Rhode Island Department of Corrections
POLICY UNIT

TO: RIDOC Employees

VIA: Patricia A. Coyne-Fague, Acting Assistant Director, Administration

FROM: Gina M. Caruolo, Chief/Program Development, Policy Unit

DATE: March 9, 2012

SUBJECT: 1.07-5 DOC; Public Access to Departmental Records – Inmate/Offender Information; 03/12/12

The enclosed policy, 1.07-5 DOC; Public Access to Departmental Records – Inmate/Offender Information, effective 03/12/12, **supercedes the current policy 1.07-4 DOC** and contains the following change(s) (underscore = new text; ~~strikethrough~~ = deleted text):

"~~Inmates~~" has been changed to "Inmates/Offenders" throughout this policy.

I. **PURPOSE:**

A. Be consistent with the Rhode Island Access to Public Records Act, RIGL § 38-2-1 et seq, ~~Access to public records~~ by:

II. **POLICY:**

E. (second paragraph) The executive committees of bargaining units are permitted to speak to the media about legitimate union business or matters which relate to collective bargaining or contract administration.

III. **PROCEDURES:**

A.2. Section 2 of the Rhode Island Access to Public Records Act (RIGL § 38-2-2) ~~Access to public records,~~ specifies records which, for the purposes of that chapter are public and not public;

~~C~~.B. Inmate/Offender Information – After determination and decision from the Office of Legal Counsel, the Records and ID Unit Supervisor or designee may disclose the following information regarding inmates/offenders in response to inquiries from the general public.

8. ~~Placement (i.e.,~~ Assigned facility~~)~~ (if currently incarcerated)

~~D~~.C.3. An attorney~~s or members of the general public requesting~~ of record may request, in writing on professional letterhead, a printout from INFACTS of the "Events" screen **or** a list of disciplines ~~must appear in person~~.

~~D~~.C.4. A former inmate/offender requesting a printout from INFACTS must submit a request which has been notarized attesting to the identity of the requestor.

~~G~~.E. Requests to Inspect Records and Appeal Process

1. All requests for access to public records shall be referred by the administrator or Chief of Information and Public Relations to the Office of Legal Counsel for determination and decision.

The Office of Legal Counsel shall maintain a record of all requests, inspections and transmittals of records, (i.e., a log – see sample at Attachment 1) including the proper receipting for any funds received in payment for reproducing copies.

NOTE: The Office of Legal Counsel may assign the actual search/retrieval/copying of the records to the administrator of the unit possessing the records.

~~4~~.5.b. (second paragraph) If the Director denies the appeal, s/he informs the requesting party that they may file a complaint with the Attorney General, pursuant to RIGL § 38-2-8(b).

~~H~~.G.1. Upon ~~request~~ determination by the Office of Legal Counsel, a copy of the public record or any portion thereof will be provided to a member of the public upon payment for reproduction/printing the desired material.

a. The ~~Chief of Information and Public Relations or the administrator of the activity/function to which the requested public record relates~~ Office of Legal Counsel shall provide the requesting party an estimate of the costs of a request for documents. The ~~Chief of Information and Public Relations or the administrator of the activity/function~~ Office of Legal Counsel shall relay this information to the requesting party prior to RIDOC's making/providing the copies.

c. ~~RIDOC may not charge more than reasonable actual cost for providing electronic records.~~ The requesting party shall be given the option of receiving the documents via e-mail. In this instance, the documents shall be scanned into a PDF document and e-mailed to the requestor at no charge. However, requests may incur a separate search and retrieval charge.

E-mail transmissions shall represent the receipt of production.

~~I~~.H.1. The ~~Chief of Information and Public Relations or the administrator of the activity/function~~ Office of Legal Counsel shall accept payment via:

~~I~~.H.3. The ~~Chief of Information and Public Relations or the administrator of the activity/function~~ Office of Legal Counsel shall forward all payments to RIDOC's Business Office.

~~J~~.I.1. It is necessary for the ~~Chief of Information and Public Relations or the administrator of the activity/function~~ Office of Legal Counsel to make and retain a permanent record (i.e., a log – see sample at Attachment 1) . . .

Unless otherwise specified, unit/program/facility managers are responsible for ensuring subordinate staff is adequately trained in the contents of this policy.

This policy IS approved for inmate/public access.

CAO
Enclosure

RHODE ISLAND DEPARTMENT OF CORRECTIONS
POLICY AND PROCEDURE

	POLICY NUMBER: 1.07-5 DOC	EFFECTIVE DATE: 03/12/12	PAGE 1 OF 11
	SUPERCEDES: 1.07-4 DOC	DIRECTOR: Please use BLUE ink.	

