



## OFFICE OF THE SECRETARY

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### SECRETARIAL DIRECTIVE

**SUBJECT:** Public Relations and Release of Information

**NUMBER:** 2021-12

**SUPERSEDES:** SD 2021-06

**APPLICABILITY:** All Employees of the Arkansas Department of Corrections

**REFERENCE:** A.C.A. § 12-27-113, 12-27-145, 25-19-105, 25-43-103, 25-43-105, 25-43-108, 25-43-403, AR 007 Legislative Liaison and/or Inquiries; AR 011 News Media Interviews and Correspondence; AR 7.4 Public Release of Offender Information; and SD Social Media Policy

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**APPROVED:** Original Signature on File

**EFFECTIVE DATE:** 8/20/2021

#### **I. POLICY:**

As the executive head of the Arkansas Department of Corrections (DOC), it is the responsibility of the Secretary of Corrections (Secretary) to administer the various rules, orders, or directives issued by the Department. The purpose of this directive is to establish procedures for the administration of public relations and release of Offender information. These procedures will ensure that the public, News Media, and other law enforcement organizations are informed of the various programs, services, and events within the DOC. Such procedures shall ensure the integrity and proper use of Offender records and that all notifications of public meetings of the DOC boards and commissions are consistent with state law. It is the policy of the DOC to ensure that all applicable provisions of federal and state law or rules are observed with respect to public meetings and Public Records.

#### **II. KEY TERMS:**

- A. Freedom of Information Act (FOIA). Pursuant to A.C.A. § 25-19-105, the FOIA gives Arkansans access to Public Records and public meetings, with some exceptions.
- B. News Media. Properly credentialed representatives of local, national, and international news organizations that have a mission of delivering news to the general public, and do not have a primary purpose of commercial production or entertainment. This may include but is not limited to, representatives of general circulation newspapers, magazines, online media outlets, news services, and radio stations and television networks holding a Federal Communication Commission license.
- C. Offender. Inmates, parolees, probationers, or residents in the custody of a DOC facility or under supervision of the DOC.
- D. Offender Record. A full and complete record in written or electronic form regarding each person committed to the custody or supervision of the DOC. An Offender Record includes but is not limited to: a photograph of the convicted person; the offense and sentence for any conviction for which the Offender is incarcerated or under supervision; the Offender's criminal history; medical and mental health information and records; and all other records which identify and relate directly to that Offender. Electronic transmissions and recordings that chronicle the activities and conversations of Offenders are part of the Offender Record.

- E. Public Record. Any writing, sound or video that reflects the performance or lack of performance of an official function, not otherwise exempted from disclosure.
- F. Special Event. Any activity not held in the normal course or day to day operations of a facility or program.

### **III. PROCEDURES:**

#### **A. Facility and Program Areas Accessible to News Media Representatives**

1. All News Media tours must be requested and approved in advance by the Communications Director. The Communications Director must always accompany News Media organizations or designate an alternate escort.
  - a. Upon approval, the Department Headquarters, the Division of Correction Central Office, and the Administration Annex East Buildings are accessible to News Media representatives for a tour, if touring will not adversely affect the daily operations and Offenders will not be present.
  - b. Upon approval of the appropriate Division Director, News Media may tour the DOC's Correctional facilities, Parole and Probation Offices, Reentry and Residential facilities. The Secretary must be notified when tours are approved.
2. The appropriate Division Director may give permission for the limited use of cameras. The recording of Offenders is prohibited except when prior authorization has been granted by the appropriate Division Director. Under special circumstances, including open houses and legislative tours, the Division Director may grant permission to take pictures in housing areas. The Secretary must be notified when permission is granted.

