



# GENERAL ORDER

Loudoun County Sheriff's Office

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<b>Chapter:</b> Correctional Services	<b>Section:</b> 505.3
<b>Subject:</b> Classification and Inmate Records	<b>Topic:</b> Inmate Records, Criminal History Security, and Release of Information
<b>Accreditation:</b> 6VAC15-40-70, 6VAC15-40-80, 6VAC15-40-90, 6VAC15 40-420	
<b>Enacted:</b> 04/16/2008	<b>Revised:</b> 09/22/2016
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	<b>Review:</b>

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## I. PURPOSE

The purpose of this General Order is to provide directives for the dissemination, storage and safeguarding of information and records pertaining to inmates in the custody of the Loudoun County Adult Detention Center.

## II. POLICY

It shall be the policy of the Corrections/Court Services Division that inmate records management requires the continuous collection, recording, updating, and reporting of information and data concerning persons remanded to the custody of the Sheriff. Current and accurate information enables staff to make informed decisions based on all available information that may impact custody level, housing, program involvement and release.

The Records Section shall be responsible for maintaining the accuracy of information pertaining to each inmate record. The Records Supervisor shall verify that information collected on inmates is current, accurate, and audited on a monthly schedule.

Access to active inmate records shall be limited to the Classification and Records Section personnel and supervisors. Any time a line staff member needs to review an inmate record, access will be granted by a member of the Classification or Records Sections, or a supervisor. Inmates shall not be permitted access to any area where records are being maintained or stored unless under direct supervision of a deputy.

Inmate records are retained for a period of no less than three (3) years from the inmate's date of release and shall be stored and maintained securely and in good order to facilitate timely access by staff while maintaining proper privacy of such records. Inmate records will be secured in a designated storage area with restrictive access. Only those employees working in the Classification or Records Sections and supervisors shall have access to this storage area.

It shall be the policy of the Corrections/Court Services Division that procedures for the dissemination, storage, and safeguarding of inmate records must be in

compliance with rules and regulations set forth by the Criminal Justice Services Board:

- A. Chapter 3, Section 53.1-133.02 of the Code of Virginia (1950), as amended.
- B. Chapter 10, Section 16.1-22 et seq., of the Code of Virginia (1950), as amended, Virginia Juvenile Justice Information System.
- C. Chapter 11, Section 16.1-226 et seq., of the Code of Virginia (1950), as amended, Juvenile and Domestic Relations District Courts.
- D. Chapter 37, Section 2.2-3700 et seq., of the Code of Virginia (1950), as amended, Virginia Freedom of Information Act.
- E. Chapter 38, Section 2.2-3800 et seq., of the Code of Virginia (1950), as amended, the Government Data Collection and Dissemination Practices Act.
- F. Parts I and II of the Commonwealth of Virginia Criminal Justice Service Commission Rules and Regulations relating to Criminal History Record Information and Criminal History Record Information Security (1978).
- G. The Health Insurance Portability & Accountability Act of 1996 (HIPAA), Public Law 104-191. Also known as the Kenedy-Kassenbaum Act.

When a law enforcement agency is calling to receive criminal history information about an incarcerated individual, verification must be made so that information is not released inappropriately. Verification of the law enforcement agency shall be made by calling the agency and/or having the agency fax the information request on official letterhead prior to the release of such information.

It shall further be the policy that if a deputy or civilian participates in the unauthorized dissemination of a criminal history, they shall be subject to criminal and civil penalties.

It shall also be the policy that only "correctional status information" will be released to non-law enforcement personnel. Correctional status information consists of whether a person is incarcerated, the current charges being held on, bond amount, next court date, conviction status, release date, and classification status.

Any information that must be disseminated through the press release process shall be handled by the Loudoun County Sheriff's Office Public Information Officer.

**III. DEFINITIONS:**

**Access:** Authority to enter an area where recorded information concerning an inmate is maintained or stored for the purposes of viewing, inspecting, recording, changing or extracting such information for any lawful purpose.

**Authorized Personnel:** Personnel given authority to perform specific duties or be in specific areas as authorized by Command Staff.

