unit of government in this State, any county, or any combination of counties, department, institution, board, commission, district, council, bureau, office, government authority, other instrumentality of State or county government; or, corporation or other establishment owned, operated or managed by or on behalf of their State or any county, but does not include the non-administrative functions of the courts of this State.
- b. Confidential Records: those personal and governmental records that public access is restricted or closed by law. Records that would constitute a clearly unwarranted invasion of personal privacy and those records that must also be "confidential" in order for the government to avoid the frustration of a legitimate function.
- c. Personal Record: any item, collection, or grouping of information about an individual that is maintained by an agency. It includes, but is not limited to the individual's education financial, medical, or employment history, or items that contain or make reference to the individual's name, identifying number, symbol, or other identifying particular

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assigned to the individual, such as a finger or voice print or a photograph.

4.0 POLICY

- .1 In compliance with the provisions of the Uniform Information Practices Act, all information maintained by the Department shall be open to public inspection unless access is restricted by law or classified by the Department as privacy or confidential information. A system shall be established, under the provisions of this policy, for the release and/or disclosure of Department information to the public upon request.
- .2 Should these guidelines conflict with statute or administrative rules, the latter shall take precedence.

5.0 PROCEDURES

- .1 Public Access Authorized (HRS, §92F-12)
 - a. Department headquarters and each divisional, branch organization or facility located away from Department headquarters, therefore, shall make government records and information available for inspection and copying. Department records and information shall be open to public inspection, during regular business hours, Monday through Friday, between the hours of 7:45 a.m. and 4:30 p.m., except on designated official holidays and weekends or during emergencies affecting the particular organization or facility (See Attachment A for government records and information authorized for inspection and/or disclosure or release.)
 - b. Until such time that the Office of Information Practices (OIP) guidelines and/or rules are promulgated regarding the computation of fees for the public to pay for the copying of government records, the fee charged shall be fifty (\$.50) cents per page or sheet or one (\$1.00) dollar for a two-sided copy. Fees shall be collected from the person or firms making the request, prior to giving the requester the reproduced record. All fees collected shall be receipted for by each organization's Departmental clerical personnel and forwarded to the Department's Fiscal Office. Departmental Staff Officers, Division, Branch, and Section Administrators shall be responsible for reconciling all monies collected by their organization with each receipt prior to forwarding the receipts and cash to the Department's Fiscal Office for deposit into the State's general fund (refer to HRS, §92-21).

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- c. Each request for disclosure and/or access shall be recorded and authorized by the organization's administrator, or staff officer, using departmental form PSD 1017 (See Attachment B.) Retain the completed form as the Department's file copy for at least three years before destroying. Reproduce form by copier machine as needed.
- .2 Limitations on Disclosure to Other Agencies (HRS, §92F-19)
- Department records and information are authorized for disclosure to other agencies as indicated in Attachment C.
- .3 Disclosure Restricted (HRS, §92F-13)
- Department records and information falling in the following categories shall be restricted for disclosure or release unless authorized by the Director or his designee or higher authority:
- a. Government records which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy. (See Attachment D);
 - b. Government records pertaining to the prosecution or defense of any judicial or quasi-judicial action to which the State or any county is or may be a party, to the extent that such records would not be discoverable;
 - c. Government records that, by their nature, must be confidential in order for government to avoid the frustration of a legitimate government (operation or) function;
 - d. Government records which, pursuant to State or Federal Law including an order of any state or federal court, are protected from disclosure; and
 - e. In formulation and draft working papers of legislative committees including budget work sheets and untiled committee report; work product records or transcripts of an investigating committee of the Legislature which are closed by rules adopted pursuant to Section 21-4, HRS, and the personal files of members of the Legislature.
- .4 Significant Privacy Interest (HRS, §92F-14)

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Information contained in Attachment D are examples of the kinds of information which a person or individual has a significant privacy interest. When it is determined that public interest in disclosure or release outweighs the privacy interests of the individual, disclosure of a government record should not constitute a clearly unwarranted invasion of personal privacy. In such cases, before such information can be released, the Director or his designee's review and approval are required.

.5 Individual' Access to Own Personal Records (HRS, §92F-21)

Any accessible personal records maintained within the Department shall be made available to the individual to whom it pertains in a reasonably prompt manner and intelligible form (where necessary a translation into common terms, machine codes or any codes or abbreviations shall be provided.)