#### **B. Contact Person for the General Public and News Media**

1. The Communications Director is the designated point of contact for requests and inquiries from the News Media and the public, with the exception of general inquiries to the Arkansas Parole Board (APB).
2. All News Media or general public inquiries (excluding general inquiries regarding APB) must be forwarded to the Communications Director. Media responses made by the APB will be coordinated by the DOC's Communication Director.
3. During declared emergencies and critical incidents, staff may be designated to assist the Public Information Office in the release of authorized information.
4. All records maintained by DOC employees within the scope of their employment are presumed to be Public Records pending review of the record, to determine if any exemptions may apply that would prevent disclosure.

#### **C. News Media Visits and Interviews**

1. Before being photographed or interviewed for promotional or News Media purposes, an Offender must sign the Offender Consent for Photograph/Interview Form (attachment). The form must be witnessed by a DOC staff member.
2. News Media requests for Offender visits will be handled as follows:
  - a. Representatives of News Media organizations who wish to conduct an in-person interview with an Offender incarcerated in the one of the DOC Divisions shall submit their requests in writing to the Communications Director;
  - b. Any News Media visit can be denied, canceled or restricted by the Secretary, Division Directors, the Communications Director, the Warden or Center Supervisors if there are security concerns based on present circumstances or concerns regarding subject matter,

including, but not limited to: pending appeals or legal matters related to the Offender's criminal conviction; institutional adjustment; and/or re-victimization if a victim(s) has been registered in the electronic Offender Management Information System (eOMIS) by the DOC Victim Services Coordinator or designee;

- c. All requests for in-person interviews must be reviewed by the Communications Director, who will then forward the request and a recommendation to the appropriate Division Director. The Division Director will decide whether to approve the request. If a Division Director approves, the request will be submitted to the Secretary for final approval. Denials by Division Directors can be appealed to the Secretary. The Secretary's decision is final;
- d. News Media representatives denied a media visit, must follow the process of a regular visitor to speak with an Offender, if the Offender sends that person an application to be processed.

#### **D. Public Meetings/Special Events**

1. Boards and Commissions will notify the Public Information Office of public meetings and coordinate to ensure all proper meeting notifications are made.
2. The Communications Director must be notified by the Warden, Center Supervisor, Program Administrator, or designee before scheduling a Special Event. When Special Events occur, the Communications Director may notify the News Media. This notification will outline any photo opportunities for the event.

#### **E. Media Advisories and Community Engagement**

1. The Communications Director will issue media advisories when required by law or DOC policy or when beneficial to highlight a Special Event or advance the public's knowledge of the DOC. All press releases must be approved by the Secretary or Chief of Staff and the appropriate Division Director prior to release.
2. All publications prepared by the DOC that advance the public's knowledge of the various programs, services, and events within the DOC, will be made available to the public through the DOC's public website or social media pages. The DOC uses social media to make the public aware of events, critical incidents, updates regarding institutional emergencies and career opportunities within the DOC.
3. Examples of such publications include newsletters, monthly reports, annual reports, and informational brochures. To assist in developing public awareness and transparency, the Communications Director may identify publications and reports which should follow a consistent style.
4. The Communications Director is responsible for receiving and responding to interview requests and questions from the News Media. The Communications Director will work with the Secretary, or Chief of Staff, and other appropriate DOC leadership to consider requests, and determine the most appropriate response.

#### **F. Release of Offender Information**

1. All requests for Offender Records, excluding requests related to litigation (subpoenas, court orders, discovery, etc.) must be coordinated through the Public Information Office. Any request received at DOC facilities/offices should be forwarded to the Public Information Office. Requests from a member of the Board of Corrections or their staff should be answered by the DOC employee receiving the request.
2. Under FOIA, the DOC must supply documents that are not exempt immediately if they are readily available. If requested records are in active use or storage, the DOC must make every reasonable effort to supply disclosable documents, after redacting information not disclosable, within three (3) business days (unless a longer timeframe is agreed to in advance with the requestor). Pursuant to guidance contained within Arkansas Attorney General Opinion No. 2015-095, disclosable records within the eOMIS are considered to be in storage.

