

	<b>DEPARTMENT OF CORRECTIONS AND REHABILITATION</b> <b>DEPARTMENT ADMINISTRATION POLICY AND PROCEDURES</b>	<b>EFFECTIVE DATE:</b> January 01, 2024	<b>POLICY NO.:</b> ADM.09X.40
		<b>SUPERSEDES (Policy No. &amp; Date):</b> ADM.09X.40 of October 20, 2015	
	<b>SUBJECT:</b> <b>HAWAII INTEGRATED JUSTICE INFORMATION SHARING (HIJIS) FRAMEWORK</b>		Page 1 of 18

## 1.0 PURPOSE

The Department of Corrections and Rehabilitation (DCR) shall establish policy and procedures that are in compliance with applicable laws protecting privacy, civil rights, and civil liberties to participate in the Hawaii Integrated Justice Information Sharing (HIJIS) framework.

## 2.0 SCOPE

The DCR's personnel, personnel providing information technology services to the agency, private contractors, entities from which agency information originates, and other authorized users shall comply with applicable laws protecting privacy, civil rights, and civil liberties, including, but not limited to the listing in the HIJIS privacy policy, and the Federal Laws Relevant to Seeking, Retaining, and Disseminating Justice Information.

## 3.0 REFERENCES, DEFINITIONS & FORMS

### .1 References:

- a. Hawaii Revised Statutes (HRS), Chapter 92F (Uniform Information Practices Act).
- b. HRS, §286.171 and §286.172 (Traffic Records).
- c. HRS, Chapter 291C (Statewide Traffic Code).
- d. HRS, Chapter 487 J (Social Security Number Protection).
- e. HRS, Chapter 487N (Security Breach of Personal Information).
- f. HRS, Chapter 571 (Family Courts).
- g. HRS, Chapter 846 (Hawaii Criminal Justice Data Center).
- h. Federal Code 28 U.S. Code 534 (Acquisition, preservation, and exchange of identification records and information notification Records and Information).

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- i. Health Insurance Portability and Accountability Act (HIPAA), Public Law 104- 191, 11O stat. 1996.
- j. 28 CFR Part 23, Criminal Intelligence Systems Operating Policy.

.2 Definitions:

- a. “HIJIS” means: the Hawaii Integrated Justice Information Sharing.
- b. “NCISP” means: The National Criminal Intelligence Sharing Plan (NCISP), the first of its kind in the country, provides a blueprint to help agencies establish criminal intelligence sharing policies, procedures, standards, technologies, and training. The Plan was assembled with close input and cooperation from local, state, tribal, and federal law enforcement agencies, and it has been endorsed by numerous national law enforcement organizations. Implementation of NCISP will provide law enforcement agencies with the ability to gather, analyze, protect, and share information and intelligence to identify, investigate, prevent, deter, and defeat the perpetrators of criminal and terrorist activities, both domestically and internationally.
- c. ““OECD” Fair Information Principles” means: the Organization for Economic Co-Operation and Development focuses on the development of better policies to ensure that security and privacy foster economic and social prosperity in an open and interconnected digital world.
- d. “Personal record” means: any items, 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, such as a finger or voice print or a photograph.
- e. “Policy” as referenced in this document means; this HIJIS Privacy Policy document.
- f. “Privacy” means freedom from unsanctioned intrusion. Refers to individuals’ interest in preventing the inappropriate collection, use, and release of personal information.

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- g. "Protected information" means information including personal data about individuals that is subject to information privacy or other legal protections by law, including the U.S. Constitution and the Hawaii Constitution; applicable federal statutes and regulations, such as civil rights laws and 28 CFR Part 23; applicable state and tribal constitutions; and applicable state, local, and tribal laws, and ordinances. Protection may also be extended to organizations by center policy or state, local, or tribal law.

