

	<p style="text-align: center;"><b>ADMINISTRATIVE REGULATION</b></p> <p style="text-align: center;">Department of Correctional Services State of Nebraska</p>	<p style="text-align: center;">NUMBER</p> <p style="text-align: center;">104.04</p>	<p style="text-align: center;">Page 1 of 5</p>
		<p>REQUESTS FOR INFORMATION AND PUBLIC RECORDS</p>	

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SUMMARY of REVISION/REVIEW

Removed #4 from General Section. Added Statute to Section I.A.4. Added #9 to Section I.A.
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APPROVED:

  
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 Scott R. Frakes, Director  
 Nebraska Department of Correctional Services

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		<p><b>REQUESTS FOR INFORMATION AND PUBLIC RECORDS</b></p>	

## PURPOSE

To provide guidelines for responding to requests for public records and other information

## GENERAL

It is the policy of the Nebraska Department of Correctional Services (NDCS) to allow access to all NDCS records in accordance with State law. (Neb. Rev. Stat. §§84-712 through 84-712.09; §83-178; §§29-3501 *et. seq.* and §84-713).

For additional policies relevant to the release of information see the following:

1. Release of information based on requests from official federal, state and local sources. (Procedures are detailed in Administrative Regulation (AR) 103.04, *Coordination with Outside Agencies*)
2. Release of information based on the requests from universities, institutes and other scholarly bodies and bona fide students. (Procedures are detailed in AR 104.01, *Inmate Records Management* and AR 103.01, *Research*).
3. Releases to the public via the media and responses to media initiated inquiries/requests involving programs, inmates and staff. Agency initiated information releases to the public via the media. (Procedures are detailed in AR 002.01, *News Media Access Policy*).

## PROCEDURE

### I. REQUEST FOR INFORMATION

- A. Responses to all inquiries concerning NDCS operations will be prepared accurately and in a professional manner. Responses to inquiries regarding sensitive information such as emergency or security procedures must be reviewed and approved through the Warden/Program Administrator before release.

Responses to inquiries regarding the identification of or information about an inmate are subject to statutory provisions (Neb. Rev. Stat. 29-3504, 29-3528, 83-178) regarding criminal histories and inmate records.

The following information concerning an inmate is a matter of public record and may be released to inquiring parties:

1. Notations and issuance of arrest warrants and arrests, as limited by Neb. Rev. Stat. 29-3523, detentions, indictments, charges by information and any other formal criminal charges.
2. Disposition arising from arrests or from formal criminal charges.
3. Sentence imposed.
4. Places of incarceration.
5. Dates and places of release from incarceration.

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6. Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons, or photographs taken in conjunction with an arrest for purpose of identification of the arrested person or photographs taken in conjunction with intake process at the Diagnostic and Evaluation Center.
  7. Original records of entry, such as police blotters, offense reports maintained by criminal justice agencies.
  8. Court records of any judicial proceedings.
  9. Records of any judgement against or settlement with the state as a result of wrongful conviction pursuant to the Nebraska Claims for Wrongful Conviction and Imprisonment Act.
- B. Public record information does not include medical information, intelligence or investigative information, psychological and psychiatric reports, or statements from counselors and other persons involved in the evaluation of the inmate/parolee and his/her rehabilitation. In no case should the inmate/parolee or other unauthorized person be given direct access to his/her file or other official NDCS records. Because the penalties for improper release of information may be severe, employees should contact NDCS' General Counsel when in doubt about the propriety of a request for information.
  - C. An employee's or former employee's name, position, gross salary, date of hire, date of termination and agency where employed shall be considered public information.
  - D. Any settlement agreement over \$50,000 is a public record by law.

## II. PUBLIC RECORDS REQUESTS

- A. Pursuant to statute, public records shall include all records and documents, regardless of physical form, belonging to NDCS, except those records exempted from disclosure to the public. (Neb. Rev. Stat. §83-178; §§29-3501 *et. seq.*; §84-712.05)
- B. Any member of the public will be allowed, upon request, to examine the public records of NDCS during regular business hours. The person examining such records may take notes, make copies using their own copying equipment and make abstracts therefrom, all free of charge. Copies made by persons using their own copying equipment shall be made at the location housing the records or at a location mutually agreed to by the requester and the custodian. Copies may not be made of documents protected by federal copyright law.
- C. If the requestor asks that copies be made by NDCS copying equipment, copies may be made only if copying equipment is reasonably available.
- D. Copies may be obtained in any form designated by the requestor in which the public record is maintained or produced, including, but not limited to, printouts, electronic data, discs, tapes and photocopies. NDCS is not required to produce or generate any public record in a new or different form or format other than the original public document.

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- E. NDCS may charge a fee for providing copies of public records. The fees shall not exceed the actual cost of making copies. Fees for electronic copies may include computer run time, any necessary analysis and programming, and costs of the materials for making copies.
- F. Upon receipt of a written request for access to, or copies of, a public record, the requester should be provided access to, or copies of, the documents requested not more than four business days after actual receipt of the request. If the entire request cannot, with reasonable good faith efforts, be fulfilled within four business days after receipt of the request, a written explanation, including the earliest practicable date for fulfilling the request, an estimated cost of copies, and an opportunity for the requestor to modify or prioritize the items within the request shall be provided.
- G. If there is a legal basis or statutory provision for denying access to public records, the person whose request is denied shall receive a written statement which shall include:
  - 1. A description of the contents of the records withheld;
  - 2. A statement of the specific reasons for such denial, including statutory authority therefore;
  - 3. The name and job title of the employee who made the decision to deny the request; and
  - 4. Notification to such persons of any administrative or judicial reviews available regarding such decision. (Neb. Rev. Stat. §84-712.03)
- H. A file shall be maintained in the office of the Director of NDCS containing copies of all letters of denial of requests for records. This file shall be open to inspection upon request by any person.

### III. TOURS AND PUBLIC VISITS TO FACILITIES/PROGRAMS

Tours of correctional institutions/programs may be arranged by the Public Information Officer/designated staff with the approval of the applicable Warden/Program Administrator. All persons entering an institution/program are subject to a search of their person and possessions anytime. (See AR 120.01, *Official Visitors to Correctional Facilities and Programs*, the handling VIP visitors.)

### REFERENCE

- I. STATE STATUTE - Neb. Rev. Stat. §§29-3501 *et. seq.*; §83-178; and §§84-712 through §84-712.09.
- II. ADMINISTRATIVE REGULATION
  - Administrative Regulation 002.01, *Media Access Policy*
  - Administrative Regulation 103.01, *Research*
  - Administrative Regulation 103.04, *Coordination with Outside Agencies*
  - Administrative Regulation 104.01, *Inmate Records Management*
  - Administrative Regulation 105.02, *Committee Involvement Committee*
  - Administrative Regulation 120.01, *Official Visitors to Correctional Facilities and Programs*

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III. ATTACHMENTS-NONE

IV. AMERICAN CORRECTIONAL ASSOCIATION (ACA) STANDARDS

A. Performance Based Standards for Adult Community Residential Services (ACRS)  
(4th edition): 4-ACRS-7D-05