SECTION: GENERAL ADMINISTRATION	SUBJECT: PUBLIC ACCESS TO DEPARTMENTAL RECORDS--INMATE/OFFENDER INFORMATION

AUTHORITY: Rhode Island General Laws (RIGL) § 42-56-10 (22), Powers of the director; § 38-2-1 et seq., Access to public records

REFERENCES: ACA Standards 4-4021, Dissemination of public information; 4-4099, Confidentiality of offender's status; RIDOC Policies 1.06 DOC, Public Information/ Media Access; 1.09-9 DOC, Policy and Procedure Administration; 5.05-4 DOC, Inmate Access to Permanent Case Records Information; 18.59-4 DOC, Confidentiality of Medical Information; 28.22-2 DOC, Probation and Parole Case Management; Rhode Island General Laws (RIGL) § 42-35-2, Public information – Adoption of rules – Availability of rules and orders; 42 United States Code 290 dd-3 and ee-3, and 42 CFR Part 2, Confidentiality of Alcohol and Other Drug Records; Center for Substance Abuse Treatment, Combining Substance Abuse Treatment with Intermediate Sanctions for Adults in the Criminal Justice System (Treatment Improvement Protocol Series); Health Insurance Portability and Accountability Act (HIPAA) of 1996; Jefferson v. Moran, C.A. 85-5003

INMATE / PUBLIC ACCESS?	X YES
AVAILABLE IN SPANISH?	X NO

I. **PURPOSE:**

This policy is intended to:

A. Be consistent with the Rhode Island Access to Public Records Act, RIGL § 38-2-1 et seq. by:

1. facilitating public access to Departmental records which pertain to the policy-making functions of the Department and/or are relevant to the public health, safety, and welfare, by providing staff and the public with guidelines and procedures for public records access;

2. protecting disclosure of information about particular individuals maintained in the files of the Department when disclosure would constitute an unwarranted invasion of personal privacy.

B. Provide guidelines for employees, especially those within the Records and Identification (ID) Units, for responding to verbal requests for inmate/offender information (most commonly in response to telephone inquiries).

II. POLICY:

A. The Rhode Island Department of Corrections (RIDOC) is an agency subject to all the provisions of the Rhode Island Access to Public Records Act, RIGL § 38-2-1 et seq.

B. Public records of RIDOC's administrative offices, facilities, home confinement and probation and parole units will be made available for:

1. inspection and/or copying of records by requesting parties during regular business hours; or

2. appropriate transmittal.

C. RIDOC releases select inmate/offender information to the public (including members of the news media, legislators, and other interested groups and individuals). For further information please refer to 1.06 DOC, Public Information/Media Access, or a successive policy.

D. While most historical and statistical inmate/offender data collected and maintained by RIDOC is deemed public information, the confidentiality of certain information regarding inmates/offenders and staff is protected by law. The release of confidential health care information requires the use of a signed Authorization to Release Health Care Information form.

NOTE: The release of information contained in inmate/offender medical records is addressed in policy 18.59-4 DOC, Confidentiality of Medical Information,

or a successive policy. The Authorization to Release Health Care Information form may be found in 18.59-4 DOC.

E. Only the Corrections Director and the designated Chief of Information and Public Relations (or other individual designated by the Director) may disseminate information to news media representatives.

The executive committees of bargaining units are permitted to speak to the media about legitimate union business or matters which relate to collective bargaining or contract administration.

III. PROCEDURES:

A. Definitions

1. **Inmate/Offender information** refers to information regarding current or past inmates/offenders that is generally relayed verbally;

2. Section 2 of the Rhode Island Access to Public Records Act (RIGL § 38-2-2) specifies records which, for the purposes of that chapter are public and not public;

3. **Public record(s)** means all:

   a. documents,
   b. papers,
   c. letters,
   d. maps,
   e. books,
   f. tapes,
   g. photographs,
   h. films,
   i. sound recordings,
   j. magnetic or other tapes,
   k. electronic data processing records,
   l. computer stored data (including electronic mail messages, except specifically for any electronic mail messages of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities), or
   m. other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business.