**IV. DISCLOSABLE AND UNDISCLOSABLE INFORMATION FOR OFFENDERS:****A. Division of Community Correction (ACC)**

1. Offender Records must not be released or disclosed to the public, Offenders, or their attorneys except as provided by this Secretarial Directive, administrative rules, state, and federal laws, or by court order.
2. The following are NOT permitted:
  - a. Disclosure of the location of an Offender housed in an ACC facility where individuals are participating in drug and alcohol or mental health programs.
  - b. Allowing access to or providing an Offender with another Offender's records or any information contained therein;
  - c. Disclosure of Offender medical, or mental health information, except to authorized contacts;
  - d. Disclosure of Offender identification numbers for Offenders on probation and parole; and
  - e. Disclosure of information by anyone besides the Communications Director or his/her designee.
3. Offender Records that are disclosable while housed in an ACC facility:
  - a. Offender's name, aliases, Offender identification number, photograph, physical description, date of birth, date of death, age, race, and gender;
  - b. Dates of confinement;
  - c. Facilities of confinement, work assignments, and program participation (unless it involves drug and alcohol or mental health program participation);
  - d. Current offenses, sentences, sentence dates, counties of conviction, case numbers, total time to serve, parole/transfer eligibility date, movements, and behavior;
  - e. Prior confinement, offenses, sentences, sentence dates, counties of conviction, case numbers, movements, behavior, and parole/clemency history, including dates of release and dates of return to ACC or ADC;
  - f. Current & previous detainers;
  - g. Furlough history; and
  - h. Escape history.
4. Offenders on probation or parole disclosable information:
  - a. Offender's name, aliases, photograph, physical description, date of birth, date of death, age, race and gender;
  - b. Dates of supervision;
  - c. Office of supervision and program completion while under supervision (unless it involves drug and alcohol or mental health program participation);
  - d. Current Supervision: offenses, sentences, sentence dates, counties of conviction, case numbers, total time to serve on supervision, revocation history, transfers, adherence to conditions of release and behavior;
  - e. Prior supervision: offenses, sentences, sentence dates, counties of conviction, case numbers, transfers, adherence to conditions of release, clemency history, including dates of release and dates of return to ACC or ADC;
  - f. Detainers;

- g. Furloughs; and
  - h. Escape history.
5. In addition to information listed in the previous section, the ACC is required by Arkansas law to post on its public website the following records of parolees and probationers who have absconded supervision or have an active warrant issued for evading supervision:
- a. Any suspended sentences and their terms, if known;
  - b. A complete summary of felony convictions and sentences to the extent known by ACC;
  - c. Risk Assessments scores completed after April 1, 2015, including the name of the state agency conducting the assessment, the date conducted and the level of the assessment;
  - d. Any known aliases of the Offender;
  - e. Most recent photograph.
  - f. Any in-state or out-of-state orders of protection or no-contact orders known to ACC;
  - g. All major disciplinary violations and the date of their disposition that occurred while the Offender was incarcerated;
  - h. Any programs completed and their dates while under ACC supervision;
  - i. A list of previous revocation offenses while on probation or parole and date of revocation; and
  - j. Any court-generated records posted will be electronic copies of the actual court documents. If included in the documents, victim information must be redacted prior to posting on the public website.
6. Information additional to the section above from an Offender's record may be released to or viewed by the following:
- a. Criminal justice agencies, social service and other governmental authorities unless state or federal law prohibits such disclosure;
  - b. Authorized personnel for research purposes; and
  - c. An employee of the Bureau of Legislative Research in accordance with and subject to the limitations of A.C.A. § 12-27-113 (e)(5).
7. 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 the record or as required by the rules of discovery in pending litigation. The names of confidential informants and other sensitive or confidential information, the disclosure of which might cause harm to any person, are exempt from disclosure except pursuant to court order.
8. The record's review request should be made in writing and should be acted upon within three (3) days. The Offender must state with specificity 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 directly supervise the Offender during the record review and may limit the review to thirty (30) minutes. Offender reviews can be limited to one (1) review, per three (3) month period.