.6 Disclosure to an Exclusive Representative (Section 92F-21.5)

As defined by Chapter 89, HRS, information related to the administration of payroll deductions as authorized by HRS, §94-4, such as: the name, social security number, bargaining unit, amounts and dates of all statutory dues and fees, and voluntary payroll deductions remitted to the exclusive representative (appropriate bargaining unit of an employee), shall be disclosed

An exclusive representative shall be subject to the same restrictions on disclosure of the records as the originating agency.

.7 Exemptions and Limitations on Individual Access (HRS, §92F-22)

Individual access is not authorized to personal records or information in such records when:

- a. The records being maintained pertain to the prevention, control, or reduction of crime as the agency's principal function and which consists of:
 - 1. Criminal history record information means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, and other formal criminal charges, and any disposition arising there from, sentencing, formal correctional supervisory action, and release, but does not include intelligence or investigative

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information, identification information to the extent that such information does not indicate involvement of the individual in the Criminal Justice System and information derived from offender-based transaction statistics systems which do not reveal the identity of individuals (see HRS, §846-1);

2. Information or reports prepared or compiled for the purpose of criminal intelligence or of a criminal investigation, including reports or informers, witnesses, and investigators; or
 3. Reports prepared or compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through confinement, correctional supervision, and release from supervision.
- b. The disclosure of which would reveal the identity of a source who furnished information to the Department under an express or implied promise of confidentiality.
 - c. Test or examination material or scoring keys are used solely to determine individual qualifications for appointment or promotion in public employment or used as or to administer a licensing examination or an academic examination, the disclosure of which would compromise the objectivity, fairness, or effectiveness of the testing or examination process.
 - d. Investigative reports and materials, related to an upcoming, ongoing, or pending civil or criminal action or administrative proceeding against the individual.
 - e. Required to be withheld from the individual to whom it pertains by statute or judicial decision or authorized to be so withheld by constitutional or statutory privilege.
- .8 Processing Individual Requests for Own Personal Information (HRS, §92F-23)

The receiving office shall permit the individual to review the record and have a copy made within ten (10) working days following the date of the request unless the personal record requested is exempt to individual access under §92F-22 (refer to paragraph 4.7 above).

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The ten (10) working days may be extended for an additional twenty (20) days if we provide the requester, within ten (10) initial working days, a written explanation of unusual circumstance causing the delay.

.9 Individual's Rights to Correct Personal Record (HRS. § 92F-24)

An individual has the right to have any factual error, misrepresentative or misleading entry within that individual's personal record corrected or amended by the departmental office responsible for the record.

To have a personal record corrected or amended, the individual must submit the correction or amendment, in writing, to the responsible administrator or staff officer of the organization maintaining the file. Request may also be sent directly to the Director of the Department.

Within twenty (20) working days of the receipt of the request, the responsible organization or office shall acknowledge its receipt and promptly:

- a. Make the requested correction or amendment and acknowledge the fact that it was done; or
- b. Inform the individual, in writing, of refusal to correct or amend the individual's record; state the reason for the refusal and explain the Department's procedure for review of the refusal. (Start promptly processing any appeals at lowest level to resolve. Last resort would be to get Director to resolve any appeals if cannot be resolved at lower level before it goes to OIP or courts.)

.10 Procedures for Final Review of Refusals of Individual Request for Correction and Amendment (HRS, § 92F-25)

Within thirty (30) working days after receipt of a written request for review of the Department's refusal to allow correction or amendment of an individual's record, the Director or his designee shall make a final determination

If the Director or his designee's final determination is to refuse the correction of amendment, he shall

- a. Do so in writing;

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- b. Whenever appropriate, permit the requesting individual to file in the record a concise statement setting forth the reasons for the individual's disagreement with the refusal; and
- c. Notify the requester of the applicable procedures for obtaining appropriate remedy from the Office of Information Practices or concurrently from the circuit courts (see paragraph "11" below.)

.11 Public Appeal of a Denial of Access to Department's Records

They may appeal the denial in writing. Appeals shall be addressed to the Director. The Director or designee shall respond as soon as possible or within thirty (30) days from the date of receipt of the appeal.