4. Records which are **not deemed public records** and relate specifically to RIDOC are:

   a. All records which are identifiable to an individual:

      (1) applicant for benefits,
      (2) applicant for employment,
      (3) client,
      (4) patient,
      (5) student,
      (6) or employee;

   b. Such records include but are not limited to:

      (1) personnel (records)
      (2) medical treatment (records)
      (3) education records
      (4) all records relating to a client/attorney relationship
      (5) all records relating to a doctor/patient relationship, and
      (6) all personal or medical information relating to an individual in any files, including information relating to:

         (a) medical or psychological facts
         (b) personal finances
         (c) welfare
         (d) employment security
         (e) student performance
         (f) or information in personnel files maintained to hire, evaluate, promote, or discipline any employee of RIDOC, provided, **however, with respect to employees,** the following information **is** public:

            (i) name
            (ii) gross salary
            (iii) salary range for position
            (iv) total cost of paid fringe benefits
            (v) gross amount received in overtime and other remuneration in addition to salary
            (vi) job title
            (vii) job description
            (viii) dates of employment and
            (ix) prior positions held with the state or municipality

(x) work location
(xi) business telephone number
(xii) city or town of residence, and
(xiii) date of termination or change of status (i.e. when put on leave w/or without pay).

c. All records maintained by RIDOC for purposes of enforcing criminal laws or to investigate possible violations of statute, rule or regulation, but only to the extent that the disclosure of the records or information:

(1) could reasonably be expected to interfere with investigations of criminal activity or with enforcement proceedings;

(2) would deprive a person of a right to a fair trial or an impartial adjudication;

(3) could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(4) could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority, or any private institution which furnished information on a confidential basis, or the information furnished by a confidential source;

(5) would disclose techniques and procedures for law enforcement investigations or prosecutions; or

(6) could reasonably be expected to endanger the life or physical safety of any individual; provided, **however**, records relating to management and direction of a law enforcement agency and records reflecting the initial arrest of an adult and the charge or charges brought against an adult shall be public.

5. Any records which would not be available by law or rule of court to an opposing party in litigation.

6. Reports and statements of strategy or negotiation involving labor negotiations or collective bargaining.

7. Preliminary drafts, notes, impressions, memoranda, working papers, and work products; provided, however, any RIDOC documents submitted at a public meeting shall be deemed public.

8. Test questions, scoring keys, and other examination data used to administer an examination for employment or promotion, or academic examinations; provided, however, that a person shall have the right to review the results of his/her examination(s).

9. All investigatory records of RIDOC pertaining to possible violations of statute, rule, or regulation other than records of final actions taken provided that all records prior to formal notification of violations or noncompliance shall not be deemed to be public.

10. Records, reports, opinions, information and statements required to be kept confidential by federal or state law or regulation or state law, or rule of court.

    a. Blueprints, maps, floor plans, and layouts of any RIDOC building which would compromise facility safety and/or security, unless approved by the Director/designee for appropriate and lawful purposes (i.e., maintenance and repairs, fire and environmental safety, etc.).

    b. Any record or document which, if disclosed either directly or indirectly to incarcerated persons, would jeopardize the security of the institution(s) or the safety of any person and/or hinder the progress of an individual's treatment or rehabilitative program.

11. Printouts from telecommunication devices for the deaf or hearing and speech impaired.

12. All other specifically exempt records as described in RIGL, § 38-2-1 et seq.

B. Inmate/Offender Information -- After determination and decision from the Office of Legal Counsel, the Records and ID Unit Supervisor or designee may disclose the following information regarding inmates/offenders in response to inquiries from the general public.

1. Inmate/Offender's name

2. Inmate/Offender's age (but not date of birth)

3. Inmate/Offender's last known city or town of residence (but not street address)

4. Record of incarceration, to include any/all information concerning dates of incarceration (present and prior)

5. Court of jurisdiction

6. Parole eligibility date and current good time release date

7. Probation dates

8. Assigned facility (if currently incarcerated)

9. Discipline status and number of previous disciplines

10. Community Confinement dates

C. Limitations–Inmate/Offender Information

1. No information relating to inmates/offenders is released that:

   a. may pose a risk to facility or public safety; or

   b. contains the opinions and/or recommendations of members of established facility boards and/or committees (including, but not limited to Classification and Disciplinary Boards) and/or may compromise the personal or official discretion of any member;

   c. contains medical/psychological test results, reports, and/or information (See 18.59-4 DOC, Confidentiality of Medical Information, or a successive policy.);

2. No photographs of Awaiting Trial inmates/offenders are released unless authorized by the Director.

3. An attorney of record may request, in writing on professional letterhead, a printout from INFACTS of the "Events" screen **or** a list of disciplines.

4. A former inmate/offender requesting a printout from INFACTS must submit a request which has been notarized attesting to the identity of the requestor.

D. Location of Public Records

The location of any records which the public may inspect is left to the discretion of the Director/designee.

E. Requests to Inspect Records and Appeal Process

1. All requests for access to public records shall be referred by the administrator or Chief of Information and Public Relations to the Office of Legal Counsel for determination and decision.

