

<p>Commonwealth of Pennsylvania</p>  <p>Pennsylvania Board of Probation and Parole</p>	<p>Volume III Chapter 1</p> <p>Procedure 1.04.01</p>	<p>Date Revised: 9/19/08, 03/06/12, 1.04.01-01 8/5/2013, 1.04.01-02 10/22/2013</p>
<p>Chapter Title GENERAL, POLICY, ACCREDITATION</p>		<p>Date of Issue 07/07/15</p>
<p>Subject COMMUNICATIONS RELEASE OF INFORMATION</p>		<p>Effective Date 07/21/15 PUBLIC with REDACTION</p>

I. AUTHORITY

The chairman of the board is granted the authority to “direct the operations of the board and fulfill the functions established by the act... including organizing, staffing, controlling, directing, and administering the work of the staff.” 61 Pa.C.S. § 6112 (a)(1) & (a)(4).

Records, reports, or other written things and information, evaluations, opinions, and voice recordings in the board’s custody or possession touching on matters concerning a probationer or parolee are private, confidential, and privileged 37 PA Code §61.2 issued under section 506 of the Administrative Code of 1929 (71 P.S. §186).

Public records as defined by the Pennsylvania Right to Know Law shall be provided to requestors upon request. Pennsylvania Right to Know Law, 65 P.S. §67.101 et seq.

Information provided to the board by another criminal justice agency is typically not disseminated. Pennsylvania Criminal History Records Information Act, 18 Pa. C.S. §9101 et seq.

II. PURPOSE

The purpose of this procedure is to guide staff in responding to requests for information and records in the board’s custody or possession, regardless of the form of the request (including, but not limited to, telephone, letter, fax, email, and text message), including requests from citizens, inmates, offenders, family, friends, attorneys, legislators, other law enforcement agencies and members of the media.

III. APPLICABILITY

This procedure is applicable to all board staff.

The policy and procedures outlined in this document are intended to supplement existing regulations. Nothing in this policy and procedure shall affect regulatory requirements.

This document establishes the framework within which the board will exercise its administrative discretion in the future. The board reserves the discretion to deviate from this procedure if circumstances warrant.

IV. DEFINITIONS

Public record – A record, including a financial record, of a commonwealth or local agency that:

- (1) is not exempt under section 708 of the Right to Know Law
- (2) is exempt from being disclosed under any other federal or state law or regulation or judicial order or decree; or
- (3) is not protected by a privilege.

Realistic Threat – is defined as a threat to the safety of any individual that may result from the disclosure of the reason(s) for denial. The threat is reasonable, accurate and from a credible source and disclosure of such information may threaten the safety of any individual. The assessment or risk is case-specific and includes an evaluation of the offender, victim/at-risk individual(s) and circumstances to be supportable if challenged.

Record – Information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data processed or image- processed document.

Release of Information Coordinator – The information specialist of the Communications Office shall be the Release of Information Coordinator.

PA RTKL - 65 P.S. § 67.102.

Other definitions are located in Procedure 1.01.02.

V. POLICY

It is the policy of the board to ensure that staff responds to requests for information in accordance with law. Where the law neither mandates nor forbids a particular response to a request for information, staff will consider offender privacy, agency personnel safety and victim information in responding.

- A. The agency has a public information process that fosters contact with the public and the media. Employees and media representatives are informed of the process.

- B. The agency ensures confidentiality of information, consistent with state and federal laws and regulations. Staff, contractors, interns, volunteers and others who work with offenders are trained in and agree, in writing, to abide by confidentiality requirements.
- C. Consistent with law and regulations, the agency collaborates with other justice system agencies and human service agencies in information gather, exchange, and standardization. Agency policy dictates what information can be accessed and disseminated.

VI. PROCEDURE

A. General Rules

1. Verbal and written requests follow the same rules unless the Right to Know Law is invoked or there is a court order.
2. The Right-to-Know Act, 65 P.S. § 66.1 et seq. and 65 P.S. §§67.101 et seq, governs access to agency records that are deemed “public records.” The term “public record” includes but is not limited to: accounts, vouchers or contracts dealing with the disbursement of funds, or the acquisition, use or disposal of services or supplies. All requests made pursuant to the Right-to-Know Act, and any amendments must be made and handled in accordance with Procedure 1.05.01, Right to Know Procedure.
3. The Freedom of Information Act (FOIA), 5 U.S.C. §522, is a federal statute governing access to information maintained by federal agencies. The Pennsylvania Board of Probation and Parole is not a federal agency. However, the board will consider FOIA requests submitted under the Pennsylvania Right to Know Law.
4. Records stored at the State Records Center shall be deemed to be in the board’s custody and possession.
5. The board’s “public records” are:
 - a. Final board decisions (Board action or “greensheet”) after offender has received a copy.
 - b. Board procedures stating that they may be released to the public under Section “IX. Release of Information and Distribution of Procedure.”
 - c. Blank forms (with watermark “Do Not Duplicate”).
 - d. Publications created by the board which contain the board’s copyright moniker.
 - e. Final contracts and other public financial records that have been appropriately redacted.