#### **4.0 POLICY**

- .1 The Deputy Director for Administration, the Deputy Director for Corrections, and the Deputy Director for Rehabilitation (Deputy Directors) are responsible for the operation of the DCR's operations and coordination of personnel; the receiving, seeking, retention, evaluation, information quality, analysis, destruction, sharing, disclosure, or dissemination of information; and the enforcement of the HIJIS Privacy Policy, as well as the DCR's privacy policy.
- .2 The Deputy Directors receive reports regarding alleged errors and violations of the provisions of the HIJIS Privacy Policy, as well as the DCR's privacy policy. The Deputy Directors receive and coordinate complaint resolution under the agency's redress policy and ensure that privacy protections are implemented through efforts such as training, business process changes, and system designs that incorporate privacy-enhancing technologies. The Deputy Directors can be contacted at the following electronic mail (email) address:  
psd.office.of.the.director@hawaii.gov.

#### **5.0 PROCEDURES**

- .1 Information:
  - a. The DCR shall seek, retain, and share information through the HIJIS framework that:
    - 1. Is based on a possible threat to public safety or the enforcement of the criminal law.

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2. Is based on reasonable suspicion that an identifiable individual or organization has committed a criminal offense or is involved in or planning criminal (including terrorist) conduct or activity that presents a threat to any individual, the community, or the nation and that the information is relevant to the criminal (including terrorist) conduct or activity.
  3. Is relevant to an investigation and prosecution of a suspected criminal (including terrorist) incidents; the resulting justice system response; the enforcement of sanctions, orders, or sentences; or the prevention of crime.
  4. Is useful in crime analysis or in the administration of criminal justice and public safety (including topical searches).
  5. The source of the information is reliable and verifiable or limitations on the quality of the information are identified.
  6. The information was collected in a fair and lawful manner, with the knowledge and consent of the individual, if appropriate.
- b. The DCR shall not seek or retain information that shall be shared through HIJIS and information-originating entities shall agree not to submit information through HIJIS about individuals or organizations solely on the basis of their religious, political, or social views or activities; their participation in a particular noncriminal organization or lawful event; or their race, ethnicity, citizenship, place of origin, age, disability, gender, or sexual orientation.
- c. The DCR shall apply labels to agency-originated information (or ensure that the originating agency has applied labels) that shall be shared through HIJIS to indicate to the HIJIS-accessing authorized user that:
1. The information is "protected information," to include a "personal record" on any individual (see Definitions, within the HIJIS policy) and, to the extent expressly provided in this policy.
  2. The information is subject to local, state, or federal laws restricting access, use, or disclosure.

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- d. The DCR personnel shall, upon receipt of information that is intended to be shared through HIJIS, assess the information to determine or review its nature, usability, and quality. Personnel shall assign categories to the information (or ensure that the originating agency has assigned categories to the information) to reflect the assessment, such as:
  1. Whether the information consists of tips and leads data, criminal history, intelligence information, case records, conditions of supervision, case progress, or other information category.
  2. The nature of the source as it affects veracity (for example, anonymous tip, trained interviewer or investigator, public record, private sector).
  3. The information should be viewed as reliable and valid unless otherwise noted (for example, information that is not positive ID-based).
  
- e. At the time a decision is made by the DCR to retain information that is intended to be shared through HIJIS, the information shall be labeled (by record, data set, or system of records), to the maximum extent feasible, pursuant to applicable limitations on access and sensitivity of disclosure to:
  1. Protect confidential sources and police undercover techniques and methods.
  2. Not interfere with or compromise pending criminal investigations.
  3. Protect an individual's right to privacy.
  4. Provide legally required protections based on the individual's status as a child, sexual abuse victim, resident of a substance abuse treatment program, resident of a mental health treatment program, or resident of a domestic abuse shelter.
  
- f. The labels assigned to existing information that is shared through HIJIS shall be reevaluated whenever:
  1. New information is added that has an impact on access limitations or the sensitivity of disclosure of the information.

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2. There is a change in the use of the information affecting access or disclosure limitations; for example, the information becomes part of court proceedings for which there are different public access laws.
- g. The DCR requires certain basic descriptive information (metadata tags or labels) to be entered and electronically associated with data (or content), that shall be shared through HIJIS, for which there are special laws, rules, or policies regarding access, use, and disclosure. The types of information may include all or some of the following:
1. The name of the originating agency, department or agency, component, and subcomponent.
  2. The name of the agency's justice information system from which the information is disseminated.
  3. The date the information was collected and, when feasible, the date its accuracy was last verified.
  4. The title and contact information for the person to whom questions regarding the information should be directed.
- h. The DCR shall attach (or ensure that the originating agency has attached) specific labels and descriptive metadata to information that shall be used, accessed, or disseminated through HIJIS to clearly indicate any legal restrictions on intra-agency information sharing, within the agency accessing the information, based on information sensitivity or classification.
- .2 Acquiring and Receiving Information:
- a. If an information-gathering and investigative agency, the information gathering (acquisition), access, and investigative techniques used by the DCR and information-originating entities shall remain in compliance with and shall adhere to applicable laws and guidance, including, but not limited to:
1. 28 CFR Part 23 regarding criminal intelligence information, where applicable.

