
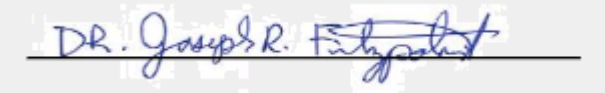


POLICY TITLE: CONFIDENTIALITY OF JUVENILE COMMUNITY CORRECTIONS CLIENT INFORMATION		PAGE 1 OF 11
POLICY NUMBER: 8.1		
CHAPTER 8: GENERAL ADMINISTRATION		
	STATE of MAINE DEPARTMENT OF CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VII
EFFECTIVE DATE: April 17, 2007	LATEST REVISION: April 4, 2018	CHECK ONLY IF APA []

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to Title 34-A M.R.S.A. Section 1403.

II. APPLICABILITY

Juvenile Community Corrections and Central Office

III. POLICY

All juvenile community corrections client records shall be maintained in a confidential manner and all client information shall be kept confidential, as required by legal mandates and Department policies, to prevent unauthorized access to information that is protected.

IV. CONTENTS

- Procedure A: General Rules
- Procedure B: Special Rules
- Procedure C: Rules for Obtaining Information
- Procedure D: Acknowledgement of Confidentiality of Information

V. ATTACHMENTS

- Attachment A: Authorization for the Disclosure of Information by the Department of Corrections - General (paper/online)
- Attachment B: Authorization for the Disclosure of Information Acquired by Virtue of HIV Testing (AIDS Testing) by the Department of Corrections (paper/online)
- Attachment C: Notice to Accompany Disclosure of Information Acquired in Connection with the Provision of Substance Abuse Services
- Attachment D: Authorization for the Disclosure of Information Acquired in Connection with the Provision of Substance Abuse Services by the

- Attachment E: Department of Corrections (paper/online)
Authorization for the Disclosure of Information for the Purpose of Identity Verification (paper/online)
- Attachment F: Identity Verification Information
- Attachment G: Authorization for the Disclosure of Information to the Maine Department of Corrections (paper/online)

VI. PROCEDURES

Procedure A: General Rules

1. Prior to disclosure of a record or the information contained in a record, it shall be determined whether the record is a Department record or third party record. A Department record is a record that is generated by a Department of Corrections employee or by a person or an agency providing services to juvenile community corrections client(s) by agreement with or under contract to the Department. A record generated by any other person or agency is a third party record. In addition, a record generated upon court order, no matter who generates it (e.g. pre-disposition investigation), is considered a third party record.
2. Unless otherwise governed by this policy, third party records and information contained in those records shall be kept confidential with the exception that third party records or information contained in those records shall be disclosed to employees of the Department and persons or agencies providing services to juvenile community corrections client(s) by agreement with or under contract to the Department if, but only if, such disclosure is necessary to carry out a statutory function of the Department of Corrections.

Requests for disclosure made by other persons or agencies, including the client or the parent or guardian of a client, shall be referred to the party that generated the record (or to the court if it was generated upon the order of a court). However, third party school records may be discussed with the client. Copies of school records may not be provided by the Department of Corrections to the client or any other person or agency. Finally, if the client, parent, or guardian has already obtained a record from the party that generated it, the third party record may be discussed with that person.

3. Unless otherwise governed by this policy, Department records and information contained in those records and information about a juvenile community corrections client obtained through observation or report shall be kept confidential with the exception that Department records or information shall be disclosed:
 - a. to employees of the Department and persons or agencies providing services to client(s) by agreement with or under contract to the Department if, but only if, such disclosure is necessary to carry out a statutory function of the Department of Corrections;
 - b. to the client, if he or she requests such disclosure;
 - c. to any person or agency authorized to receive such disclosure by an Authorization for Disclosure of Information by the Department of Corrections

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
8.1 Confidentiality of Juvenile Community Corrections Client Information	8. Records	Page 2 of 11 4/4/18R