- f. Final statistical and other reports not containing individual offender information.
 - g. Minutes of board meeting public session.
 - h. Resolutions of the board.
 - i. Final personnel action of the board that results in demotion or discharge after all appeals have been exhausted. These requests should be coordinated with human resources.
 - j. Employee information: names (exception: only the last name of certain employees are released), salary, title, birth year, work address, work email address, work phone number, and start date with the commonwealth pursuant to Management Directive 505.18, Maintenance, Access and Release of Employee Information. Requests for employee information should be coordinated through the Communications Office.
6. Information on the above list is to be provided to the requesting party in a timely manner – within 10 business days of receiving the request, if possible.
7. Written requests from the public and other outside entities which are not made under the Pennsylvania Right to Know Law should be directed to:
- Pennsylvania Board of Probation and Parole
 1101 South Front Street, Suite 5100
 Harrisburg, PA 17104
8. Once an inquiry is received, they should be directed to the appropriate office as listed below.
9. Public information is available on the agency's website at www.pbpp.pa.gov. The board provides a broad range of information on the website including statistics, publications, organization, the Prisons and Parole Code, and informational brochures.
10. Contracts over \$10,000 are available on the Pennsylvania Treasury Department's website www.patreasury.org.
11. Please direct all questions regarding the release of information to the release of information coordinator.

INQUIRY SOURCE	REFER TO OFFICE
Offenders	Office of Board Secretary Inmate Inquiry Unit (IIU), Supervising District Office, or Institutional Parole Office
Family & friends of offenders	Office of Board Secretary (IIU)
Lawyers of offenders (public defenders, private defense attorneys and district attorneys)	Office of Board Secretary (IIU)

Legislators (Representatives, senators, congressmen and their staff)	Policy and Legislative Affairs Office
Other elected officials, except Attorney General, district attorneys and judges (Federal, state, local and other states/countries)	Policy and Legislative Affairs Office
Governor's Office regarding Policy and Legislation	Policy and Legislative Affairs Office
Governor's Office regarding Communications	Communications Office
Prisoner advocates (i.e. Prison Society)	Office of Board Secretary (IIU)
Other states' parole boards	Policy and Legislative Affairs Office
Other states' interstate parole offices	Office of Field Probation and Parole Supervision Bureaus of Interstate Probation and Parole
Local agencies (children and youth, etc.)	Office of Board Secretary (IIU)
County probation	Office of Probation Services
DOC and county prisons	Office of Board Secretary
Judges and court staff (federal, state, local, other states/countries), district attorneys and staff, offender's attorney, public defenders, U.S. attorneys and staff, PA Attorney General and staff, U.S. Bureau of Prisons, U.S. Department of Justice, Federal Probation, ICE, Homeland Security, NSA, CIA	Office of Board Secretary (IIU)
Law enforcement offices (FBI, DEA, state and local police) if requesting records	Communications Office.
Law enforcement offices (FBI, DEA, state and local police) if calling about a current offender	Communications Office.
Victims and victims' families	Office of the Victim Advocate
Media/press (TV, radio, newspaper)	Communications Office.
Vendors	Office of Administrative Services
Job applicants	Office of Administrative Services

B. Requests for offender information by an offender.

Requests by an incarcerated or detained offender for information regarding their personal parole case are the responsibility of the institutional parole office of the institution in which the offender is being held. Requests for a copy of their non-revocation green sheet, a green sheet denying or granting parole ONLY, may be provided. A request for a revocation green sheet should be sent to Inmate Inquiry.

Requests by a paroled offender currently under field supervision are the responsibility of the offender's supervising parole agent, agent's supervisor, or district director.

An offender may seek access to his or her parole information by submitting a signed, written request in any form to the parole office in charge of the case. If an offender sends a written request to the board's central office, the request shall be scanned into electronic format and emailed to the appropriate institution/district office for response with the original copy being placed in the inmate's central office file.