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2. The OECD Fair Information Principles (under certain circumstances, there may be exceptions to the Fair Information Principles, based, for example, on authorities paralleling those provided in the federal Privacy Act; state, local, and tribal law; or agency policy).
  3. Criminal intelligence guidelines established under the U.S. Department of Justice’s (DOJ) National Criminal Intelligence Sharing Plan (NCISP), where applicable.
  4. Constitutional provisions; statute, the Policy Applicability, and Legal Compliance section in this document; and administrative rules, as well as regulations and policies that apply to multijurisdictional intelligence and information databases.
- b. If an information-gathering and investigative agency, the information gathering and investigative techniques used by the DCR shall, and those used by originating agencies should, be the least intrusive means necessary in the particular circumstances to gather information the agency is authorized to seek or retain.
  - c. The DCR, in accessing information through the HIJIS framework or sharing information through HIJIS, assures that it shall comply with laws and rules governing the entity, including applicable federal and state laws.
  - d. The DCR shall contract only with contractors and vendors that provide an assurance that their methods for gathering information, information that shall, ultimately, be shared through HIJIS-comply with applicable local, state, tribal, territorial, and federal law and that these methods are not based on misleading information-gathering practices.
  - e. The DCR shall not directly or indirectly receive, seek, accept, or retain information that is intended to be shared through HIJIS from:
    1. An individual or nongovernmental agency that may or may not receive a fee or benefit for providing the information, except as expressly authorized by law or agency policy.
    2. An individual or information provider that is legally prohibited from obtaining or disclosing the information.

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.3 Information Quality Assurance:

- a. At the time of retention in the DCR system, information that shall be shared through HIJIS shall be labeled regarding its level of quality (accuracy, completeness, currency, and confidence [verifiability and reliability]).
- b. The labeling of retained information that is shared through HIJIS shall be reevaluated by the DCR or the originating agency when new information is gathered that has an impact on confidence (source reliability and content validity) in previously retained information.
- c. The DCR shall conduct periodic data quality reviews of information it originates and make every reasonable effort to ensure that the information shall be corrected, deleted, or not used when the DCR identifies information that is erroneous, misleading, obsolete, or otherwise unreliable; did not have authority to gather the information or to provide the information to another agency; or used prohibited means to gather the information (except when the DCR's information source did not act as the agent of the agency in gathering the information).
- d. The DCR shall be responsible for reviewing the quality and accuracy of the data provided through HIJIS. The DCR shall review the quality of information, that it has received from an originating agency and advise the appropriate contact person in the originating agency, in writing or electronically, if its data is alleged, suspected, or found to be inaccurate, incomplete, out of date, or unverifiable.

.4 Collation and Analysis:

- a. Information acquired, received, or accessed by the DCR through HIJIS shall be analyzed only by authorized individuals who have been trained accordingly.
- b. Information accessed through the HIJIS framework that is subject to collation and analysis is criminal justice information, as defined and described in the HIJIS Privacy Policy.

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- c. Information accessed through the HIJIS framework by the DCR is analyzed according to priorities and needs and shall be analyzed only to:
  - 1. Further crime prevention, law enforcement, public safety, force deployment, or prosecution objectives and priorities established by the agency.
  - 2. Provide tactical and/or strategic intelligence on the existence, identification, and capability of individuals and organizations suspected of having engaged in or engaging in criminal activities.
  - 3. Analytical products created or modified as a result of information accessed by the DCR shall be reviewed and approved by the Deputy Directors to ensure that they provide appropriate privacy protections prior to dissemination or sharing by the agency.

