



Jim Pillen, Governor

Policy Directive 024-019

DATE: May 31, 2024

TO: NDCS Agency

FROM: Rob Jeffreys, Director

RE: Policy 002.01 Access to Public Information

Effective immediately, the following changes will be in effect concerning Policy 002.01 *Access to Public Information*. These revisions will be incorporated into this policy during the next scheduled review. You may contact General Counsel Ryan Gilbride with questions regarding this change.

Page 5, II.B. Public Records Requests, update language with **BOLD** changes as shown below:

B. Public Records Requests

1. **All requests for access to or copies of a public record should be in writing and sent to the NDCS Public Disclosure Unit via email at DCS.PublicRecords@nebraska.gov or through the mail at Public Disclosure Unit, Nebraska Department of Correctional Services, P.O. Box 94661, Lincoln, NE 68509.**
2. **Any requests for access to or copies of a public record** received by NDCS team members shall be forwarded to the NDCS Public Disclosure Unit **via email** (DCS.PublicRecords@nebraska.gov) within 24 hours of receipt.
3. The NDCS Public Disclosure Unit will coordinate the compilation of any responsive documents and prepare the agency's response to public records requests.
4. 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; §83-967; §29-3501 *et. seq.*; §84-712.05)


Rob Jeffreys, Director
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corrections.nebraska.gov

5. Any **resident** of the state of Nebraska or other interested person will be allowed, upon request and approval, 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. No person shall be permitted to copy any document protected by federal copyright law.
6. If the requestor asks that copies be made by NDCS copying equipment, copies may be made only if copying equipment is reasonably available.
7. 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.
8. NDCS may charge a fee for providing copies of public records. The fees shall not exceed the actual cost of making copies **available. These fees may include the following:**
 - a. **For photocopies, the reasonably calculated cost, including the apportioned cost of the supplies. The rate for photocopies is \$0.10 per page.**
 - b. **For electronic data, the reasonably calculated computer run time, any necessary analysis and programming by NDCS or a third-party, production of the report in the form furnished to the requestor, and any costs of the materials for making copies.**
 - c. **For requests from residents of Nebraska or news media (regardless of domicile), a special service charge reflecting the calculated labor cost of team member time spent searching, identifying, physically redacting, or copying records in excess of eight (8) cumulative hours. This special service charge cannot include time spent by an attorney or any other person to review the requested records seeking a legal basis to withhold the public records from the public or for copies of blank forms or pages that have all meaningful information redacted. NDCS may ask public record requestors to provide proof of Nebraska residency or news media credentials.**
 - d. **For requests from nonresidents of Nebraska that do not qualify as news media, a special service charge reflecting the calculated labor cost of team member time spent searching, identifying, physically redacting, copying, or reviewing records. This special service charge may include the services of an attorney to review the requested records.**
9. 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 requester to modify or prioritize the items within the request shall be provided.

10. 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:
 - a. A description of the contents of the records withheld
 - b. A statement of the specific reasons for such denial, including statutory authority therefore
 - c. The name and job title of the team member who made the decision to deny the request
 - d. Notification of any administrative or judicial reviews available regarding such decision (Neb. Rev. Stat. §84-712.03)
11. A file shall be maintained by the Public Disclosure Unit containing copies of all letters of denial for record requests that are within the retention period. These letters shall be made available to any person upon request.

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EFFECTIVE: March 1, 1980
 REVISED: October 25, 2013
 REVIEWED: November 24, 2014
 REVISED: September 30, 2015
 REVISED: February 15, 2017
 REVISED: December 31, 2018
 REVISED: December 31, 2019
 REVISED: December 31, 2020
 REVISED: December 31, 2021
 REVISED: December 31, 2022
 REVISED: July 31, 2023
 REVISED: April 30, 2024


SUMMARY OF REVISION/REVIEW

Titles changed throughout to match new organizational chart.

