

## CHAPTER 1 – GENERAL ADMINISTRATION

### ARTICLE 15 — INFORMATION PRACTICES

*Revised July 16, 1996*

*Updated April 11, 2014*

**[Sections 13030.1 through 13030.15 are unchanged except for non-substantive updates to division names, position titles, and grammatical corrections]**

#### **13030.16 Access to Records**

*Revised April 11, 2014*

Each individual has the right to inquire and be notified whether CDCR maintains a record about him or her. Any inquiry shall specify the name and title of the records system as filed with the OIP. Inmates are granted access and review of information pertaining to themselves under case law (Olson v. Pope (1974) 37Cal.App.3d783, 112Cal.Rptr.579) and this section. Inmates may request an Olson review of their Central File (C-File) from their assigned Correctional Counselor (CC).

The individual shall be permitted to inspect and obtain an exact copy of all or any portion of any nonexempt personal information about themselves even when it might be kept under the name of another person, entity, event, or date or among other records systems.

The individual may permit another person of their choosing to inspect all nonexempt personal information in a record and have an exact copy of all, or any portion, of the record. The individual must sign a CDC Form 1021, before such disclosure may be permitted.

The individual shall be permitted to inspect the accounting of disclosures made in accordance with this section, except that exempt information contained in the accounting shall be withheld.

##### **13030.16.1 Availability of Procedures to Access Records**

*Revised April 11, 2014*

Upon written request, the office with the individual's record shall furnish the requester a copy of CDCR's procedures to be followed to gain access to or amend a record.

The information contained in this form shall include the following:

- The name, title, and business address of the person to contact for each record system and to whom to appeal if all, or any part, of the request is denied.
- Whether the request needs to be in writing.
- Where and when records may be inspected in person, including the regular office hours (See DOM 13030.21 and 13030.26 for further information).
- Fees to be charged for photocopying information (See DOM 13030.26.3 for further information).
- Notice that proof of identity, such as a valid driver's license or notarized signature, shall be required when the individual's identity (or the identity of the individual's representative) is not known to the keeper of the records.
- Example of information likely to be exempt from access.
- Approximate time frames in which CDCR shall:
  - Respond to a request for inspection.
  - Respond to a request for copies.
  - Respond to a request to amend a record.
- Respond to a request to appeal a refusal to amend a record. (See DOM 13030.26, 13030.27, 13030.27.2, and 13030.28 for further information.)

- Limitation on what shall be accepted as a rebuttal to information in the record.

The individual requesting any record containing personal information shall sign an acknowledgment of penalties for requesting or obtaining records under false pretenses, CDC Form 1019, IPA Statement of Penalties.

### **13030.16.2 Requests to Review Electronic C-File for Inmate Attorney or Olson Review**

*Effective April 11, 2014*

Requests for CDCR offender records, specifically the C-File, come from various entities such as inmates, attorneys, law enforcement agencies, Office of the Attorney General, District Attorneys, Office of the Inspector General, Governors Office, etc.

Requests are usually received and facilitated by CC's, Litigation Coordinators, and Case Records Managers. Previous to electronic offender records, the paper C-Files were reviewed onsite or photocopies of the C-File were made.

With the Implementation of the Strategic Offender Management System (SOMS) and the Electronic Records Management System (ERMS), the location of where information resides and the process for gathering and providing offender information has changed significantly.

All existing Departmental policies and regulations, Memoranda, Legal Affairs opinions, and state and federal laws currently in place for releasing offender information as well as redaction of specific information still apply.

SOMS and ERMS are web-based computer programs dependent upon a networked computer accessing a database. SOMS and ERMS contain data of inmates' case factors and other information that was formerly contained in a paper C-File. The Electronic File in ERMS is organized in sections similar to the former C-File (e.g. Legal, Classification, and Disciplinary). For security reasons, inmates are not allowed to access a networked computer.