## **B. Division of Correction (ADC)**

1. Disclosure or inspection of information contained in Offender Records is prohibited unless authorized by this Secretarial Directive or by court order.

2. The following are NOT permitted:
  - a. Allowing access to or providing an Offender with another Offender's records or any information contained therein;
  - b. Disclosure of information related to the location of an Offender transferred under an Interstate Compact Agreement;
  - c. Disclosure of inmate medical, or mental health information, except to authorized contacts; and
  - d. Disclosure of information by anyone besides the Communications Director or his/her designee.
3. Except as authorized by Act 1265 of 2015 (Ark. Code Ann. § 12-27-145), only the following information from an Offender Record may be released to the general public:
  - a. Offender's name, aliases, Offender identification number, photograph, physical description, date of birth, age, race, and gender;
  - b. Dates of incarceration;
  - c. Facilities of confinement, work assignments, and program participation (unless it involves drug and/or alcohol program participation);
  - d. The following information regarding current incarceration: offenses, sentences, sentence dates, counties of conviction, case numbers, total time to serve, parole/transfer eligibility date, movements, and behavior;
  - e. The following information regarding prior incarcerations: offenses, sentences, sentence dates, counties of conviction, case numbers, movements, behavior, and parole/clemency history, including dates of release and dates of return to ADC; and
  - f. Detainers.
4. Information additional to the section above from an inmate's record may be released to or viewed by the following:
  - a. Criminal justice agencies, social service and other governmental authorities unless state or federal law prohibits such disclosure;
  - b. Authorized personnel for research purposes; and
  - c. An employee of the Bureau of Legislative Research in accordance with and subject to the limitations of A.C.A. § 12-27-113 (e)(5).
5. 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 the record or as required by the rules of discovery in pending litigation. The names of confidential informants and other sensitive or confidential information, the disclosure of which might cause harm to any person, are exempt from disclosure except pursuant to court order.
6. Upon the death of an inmate, access to that inmate's medical or mental health information or records may be granted to a person designated by the inmate to have access to such records in accordance with policies and procedures adopted by the DOC, or as required by state or federal law.
7. An inmate will not be permitted to peruse his/her file at will. A request for access to the institutional file or information contained therein must be made in writing to the Warden or his/her designee; an inmate must list the information or parts of the file to which access is requested; and the inmate's request must be supported by a showing of compelling need. The decision of the Warden or his/her designee to grant or deny the inmate's request shall be final.

**C. Arkansas Parole Board (APB)**

1. The APB may restrict the release of hearing information or records consistent with state and federal laws or rules. Such restrictions will be communicated by the APB Chair, or a designee of the Chair, to the Communications Director.
  - a. No employee may release APB Public Records to inmates, media, or the general public unless authorized by APB policy or in writing by the Chair or the Board Administrator.
  - b. All requests for APB records and responses will be coordinated through the Board Administrator, who should be contacted immediately upon receipt of a request.
  - c. The Board Administrator shall make the Communications Director aware of Public Record/FOIA requests.

**V. ATTACHMENT:**

Offender Consent for Photograph/Interview Form



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**OFFENDER CONSENT FOR PHOTOGRAPH/INTERVIEW FORM**

**THE UNDERSIGNED DOES HEREBY CONSENT TO BE PHOTOGRAPHED AND/OR INTERVIEWED BY:**

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**FOR THE EXCLUSIVE PURPOSE OF:**

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The photographs may include filming of any kind, and the interview may include a recording thereof. The undersigned consents and authorizes that any such photographs or interview material may be utilized by:

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**FOR THE AFOREMENTIONED PURPOSE.**

Furthermore, the undersigned does hereby release and does hold harmless the Department of Corrections, its agents, and employees, from any, and all claims based on the use of said material. The above consent is given by me freely and voluntarily without any promises, threats, or duress.

Offender First & Last Name \_\_\_\_\_ **PRINTED** \_\_\_\_\_ **DOC #** \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Witnessed by: \_\_\_\_\_ Date: \_\_\_\_\_