**Criminal Justice Agency:** Any court or other governmental (federal, state, or local) agency, or sub-unit thereof, whose principal function is the administration of criminal justice or the performance of criminal justice activities.

**Dissemination:** The release, disclosure, or transfer of information concerning an inmate, either verbally, in writing, or by electronic means, to any non-employee of the Loudoun County Sheriff's Office.

**Information:** Recorded data collected by a criminal justice agency pertaining to an adult inmate's:

1. **Criminal History Record (CCH):** Including identifiable description, notations of prior arrests, prior indictments, prior charges or detentions, information or other formal charges and their disposition.
2. **Correctional Status:** Limited to information concerning the custodial status of a convicted person, e.g. in confinement, on probation, on work release, escaped, or no longer in custody through expiration of sentence, parole, pardon, or court decision.
3. **Conviction Data:** Any information relating to a judgment of conviction and the sentence imposed by a court.
4. **Medical, dental, psychological classification, disciplinary or program status.**

**Inmate:** A person remanded to the custody of the Sheriff's Office.

**Prisoner:** For purposes of section 53.1-133.02 of the Code of Virginia, a prisoner is any person sentenced to serve more than thirty (30) days of incarceration or detention.

**Public:** Any person not employed by a criminal justice agency. Family, news media, volunteers, bondsmen, attorneys and their agents, among others, are considered members of the public.

**Public Information:** Factual information concerning the status of an investigation, the identity of any individual, other than a juvenile, who is arrested and charged, and the

status of the charge or arrest. Pursuant to the Virginia Freedom of Information Act, all records of persons imprisoned in penal institutions in the Commonwealth are excluded from disclosure unless the custodian permits the disclosure of his/her records that deal with his/her imprisonment.

Victim: Anyone suffering physical, psychological or economic harm as a direct result of the commission of a felony or any of the following misdemeanors:

1. Assault and Battery against a family or household member.
2. Stalking.
3. Sexual Battery.
4. Attempted Sexual Battery.
5. Driving While Intoxicated.
6. The spouse, children, parents or guardians of anyone suffering from the foregoing crimes as defined in Code of Virginia 19.2-11.01(B).

IV. PROCEDURE

- A. Content of Inmate Records – Personal records will be kept on all inmates committed or assigned to the facility. These records will contain, but not be limited to:
  1. Inmate Data Form
  2. Commitment form or Court Order, or both
  3. Records developed as a result of classification
  4. All disciplinary actions or unusual incidents
  5. Work record and program involvement; and
  6. Copies of inmates' property expenditure records and receipts
  7. Victim notification when required
  8. Copies of inmate/staff correspondence, inmate request forms.
- B. Dissemination of Information to the Public

1. If members of the public request information on juveniles, they will be directed to contact the Loudoun County Juvenile Detention Center or the Loudoun County Juvenile and Domestic Relations Court.
  2. The following information may be disseminated to the public unless, for the protection of the individual concerned or at the request of the criminal justice agency or agent thereof, it has been requested that no information be released:
    - a. Individual's name.
    - b. Race.
    - c. Date of arrest and confinement.
    - d. Current charge.
    - e. Amount of bond.
    - f. Court date.
    - g. Conviction date.
    - h. Correctional status.
- C. Dissemination of Information to Criminal Justice Agencies or Agents Thereof
1. The following information may be disseminated:
    - a. Identifying data (description, address, alias, etc.).
    - b. Adult Detention Center booking photographs.
    - c. Copies of court orders, cards, records, and memoranda.
    - d. Detainer status and copies of detainers.
    - e. Custody status.
    - f. Jail adjustment.
    - g. Disciplinary problems.
    - h. Information concerning criminal history. However, copies of official criminal history record information obtained by the Loudoun County

Sheriff's Office will not be made available or released to any criminal justice agency or agent thereof.

- i. Information concerning an inmate's medical, dental or psychological status upon order of a court, at the time of their transfer to the Department of Corrections' detention facility or other facility or as may be required during the conduct of an official investigation.