- General form (Attachment A) signed by the client, if the client is eighteen (18) years of age or over and does not have a guardian;
- d. to a parent or guardian of the client, if the client is a minor or if the client is 18 years of age or over and has a guardian and if the parent or guardian requests such disclosure;
- e. to any person or agency authorized to receive such disclosure by an Authorization for Disclosure of Information by the Department of Corrections – General form signed by the client and signed by that client's parent or guardian, if the client is a minor;
- f. to any person or agency authorized to receive such disclosure by an Authorization for Disclosure of Information by the Department of Corrections – General form signed by the client and signed by the guardian, if the client is eighteen (18) years of age or over and has a guardian;
- g. to any person or agency authorized to receive such disclosure by a court order, if approved by the Department's legal representative in the Attorney General's office (records shall not be provided in response to a subpoena);
- h. to a Maine State agency if, but only if, such disclosure is necessary to carry out a statutory function of that agency;
- i. to any criminal justice agency (at the federal, state or local level or at any level of the Canadian government) if, but only if, such disclosure is necessary in order for that agency to carry out the administration of criminal justice or the administration of juvenile criminal justice, or is necessary for criminal justice agency employment;
- j. to persons who directly supervise or report on the health, behavior or progress of a client, to the Superintendent of a client's school or a school to which the client is seeking admission and the Superintendent's designees and to agencies that are or might become responsible for the health or welfare of a client, if the client has been adjudicated of a juvenile crime and if the information is relevant to and disseminated for the purpose of creating and maintaining an individual plan for the client's rehabilitation, including, when the client is reentering school, reintegration into the school;
- k. to any person or agency authorized to receive such disclosure pursuant to the determination of a hearing officer in an unemployment compensation; proceeding relating to a state employee, in a state agency personnel action, or in a professional or occupational board licensure, certification, or registration proceeding, if approved by the Department's legal representative in the Attorney General's office;
- l. to persons engaged in research, if approved by the Commissioner, or designee, and if identifying data is not disclosed by the researchers;
- m. to victims as provided in this policy and other Department policies; and
- n. to the Governor's office, a legislative committee, or a legislative study commission, if approved by the Commissioner, or designee. Information

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
8.1 Confidentiality of Juvenile Community Corrections Client Information	8. Records	Page 3 of 11 4/4/18R

shall not be disclosed to an individual legislator without an appropriate authorization form.

4. Information identifying a victim and contact information for a victim, as well as information relating to another client of the Department (including a prisoner, resident, or adult or juvenile community corrections client), contained in a Department record shall not be disclosed to anyone other than a Department employee and shall be redacted from a record prior to its disclosure to anyone other than a Department employee, unless, after consultation with the Department's legal representative in the Attorney General's Office, it is determined necessary that the information be included.
5. In this policy, a guardian does not include a guardian ad litem or the Commissioner or the Commissioner's designee.

If there is any concern regarding any request to disclose records or information, the concern shall be referred to the Department's legal representative in the Attorney General's office.

Procedure B: Special Rules

1. The following types of records and information may be disclosed only to Department of Corrections employees if, but only if, such disclosure is necessary to carry out a statutory function of the Department. Such records or information may not be disclosed to or discussed with the client. They may not be disclosed to or discussed with anyone other than a Department employee, not even persons or agencies providing services to client(s) by agreement with or under contract to the Department, another state agency, criminal justice agency, or a court, except that a victim's request for notice of release may be discussed with the office of the prosecuting attorney that processed the request.
 - a. information obtained for the purpose of evaluating a client's ability to participate in a community based program, such as community sentiment information;
 - b. information obtained from informants in connection with the possible or actual violation of facility rules; and
 - c. a victim's request for notice of release.
2. The results (whether positive or negative) of an HIV test may be disclosed only:
 - a. to the client tested;
 - b. to a person or agency authorized to receive those results by an Authorization for Disclosure of Information Acquired by Virtue of HIV Testing (AIDS Testing) by the Department of Corrections form (Attachment B) signed by the client tested (regardless of if the client is a minor or has a guardian);
 - c. to any person or agency authorized to receive such disclosure by a court order, if approved by the Department's legal representative in the Attorney

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
8.1 Confidentiality of Juvenile Community Corrections Client Information	8. Records	Page 4 of 11 4/4/18R

General's office (records shall not be provided in response to a subpoena);
and

d. to the Bureau of Health.

3. The disclosure of information acquired during the provision of substance abuse treatment services by substance abuse treatment staff must be accompanied by the notice required by federal law, Notice to Accompany Disclosure of Information Acquired in Connection with the Provision of Substance Abuse Services (Attachment C).