PROCESS – I.A.2. – New section, remaining sections renumbered. I.A.4. – Language updated.
 I.C.5. – Language updated. II.B.7. – Language updated. II.C.5. – Language updated.
 II.E.2.b. – Language updated. II.E.2.c. – Language updated. II.E.4.i. – Section deleted.
 II.E.5.b. – Section deleted, remaining sections relettered. II.E.5.c. – Section deleted, remaining sections relettered. II.E.5.c. – Language updated. II.E.8.a. - No media representatives are allowed on NDCS property, including parking lots, for the purpose of obtaining photographs or video of an NDCS facility or office, unless given prior authorization.

APPROVED:


Rob Jeffreys (Mar 12, 2024 14:48 CDT)
 Rob Jeffreys, Director
 Nebraska Department of Correctional Services

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PURPOSE

To provide policy for the Nebraska Department of Correctional Services (NDCS) in the proper dissemination of information to the public and news media in order to foster transparency, community involvement, and support. This policy is reviewed annually and updated as needed. (ACI-1A-22, ACRS-7D-05, ACRS-7F-01, CO-1A-25, CO-1A-27-1)

Providing accurate, timely, and relevant information to the public is integral to the NDCS mission: “Keep People Safe”. NDCS encourages thoughtful interaction with the public and news media. The NDCS communications division and the NDCS public disclosure unit will address responses to the public and news media which may include: the identification of areas in a facility that are accessible to media representatives, the contact person for routine requests for information, the identification of data and information per Neb. Rev. Stat. §84-712 through §84-712.09, special events coverage, publicly available policies, and the designation of team members within NDCS authorized to speak with the media on behalf of the NDCS. (ACI-1A-22, CO-1A-27-1)

DEFINITIONS

- I. **NDCS COMMUNICATIONS DIVISION** – Located in central office, this division provides centralized management of internal/external communications for NDCS. Under direction of the director of strategic communications, team members in the NDCS communications division manage the NDCS social media accounts, NDCS website, NDCS newsletters, media contact, and coordination of agency-related public activities. The NDCS communication division works closely with facility public information officers to coordinate public statements, receive and respond to media requests, provide support to facility events and activities, and additional guidance and assistance as needed. (CO-1A-27, CO-1A-27-1)

- II. **NDCS PUBLIC DISCLOSURE UNIT** - Located in central office and under direction of the legal division, this unit oversees the compilation and distribution of public records in response to requests submitted under the Nebraska Public Records Statutes (Neb. Rev. Stat. §84-712 through §84-712.09). This unit may also provide public information in response to inquiries and/or serve as a liaison between the public and NDCS team members regarding information requests or records requests that fall outside the scope of the Public Records Statutes. Working in consultation with NDCS legal counsel and the NDCS communications division, the NDCS public disclosure unit provides general assistance to the agency in determining the confidentiality of documents and information, as well as the retention of records. (ACRS-7F-02, CO-1A-26, CO-1A-27-1)

- III. **NEWS MEDIA** – News publications, accredited news services, licensed radio and television stations or networks, and government-franchised community cable television systems that originate scheduled news programming. News media does not include broadcast programs syndicated by independent producers or television stations or networks for the primary purpose of entertainment, and syndicated television broadcast talk shows. (Attachment A)

- IV. **PUBLIC** – Individuals who are not officials in law enforcement, news media representatives, team members employed by NDCS, incarcerated individuals, or family members of incarcerated individuals.

- V. **PUBLIC INFORMATION OFFICER (PIO)** – Facility representative, designated by the facility warden, whose role is to support the NDCS communications division in the dissemination of facility-specific information, shared internally and/or externally.

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PROCESS

I. NDCS COMMUNICATIONS DIVISION

A. NDCS Communications Division

The NDCS communications division will ensure the department shares accurate, clear, and consistent information with the public. It will:


1. Coordinate with executive team members, wardens, and facility public information officers (PIO).
2. Notify media of significant NDCS news through news releases and media alerts
3. Provide training and direction to facility PIOs and other team members as appropriate.
4. Develop communication plans that provide guidance on NDCS messaging and delivery
5. Provide support to program managers with regard to publication of materials in written, video, or graphic form.
6. Prepare subject-matter experts for news media interviews.
7. Manage and maintain content for the NDCS website (corrections.nebraska.gov) and social media sites.