.5 Merging Records:

- a. Information received by the DCR through the HIJIS framework shall be merged only by authorized individuals who have been trained accordingly.
- b. Records about an individual or organization received through the HIJIS framework from two or more sources shall not be merged by the DCR unless there is sufficient identifying information to clearly establish that the information is about the same individual or organization. The set of identifiers sufficient to allow merging shall consist of all available attributes that can contribute to a higher accuracy of match.
- c. If the matching requirements are not fully met, but there is reason to believe the records are about the same individual, the information may be associated by the DCR if accompanied by a clear statement that it has not been adequately established that the information relates to the same individual or organization.

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.6 Sharing and Dissemination:

- a. Information accessed through HIJIS by the DCR may be disseminated within the DCR in the performance of official duties in accordance with applicable laws and procedures. An audit log sufficient to allow the identification of each individual who received information accessed by the DCR through HIJIS and the nature of the information should be kept by the agency.
- b. Information and records retained by the DCR may be disclosed to a member of the public with written authorization, only if the information is defined by law to be a public record or otherwise appropriate for release to further the DCR's mission and is not exempt from disclosure by law. Such information may be disclosed only in accordance with the law and procedures applicable to the agency for this type of information. An audit log sufficient to allow the identification of each individual member of the public who received information retained by the DCR and the nature of the information should be kept by the DCR but may be disclosed only in connection to a challenge to the legitimacy of the disclosure itself but not for investigatory or other criminal justice purposes.
- c. Information accessed through HIJIS and records retained by the DCR may be accessed or disseminated **for specific purposes** upon request by the person(s) authorized by law to have such access, only for those uses and purposes specified in the law, and with the written authorization of the DCR. An audit log sufficient to allow the identification of each individual who requested, accessed, or received information retained by DCR; the nature of the information requested, accessed, or received; and the specific purpose shall be kept by the DCR.
- d. Information accessed through HIJIS and records retained by the DCR shall not be:
  1. Sold, published, exchanged, or disclosed for commercial purposes.
  2. Disclosed or published without prior authorization from or notice to the originating agency that such information is subject to disclosure or publication.
  3. Disseminated to persons not authorized to access or use the information.

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- e. There are several categories of records that may be shared through HIJIS that the DCR shall ordinarily not provide to the public:
  - 1. Records required to be kept confidential by law are exempt from disclosure requirements.
  - 2. Information that meets the definition of “classified information” as that term is defined in the National Security Act, Public Law 235, Section 606, and in accordance with Executive Order 13549, Classified National Security Information Program for State, Local, Tribal, and Private Sector Entities, August 18, 2010.
  - 3. Investigatory records of law enforcement entities that are exempted from disclosure requirements under Rule 16, Hawaii Rules of Penal Procedure. However, certain law enforcement records must be made available for inspection and copying under Rule 16, Hawaii Rules of Penal Procedure.
  - 4. Protected federal, state, local, or tribal records, which may include records originating and controlled by another agency that cannot, under any circumstances, be shared without permission.
- f. The DCR shall not confirm the existence or nonexistence of information, accessed, or shared through HIJIS, to any person or agency that would not be eligible to receive the information unless otherwise required by law.

.7 Redress:

a. Disclosure:

- 1. If authorized by rule or statute, upon satisfactory verification (fingerprints, driver’s license, or other specified identifying documentation) of his or her identity and subject to the conditions specified in b, below, an individual is entitled to know the existence of and to review the information about him or her that has been gathered and retained by the DCR. The individual may obtain a copy of the information for the purpose of challenging the accuracy or completeness of the information (correction). The agency’s response to the request for information shall be made within a reasonable time and in a form that is readily intelligible to the individual. A record shall be kept of all requests and of what information is disclosed to an individual.