Information acquired during the provision of substance abuse treatment services by substance abuse treatment staff may be disclosed only:

- a. to the client who received the substance abuse treatment services;
- b. to any person or agency authorized to receive such disclosure by an Authorization for the Disclosure of Information Acquired in Connection with the Provision of Substance Abuse Services by the Department of Corrections form (Attachment D) signed by the client, if the client is 18 years of age or over and does not have a guardian;
- c. to a parent or guardian of the client, if the client is a minor and if the parent or guardian requests such disclosure and the client has consented to the disclosure by signing an Authorization for the Disclosure of Information Acquired in Connection with the Provision of Substance Abuse Services by the Department of Corrections form;
- d. to any person or agency authorized to receive such disclosure by an Authorization for the Disclosure of Information Acquired in Connection with the Provision of Substance Abuse Services by the Department of Corrections form signed by the client, if the client is a minor;
- e. to the guardian of the client, if the client is 18 years of age or over and has a guardian and if the guardian requests such disclosure;
- f. to any person or agency authorized to receive such disclosure by an Authorization for the Disclosure of Information Acquired in Connection with the Provision of Substance Abuse Services by the Department of Corrections form signed by the guardian, if the client is 18 years of age or over and has a guardian;
- g. to any person or agency authorized to receive such disclosure by a court order, if approved by the Department's legal representative in the Attorney General's office (records shall not be provided in response to a subpoena);
- h. to the Department of Health and Human Services if, but only if, the information disclosed consists solely of a report of suspected child abuse or neglect;
- i. to medical personnel if, but only if, the information disclosed is needed by those personnel so that they can treat a condition which poses an immediate threat to health and which requires immediate medical intervention;

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
8.1 Confidentiality of Juvenile Community Corrections Client Information	8. Records	Page 5 of 11 4/4/18R

- j. to a criminal justice agency if, but only if, the information disclosed consists of information about a crime or juvenile crime committed or threatened to be committed during the course of substance abuse treatment or against substance abuse treatment staff; and
 - k. to persons engaged in auditing or program evaluation, if approved by the Commissioner, or designee, and if identifying data is not disclosed by the auditors or evaluators.
4. Department school records may be disclosed to the Superintendent of a client's school or a school to which the client is seeking admission and the Superintendent's designees, provided that in the case of a client against whom a petition charging the client with a juvenile crime has not been filed, written consent is obtained from the client and the client's parent or guardian.
 5. Information pertaining to a client may be released to a superintendent or principal of any school whether or not the information is contained in records, when the information is credible and indicates an imminent danger to the safety of students or school personnel on school grounds or at a school function.
 6. Other information pertaining to a client who has not been adjudicated of a juvenile crime may not be released to school personnel without written consent from the client and the client's parent or guardian.
 7. Information relating to pregnancy or a sexually transmitted disease may not be disclosed to a parent or guardian unless the client has consented to the disclosure by signing an Authorization for Disclosure of Information by the Department of Corrections - General form (Attachment A).
 8. In relation to a fugitive (a person who has absconded or has been erroneously released from Department supervision), the following information may be disclosed to a criminal justice agency:
 - a. all juvenile crime(s) for which the client is currently under supervision;
 - b. the disposition(s) received (including any conditions of probation or community reintegration);
 - c. the date of the client's projected release from supervision;
 - d. name and aliases;
 - e. birth date;
 - f. physical description of the client (e.g., sex, race, height, weight, build, eye color, hair color, scars, marks, tattoos, glasses, facial hair);
 - g. photo or fingerprints taken at the direction of a criminal justice agency;
 - h. the fact that the person is a fugitive; and
 - i. the place and time the person absconded or was erroneously released.

In addition, there may be disclosed to the criminal justice agency any information about the fugitive which may be disclosed to such an agency under the other provisions of this policy.

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
8.1 Confidentiality of Juvenile Community Corrections Client Information	8. Records	Page 6 of 11 4/4/18R

9. The following information may be disclosed to United States Immigration and Customs Enforcement in relation to a client who is an alien:
 - a. name and aliases;
 - b. birth date;
 - c. physical description of the client (e.g., sex, race, height, weight, build, eye color, hair color, scars, marks, tattoos, glasses, facial hair);
 - d. photo or fingerprints taken at the direction of a criminal justice agency;
 - e. the client's current address;
 - f. the fact that the client is an alien;
 - g. the date(s) of the client's commitment to the custody or supervision of the Department of Corrections;
 - h. the relevant court(s) and docket number(s);
 - i. the date of the client's projected release from supervision; and
 - j. the country of the alien's citizenship.

10. Police reports relating to a juvenile community corrections client may be disclosed only:
 - a. to a criminal justice agency (at the federal, state or local level or at any level of the Canadian government) if, but only if, such disclosure is necessary in order for that agency to carry out the administration of criminal justice or the administration of juvenile criminal justice, or is necessary for criminal justice agency employment;
 - b. to a sex offender treatment professional if, but only if, such disclosure is necessary for that professional to provide sex offender evaluation or treatment services to the client and provided victim contact information, including, but not limited to, home address, work address, and phone number, is redacted;
 - c. to a polygraph examiner if, but only if, such disclosure is necessary for that examiner to perform an examination of the client and provided victim contact information, including, but not limited to, home address, work address, and phone number, is redacted;
 - d. to a certified batterers intervention program if, but only if, such disclosure is necessary for that program to address domestic violence issues with the client and provided victim contact information, including, but not limited to, home address, work address, and phone number, is redacted; and
 - e. to the Department of Health and Human Services if, but only if, such disclosure is necessary to carry out child or dependent adult protective services.