Information to be released to an offender not on general list under VI.A.6 (Board's Public Records).

1. Copies of any document originally given directly by the inmate to the parole staff at the institution.
2. Time calculations for offenders who have had their original sentence modified by the board (PBPP-39).
3. Copies of responses to parole applications and appeals decisions.

C. Requests for offender information by anyone other than the offender.

Requests by a non-offender (inmate's family, friends, an attorney, reporters and law enforcement agencies) for offender parole information are governed by the status of the requesting party (See chart in previous section A., pg. 4).

1. Information to be released – general rule. In addition to the general list of public records (as defined in section VI.A.5) the following information may be released as a courtesy:
 - a. A request to verify that the person is an offender or former offender – staff may state that offender is currently incarcerated, is an out-of-state transfer from another state, has transferred to another state, name the supervising state and state the date of maximum sentence, as applicable.
 - b. The status of the offender as it relates to parole or a parole decision:
 - 1) "Offender is not eligible for parole consideration" – staff may release minimum date.
 - 2) "Offender is scheduled for an interview/review" – staff may release tentative month of review.
 - 3) "Offender cannot be scheduled for interview" – staff may release that offender has an outstanding detainer or that scheduling is pending receipt of required information (do not state what information is still pending).
 - 4) "Board's decision is pending" – staff may state the date of interview, the current average time between interview and decision and that offender must receive a physical copy before others may know decision.

- 5) "Offender needs an approved home plan" – staff may disclose that a home plan was submitted and either is being investigated, was approved, or was denied. The address and names of a proposed home provider may not be released. Reasons for the home plan denial may be withheld if a realistic threat to the safety of any individual may result from the notification of the reason for denial.
- 6) Reasons for denial of a home plan that are normally given to an offender and that may be released include:
 - a) **Proposed home provider does not acknowledge offender did anything wrong and thus will not provide a positive reentry atmosphere.**
 - b) **Staff safety issues such as dangerous animals that are not controlled, accessibility to weapons, or other conditions that pose imminent danger to parole supervision staff.**
 - c) **Public safety Issues: Conditions were revealed within the scope of the investigation that would present a high likelihood of the offender committing similar offenses or incurring technical parole violations, such as known substance abusers at residence or employment or, the proposed home provider or proposed employer was not cooperative with parole supervision staff.**
 - d) **Victim issues: Factors must be considered so the conditions leading to the instant offense are not re-established, such as the victim or victim's family residing in the household or in close proximity to any component of the proposed investigation, or domestic violence issues, and sex offender issues exist. Confidentiality of victim information and safety concerns must be maintained.**
 - e) **Habitability issues: Lack of running water and/or electricity, lack of windows or outside entry doors, structure is condemned or exhibits extreme dilapidation, structure exhibits insect or varmint infestation, structure has been posted with notice of non-compliance with local codes/ordinance.**
 - f) **Other issues: for example, the proposed home provider is unwilling to agree to conditions contained in the home agreement or inadequate household accommodations, or both. The landlord refuses to grant permission for the offender to reside at the residence.**



[REDACTED]

7. Reasons for denial of a home plan that may be withheld from offender notification because a realistic threat to the safety of any individual may result from this notification include, but are not limited to:

[REDACTED]

[REDACTED]

If a staff member is unsure whether a reason may be disclosed, they should not disclose the reason and contact the Release of Information Coordinator for guidance. Calls should not be transferred to another office within the agency due to uncertainty regarding disclosure.

- 8) Offender is being held for parole violations:
 - a) Staff may state that a first level hearing will occur within 14 days of the date of detention for PA cases (or within 30 days for interstate cases); and
 - b) A second level hearing will be held within a reasonable time after the first level hearing; and
 - c) Staff may release that offender has had no previous violations while on parole, if this is true.
 - d) Staff may not state what the current alleged violation is if no board action stating the reasons exists, unless the alleged violation is contained on the PBPP 257N – Notice of Charges.
 - e) Staff may inform inquirer that offender agreed to waive hearings and attorney representation.
- 9) Copies of the hearing tapes for second level hearings are made available if the person sends a blank cassette tape to the Office of Board Secretary’s Inmate Inquiry Unit. Blank tapes must be received prior to copies being provided.
- c. The last name of the supervising parole agent and the telephone number for the corresponding district or sub-office.
- d. The board district that the inmate is being supervised by – staff may name the counties within the district.

