



## COMMUNITY CORRECTIONS FACILITIES AND PROGRAMS BUREAU FACILITY OPERATIONAL REQUIREMENT

Requirement:	<b>FPB 6.2.408 OFFENDER CASE RECORDS MANAGEMENT</b>
Effective Date:	01/23/2020 <span style="float: right;">Page 1 of 3</span>
Revision Date(s):	08/11/2021; 04/01/2025; 04/24/2026
Signature/Title:	/s/ Scott Eychner, Rehabilitation and Programs Chief

**This requirement is referenced as ACCD 1.5.500 Case Records Management and ACCD 1.5.600 Offender Records Access and Release in Section 1.D. Standard Contract Terms; Access to Records – Offender Records/Files/OMIS access, in the following contracts: Alternatives, Inc., Butte Prerelease, Gallatin County Reentry Program, Helena Prerelease, Passages, Elkhorn, Nexus, and START.**

### I. PURPOSE

FPB contract facilities will follow this requirement for case records management of offenders under the supervision of the Department to ensure that applicable federal and state laws concerning the public's right to know and an individual's right to privacy are observed.

### II. DEFINITIONS (see Glossary)

### III. REQUIREMENTS

#### A. GENERAL REQUIREMENTS

1. All FPB contract facilities are required to maintain records of performance of duties pursuant to this requirement. Facilities will create and retain all records supporting the services rendered and/or supplies delivered for a period as outlined in contract.
2. Facilities shall maintain offender records and provide reports that conform to those of the Department in both format and content.
3. Facilities will provide the Department, the Legislative Auditor, or their authorized agents with access to any of these records necessary to determine requirement compliance.
4. Any breach of confidentiality by the facility or third-party agents of the facility shall constitute good cause for the Department to cancel the contract with the facility, without liability, and any records and files delivered to the facility shall be returned to the Department.
5. Any Department waiver of an alleged breach of confidentiality by the facility or third-party agents of the facility is not to imply a waiver of any subsequent breach.
6. Facility staff with offender management system access permissions will follow *FPB 6.1.205 Offender Management System Provider Access and Use* in providing offender information to the Department through the offender management system.

#### B. MANAGEMENT OF OFFENDER CASE RECORDS

1. Facilities shall maintain any hard-copy offender records on-site in a locked, secure area.
2. Facilities will ensure that all Information Technology systems utilized to maintain electronic records, access the internet, transmit files, or used to communicate with the Department shall meet the security standards established by the state of Montana. In the event the contractor's Information Technology system becomes compromised, the contractor must notify the FPB Chief immediately at 406-580-7991 and shall restore such systems to the state's standards within 5 business days.

3. Offender case records include the following:
  - a. offender's program application and any attached documents;
  - b. all screening and placement documents and decisions;
  - c. substance-related disorder diagnoses and supporting documentation for diagnoses;
  - d. documentation the offender was provided the facility's offender handbook;
  - e. documentation the offender was notified of all program requirements and components, including their rights under the Prison Rape Elimination Act of 2003, the facility's rules, behavior management system, and grievance process;
  - f. applicable releases of information;
  - g. offender's treatment plan;
  - h. progress notes/summaries;
  - i. aftercare plan;
  - j. discharge summary;
  - k. medical records, including documentation of health services provided, exam and lab results, medication records, and information from other health care facilities;
  - l. copies of all correspondence related to the offender;
  - m. all grievances filed by the offender and the applicable responses; and
  - n. documentation of incentives or interventions administered through the program's behavior management system.
4. Any copies of Department records kept by a facility will be returned when requested.
5. Facilities agree to advise in writing and notify all employees, agents, consultants, licensees, or subcontractors of the said requirements of confidentiality and of possible penalties and fines imposed by violation thereof, and secure from each an acknowledgment of such advisement and agreement to be bound by the terms of its contract with the Department as an employee, agent, consultant, licensee, or subcontractors of the facility, as the case may be.

### **C. ACCESS TO OFFENDER CASE RECORDS**

1. Facilities will protect offender records so only authorized personnel with a need to know have access to the records.
2. Facilities will allow the Department access to offender records when requested.
3. Facilities shall specifically keep confidential all records and files of Department offenders and shall obtain prior written approval from the Department before releasing or disclosing the contents of any such records or files. Facilities further acknowledge that this requirement is in addition to and not in lieu of any other laws respecting confidentiality of offender and criminal justice files and records.
4. Facilities will not allow an offender access to view or handle another offender's records.
5. Offenders may make written requests to review their case records materials and may be granted access to review non-confidential portions of their records. All information to be provided to an offender from a record must be evaluated by a designated facility employee to ensure that release of information will not endanger either the offender or others or violate the privacy rights of the offender or others. The offender and supervising staff member will sign and date the request.

### **D. RELEASE OF OFFENDER CASE RECORDS**

1. Information contained in an offender's case record is public record except for information in which the offender or another person has a right to privacy that outweighs the public's right to know as demonstrated in the following circumstances; however, any information from Department records may not be released without proper authorization from the Department.
  - a. information protected by a right of privacy:

- 1) medical, mental health, and substance use disorder and sexual offender treatment information;
  - 2) information that would impede an offender's supervision, rehabilitation, and/or treatment or programming
  - 3) information that would interfere with victim rights and services; and
  - 4) personal information as defined by 2-6-1501, MCA.
- b. information that, if released, would pose a threat to the security or safety of:
- 1) offenders;
  - 2) informants (such as identification or location);
  - 3) victims of offenses; and
  - 4) employees of the Department;
- c. information concerning a Department investigation;
- d. information made confidential by law (for example, the presentence investigation report, which is the court's to disseminate);
- e. confidential criminal justice information:
- 1) NCIC information, including criminal history record information;
  - 2) police reports;
  - 3) fingerprints;
  - 4) photos (may be deemed confidential); and
  - 5) information concerning a criminal investigation; and
- f. youth offender records related to youth court orders:
- 1) applies to criminally convicted youth, 208 transfers, and extended jurisdiction transfers;
  - 2) information within youth records is not released except by court order; and
  - 3) facility staff will refer any persons requesting youth information without a court order to the Clerk of Court of the sentencing jurisdiction.
2. Upon a release of information signed by the offender, the facility may release information to the public when requested.
3. Any questions about the dissemination of offender file information may be directed to a Contract Manager.

#### IV. CLOSING

Questions about this requirement should be directed to the FPB Chief.

#### V. REFERENCES

- A. *Montana Constitution, Article II, Sections 9 and 10; §§ 2-6-1003; 2-6-1501, 18-1-118; 41-5-206; 41-5-208; 41-5-Part 16; 44-5-103; 44-5-301, 302, and 303; 46-18-113; 53-1-203, MCA*
- B. *FPB 6.1.205 Offender Management System Provider Access and Use*