11. In relation to a client who is seeking employment eligibility verification, applying for identification, or applying for MaineCare or Social Security benefits, the following information may be disclosed, using the Authorization for the Disclosure

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
8.1 Confidentiality of Juvenile Community Corrections Client Information	8. Records	Page 7 of 11 4/4/18R

of Information for the Purpose of Identity Verification form (Attachment E) and the Identity Verification Information form (Attachment F), to U.S. Citizenship and Immigration Services, Maine Secretary of State's Office (Division of Motor Vehicles), the prisoner's employer, the Maine Department of Health and Human Services and Social Security Administration, as applicable:

- a. name and aliases;
 - b. date and place of birth;
 - c. parents' names (if the client is a minor);
 - d. social security number (and other social security numbers used);
 - e. citizenship status;
 - f. physical description; and
 - g. photo and signature.
12. The following information may be disclosed to any state or federal agency in relation to a client for the purpose of determining eligibility and billing for services and payments under federally funded programs administered by the agency:
- a. name and aliases;
 - b. date of birth;
 - c. social security number;
 - d. eligibility number for a federally funded service;
 - e. dates on which a federally funded service was received; and
 - f. other information required for and to be used solely for audit or research purposes for those services provided by or through the Department.
13. Screening and assessment tools, including, but not limited to, substance abuse screening and assessment instruments, education and vocational assessments and tests, risk and needs assessment instruments, and health care screening and assessment instruments, may be disclosed only to:
- a. Department employees or persons or agencies providing services to client(s) by agreement with or under contract to the Department; and
 - b. a Maine State agency if but only if, such disclosure is necessary to carry out a statutory function of that agency.
14. If the client is one against whom a petition has not been filed in court, the fact that the client is on conditional release or informal adjustment (including sole sanction) may be disclosed to a criminal justice agency if, but only if, such disclosure is necessary in order for that agency to carry out the administration of juvenile criminal justice. This fact may also be disclosed to the Department of Health and Human Services if, but only if, such disclosure is necessary in order for that agency to carry out a statutory function.

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
8.1 Confidentiality of Juvenile Community Corrections Client Information	8. Records	Page 8 of 11 4/4/18R

15. If the client is one against whom a petition has been filed in court, any court order pertaining to the client may be disclosed to a criminal justice agency if, but only if, such disclosure is necessary in order for that agency to carry out the administration of criminal justice or the administration of juvenile criminal justice, or is necessary for criminal justice agency employment. The order may also be disclosed to the Department of Health and Human Services if, but only if, such disclosure is necessary in order for that agency to carry out a statutory function.
16. Regardless of whether a client is one against whom a petition has been filed, the fact that the client is on conditional release or informal adjustment may be disclosed to the Superintendent of the client's school and the Superintendent's designees pursuant to an Authorization for Disclosure of Information by the Department of Corrections - General form (Attachment A) signed by the client and, if the client is a minor, by the client's parent or guardian.
17. If the client has been adjudicated of a juvenile crime, any court order pertaining to the client may be disclosed to the Superintendent of the client's school or a school to which the client is seeking admission and the Superintendent's designees and to agencies that are or might become responsible for the health or welfare of a client, if the information is relevant to and disseminated for the purpose of creating and maintaining an individual plan for the client's rehabilitation, including, when the client is reentering school, reintegration into the school.
18. Intelligence and investigative records (including juvenile community corrections "road notes") are considered operational records and not client records. Intelligence and investigative information is generated in an effort to anticipate, prevent, detect, monitor or investigate known, suspected or possible criminal or juvenile criminal activity. This includes, but is not limited to, records concerning possible criminal or juvenile criminal activity, informant information, security plans and practices, critical incident plans and practices, investigative techniques and practices, and any information that would endanger safety if disclosed. Information contained within these records may be disclosed only:
 - a. to employees of the Department and persons or agencies providing services to client(s) by agreement with or under contract to the Department if, but only if, such disclosure is necessary to carry out a statutory function of the Department of Corrections;
 - b. to a criminal justice agency if, but only if, such disclosure is necessary in order for that agency to carry out the administration of criminal justice or the administration of juvenile criminal justice, or is necessary for criminal justice agency employment;
 - c. to the Department of Health and Human Services for use in the investigation of suspected abuse or neglect of a child or dependent adult;
 - d. to any person authorized to receive such disclosure by a court order after consultation with the Department's legal representative in the Attorney General's office;