B. Facility/Program PIOs will be identified as follows:

1. Each facility warden will designate a facility PIO.
2. Division administrators/designees will serve as the PIOs for their respective sections.
3. The industries administrator will designate a PIO for Cornhusker State Industries (CSI) operations.

C. Facility/Program PIOs will:

1. Report directly to the facility warden or division head with regard to the public information function and work closely with the NDCS communications division for training and direction.
2. Receive training as needed. This also applies to facility PIO alternates.
3. Establish positive relationships with local news representatives; promote positive stories/articles/interviews of their respective facility/program; and promote team member activities, recognition, and awards.
4. Alert the NDCS communications division about high-profile incidents, upcoming

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news media coverage, media requests to interview incarcerated individuals, and media requests for a facility tour.

5. Coordinate with the NDCS communications division to increase public awareness and understanding of local operations by hosting media events, conducting tours, facilitating interviews, sharing content for NDCS social media and assisting in the preparation of news releases.

II. RELEASE OF PUBLIC INFORMATION


A. Public Information

1. Responses to inquiries regarding the identification of or information about an incarcerated individual are subject to statutory provisions regarding public information. (Neb. Rev. Stat. §83-178)

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

- a. Incarcerated individual name and number
 - b. Age and date of birth
 - c. Facility of incarceration
 - d. Crimes for which he or she was committed
 - e. Length of stay
 - f. County of commitment
 - g. Parole eligibility date
 - h. Tentative release date
 - i. Parole hearing date
 - j. Official NDCS photographic identification of an incarcerated individual's face
2. Public information does not include medical information, intelligence or investigative information, psychological and psychiatric reports, statements from counselors and other persons involved in the evaluation of the incarcerated individual/paroled individual and their rehabilitation, admission summaries, pre-sentence investigations, classification reports and recommendations, prior criminal records, progress reports, incarcerated individual discipline and parole plans.

An incarcerated individual/paroled individual shall not be given direct access to their incarcerated individual file. Non-incarcerated individuals may only have access to incarcerated individual records in limited circumstances and with prior authorization. Because the penalties for improper release of information may be


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severe, team members should contact the NDCS legal division when in doubt about the propriety of a request for information.

3. The following information concerning a team member or former team member is a matter of public record and may be released to inquiring parties:
 - a. Name
 - b. Position
 - c. Gross salary
 - d. Date of hire
 - e. Date of termination
 - f. Agency where employed

B. Public Records Requests


1. All public records requests received by NDCS team members shall be forwarded to the NDCS Public Disclosure Unit (DCS.PublicRecords@nebraska.gov) within 24 hours of receipt.
2. The NDCS Public Disclosure Unit will coordinate the compilation of any responsive documents and prepare the agency's response to public records requests.
3. 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; §83-967; §29-3501 *et. seq.*; §84-712.05)
4. Any citizen of the state of Nebraska or other interested person will be allowed, upon request and approval, 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. No person shall be permitted to copy any document protected by federal copyright law.
5. If the requestor asks that copies be made by NDCS copying equipment, copies may be made only if copying equipment is reasonably available.
6. 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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7. 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. A special service charge reflecting the calculated labor cost of team member time spent searching, identifying, physically redacting, or copying records in excess of four cumulative hours may be included in the fee.
8. 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 requester to modify or prioritize the items within the request shall be provided.
9. 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:
 - a. A description of the contents of the records withheld
 - b. A statement of the specific reasons for such denial, including statutory authority therefore
 - c. The name and job title of the team member who made the decision to deny the request
 - d. Notification of any administrative or judicial reviews available regarding such decision (Neb. Rev. Stat. §84-712.03)
10. A file shall be maintained by the Public Disclosure Unit containing copies of all letters of denial for record requests that are within the retention period. These letters shall be made available to any person upon request.

C. Media Inquires

1. Responses to all media inquiries concerning departmental operations will be prepared accurately and in a professional manner.
2. All contacts from news, entertainment, or other media-related entities should be reported to the NDCS communications division.
3. Unless specifically assigned to do so by the director/designee or the director of strategic communications, team members shall not make any statements to the media on behalf of the agency, facility, division, or program.
4. The director/designee or the director of strategic communications will designate those within the agency who are authorized to speak to the media on behalf of NDCS.

