



Arkansas Community Correction

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ADMINISTRATIVE DIRECTIVE: 19-18 Offender Case Records

TO: Arkansas Community Correction Employees and Agents

FROM: Kevin Murphy, Director

SUPERSEDES: AD 16-02

APPROVED: Signature on File

EFFECTIVE: August 26, 2019

- I. APPLICABILITY.** This policy applies to all Arkansas Community Correction (ACC) employees and agents who handle or may have a demonstrated need for access to offender records. For purposes of this policy, agents are contractors, transitional housing licensees, consultants, researchers, volunteers, and interns.
- II. POLICY.** A full and complete record must be maintained for each offender under ACC supervision or in custody. Offender records must be protected from inspection or disclosure, copying or issuing except as authorized by law, ACC policy, or by order of a court of competent jurisdiction. **(2-CO-1E-01, 2-CO-1E-06, 2-CO-1E-07; 4-ACRS-7D-08 and 4ACRS-7D-09; 4-APPFS-3D-28)**
- III. GUIDELINES.** ACC must maintain a full and complete record for each offender under agency supervision or in custody. When an area office or center has the capability to create electronic copies of documents, all offender information must be entered into the electronic Offender Management Information System (eOMIS) or placed in eOMIS as a “PDF” document. It is not necessary to maintain hard copies of documents that are accessible in eOMIS or that are available from eOMIS reports. The Information Technology Administrator must establish and maintain a master index identifying all residents committed or assigned to ACC. **(2-CO-1F-08)** This policy pertains to all offender case records, unless otherwise specified. The *Record Management* administrative directive does **not** apply to offender records. **(4-APPFS-3D-28, -3D-29, -3D-30)**

IV. PROCEDURES.

- A. Record Entries.** All entries on paper documents in an offender's records must be signed or initialed and dated. **(4-ACRS-7D-08)**
- B. Offender Photos.** At every intake of a probationer, parolee or ACC resident, a digital photograph must be taken of the offender and entered into eOMIS unless a photo less than one year old is already in eOMIS. Offender photographs must be taken in front of a white measurement board. A new photograph should be taken each year and whenever an offender's appearance changes substantially.

The Omega Supervision Sanction Program must take a photograph of every offender at intake, regardless of the age of existing photos in eOMIS, and must take the photo in front of a yellow measurement board.

- C. Intake of Offender "Patients".** For the purposes of this policy, "patient" means any offender who has applied for or been given diagnosis or treatment for alcohol or drug abuse at a federally-assisted program and includes any individual who, after arrest or sentence on a felony charge, is identified as an alcohol or drug abuser in order to determine that individual's eligibility to participate in a program. (Reference: 42 CFR section 2.11)

Offenders who are "patients," as defined in this policy must be informed of the federal law protecting confidentiality. This must be done at the time of intake or as soon thereafter as the patient is capable of rational communication.

- D. Community Correction Center (CCC) Case Records Content.** Attachment 1 lists minimum content for records at CCCs when those records are not available in the e-OMIS system. **(4-ACRS-6A-10, 4-ACRS-7D-07)**
- E. Transfer of Resident Case Records.** When a center resident transfers to another facility, the updated case record must be transferred at the same time or at the latest within 72 hours. **(2-CO-1E-04; 4-ACRS-7D-10)**
- F. Offender Record Protection and Disclosure.** Offender records must be protected from disclosure, copying, or inspection except as required by law, administrative regulation, or by order of a court.

1. Protection/Confidentiality of Offender Records. **(2-CO-1E-08)**
 - a. Employees must follow policy guidance to ensure offender records are provided only to authorized persons.
 - b. Employees must ensure offender records are stored in a way that provides reasonable protection from inappropriate access or disclosure, theft, loss, or destruction. **(4-ACRS-7D-08)**

- c. Records custodians must have a system for tracking offender records that are temporarily transferred to another authorized person. Borrowed offender records should be promptly returned.
 - d. Computerized records will be protected according to guidance in this policy and policy governing data and/or computer systems.
 - e. Employees must protect the confidentiality of records containing information about child support.
2. Disclosure and Reporting a Breach of Security. The following must be used in determining whether disclosure is appropriate and for reporting a breach of security:
- a. Disclosure is authorized by law or ACC policy, ordered by a court of competent jurisdiction or requested by law enforcement, the Arkansas Parole Board, or other government official.
 - b. Disclosure is in accordance with an audit or research plan approved by the ACC Director prior to its start.
 - c. Disclosure of patient identifying information (PII) is authorized pursuant to a signed release form from the offender, subject to any legal restrictions or concerns for safety, security or confidentiality.