If the Director or designee denies the request for access, the requesting individual, in accordance with HRS, §92F-15.5, may appeal the denial to the Office of Information Practices (OIP) whose address is:

Department of Attorney General
Office of Information Practices
426 Queen Street, Room 201
Honolulu, Hawaii 96813
Telephone number: (808) 586-1400
FAX number: (808) 586-1412

Also a person aggrieved by a denial of access to a government record may bring circuit court action against the Department at any time within two years after the denial.

In an action to compel disclosure, the circuit court shall:

- 1. Hear the matter of denial;
- 2. Admit options and ruling of the Office of the Information Practices (OIP); and
- 3. May examine the information or record at issue (in camera) to assist in determining whether it, or any part of it, may be withheld.

.12 Burden of Proof for Denying Request

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The Department has the burden of proof to establish justification for non-disclosure. The reason "not readily retrievable" must be carefully used as justification. The information or record being requested, if available or already is in the form requested, shall be provided to the requester even if it takes a reasonable amount of effort or time to retrieve it.

The requirement of reasonable amount of time to retrieve will not be sufficient justification to indicate that it was not retrievable. Of course, the time it takes to search for a document or information shall be computed into the costs of producing a copy of the document requested. The OIP is preparing guidelines for all agencies to follow. The guidelines shall be forwarded to all departmental offices when it is received.

.13 If a Problem is Encountered with a Particular Request

Should any employee encounter a problem with a particular request, immediate supervisor can provide or obtain guidance from the Organizational Chain of Command. Supervision shall keep the respective Deputy Director as well as the division or branch administrator informed of the status of the situation at all times.

Any request for access to department records or information files which cannot be resolved by an Administrator or Staff Officer (whether to grant or not grant access), shall be quickly brought to the attention of the respective Deputy Director for review and a decision. If the Deputy Director determines that an opinion is needed, the matter is referred to OIP for review.

.14 Maintain Record or Copy, or Log of Files Being Maintained (HRS, §92F-18)

Each major departmental organization (Das, SOs, Bas, and SHs) shall maintain a record or copy, or log of:

- a. The name (subject) and location of each file or set of records, being maintained;
- b. The authority or reason why the file or set of records is being maintained;
- c. The categories of information for whom records are maintained;
- d. The categories of information or data maintained in the files or records (subject categories as found in State General Records Schedule #1);

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- e. The categories of sources of information in the records (where did you get the information, i.e., investigation, medical examination, inspection of facilities, etc.)
- f. The categories of uses and disclosures made of the records;
- g. The agencies and categories of persons outside of the Department which routinely use the records;
- h. The records routinely used by your organization or office which are maintained by:
 - 1. Another agency, or
 - 2. A person other than an agency
- i. The policies and practices of the agency regarding storage, retrievability, access controls, retentions, and disposal of the information maintained in records;
- j. The title, business address, and business telephone number of the individual or individuals responsible for the care and maintenance of the organization's records;
- k. The agency procedures whereby an individual may request access to records; and
- l. The number of written requests for access within the preceding year, number denied, the number of lawsuits initiated against the agency under this part, and number of suits in which access was granted.

The above information (for an entire calendar month) shall be compiled on Form PSD 1018 (see Attachment E), including additional statistical information regarding access requests that are to be included in the cover memorandum of the Monthly Records Report (see Attachment F).

The reporting organization's Records Liaison Officer with the approval of their Administrator or Staff Officer shall forward this report to the respective Deputy Director through the chain of command with a copy to the Department Records Officer. This monthly report is due within five (5) working days at the beginning of each month, beginning with the

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month of September 1992 which is to be reported in October 1992. Negative reports are required.

Each Deputy Director is responsible for ensuring that the requested information (HRS, §92F-18) is forwarded by subordinate organizations, for inclusion in the Director's public report to the OIP, as specified by HRS, §92F.

The OIP is still in the process of drafting guidelines which each agency will follow for uniformity of reporting the public report.

.15 Immunity from Liability (HRS, §92F-16)

Departmental employees participating in good faith in the disclosure or nondisclosure of a government record or information shall be immune from any liability, civil or criminal, that might otherwise be incurred, imposed, or result from such acts or omissions.