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5. NDCS team members, contract workers, and volunteers will not discuss, disclose, provide, or release information to news, entertainment, other media-related entities or social media platforms on topics associated with NDCS without proper approval from the director of the strategic communications in consultation with the director. to do so. This includes, but is not limited to any information, records, reports, files, audio, videos and/or photographs, whether digital or in paper form, regarding NDCS operations, emergencies, incidents, investigations, rules, incarcerated individuals, and/or team members.
6. All media requests to interview NDCS team members, contract workers, or volunteers and/or to report on a program, event, activity, or operation, must be referred to the NDCS communications division for consideration and approval.

D. Media Releases

Members of the NDCS communication division are responsible for the creation and dissemination of all agency news releases and media advisories. Team members desiring news coverage of an event, activity, or program shall refer that request to the NDCS communications division for consideration and coordination.

E. Public and Media Access


1. Tours and Public Visits to Facilities/Programs

Facility tours may be granted to high school, college, and civic groups upon request to the facility PIO. Decisions will be made based on scheduled activities, events and resources available. All persons entering a facility are subject to a search of their person and possessions at any time. See Policy 120.01, *Official Visitors to Correctional Facilities and Programs*. (Neb. Rev. Stat §83-186)

2. Requests to Interview Incarcerated Individuals (ACI-3D-06)


News media representatives will have the same access to incarcerated individuals as other members of the public. Contact with an incarcerated individual housed within a Department facility may be made:

- a. Through the mail per Policy 205.01, *Incarcerated Individual Mail*.
- b. By telephone per Policy 205.03, *Inmate Calling System*. Credentialed news media representatives may be allowed on more than one incarcerated individual's phone list.
- c. In-person, as a general prison visit in accordance with policy 205.02, *Visiting*, with the following exceptions:
 - 1) Credentialed news media representatives may be allowed on more than one incarcerated individual's visiting list at any time.
 - 2) Credentialed media representatives approved to visit with an incarcerated individual are authorized to bring two pens and one pad of legal size paper for the purpose of taking notes. The pens

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and pad of paper will be inspected by a team member prior to entering the visiting room and at the end of the visit. The incarcerated individual is not authorized to bring any documents to the visit session or take any of the notes back to their cell.

- 3) Members of the media may be required to provide information to carry out a criminal background check prior to visiting with an incarcerated individual.
 - 4) Media visits with incarcerated individuals in restrictive housing or a secure mental health unit will not be allowed.
 - 5) NDCS does not facilitate media interviews through the incarcerated individual video visitation program.
- d. Incarcerated individuals shall not receive compensation or anything of value in exchange for, or as a result of, participation in an interview. Violation of this policy may result in immediate removal and shall constitute grounds for denying the representative future access.
 - e. No items may be passed between media representatives and incarcerated individuals.
 - f. News media representatives may contact the facility PIO or communication division for assistance.
3. Documentary Requests
 - a. NDCS does not generally approve documentary filmmaking inside its facilities/offices.
 - b. NDCS will not permit documentary or publication interviews about an incarcerated individual's criminal history that provide or would attempt to provide compensation to the incarcerated individual(s), would present undue harm to victims in the case, and/or would impose a burden on the agency's limited resources.
 4. Requests to Feature NDCS Programs/Events/Activities
 - a. Each request to feature an NDCS program, event, or activity will be considered on a case-by-case basis and require the approval of the director/designee or director of strategic communications.
 - b. Requests for attendance from media representatives should be made to the communications division.
 - c. Members of the media must be escorted at all times by designated NDCS team members while inside a facility.
 - d. All news media representatives shall sign a News Media Representative Agreement upon each visit to an NDCS facility, as an indication that they

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are familiar with the guidelines and agree to abide by them. Failure to comply with the rules of this policy may result in immediate removal and shall constitute grounds for denying the representative future access.