Personally identifiable information (PII) is any information that can be used to identify, contact, or locate an individual, either alone or when combined with other easily accessible sources. Examples include name, address, fingerprints, email address, telephone number, social security number or driver's license number.

- d. Patient identifying information may be disclosed without the offender patient's written consent, but only as allowed under Title 42 CFR Part 2 or relevant state statute.
- e. Disclosure of medical, dental, mental health information is in accordance with contract health care provider policies. ACC staff may be given medical, dental, or mental health information when there is a "need to know." Other servicing health care or treatment program organizations may obtain medical, dental, or mental health information necessary to provide treatment in accordance with guidelines established by ACC or the contract health care provider's manual. These organizations may obtain information from ACC staff when Form 2, "Drug /Alcohol Treatment Information Disclosure" has been completed. A copy of the form should be attached to release information. **(4-ACRS-7D-08)**
- f. Disclosure on a "need to know" basis. Generally, based upon job duties and responsibilities, ACC employees and agents have access to information from offender records on a need to know basis. An employee may request verbal or written authorization from a requesting employee's or agent's supervisor before providing access to records when the "need to know" is not apparent.
- g. Employees are subject to disciplinary action if there is improper disclosure of information.

- h. Employees must promptly complete an incident report when there is a breach of data security and also send an email to the ACC Information Technology Administrator and Internal Affairs Administrator. Also, if there is a suspected breach of data security, send an email to the ACC Information Technology Administrator and Internal Affairs Investigator.
 - i. The ACC Information Technology Administrator, upon notification of a breach of data security must:
 - if the data security breach involves Office of Child Support Enforcement (OCSE) data, report the breach within 24 hours to: the DFA Chief Information Officer, DFA Senior Security Officer and the OCSE Primary or Secondary Officer. OSCE data is information in eOMIS provided through data transfer from the Office of Child Support Enforcement this data includes money owed for child support and to whom the money is owed.
 - work with the Internal Affairs Administrator to investigate the root cause of the data breach.
 - Comply with other applicable policy to include the ACIC/NCIC Criminal Information Systems policy.
3. Offender Access to Records. An offender will not be permitted to peruse his/her file at will. Access to an offender's own record may be granted or information from the record may be released to the offender and/or his attorney as needed to resolve legitimate questions about the accuracy of information in a particular record or as required by rules of discovery in pending litigation.

The review request should be made in writing and should be acted upon within three days. The offender must state with particularity the information or parts of the case record to which access is requested, and the offender's request must be supported by a showing of compelling need. The decision of the Center Supervisor or Area Manager or his/her designee to grant or deny the offender's request is final. An offender cannot have access to the records of another offender.

The record custodian must closely supervise the offender during the record review and may limit the review to 30 minutes. Offender reviews can be limited to one review per three month period.

Before the record is reviewed by the offender or his/her legal counsel, the record custodian must remove information such as the following from offender access: **(4-ACRS-7D-08)**

- a. information that indicates or suggests names of witnesses, enemies, accomplices, victims or their families against whom the offender could retaliate
- b. information received from other agencies under conditions where ACC is not allowed to disclose it without prior approval (for example, patient identifying information that was obtained from another source),
- c. information from third parties when the disclosure could create a danger to the third party
- d. psychological reports and information unless these records will be disclosed in person by the psychiatrist, psychologist, social worker, or licensed therapist.