D. Dissemination of Information to Attorneys

1. An attorney(s) requesting information must be representing the accused, convicted, or sentenced individual being housed in the Adult Detention Center. The information may be verified through the courts as to whether they are representing an inmate on a particular case.
  - a. Attorneys are entitled to that information available to the public (Section IV, B, 1, of this General Order).
  - b. In addition, attorneys may be provided:
    - 1) Information pertaining to an inmate's jail adjustment.
    - 2) Information pertaining to criminal offenses committed by an inmate while confined in the Adult Detention Center, when an attorney is appointed or retained as the inmate's counsel.
2. Should an attorney desire a copy of a criminal history record, they will be instructed that this information may be obtained from the Central Criminal Records Exchange, as appropriate.
3. If an attorney requests information outside of the items listed above, they will be informed that they can only receive the information through a subpoena.

E. Dissemination of Information to Inmates

1. Inmates desiring a copy of their criminal history record will be instructed to request such information through their attorney or to request such information in writing from the appropriate Central Criminal Records Exchange.
2. Upon request, adult inmates may review their medical, dental or mental health records maintained by the Adult Detention Center. The inmate may be denied a review of their mental health records when the inmate's treating physician has made a written statement as part of the record that in his opinion a review of such records would be injurious to the subject person's physical or mental health or well-being.

3. The jail administrator or chief medical officer of the jail may assert the inmate's right of access to their medical records if the administrator/chief medical officer has reasonable cause to believe that the inmate has an infectious disease or other medical condition from which other persons confined in the facility need to be protected. Virginia Code section 2.2-3705 (5)
4. Adult inmates may review official court documents, warrants and detainers which pertain to them and their inmate financial account and property record.
5. Adult inmates may not review, have access to or have copies of the following records which are categorized as "...records of persons imprisoned in penal institutions [which] relate to the imprisonment" and as such, excluded from the provision of Section 2.2-3706, Code of Virginia 1950 edition, as amended:
  - a. Inmate classification interview paperwork.
  - b. Inmate records.
  - c. Any other record containing information submitted in confidence or which is sensitive in nature.

F. Record of Criminal History Dissemination

1. Criminal History Record Information

- a. Any time information concerning an adult inmate's criminal history is disseminated to a secondary criminal justice agency or agent thereof, a record of any such dissemination will be logged in the Criminal History Log Book. This record must specify:
  - 1) Date of inquiry.
  - 2) Requesting agency name and address.
  - 3) Identifying name and number (both FBI and State identification number of record subject) or notification of "no record found."
  - 4) Name of requestor within the agency requesting criminal history record information. (The format used for this request as outlined in the NCIC/VCIN handbook is title (ex. Deputy/Officer) first initial, middle initial, last name of law enforcement official).
  - 5) Name of disseminator (officer or civilian who provides the criminal history record of information to the requestor).

- b. The law enforcement official requesting a criminal history must sign showing receipt of the document(s).
- c. It is a violation of law for copies of criminal history record information obtained by the Sheriff's Office from any Central Criminal Records Exchange or other criminal justice agency to be released to any non-law enforcement official.
- d. Criminal History information may not be faxed to a law enforcement official unless there is an emergency that dictates the need to fax.
- e. Criminal History information may never be left in the custody of a magistrate.

G. Access to Inmate Records

- 1. The release of information concerning inmates to criminal justice agencies or agents thereof during the conduct of official business need not be recorded.
- 2. Information gathered, compiled, recorded, and maintained on inmates confined in the Adult Detention Center must be treated as confidential.
- 3. In order to maintain the confidentiality of records and information, and to preclude unauthorized and improper disclosure, the following guidelines will be observed:
  - a. Access to information and records pertaining to inmates will be limited to the Sheriff, Bureau Chief(s), Internal Affairs Investigator(s), members of the Adult Detention Center staff, and contract civilian medical personnel.
  - b. The Sheriff, Bureau Chief(s), Division Commander of the Adult Detention Center, and the Internal Affairs Investigator(s) are authorized to unlimited access of all inmate information and records.
  - c. In order to maintain security and control over records and information for operational purposes, access to records and information generated and maintained by the sections within the Adult Detention Center is restricted to a "need to know" basis. See Attachment A for the designation of positions responsible for controlling access to various sources of information.
  - d. Nothing in this section precludes any staff member from having access to information and records necessary to conduct official investigations or disciplinary hearings.