In order to facilitate an ERMS version of an Olson review, the documents in each section can be saved to an encrypted compact disc (CD) or in the case of an Inmate Attorney review, a PDF file stored on the institution's data storage drive commonly referred to as the "Share Drive". Each section of the ERMS version of the Olson/Inmate Attorney review will contain a category of the File similar to the current paper C-File format (e.g. Legal, Classification, and Disciplinary). The ERMS Olson or Attorney Review CD or PDF file will contain all scanned documents for an inmate that are stored in the ERMS database not considered confidential.

SOMS contains the inmate's case data that is accessed via computer screens devoted to a specific topic (e.g. Initial Housing Review, Notification in Case of Inmate Death, Serious Injury or Serious Illness, or Physical Characteristics). In order to facilitate a SOMS Olson or Attorney review, the input screens relating to each specific topic can be printed from the SOMS application.

### **13030.16.3 Conducting an ERMS/SOMS Olson Review**

*Effective April 11, 2014*

#### **Assigned Correctional Counselor**

When an Olson review request is received from an inmate or inmate's designee or a copy of the inmate's file is requested from an outside agency, the designated CC will review the inmate's C-File (as outlined in DOM Section 13030.17.2) and determine if any additional confidential information is to be exempt from review. In addition, the CC will review ERMS for any information that may have been misfiled, filed in the wrong inmate's file, confidential documents filed in a non-confidential section or non-confidential documents filed in the wrong section.

Per DOM Section 13030.17.4, the assigned CC will list any confidential documents withheld from the Olson/Inmate Attorney/Third Party review on a CDCR Form 810, Confidential Information Listing, and provide the inmate or third party with a copy.

Once the Olson CD is encrypted and copied, the assigned CC will be contacted by Case Records staff to retrieve the ERMS Olson Review CD, and schedule an appointment with the inmate to review it on a non-networked computer.

## **Facilitating the Olson Review with the Inmate**

In order to facilitate the Olson Review, the CC will perform the following steps:

- Provide the inmate a copy of the CDCR Form 810; where confidential information exists, it shall be excluded from the review.
- Print the designated input screens and redact any information deemed confidential prior to the inmate's review.
- Place the ERMS Olson Review CD in the non-networked computer.
- Open the requested sections.
- Allow the inmate to take notes as requested (per DOM Section 13030.26.2).
- Should the inmate request copies of the documents, the CC will note which documents and require the inmate to pay the established per copy charge.
- Upon completion of the Olson Review the CD will be returned to Case Records for proper disposal.

### **Inmate Attorney Review**

An Inmate Attorney review of an inmate's C-File utilizing the SOMS and ERMS applications is accomplished in the same manner as described in the previously listed Olson Review steps.

**[Sections 13030.17 and 13030.17.1 are unchanged except for non-substantive updates to division names, position titles, and grammatical corrections]**

### **13030.17.2 Screening a Record for Exempt Information**

*Revised April 11, 2014*

A CDCR employee who has been trained and specifically designated (see DOM 13030.3.1 for further information) as an authorized discloser of exempt personal (formerly confidential) information shall examine all material in the file or record prior to any inspection by the requester, the requester's attorney, or any person designated by the requester. Caseworkers (for inmate/parolee records) or personnel assistants (for employee records) generally are designated to examine records for exempt personal information.

The purpose of the screening is:

- To evaluate material already classified as exempt or nonexempt to reaffirm the validity of the determination.
- To classify materials as exempt or nonexempt according to the CCR 3321 and DOM 13030.19 of this manual.
- To prepare CDCR Form 810, Confidential Information Listing; CDC Form 811, or Confidential Information Removal Notice.
- To ensure that all exempt material is removed from an employee's file or is placed in the Confidential Material Folder for inmate/parolee C-files, so as not to be improperly disclosed (See DOM 13030.3 and 13030.18 for further information).