G. Retirement and Destruction of Paper Offender Case Records.

1. Parolee and Probationer Case Records (Paper files). These records may be destroyed three years after the offender completes supervision; however, before destroying any record, the custodian of the record must document the date and type of record. (Arkansas law section 13-4-301).
2. Clinical Files (Paper files). Retirement and destruction of clinical file records is addressed in the Clinical File Manual. Before destroying any record, the custodian of the record shall document the date and type of record. (Arkansas law section 13-4-301)
3. Resident Case Records.
 - a. Judicial and Administrative Transfer Cases. Prior to transferring an offender to ADC who is a Judicial or Administrative Transfer, the case record must be reviewed by the Records Supervisor to ensure proper content and forwarded to the ADC Central Office, Records Section.
 - b. Probation Plus Cases. Case Records for residents released to probation supervision should be retained on location for one year after release from the CCC. At the end of one year, files may be retired to the designated records holding area and retained three years. These records may be destroyed four years after the resident leaves CCC supervision; however, before destroying any record, the custodian of the record must document the date and type of record. (Arkansas law section 13-4-301).
4. Acceptable means for destroying records are as follows:
 - a. transfer the documents to a credible recycling company that guarantees document protection from disclosure until they are destroyed, or
 - b. shred the documents. After shredding they may be recycled or discarded with regular trash.

H. Offender Case Record Preservation.

eOMIS records are preserved indefinitely and are not destroyed. However, managers are allowed to edit inaccurate documentation. Users are role mapped in eOMIS security profile groups such as a Parole/Probation Officer or Parole/Probation Treatment staff. Each profile group can see and revise portions that pertain to the profile group's work.

I. Training.

All ACC employees must be trained on this policy during new employee orientation.

V. ATTACHMENTS.

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|-----------------|---|
| Attachment 1 | Minimum Content for Case Records in Community Correction Centers |
| AD 19-18 Form 1 | Release of Drug /Alcohol Treatment Information to Agencies or Agency Representatives within the Criminal Justice System |
| AD 19-18 Form 2 | Drug /Alcohol Treatment Information Disclosure |

**Arkansas Community Correction
MINIMUM CONTENT FOR CASE RECORDS IN
COMMUNITY CORRECTION CENTERS**

	Resident Case Record	Clinical File or Treatment File	Medical or Dental Record	Mental Health Record	Grievance & Discipline Record
Initial intake information form*	x	x			
Commitment Order, judgment & disposition, conditions, PSI	x				
Case History & other information from the referral source*	x	x			
Case History/Social History*	x	x			
Medical Record*			x		
Individual Plan or Program*		x			
Signed Release of Information forms*	x	x			
Evaluation & Progress Notes*		x			
Current Employment Data (if employed)*	x	x			
Current Education Data*	x	x			
Program Rules & Disciplinary Policy, signed by Resident*	x				
Documented Legal Authority to Accept Resident*	x				
Grievance & Disciplinary Records*	x				x
Referrals to Other Agencies*	x		x	x	
Approved Visitation List*	VISITATION RECORD				
Final Discharge Report*	x				
Personal Property Inventory*	x				
Name, Address, Social Security Number	x	x	x	x	
Date of Birth; Gender	x	x	x	x	
Race or Ethnic Origin	x	x	x	x	
Reason for Referral		x			
Who to Notify in Case of an Emergency	x				
Referring Agency or Committing Authority	x				
Special Medical Problems or Needs			x		
Personal Physician, if Applicable			x		
Signature of both Interviewee & Interviewer (ACC Employee)	X	X			

***INFORMATION REQUIRED BY THE AMERICAN CORRECTIONAL ASSOCIATION STANDARDS**

NOTE: Additional requirements may exist in other policy guidance.

Arkansas Community Correction
RELEASE OF DRUG /ALCOHOL TREATMENT INFORMATION TO AGENCIES OR
AGENCY REPRESENTATIVES WITHIN THE CRIMINAL JUSTICE SYSTEM

CONFIDENTIAL

Prohibition Regarding Disclosure: This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR, Part 2). The Federal rules prohibit you from making further disclosure of this information except with the specific written consent of the person to whom it pertains or as otherwise permitted by 42 CFR, Part 2. A general authorization for the release of medical or other information is not sufficient for this purpose. 42 CFR § 2.35 places the following restrictions on re-disclosure and use by elements of the criminal justice system: A person who receives patient information under this section may re-disclose and use it only to carry out that person's official duties with regard to the patient's conditional release or other action in connection with which the consent was given.

Instructions for ACC Staff: Complete this at intake for all offenders (residents, parolees, and probationers). Refer to the policy for additional guidance.