H. Storage and Safeguarding of Records

1. Active Inmate Records

- a. Inmate records will be maintained in the Records Section of the Adult Detention Center. These folders will be comprised of classification interviews and scores, property records, incident reports, answered grievances, court documents, etc. These files will be stored in a locked office in the absence of Records Section personnel.
- b. During regular business hours, Records Section personnel will control access to this area; after normal business hours, supervisors will control access.
- c. Inmate financial records will be maintained and stored in the Inmate Account Clerk work area of the Adult Detention Center. These files will remain locked in the absence of the Inmate Account Clerk.
- d. Inmate program participation records will be maintained by attaching the original to the daily activity log. A copy must be sent to the Classification Section for inclusion in their files.

2. Inactive Inmate Records

- a. When an inmate record is no longer active, all copies of criminal histories (CCH's) found in the folders must be removed, shredded and destroyed.
- b. Inactive inmate records will be stored in either the Records Office or the Records Archive Storage room of the ADC.
  - 1) The Adult Detention Center will keep a minimum of three (3) years of inactive inmate records on site.
  - 2) Every January, these inactive records will be purged from the Records Office and placed into long term storage in the Records Archive Storage room.
  - 3) These records will remain in the Records Archive Storage room until they are destroyed following the destruction orders used by the Loudoun County Sheriff's Office Central Records. The Classification and Records Supervisor is responsible for notifying the Loudoun County Sheriff's Office when inmate records and Classification or Records information must be destroyed.

- I. Expunging, Purging, and Sealing Records
  - 1. Upon receiving written notification from the Loudoun County Sheriff's Office Central Records Supervisor, the Adult Detention Center Records supervisor will proceed with the following:
    - a. Manually collect any and all "hard copy" inmate record(s) pertaining to a specific incarceration date as outlined in the received court order.
    - b. Assemble and place the collected materials in an envelope and deliver them to the Loudoun County Sheriff's Office Central Records Supervisor located in the Administrative Offices.
    - c. Cause all LIDS entries referenced in the court order to be expunged.
    - d. Cause all computer entries referenced in the court order to be electronically erased from the Offender Management System of the Adult Detention Center.
    - e. Cause all photographic images referenced in the court order to be deleted from the Offender Management System and Imaging System.
    - f. No expunged records will be maintained in the Adult Detention Center.
  
- J. Inmate Medical Record
  - 1. Inmate Medical Records contain all medical information pertaining to each inmate. The Inmate Medical Record will contain, but is not limited to:
    - a. Intake medical screening
    - b. History and physicals
    - c. All test results to include lab work
    - d. Current medications
    - e. Known allergies
    - f. Any other medical information
  - 2. Medical personnel are responsible for the safe and secure storage of all inmate medical records.
    - a. Inmate medical records are stored in secured cabinets

- b. Only medical personnel are permitted access to medical records

K. Transfer of Records

1. Prior to the transfer of an inmate to another facility or program the following documents must be prepared for transport with the inmate (unless it is a weekend, after hours or a holiday). If the information is not prepared upon transfer of the inmate for the above stipulated times, it will be done as soon as the Records Section returns to work:
  - a. Jail Credit Sheet
  - b. Current court information
  - c. Any money from the inmate's canteen account
  - d. A summary of the medical record file, prepared by medical staff, and sealed in an envelope marked "confidential"

L. Victims' Rights

1. Pursuant to §53.1-133.02 of the Code of Virginia, victims of crimes must be notified of changes in the location and release of prisoners if the victim has made a written request for this information.
2. Any victim of an offense as defined in §19.2-11.01 of the Code of Virginia who has submitted a written request to be notified or has designated another person to be notified pursuant to §53.1-133.02, is authorized to receive the following information:
  - a. Notification of release from confinement.
  - b. Notification of placement into any community based program, including Work Release, Work Force, or House Arrest.
  - c. Notification of discharge or transfer of prisoner to any other correctional facility, whether local, state or federal, or any other detention or program facility.
  - d. Notification of prisoner escape.
  - e. Notification of prisoner name change.