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2. The existence, content, and source of the information shall not be made available by the DCR to an individual when:
  - a) Disclosure would interfere with, compromise, or delay an ongoing investigation or prosecution.
  - b) Disclosure would endanger the health or safety of an individual, organization, or community.
  - c) The information is in a criminal intelligence information system subject to 28 CFR Part 23 (see 28 CFR § 23.20(e)).
  - d) The agency did not originate and does not have a right to disclose the information.
  - e) Other authorized basis for denial.
3. If the information does not originate with the DCR, the requestor shall be referred to the originating agency, if appropriate or required, or the DCR shall notify the source agency of the request and its determination that disclosure by the DCR or referral of the requestor to the source agency was neither required nor appropriate under applicable law.

b. Corrections:

If an individual requests correction of information originating with the DCR that has been disclosed to the individual, the Deputy Directors shall inform the individual of the procedure for requesting and considering requested corrections, including appeal rights if requests are denied in whole or in part. A record shall be kept of all requests for corrections and the resulting action, if any.

c. Appeals:

The individual who has requested disclosure or to whom information has been disclosed shall be given reasons if disclosure or requests for corrections are denied by the DCR. The individual shall also be informed of the procedure for appeal when the DCR has cited an exemption for the type of information requested or has declined to correct challenged information to the satisfaction of the individual to whom the information relates.

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d. Complaints:

1. If an individual has a complaint with regard to the accuracy or completeness of protected information that is exempt from disclosure; has been or may be shared through the HIJIS framework; is held by the DCR, and allegedly has resulted in demonstrable harm to the complainant (e.g., denial of employment due to an incorrectly assigned warrant or erroneous disposition.
  
2. The DCR shall inform the individual of the procedure for submitting (if needed) and resolving such complaints. Complaints may be submitted to the Deputy Directors at 1177 Alakea Street, 6th floor, Honolulu, HI 96813. The DCR's Deputy Directors shall acknowledge the complaint and state that it shall be reviewed but shall not confirm the existence or nonexistence of the information accessed or retained by the DCR from the HIJIS framework to the complainant unless otherwise required by law.
  
3. The DCR shall flag the record within the DCR system such that it shall not be accessible through HIJIS. The DCR shall then either purge the information so that it shall not be accessible through HIJIS, correct any identified data/record deficiencies, or verify that the record is accurate prior to enabling the record to be accessible through HIJIS. All information shared through HIJIS that is the subject of a complaint shall be reviewed by the DCR within 30 days. If there is no resolution within 30 days, the DCR shall not enable the record to be accessible through the HIJIS framework until such time as the complaint has been resolved and the record corrected or confirmed to be accurate. A record shall be kept by the DCR of all complaints and the resulting action taken in response to the complaint.

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4. If the DCR is not the source of the record, the DCR's Deputy Directors shall notify the originating entity in writing or electronically within 14 days of receipt of the complaint and, upon request by the DCR, the originating entity shall flag the record within the originating entity's system such that it shall not be accessible through HIJIS. The originating entity shall then either purge the information so that it shall not be accessible through HIJIS, correct any identified data/record deficiencies, or verify that the record is accurate prior to enabling the record to be accessible through HIJIS. All information shared through HIJIS that is the subject of a complaint shall be reviewed by the originating entity within 30 days. If there is no resolution within 30 days, the originating entity shall not enable the record to be accessible through the HIJIS framework until such time as the complaint has been resolved and the record corrected or confirmed to be accurate. A record shall be kept by the originating entity of all complaints and the resulting action taken in response to the complaint.

**.8 Security Safeguards:**

- a. The DCR's Network Security Officer or equivalent is designated and trained to perform or oversee the performance of the agency's security functions as defined in this section.
- b. The DCR shall operate in a secure facility protected from external intrusion. The agency shall utilize secure internal and external safeguards against network intrusions. Access to the agency's databases from outside the facility shall be allowed only over secure networks.
- c. Access to DCR information, which shall be shared through the HIJIS framework, shall be granted only to DCR personnel whose positions and job duties require such access and who have been trained accordingly.
- d. Queries made to the DCR's data applications should be logged into the data system identifying the user initiating the query.
- e. The DCR shall utilize logs to maintain audit trails of requested and disseminated information.
- f. To prevent public records disclosure, risk and vulnerability assessments shall not be stored with publicly available data or with data shared through HIJIS.