.16 Criminal Penalties (HRS, §92F-17)

- a. Any officer or employee of the Department who intentionally discloses or provides a copy of a government record or any confidential information explicitly described by specific confidentiality statutes, to any person or agency with actual knowledge that disclosure is prohibited, shall be guilty of a misdemeanor, unless a greater penalty is otherwise provided for by law.
- b. Any officer or employee of the Department who intentionally gains access to or obtains a copy of a government record by false pretense, bribery, or theft, with actual knowledge that access is prohibited, or who intentionally obtains any confidential information by false pretense, bribery, or theft, with actual knowledge that it is prohibited by confidentiality statutes, shall be guilty of misdemeanor.

.17 Annual Reporting to OIP (HRS, §92F-18)

The Deputy Director for Administration with the assistance of the Department Records Officer shall be responsible for the fulfillment of the requirements and for the annual reporting of requirements in Section 92F-18, HRS.

.18 Powers and Duties of the OIP (HRS, §92F-42)

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The Director of the Office of Information Practices:

- a. Shall, upon request, review and rule on an agency denial of access to information or records, or an agency's granting of access; provided that any review by the Office of Information Practices shall not be a contested case under Chapter 91 and shall be optional and without prejudice to rights of judicial enforcement available under this chapter;
- b. Upon request by an agency, shall provide and make public advisory guidelines, opinions, or other information concerning that agency's functions and responsibilities;
- c. Upon request by any person, may provide advisory opinions or other information regarding that person's rights and the functions and responsibilities of agencies under this Chapter;
- d. May conduct inquiries regarding compliance by an agency and investigate possible violations by an agency;
- e. May examine the records of any agency for the purpose of paragraph (4) and seek to enforce that power in the courts of this State;
- f. May recommend disciplinary action to appropriate officers of an agency;
- g. Shall report annually to the Governor and the State Legislature on the activities and findings of the Office of Information Practices, including recommendations for legislative changes;
- h. Shall receive complaints from and actively solicit the comments of the public regarding the implementation of this chapter;
- i. Shall review the official acts, records, policies, and procedures of each agency;
- j. Shall assist agencies in complying with the provisions of this chapter;
- k. Shall inform the public of the following rights of an individual and the procedures for exercising them:
 1. The right of access to records pertaining to the individual;
 2. The right to obtain a copy of records pertaining to the individual;

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3. The right to know the purposes for which records pertaining to the individual are kept;
 4. The right to be informed of the uses and disclosures of records pertaining to the individual;
 5. The right to correct or amend records pertaining to the individual; and
 6. The individual's right to place a statement in a record pertaining to that individual.
- l. Shall adopt rules and set forth an administrative appeals structure which provides for (1) agency procedures for processing records; (2) a direct appeal from the division maintaining the record; and (3) time limits for action by agencies;
 - m. Shall adopt rules that set forth the fees and other charges that may be imposed for searching, reviewing, or segregating disclosable records, as well as to provide for a waiver of such fees when the public interest would be served;
 - n. Shall adopt rules which set forth uniform standards for the records collection practices of agencies;
 - o. Shall adopt rules that set forth uniform standards for disclosure of records for research purposes;
 - p. Shall have standing to appear in cases where the provisions of this chapter are called into question; and
 - q. Shall adopt, amend, or repeal rules pursuant to Chapter 91 necessary for the purpose of this Chapter.
- .19 Deputy Directors, Division, Branch, and Section Administrators and Staff Officers shall be responsible for controlling access and disclosure of government information. All violations shall be corrected and brought to my attention promptly, including a recommendation as to disciplinary or legal action to be taken by the Director.

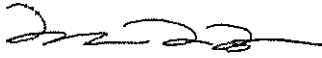
Division, Branch, and Section Administrators and Staff Officers shall designate records clerks who are authorized by them to disclose

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government information in accordance with the guidelines provided herein and State statutes. The Department Records Officer of the Management Services Office shall be provided a list of such designees and any changes thereto.

APPROVAL RECOMMENDED:




Deputy Director for Administration JAN 0 1 2024
Date

APPROVAL RECOMMENDED:



Deputy Director for Corrections JAN 0 1 2024
Date

APPROVED:



DIRECTOR JAN 0 1 2024
Date

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