



MARYLAND
Department of
Juvenile Services

Successful Youth • Strong Leaders • Safer Communities

POLICY

SUBJECT: Confidentiality
NUMBER: MGT-623-15
APPLICABLE TO: All staff

APPROVED: _____ /signature on original/
Sam Abed, Secretary

EFFECTIVE DATE: _____ 4/9/15

I. POLICY

The Department of Juvenile Services (DJS or Department) shall ensure that all youth records are confidential and disclosure is prohibited except in accordance with law. The Department promotes the treatment and rehabilitation of youth under its supervision by maintaining youth records and information in the strictest confidence. All records and other information created or retained by the Department or any program about any youth shall be maintained and properly secured to preserve the confidentiality of the records and information.

II. AUTHORITY

- A. MD. CODE ANN., HUM. SERVS., §§ 1-210, -211, -212.
- B. MD. CODE ANN., HUM. SERVS., §§ 9-203, -204, -219.
- C. MD. CODE ANN., CTS. & JUD. PROC., § 3-8A-27.
- D. MD. CODE ANN., FAM. LAW, § 5-704.
- E. MD. CODE ANN., HEALTH-GEN., § 4-302.
- F. MD. CODE REGS. 16.03.02 (2014).
- G. Maryland Rules 1-322.1, 11-121 and 16-909.
- H. American Correctional Association Standards, 4-JCF-4C-31.

III. DIRECTIVES/POLICIES RESCINDED

- A. Confidentiality, 05.06.05.

IV. FAILURE TO COMPLY

Failure to comply with the Department's Policy and Procedures shall be grounds for disciplinary action up to and including termination of employment.

V. STANDARD OPERATING PROCEDURES

Standard operating procedures have been developed.

VI. REVISION HISTORY

DESCRIPTION OF REVISION	DATE OF REVISION
Expanded confidentiality requirements to account for technological advances. Revised definition of “client file.” Provided additional staff requirements for responding to requests for youth records. Provided staff requirements for youth health records confidentiality, inter-jurisdictional records sharing, and records destruction.	April 2015
Added procedures for maintaining confidentiality of youth health records.	November 16, 2017



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PROCEDURES

SUBJECT: Confidentiality

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APPLICABLE TO: All staff

APPROVED: _____ /s/ signature on original

Lynette Holmes, Deputy Secretary

REVISION DATE: _____ 11/16/17

I. PURPOSE

To ensure that records of youths' involvement with the Department and juvenile courts are held in confidence and not disclosed except in accordance with law.

II. DEFINITIONS

Health Authority means the qualified health care professional who serves as the administrator for all DJS Health services.

Qualified Health Care Professional includes physicians, physician's assistants, dentists, nurses, nurse practitioners, nurse midwife, mental health professionals and others who by virtue of their education, credentials, licensure, and experience are permitted by law to evaluate and care for youth.

Youth records means information stored in any medium about youth having contact with the Department or a juvenile court, including information contained in any DJS documents or reports that are originals or copies of juvenile court and police documents, documents created or maintained by DJS personnel or entries in information technology systems, and any other document or report that is related to youth involvement with the Department that names or otherwise identifies a youth, including photographs.

III. PROCEDURES

A. Confidentiality – Generally

1. Each DJS staff member has the responsibility to ensure that youths' involvement with the Department and/or the juvenile court is not disclosed to unauthorized persons or agencies. Employees of the Department and of any public or private program providing contracted services to youth under the supervision or care of the Department may not disclose or knowingly allow the disclosure of any confidential youth record or

information to any person except in accordance with these procedures, applicable law, contract, or agreement.

2. DJS records shall be afforded the same confidentiality as a record generated by a court and may not be disclosed except by court order or as provided by law or in these procedures.
3. Staff at each office and facility shall develop a method to limit, monitor, and track access to youth records and files. At a minimum, these methods shall employ appropriate physical security measures to ensure that youth records are not easily accessible to youth or other unauthorized persons. Each Facility Superintendent and Regional Director shall oversee and designate the staff person or persons responsible for youth records security at each facility or office.
4. All staff have the responsibility to ensure that records of youth assigned to them are maintained in a secure fashion to prevent loss, destruction, and unauthorized access.
5. When printing, photocopying, or otherwise reproducing youth records, staff shall promptly retrieve any original or duplicate records from shared printers or other communal areas of the facility or office so as to prevent accidental or unintended disclosure or duplication.
6. All staff shall secure electronically-stored youth records, including information stored or available on mobile devices and computers, in accordance with the security measures prescribed by the *IT Users' Policy & Manual*.
7. Visits to youth in the community shall be performed in a manner to ensure that confidentiality is maintained to the greatest extent possible.
8. DJS staff may not disclose any youth records or information to any person unless the person is known to the staff member and is authorized to have that information or the staff member is able to confirm that the person is authorized to have the information. This includes, but is not limited to, respecting and holding in confidence any youth's sexual orientation or gender identity unless the youth has disclosed it and given or implied permission to discuss it. Any such information shall be disclosed only to those persons who need to know the information in order to achieve a specific beneficial purpose for the youth.
9. Supervisory staff shall train clerical staff, interns and volunteers in the Department's confidentiality requirements, including a prohibition on the disclosure of youth information unless specifically authorized by case management staff.