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.9 Information Retention and Destruction:

- a. All applicable information that may be shared through the HIJIS framework or is obtained through HIJIS and retained by DCR shall be reviewed by the DCR for record retention (validation or purge) as specified by the State’s retention schedule.
- b. When information accessed or shared through HIJIS has no further value or meets the criteria for removal according to the State’s retention and destruction policy or according to applicable law, the information shall be purged, destroyed, deleted, and made inaccessible through HIJIS.
- c. The DCR shall delete information, accessed, or shared through HIJIS, or return it to the originating agency once its retention period has expired as provided by the HIJIS Privacy Policy, as well as the DCR’s privacy policy, or as otherwise agreed upon with the originating agency in a participation or membership agreement.
- d. No approval shall be required from the originating agency before information that is accessed through HIJIS and held by the DCR is destroyed or returned in accordance with the State’s retention schedule.
- e. Notification of proposed destruction or return of records obtained through the HIJIS framework may or may not be provided to the originating agency by the DCR, depending on the relevance of the information and any agreement with the originating agency.
- f. A record of information to be reviewed for retention shall be maintained by the DCR, and for designated system(s) accessible through HIJIS.
- g. A printed or electronic confirmation of the deletion shall be provided to the originating agency when required under law or if part of the terms of a pre-established agreement with the DCR.

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.10 Accountability and Enforcement:

a. Information System Transparency:

1. The DCR shall be open with the public regarding information collection practices. The HIJIS Privacy Policy, as well as the DCR's privacy policy, shall be provided to the public for review, made available upon request, and posted on the DCR website at dps.hawaii.gov.
2. The DCR's Litigation Coordination Officer shall be responsible for receiving and responding to inquiries and complaints about privacy, civil rights, and civil liberties protections in the information accessed through HIJIS and retained by the DCR and any information originated and maintained by the DCR which is accessible through HIJIS. The Litigation Coordination Officer can be contacted at (808) 587-1416.

.11 Accountability:

- a. Queries made to the DCR's data applications should be logged into the data system identifying the user initiating the query.
- b. The DCR shall adopt and follow procedures and practices by which it can ensure and evaluate the compliance of users with system requirements and with the provisions of the HIJIS Privacy Policy, as well as the DCR's privacy policy and applicable law. This shall include logging access to agency- owned systems and periodic auditing, to not establish a pattern of the audits. These audits should occur at least annually, and a record of the audits shall be maintained by the Network Security Officer of the agency.
- c. The DCR's personnel or other authorized users should report errors and suspected or confirmed violations of the HIJIS privacy policy, as well as the DCR's privacy policy relating to protected information to the Litigation Coordination Officer.
- d. The DCR should annually conduct an audit and inspection of the information contained in its information system(s) that is shared through the HIJIS framework. The audit shall be conducted in such a manner as to protect the confidentiality, sensitivity, and privacy of the DCR's information system(s).

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DCR  P & P M	<b>SUBJECT:</b>  <b>HAWAII INTEGRATED JUSTICE INFORMATION SHARING (HIJIS) FRAMEWORK</b>	<b>POLICY NO.:</b> ADM.09X.40
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- e. The DCR shall review and update the provisions protecting privacy contained in the DCR’s privacy policy annually and shall make appropriate changes in response to changes in applicable law, technology, the purpose and use of the information systems, and public expectations.

.12 Enforcement:

- a. If DCR’s personnel or an authorized user is suspected or found to be in noncompliance with the provisions of the HIJIS Privacy Policy, as well as the DCR’s privacy policy, regarding the gathering, collection, use, retention, destruction, sharing, classification, or disclosure of information, the Director of the DCR shall:
  1. Suspend or discontinue access to information by the DCR’s personnel or the authorized user.
  2. Suspend, demote, transfer, or terminate the DCR’s personnel, as permitted by applicable personnel policies.
  3. Apply administrative actions or sanctions as provided by applicable rules and regulations or as provided in DCR’s personnel policies.
  4. If the authorized user is from an agency external to the DCR, request that the user’s employer initiate disciplinary proceedings to enforce the policy’s provisions.
  5. Refer the matter to appropriate authorities for criminal prosecution, as necessary, to effectuate the purposes of the policy.
- b. The DCR reserves the right to restrict the qualifications and number of personnel having access to the DCR’s information and to HIJIS and to suspend or withhold service and deny access to any DCR’s personnel or authorized user violating the HIJIS Privacy Policy, as well as the DCR’s privacy policy.

**NOT CONFIDENTIAL**