   The Office of Legal Counsel shall maintain a record of all requests, inspections and transmittals of records, (i.e., a log -- see sample at Attachment 1) including the proper receipting for any funds received in payment for reproducing copies.

   NOTE: The Office of Legal Counsel may assign the actual search/retrieval/copying of the records to the administrator of the unit possessing the records.

2. Requests to inspect records which are not clearly defined as public records or as exempt records will also be referred to the Office of Legal Counsel for determination and decision.

3. If a record is not made available for inspection, the requesting party will be notified by the Office of Legal Counsel of the reason(s) for denial within ten (10) business days of such request. Failure to respond to a request within the ten (10) days is deemed a denial of the request.

4. For good cause, RIDOC may request an extension of time of up to thirty (30) business days to comply with or deny a request.

5. The requesting party will be informed that s/he may appeal a denial to the Director of Corrections.

   a. If the Director approves the record's disclosure to the requesting party, the Office of the Director (Assistant to the Director) will arrange for a time and place for the inspection of the record.

   b. If an appeal is made to the Director and a denial is upheld, the appellant (requesting party), will be informed of the reason(s) within ten (10) business days after the submission of the review petition.

If the Director denies the appeal, s/he informs the requesting party that they may file a complaint with the Attorney General, pursuant to RIGL § 38-2-8(b).

F. Security of Records

Without regard for the location(s) selected for the public's inspection of records, the inspection will be accomplished in a manner which will provide for general supervision by authorized staff. This is necessary to prevent the unauthorized removal of records or other actions which would destroy the completeness and integrity of records.

1. The administrator responsible for the activity/function related to the public record shall have overall responsibility for the security of the public record.

2. The administrator may designate a staff member to coordinate the functions and responsibilities for the public's inspection (or transmittal) of records.

3. All personnel assigned to positions which meet and greet the public shall be made aware of the procedures established for public inspection of records and should direct inquiries to:

   a. The administrator of the activity/function to which the public record requested relates; or

   b. In the event that the public record cannot be categorized as falling under a specific administrator's responsibility, the inquirer will be directed to the office of the Chief of Information and Public Relations who will serve as a resource in matters relating to the public's inspection of records.

G. Charges

1. Photocopies/Hard Copies

Upon determination by the Office of Legal Counsel, a copy of the public record or any portions thereof will be provided to a member of the public upon payment for reproducing/printing the desired material.

   a. The Office of Legal Counsel shall provide the requesting party an estimate of the costs of a request for documents. The Office of Legal

Counsel shall relay this information to the requesting party prior to RIDOC's making/providing the copies.

b. The cost per copied/printed page of written documents shall not exceed fifteen cents ($.15) per page for documents copied/printed on common business or legal size paper.

c. The requesting party shall be given the option of receiving the documents via e-mail. In this instance, the documents shall be scanned into a PDF document and e-mailed to the requestor at no charge. However, requests may incur a separate search and retrieval charge.

E-mail transmissions shall represent the receipt of production.

2. Search and Retrieval

A reasonable charge may be made for the search or retrieval of documents.

a. Hourly costs for a search and retrieval shall not exceed fifteen dollars ($15) per hour, and no costs shall be charged for the first one (1) hour of a search and retrieval.

b. Upon request, RIDOC shall provide a detailed itemization of the costs charged for search and retrieval.

3. RIDOC may not impose charges for activities such as staff time spent copying the documents or supervising individuals who are inspecting records.

4. The Department will not charge the following individuals/agencies for search, retrieval, and/or photocopies of public records/documents:

a. other correctional agencies (jails, departments of corrections, day reporting centers, transitional houses, etc.);

b. local, state, and federal governmental agencies; and

c. law enforcement agencies.

H. Payment

1. The Office of Legal Counsel shall accept payment via:

   a. Cash;

   b. Personal check;

   c. Bank check; or

   d. Money order.

2. Checks should be made payable to the "State of Rhode Island".

3. The Office of Legal Counsel shall forward all payments to RIDOC's Business Office.

I. Records of Inspections and Transmittals of Public Records

1. It is necessary for the Office of Legal Counsel to make and retain a permanent record (i.e., a log -- see sample at Attachment 1) of all inspections and transmittals of records by the public, including proper receipting for any funds received in payment for reproducing copies.

2. Policy 1.09-9 DOC, Policy and Procedure Administration (or a successive policy) addresses public access to RIDOC's policies.

RHODE ISLAND DEPARTMENT OF CORRECTIONS
INSPECTION/TRANSMITTAL OF PUBLIC RECORDS – SAMPLE LOG

Date Requested	Document(s)/Record(s) Requested	Name and Address of Requestor	Denied by	Reason	Approved by	Applicable Charges	Date of Inspection or Transmittal