- e. Media access is considered distinct from volunteer service or otherwise participating in an event or activity within an NDCS facility. Volunteer or participant access shall be deemed to be personal and not professional and shall not be used as a means to avoid media access restrictions.
 - f. Any photography or videography at a NDCS facility/building site or offsite event must be restricted to shots which do not identify an incarcerated individual, except if the incarcerated individual consents by signing the *Media Release Form* (Attachment B). (ACI-3D-06, ACRS-7F-03)
 - g. Interviews with NDCS incarcerated individuals during events are only allowed if the incarcerated individual consents to the interview and signs the *Media Release Form* (Attachment B). (ACRS-7F-03)
 - h. Incarcerated individuals under the age of 18 are not permitted to be interviewed by media representatives.
5. Requests to Interview NDCS Team Members
- a. Team members shall receive prior approval before responding to media representatives. Team members shall only speak in their official capacity and shall coordinate their responses with the communications division.
 - b. Team members should not respond to certain interview questions, but should identify that these are areas that it is not appropriate to comment on. These include:
 - 1) When an investigation and/or legal case is pending
 - 2) When asked to answer for a third party
 - 3) When asked to answer for another agency or department
 - 4) When questions are irrelevant to the predetermined subject of the interview
 - 5) When asked for personal information that is not relevant or considered public information
 - 6) When the response would be speculative and not based in fact
 - 7) When answering an inquiry would be akin to disclosing confidential information under Neb. Rev. Stat. §83-178 (ACRS-7F-02)
 - c. During a media interview, team members should factual information and refrain from speculation.

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6. Media Tours/Visits to NDCS Facilities

All Media tours, visits and events must be approved by the NDCS communications division prior to scheduling. This includes attendance at incarcerated individual self-betterment clubs.

Once approved by the NDCS communications division, the facility PIO will provide information regarding:

- a. Processing into and out of the facility
- b. Items considered contraband and not allowed inside the facility
- c. Appropriate conduct and dress within the facility
- d. Filming/taping/interviewing within the facility

7. Use of Recording Devices or Cameras


8. Use of recording devices and cameras inside NDCS facilities may be approved by the director of strategic communications in consultation with the director/designee.

- a. No media representatives are allowed on NDCS property, including parking lots, for the purpose of obtaining photographs or video of an NDCS facility or office, unless given prior authorization. Photographers are prohibited from recording images that could compromise security.
- b. Live broadcasts (television, radio, telephone, or other electronic or communicative method) from inside NDCS facilities are not permitted without prior written authorization from the director/designee or the director of strategic communications on the director's behalf.
- c. Photo/video opportunities shall not be approved if they would result in the undue disruption of the operational activities of the facility.
- d. Any news organization that publishes or broadcasts images that could compromise security may be prohibited from returning to the facility.

9. Denial

Any news media visit for any purpose can be denied, canceled, or restricted by the director/designee, warden/designee, director of strategic communications, and/or facility PIO for security concerns based on present circumstances and subject matter, which include but are not limited to:

- a. Pending appeals or legal matters related to the incarcerated individual's criminal conviction
- b. Incarcerated individual facility adjustment

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- c. The potential for re-victimization

REFERENCE

I. STATUTORY REFERENCE AND OTHER AUTHORITY

- A. Neb. Rev. Stat. §29-3501 to §29-3528, §83-178, §83-186, §83-967, §84-712 to §84-713

II. NDCS POLICIES

- A. Policy 104.01, *Incarcerated Individual Records Management*
 B. Policy 120.01, *Official Visitors to Correctional Facilities and Programs*
 C. Policy 203.02, *Emergency Preparedness*
 D. Policy 205.01, *Incarcerated Individual Mail*
 E. Policy 205.02, *Visiting*
 F. Policy 205.03, *Inmate Calling System*

III. ATTACHMENTS

- A. New Media Representative Agreement
 B. Media Release Form

IV. AMERICAN CORRECTIONAL ASSOCIATION (ACA)

- A. Expected Practices for Adult Correctional Institutions (ACI) (5th edition): 5-ACI-1A-22, 5-ACI-3D-06
 B. Standards for Adult Community Residential Services (ACRS) (4th edition): 4-ACRS-7D-05, 4-ACRS-7F-01, 4-ACRS-7F-02, 4-ACRS-7F-03
 C. Standards for the Administration of Correctional Agencies (CO) (2nd edition): 2-CO-1A-25, 2-CO-1A-26, 2-CO-1A-27, 2-CO1A-27-1