**[Section 13030.17.2.1 is unchanged except for non-substantive updates to division names, position titles, and grammatical corrections]**

### **13030.17.2.2 Classification Committee Review**

*Revised April 11, 2014*

Every classification committee shall review the documents in the Confidential Section of each case being considered. If the designation of "Confidential" assigned to any document is no longer warranted, the

document shall be reclassified. The classification committee chairperson shall ensure that the procedures for returning declassified documents to their assigned place in the C-file, as outlined in DOM 13030.17.4, are followed.

**[Section 13030.17.3 is unchanged except for non-substantive updates to division names, position titles, and grammatical corrections]**

#### **13030.17.4 Preparation of Exempt Personal Information in Inmate/Parolee Records**

*Revised April 11, 2014*

If an entire document is classified as exempt, the originator of the document or the person designating it as confidential shall:

- Conspicuously stamp the document at its top and bottom with the word "Confidential" in red ink. If the document consists of more than one page, each page shall be so marked.
- Date and sign the designation of confidential.
- Note the document in the C-file on CDCR Form 810.
- Replace the document with a completed CDC Form 811.
- Immediately scan the document into the Confidential Section of the ERMS file.

#### **Mixed Information**

If a document contains a mixture of exempt and nonexempt information, the originator or the person designating it as confidential shall:

- Conspicuously stamp the document at its top and bottom with the word "Confidential" in red ink. If the document consists of more than one page, each page shall be so marked.
- Date and sign the designation of confidential.
- Cover the exempt portions and make a photocopy which shall be included in the nonexempt portion of the C-file to be disclosed.
- Immediately scan the document into the Confidential Section of the ERMS file.
- Note the exempt information on the CDCR Form 810.

#### **Leave Information**

The Confidential Information Listing and Confidential Information Removal Notice shall remain in the C-file when requester inspects the C-file.

When a designation of confidential is removed from a previously confidential document, the examiner shall ensure that:

- The document is removed from the Confidential Section and returned to its regular place in the C-file.
- A line is drawn through the identifying confidential designation.
- The redesignation as no longer confidential includes the date and signature of the examiner.
- The document is deleted from the CDCR Form 810.
- The CDC Form 811 is removed from the record.

#### **Obsolete Information**

Confidential Information Listing forms made obsolete by the designation, or re-designation of confidential material shall be removed from the record and destroyed and an updated Confidential Information Listing shall be inserted by the examiner.

#### **13030.18 Confidential Section**

*Revised April 11, 2014*

The responsibility for the preparation of the Confidential Section shall rest with the originator of a document or the examiner when the first instance arises which requires the separation of exempt personal (formerly confidential) information from the main body of the C-file. Staff remains responsible to ensure they complete the process of stamping the document "Confidential" top and bottom, and for ensuring the appropriate level of administrative approval is obtained and the document scanned to the Confidential Section of ERMS.

### **Retention of Folder**

The Confidential Section shall remain a permanent part of the C-file. The contents of the Confidential Section shall not be returned to its normal position in the C-file until, or unless, the confidential designation is removed and the information is no longer exempt from disclosure. Exceptions may be made on a temporary basis to facilitate special circumstances, i.e. confidential BPH/BPT addenda and permanent addenda.

Except for the temporary exceptions mentioned above, all information designated as confidential shall be placed, and retained, in the Confidential Section.

### **13030.19 Exempt Personal Information Withheld From Individual**

*Revised April 11, 2014*

The CDCR is not required to disclose personal information to the individual about whom the information pertains, if the information meets any of the following criteria:

- Is compiled for the purpose of identifying individual criminal offenders and alleged offenders and consists only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status.
- Is compiled for the purpose of a criminal investigation of suspected criminal activities, including reports of informants and investigators, and is associated with an identifiable individual.
- Is contained in any record which could identify an individual and which is compiled at any stage of the process of enforcement of the criminal laws, from the arrest or indictment stage through release from supervision, including the process of extradition or the exercise of executive clemency.