2. Information NOT to be released by board staff:

- a. Requests for information or documents generated by the Department of Corrections should be referred to the Department's press office.
 - b. Requests for information or documents generated by any other agency or entity such as the courts or the Pennsylvania State Police should be denied with a referral to the appropriate agency or entity if known. Except that the following items may be verified if stated by the inquirer:
 - 1) Controlling offense of current sentence.
 - 2) County of conviction.
3. Law enforcement agency requests

The board cooperates with other law enforcement agencies (LEA) to the fullest extent permitted by law. Official requests for offender information by local and state police, FBI, DEA and other LEA are to be honored whenever permitted by law. Requests for information by LEA regarding actively supervised offenders should be referred to the district director who **shall** consult with the Release of Information Coordinator.

In addition to the public records defined in section IV.A.6, the following documents, may be provided to a LEA: Recommitment Order (PBPP-39), Field Work Sheet (PBPP-50), Release Orders (PBPP-10), Conditions of Parole (PBPP-11), Special Conditions of Parole (PBPP-11a), Final Discharge Certificate, Congratulatory (PBPP-131), and Final Discharge Certificate, Non-Congratulatory (PBPP-269). A copy of the Board's "Record Disclosure Statement" (Appendix B) should accompany all responses to LEA that include copies of documents. Further information may be given out on a case by case basis at the discretion of the Release of Information Coordinator. Some requests may require a subpoena.

If information or documents are being requested beyond those listed in this section, the request should be referred to the Release of Information Coordinator.

D. Requests for agency information

1. Every request for information about the agency or agency operations, (i.e. non offender specific information that is not on the agency's website) must be made by submitting a written request to the central office Release of Information Coordinator. The Release of Information Coordinator will record the request in an electronic log and forward it to the appropriate individual listed below for response.
 - a. Financial data – the director of the Office of Administration.
 - b. Personnel data – the director of the Bureau of Human Resources.
 - c. Statistical records – the director of the Communications Office

2. The Release of Information Coordinator shall direct the requester to the correct responder for any information not included above.

E. Requests from a court (Federal, state, local and other state/countries)

Verbal requests from a court for public records or public information should be submitted in writing. The written request should be responded to in a timely manner in accordance with this procedure.

F. Requests for information pursuant to a subpoena or court order.

1. Generally

- a. Any subpoena (for testimony and/or for records) or court order that is addressed to a board employee, and concerns subject matters within that employee's scope of employment, shall immediately upon receipt be scanned and emailed to the Office of Chief Counsel, *PM, Legal Resource Account*, or by sent by facsimile to (717)-705-1774.
- b. The attached Fact Sheet for Legal Review of Subpoena or Court Order, PBPP-7, providing detailed information about the subpoena or court order must be completed and submitted along with the subpoena or court order to the Office of Chief Counsel.
- c. The Office of Chief Counsel will consult with the director of the Bureau of Human Resources for subpoenas or court orders that concern personnel matters related to board employees.

2. Subpoena for board employee appearance only:

- a. A subpoena, complete with caption and docket number, should be:
 - i. addressed to the individual who is being subpoenaed
 - ii. served at the office from which the employee works
 - iii. accompanied by a witness fee and mileage check
- b. Either the employee or an authorized representative at the office from which the employee works may accept service of the subpoena.
- c. If the employee is stationed in another office, service of process should be refused. The process server should be advised of the office where the employee is stationed.
- d. Failure of the subpoena to comply with the above will result in the witness not appearing as requested.
- e. Witness fees

Pennsylvania State Court (Fees are set by 42 Pa. C.S. §5903)

\$5.00 per day
\$0.07 per mile round trip (estimated from Board staff member's office to deposition/hearing location and return)

Federal Court (Fees are set by 28 U.S.C.A. §1821)
\$40.00 per day
\$0.32 per mile round trip (estimated from Board staff member's office to deposition/hearing location and return)

Witness fees and mileage reimbursement checks must be submitted to the Office of Administrative Services to be placed in the general fund. Employees who appear on behalf of the board while on duty and who cash and use such funds for personal use may be charged with theft of services or other crimes as well as being subject to discipline.

Exception: Witness fees will not be required from government prosecuting entities such as the county district attorney, the U.S. attorney, or the Office of Attorney General, although travel expenses for overnight travel may be claimed.