3. The Records Section personnel must make the above notification. In the event that the Records Section personnel are not working, a squad supervisor will make the notification.
4. The above notifications must be made by calling the telephone number(s) provided by the victim. The supervisor making the notification will indicate so on the form provided by the Loudoun County Victim Witness Office and be made a permanent part of the inmate's record.
5. The notification must be made at least fifteen (15) days prior to release or transfer, or as soon as possible following escape or name change.
6. The Records Section will be responsible for complying with §53.1-133.02. All staff will be directed to make sure that any written requests received from victims or the Loudoun County Victim Witness Office be directed to the Records Section.

7.

#### IV. DOC STANDARD #

##### 6VAC15-40-70: Release of Information

Written policies and procedures covering the release of information shall be developed in accordance with the Regulations Relating to Criminal History Record Information Use and Security (6VAC20-120-10 et seq.) as promulgated by the Criminal Justice Services Board.

##### Compliance Documentation:

- Review written policy and procedure
- Review dissemination log (if applicable) Regulations require the following fields: (a) Date of Inquiry; (b) Requesting agency name and address; (c) Identifying name and number (either FBI or state identification number of record subject, or notification of "no record found"); (d) Name of requester within the agency requesting criminal history record information; and (e) Name of disseminator (officer or civilian who provides the criminal history record information to the requester).
- Interview staff

"Correctional status information" means records and data concerning a convicted person's custodial status, including probation, confinement, work release, study release, escape or termination of custody through expiration of sentence, parole, pardon or court decision. This is not considered criminal record information and does not need to be recorded in a log. "Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information or other formal charges and any disposition arising there from. The term shall not include juvenile record information, which is controlled by Chapter 11 (§16.1-226 et seq.) of Title 16.1 of the Code of Virginia.

6VAC15-40-80: Current and Accurate Inmate Records

Written policy, procedure and practice shall ensure that inmate records are current and accurate.

Compliance Documentation:

- Review written policy and procedures
- Review inmate records (see §6VAC15-50-90 to determine number)

In order to ensure file material is current and accurate it is suggested that the facility policy include time frames for filing/recording pertinent information. Current and accurate information enables staff to make informed decisions based on all available information that may impact custody, housing, program involvement and release. Additional safeguards for record maintenance and destruction/storage including schedules and time frames for such action can be obtained through the Library of Virginia.

6VAC15-40-90: Content of Personal Inmate Records

Personal records shall be maintained on all inmates committed or assigned to the facility. These records shall contain, but not be limited to:

1. Inmate data form;
2. Commitment form or court order, or both;
3. Records developed as a result of classification;
4. All disciplinary actions or unusual incidents;
5. Work record and program involvement; and
6. Copies of inmates' property expenditure records and receipts.
7. Victim notification when required.

Compliance Documentation:

- Policy must address all 7 elements of the standard
- Review inmate records (can be paper files or automated records) –Population

Records Reviewed

1-35.1	5 minimum
36-99.1	10 minimum
100-299.1	15 minimum
300 and over	20 minimum

- Documentation of victim notification (if applicable)
- Review record storage procedures
- Interview staff

Inmate records should be stored and maintained securely and in good order at each facility to facilitate timely access by staff while ensuring proper privacy of such records. Adequate maintenance of inmate records is essential to ensure that all data pertaining to inmates is accurate and uniform. For the purpose of this standard, work involvement excludes work release, but includes work force and trusty programs. Work assignments and program involvement should include documentation of program/work assignments, changes, removals and completion dates, to

ensure an accurate record is maintained on each inmate. This information may be contained in more than one record.

6VAC15-40-420: Transfer of Summaries of Medical Record

Summaries of the medical record file shall be forwarded to the facility to which the inmate is transferred.

Compliance Documentation:

- Review summary sheets
- Interview medical staff

It is recommended that medical health transfer sheets include a summary of current medical problems, inmate current health status, current level of activities, current therapy including medication and anticipated future health care needs.

This General Order becomes effective September 23, 2016, and rescinds all previous rules and regulations pertaining to the subject.