I, _____ Date of Birth: _____
(Print or Type Offender's Name)

Offender Number: _____

authorize: Arkansas Community Correction

to disclose the following drug/alcohol information: diagnosis, prognosis, attendance, cooperation, progress or lack thereof, and drug/alcohol test results. Information may be disclosed to individuals within the criminal justice system who have a need for the information in connection with their duty to monitor offender progress (e.g., disclosure by a residential center treatment staff member to a Resident Management Team member monitoring progress; disclosure by a residential center staff member to a Parole/Probation Officer so he/she may supervise/monitor progress; disclosure to a judge or other court employee in connection with their duty to monitor the offender's/patient's progress; disclosure to a prosecuting attorney who is withholding charges against the patient; or disclosure to a court granting pretrial or post-trial release.) (Reference 42 CFR, Part 2)

The purpose for releasing information is to allow the requesting person within the criminal justice system to monitor progress and ensure appropriate supervision.

This authorization and consent are subject to revocation upon release from court-ordered supervision/confinement by the undersigned except for action taken prior to release from supervision.

My signature also acknowledges the "notice to the offender regarding release of drug/alcohol treatment information" on the back of this form.

_____ Offender Signature	_____ Date	_____ Witness Signature
_____ Offender Printed Name	_____ Date	_____ Witness Printed Name

Arkansas Community Correction
NOTICE TO OFFENDER REGARDING
CONFIDENTIALITY OF ALCOHOL AND DRUG ABUSE PATIENT RECORDS

The confidentiality of alcohol and drug abuse patient records maintained by federally-supported alcohol or drug treatment programs is protected by Federal law and regulations. Generally, the program may not say to a person outside the program that a patient attends the program or disclose any information identifying a patient as an alcohol or drug abuser unless:

1. The patient consents in writing;
2. The disclosure is allowed by a court order; or
3. The disclosure is made to medical personnel in a medical emergency or to qualified personnel for research, audit, or program evaluation.

Violation of federal law is a crime. Suspected violations may be reported to appropriate authorities in accordance with federal and ACC regulations.

Federal law and regulations do not protect any information about a crime committed by an offender/patient either at the program or against any person who works for the program or about any threat to commit such a crime.

Federal laws and regulations do not protect any information about suspected child abuse or neglect from being reported under Arkansas law to appropriate state or local authorities. (See 42 U.S.C. 290dd-3 and 42 U.S.C. 290ee-3 for Federal laws and 42 CFR Part 2 for Federal regulations.)

Reference: 42 CFR § 2.22

**Arkansas Community Correction
OFFENDER DRUG/ALCOHOL TREATMENT INFORMATION DISCLOSURE**

CONFIDENTIAL

PROHIBITION REGARDING DISCLOSURE:

Information attached to this document has been disclosed to you from records protected by Federal Confidentiality Rules (42 CFR Part 2). The federal rules prohibit you from making further disclosure of this information, except with the specific written consent of the person to whom it pertains, or as otherwise permitted by 42 CFR Part 2. According to statute, a general authorization for the release of medical or other information is not sufficient for this purpose.

INSTRUCTIONS FOR ACC STAFF: Refer to the pertinent policy for guidance.

I, _____ Date of Birth: _____
Resident's Name (Print)

ACC Number : _____ Do hereby authorize Arkansas Community Correction to disclose
the following information (specify the nature & extent of information to be released):

NOTE: THE OFFENDER HAS CONTROL OF WHICH TYPE OF INFORMATION TO BE DISCLOSED.

- Diagnosis Prognosis Attendance Progress/Lack Thereof
 Cooperation Drug/Alcohol Test Results
 OTHER _____

TO: _____ for the following purpose:
Name of Person Requesting Information

_____ **TREATMENT**
Requesting Department or Agency

_____ **OTHER** _____
Street/Address

_____ City State Zip Code

This authorization and consent are subject to revocation by the undersigned at any time, except for action already taken. If not otherwise revoked, this consent terminates and expires:

- Upon Release from Court-Ordered Supervision/Confinement
- or -
 OTHER (specify date, event, or condition): _____

My signature also acknowledges the "Notice to Offender Regarding Release of Drug/Alcohol Treatment Information," attached to this form.

Offender's Name (Print) Date Witness's Name (Print)

Signature of Offender Date Signature of Witness

CONFIDENTIAL

**NOTICE TO OFFENDER/PATIENT REGARDING CONFIDENTIALITY
OF ALCOHOL AND DRUG ABUSE PATIENT RECORDS**

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