10. Except for Global Positioning System (GPS) records, case management staff may release or communicate youth records or information without a court order to any person or entity that may potentially offer service to a youth as an agent of the Department.
11. DJS staff may not release youth records or information for research purposes except in accordance with the *DJS Review and Approval of Research Proposals Policy* and *Communication with Public and Media Policy*.
12. Except for Global Positioning System (GPS) records, Staff may release youth records in response to routine requests for youth records following supervisory review. Routine requests include requests by way of valid release of information, subpoenas, and court orders.
13. Except for Global Positioning System (GPS) records, Staff may release youth records requested by individuals entitled to the records following supervisory review. These individuals include, but are not necessarily limited to:
 - a. an attorney representing the youth in a current juvenile court proceeding;
 - b. a representative from a State's Attorney's Office; and
 - c. a representative of any law enforcement agency in the State or a political subdivision of the State.
14. Any uncertainty as to the appropriate release of any youth records shall be resolved by the Regional Director or Superintendent. The Regional Director or Superintendent may consult with the DJS Office of the Attorney General as needed for assistance.
15. Public Information Act and media requests shall be forwarded to the Public Information Officer (PIO) in accordance with the *Communication with Public and Media Policy*.
16. GPS records may not be disclosed except in accordance with the *Global Positioning System (GPS) Policy*.
17. Nothing in these procedures shall be construed to prohibit access to or use of any youth record in accordance with the Courts & Judicial Proceedings Article § 3-8A-27, or as otherwise provided by law.
18. Nothing in these procedures shall be construed to prohibit any person from reporting suspected abuse or neglect to the appropriate authority as required by law.

B. Confidentiality of Youth Health Records and Health Information

1. All DJS staff shall maintain the confidential storage and transmission of a youth's written or electronic medical and behavioral health record including electronically transmitted or orally conveyed health information. Staff shall comply with the specific procedures outlined in the DJS HIPAA manual for access and transmission of confidential health information.
2. All staff, including medical and behavioral staff, who transport or maintain medical and behavioral health records or information shall ensure a youth's health information shall only be disclosed in accordance with State and Federal law.
3. All staff who need access to youth health information shall be trained prior to receiving access to youth health information on accessing, maintaining and transmitting confidential health information.
4. The DJS Health Authority controls access to youth health records and health information generated in DJS facilities or programs as a result of youths' involvement with the Department. Questions regarding any release of a youth's health care information shall be directed to the DJS Health Authority.
5. Except where required for case planning, health records are securely maintained separate from other DJS or court records.

C. Personally-identifiable Youth Information in Court Filings

1. Except as permitted by the Maryland Rules, required by law or court order, or required to implement a court order, staff filing any paper or electronic document with a court may not include in the filing:
 - a. an individual's Social Security number or taxpayer identification number; or
 - b. the numeric or alphabetic characters of a financial or medical account identifier.

D. Inter-jurisdictional Records Sharing

1. Any inter-jurisdictional exchange of records of youth under court supervision in Maryland or other states in conjunction with the Interstate Compact for Juveniles (ICJ) shall be conducted in accordance with the DJS *Interstate Compact for Juveniles Policy* and applicable agreement or rules.
2. Any inter-jurisdictional exchange of youth records not governed by ICJ shall be conducted only in accordance with State laws and regulations.

E. Destruction of Youth Records

1. All field offices and facilities shall destroy or forward youth records for destruction in a manner that will preserve confidentiality and that is consistent with state law and in accordance with the current applicable records retention and destruction schedule.

IV. DIRECTIVES/POLICIES REFERENCED

- A. IT Users' Policy and Manual.
- B. Communication with Public and Media Policy.
- C. Review and Approval of Research Proposals Policy.
- D. Interstate Compact for Juveniles Policy.
- E. Global Positioning System (GPS) Policy.

V. APPENDICES

None.



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DJS POLICY AND STANDARD OPERATING PROCEDURES

Statement of Receipt and Acknowledgment of Review

SUBJECT: Confidentiality
NUMBER: MGT-623-15
APPLICABLE TO: All staff
REVISED: November 16, 2017

I have received and reviewed a copy (electronic or paper) of the above titled policy and procedures. I understand the contents of the policy and procedures.

I understand that failure to sign this acknowledgment form within five working days of receipt of the policy shall be grounds for disciplinary action up to and including termination of employment.

I understand that I will be held accountable for implementing this policy even if I fail to sign this acknowledgment form.

SIGNATURE

PRINT FULL NAME

DATE

WORK LOCATION

SEND THE ORIGINAL, SIGNED COPY TO VERNELL JAMES IN THE DJS OFFICE OF HUMAN RESOURCES FOR PLACMENT IN YOUR PERSONNEL FILE.