### **For Investigative Purposes**

- Is maintained for purpose of an investigation of an individual's fitness for licensure or public employment, or of a grievance or complaint, or of a suspected civil offense, as long as the information is withheld only so as not to compromise the investigation or a related investigation. The identities of individuals who provided information for the investigation maybe withheld when the provisions of DOM 13030.13.3 are met.
- Would compromise the objectivity or fairness of a competitive examination for appointment or promotion in public services, or to determine fitness for licensure, or to determine scholastic aptitude.

### **Condition of Individual**

- Pertains to the physical or psychological condition of the individual, if determines that disclosure would be detrimental to the individual. The information shall, upon the individual's written authorization, be disclosed to a licensed physician designated by the individual. When a determination is made that information is exempt under this exclusion, it shall be documented as follows:
- For employees, a physician shall make a statement on the document (or attach a statement to the document) that disclosure of the information would be detrimental to the person about whom it was prepared.
- For inmates/parolees, a physician shall prepare a CDC Form 128C, Medical Chrono, stating that disclosure of the information to the inmate/parolee would be detrimental. The information shall be included in ERMS by designated staff as soon as possible.

- Relates to the settlement of claims for work-related illnesses or injuries and is maintained exclusively by SCIF.
- Is required by statute to be withheld from the individual to whom it pertains.

**[Section 13030.20 is unchanged except for non-substantive updates to division names, position titles, and grammatical corrections]**

### **13030.21 Scheduling Inspection of Nonexempt Records**

*Revised April 11, 2014*

Upon receipt of a proper written request, the inspection of records shall be scheduled as soon as possible by the caseworker, or personnel assistant, but no later than:

- Thirty days from the date the request is received in CDCR for active records and discharged CDCR archive files already available on ERMS.
- Sixty days from the date the request is received in CDCR for inactive records in central storage or for records which are geographically dispersed.

Failure by CDCR to respond within these time limits shall be deemed a denial to access of the record. All inspections of departmental records shall be supervised by a Department employee.

#### **Location of Review**

Inspection of a file kept by CDCR shall take place at the location where the record is usually maintained. The following exceptions may apply:

- If a court orders a file to be inspected at another location, CDCR shall comply with the court order.
- An attorney, who has obtained written, voluntary, and timely authorization from the person about whom the personal information is kept, may request to inspect a record at a departmental office or facility near the attorney's office.
- The person approving a request to inspect a record at an alternate location may, upon written request, approve the alternate site for the inspection only after receiving permission from the head of the office where the proposed inspection is to take place.

### **13030.22 Inmate/Parolee Review of Case Records**

Upon proper written request, an inmate or parolee [or, with proper authorization (see DOM 13030.14 for further information), their attorney or representative] shall be permitted to review their record ten days prior to any BPH meeting for any of the following:

- Reviewing eligibility for parole, release, or return.
- Setting, postponing, or rescinding a parole/release date.
- Evaluating an appeal of good time credit denial.

Compliance with DOM 13030.17.4 and 13030.20 shall precede any disclosure of a record.

**[Sections 13030.23 through 13030.33 are unchanged except for non-substantive updates to division names, position titles, and grammatical corrections]**

### **13030.34 Revisions**

*Revised April 11, 2014*

The Director, Division of Administrative Services, or designee is responsible for ensuring that the contents of this article are kept current and accurate.

### **13030.35 References**

*Revised April 11, 2014*

CC § 1798, et seq. (IPA).

EC § 1040, et seq.

GC §§ 6250, 6252(b), 6254(b), 6263, and 14740 - 14750.

PC §§ 832.7, 1543 - 1545, 2081, 2081.5, 2082, 11105, and 11140.

W&I §§ 1000 and 5328.01.

5 USC 552 and 552a.

CCR (15) (3) §§ 3321 and 3450, et seq.

SAM §§ 1665 - 1673.2.

DOM §§ 13040, 14010, 54100, and 72010.

Olson v. Pope (1974) 37Cal.App.3d783, 112Cal.Rptr.579.