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
8.1 Confidentiality of Juvenile Community Corrections Client Information	8. Records	Page 9 of 11 4/4/18R

- e. to a client accused of a crime or juvenile crime or to the client's attorney or, if the client is a minor or the client is 18 years of age or over and has a guardian, to the client's parent or guardian, if, but only if, it is for trial/adjudicatory or sentencing/dispositional purposes and the client is authorized to receive such information by the court or the prosecuting attorney in charge of the matter after consultation with the Department's legal representative in the Attorney General's office;
 - f. to a victim after consultation with the Department's legal representative in the Attorney General's office;
 - g. to a court after consultation with the Department's legal representative in the Attorney General's office; and
 - h. to any other person or entity if, but only if, necessary to conduct an investigation of criminal or juvenile criminal activity.
19. If the client is the subject of a court-ordered forensic evaluation, upon receipt of a copy of the court order and a written request from the court-appointed evaluator, the client's Department records and third party records, as requested, shall be provided to the evaluator. If it appears that the evaluator is requesting records that are not relevant to a forensic evaluation, the request shall be referred to the Department's legal representative in the Attorney General's office.

If there is any concern regarding any request to disclose records or information, the concern shall be referred to the Department's legal representative in the Attorney General's office.

Procedure C: Rules for Obtaining Information

1. Third party records and information, including substance abuse diagnosis, evaluations, treatment reports and discharge summaries, mental health diagnosis, evaluations, treatment reports and discharge summaries, educational records, and other records generated by third parties may be obtained for one or more of the following purposes:
 - a. to make a decision about diverting a client from court proceedings;
 - b. to make recommendations to the juvenile court regarding disposition of a client;
 - c. to assess the risk and supervision level of a client in order to develop and monitor a case plan; or
 - d. to monitor compliance with conditions of supervision, including those imposed as a result of conditional release, informal adjustment (including sole sanction), probation, and community reintegration.
2. Third party records and information shall be obtained by using the Authorization for the Disclosure of Information to the Maine Department of Corrections form (Attachment G). If the third party requires the use of its own consent form, the third party's form shall be completed, in addition to the Department's form.

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
8.1 Confidentiality of Juvenile Community Corrections Client Information	8. Records	Page 10 of 11 4/4/18R

3. The form is to be signed by the client. Except in the case of substance abuse information, HIV test results, and information relating to pregnancy or a sexually transmitted disease, if the client is a minor or is 18 years of age or over and has a guardian, the form is also to be signed by the client's parent or guardian.
4. In a case in which a parent or guardian refuses to sign a consent form allowing the obtaining of third party records and information necessary for one of the purposes set out above, the matter shall be referred to the Department's legal representative in the Attorney General's office.
5. Third party records and information may be disclosed to employees of the Department and persons and agencies providing services to client(s) by agreement with or under contract to the Department if, but only if, such disclosure is necessary to carry out one of the purposes set out above. If a third party record or information is obtained to make a decision about diverting a client from court proceedings or monitoring compliance with conditions of informal adjustment, the information may also be disclosed to the office of the prosecuting attorney. If a third party record or information is obtained to make recommendations to the juvenile court regarding disposition of a client, the information may also be disclosed in conjunction with court proceedings and to the office of the prosecuting attorney. If a third party record or information is obtained to monitor compliance with conditional release or probation conditions, the information may also be disclosed in conjunction with court proceedings and to the office of the prosecuting attorney.

If there is any concern regarding a request to obtain third party records or information, the concern shall be referred to the Department's legal representative in the Attorney General's office.

Procedure D: Acknowledgement of Confidentiality of Information

1. All juvenile community corrections staff, whether Department employees or persons working under contract to or by agreement with the Department, and all Central Office staff shall be provided a copy of this policy.
2. Each staff member shall acknowledge in PowerDMS that he or she has received and read the policy.
3. If a staff member has any concern about this policy or the law relating to confidentiality of client information, it is the staff member's responsibility to use the appropriate channels to have the concern referred to the Department's legal representative in the Attorney General's office.

VII. PROFESSIONAL STANDARDS

None

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
8.1 Confidentiality of Juvenile Community Corrections Client Information	8. Records	Page 11 of 11 4/4/18R