- f. Staff members are not required to appear in court proceedings without a subpoena or court order.
 - g. Staff members receiving a Pennsylvania subpoena or a Pennsylvania court order for appearance should respond and appear without waiting for approval from central office. This does not apply to out-of-state subpoenas and court orders.
 - h. A copy of appearance subpoenas related to an offender should be placed in the offender's central office file.
3. Subpoena for records only
- a. A proper subpoena for records does not require a witness fee; however, if the documents requested are over 20 pages in length, a charge of \$0.25 per printed page (double sided copies are counted as two pages) will be billed by the Board.
 - b. Photographs, audio and video tape reproductions will be billed at the current cost for such reproduction. Allow approximately 30 days for reproduction.
 - c. Pennsylvania State or Municipal/Administrative Court

A subpoena *duces tecum*, complete with caption and docket number, should be directed to the "Board Secretary, Pennsylvania Board of Probation and Parole," and mailed or hand delivered to 1101 South Front Street, Harrisburg, PA 17104.
 - d. Out-of-State

A subpoena from another state is not effective in Pennsylvania unless accompanied by a Pennsylvania court order domesticating the subpoena under the Pennsylvania Uniform Interstate and International Procedure Act (42 Pa.C.S. §5326). Subpoenas not received under these circumstances should not be honored.

4. Continuance

Subpoenas remain in full force and effect until compliance is completed. In the event of a continuance, the staff member to whom the subpoena was addressed must receive written notification from the requester of both the fact that a continuance has occurred and notification of the new appearance date.

G. Charges

Requestors may be charged for copies of documents requested if the number of copies in any one request is higher than 20 pages (double sided copies are counted as two pages) in accordance with the following fee schedule. If the estimated cost exceeds \$100 per request, the requestor is to be invoiced and the payment received before copies are made and provided. If the cost is less than \$100, an invoice for the amount is to accompany the copies when they are provided. If a requestor fails to pay an invoice, any subsequent requests are not to be honored until the previous invoice is paid in full. Charges for document copies requested by other law enforcement agencies may be waived by the board.

1. Photocopies. One “photocopy” is either a single-sided copy or one side of a double-sided copy.

1 side of a standard 8.5” x 11” paper (less than 20 pages)	No Charge
1 side of a standard 8.5” x 11” paper (more than 20 pages)	\$.25 per copy*

*If the Board’s copiers are used

2. Other Materials.

CD Rom	\$1.00 per CD
Cassette Tape	\$1.00 per tape

3. Postage.

Material fitting into a standard #10 size business envelope	No Charge
Other	Actual Cost

4. Redaction Fee \$15.00 per hour

5. Certified Copies \$5.00 per request

Copies of invoices and any payments received for document duplication should be forwarded to the Office of Administrative Services.

H. Standard response period

All responses to written inquiries should be responded to within 10 business days from receipt by the designated responder or 15 business days of receipt by the release of information coordinator whichever is longer.

VII. SUSPENSION DURING AN EMERGENCY

This procedure may be suspended during an emergency at the sole discretion of the chairman.

VIII. RIGHTS UNDER THIS PROCEDURE

This procedure creates no rights under law.

IX. RELEASE OF INFORMATION AND DISTRIBUTION OF PROCEDURE

- A. This procedure does not contain information that impacts the security of board staff or offenders and may therefore be released to the public.
- B. This procedure is to be distributed to all board staff.

X. CROSS REFERENCES

A. Statutes

- 1. Federal
- 2. State
 - a. Prisons and Parole Code, Part IV Probation and Parole, 61 Pa.C.S. §6101 et seq.
 - b. 37 PA Code § 61.2 issued under section 506 of the Administrative Code of 1929 (71 P.S. § 186).
 - c. Pennsylvania Right to Know Law, 65 P.S. § 66.1 et seq.
 - d. Pennsylvania Criminal History Records Information Act, 18 Pa. C.S. §9101 et seq.

B. PBPP Policies and Procedures

General, Policy, Accreditation, Right to Know Law, Procedure 1.05.01, issued April 27, 2010, effective May 11, 2010.

C. American Correctional Association

- 1. 4-APPFS-1C-01 Public Information
- 2. 4-APPFS-3C-03 Confidentiality of Information

3. 4-APPFS-3D-34 Sharing of Information
- D. Management Directives
1. 205.36, Right-to-Know Law Compliance, March 18, 2010.
 2. 505.18 Amended, Maintenance, Access and Release of Employee Information, August 26, 1988.
- E. Report of the Reentry Policy Council
- None.