

	State of Alaska Department of Corrections Policies and Procedures	Index #: 108.07	Page 1 of 5	
		Effective: 9/17/2013	Reviewed:	
		Distribution: Public	Due for Rev:	9/2017
	Chapter:	Administration, Organization, and Management		
	Subject:	Public Records Requests		

I. Authority

In accordance with AS 44.28.030 and 22 AAC 05.155, the Department of Corrections shall develop and adopt policies and procedures that are consistent with laws for the guidance, government and administration of correctional facilities, programs and field services.

II. References

Alaska Statutes

AS 33.30.011

AS 40.25.100 – 40.25.295

Alaska Administrative Code

2 AAC 96.199 – 96.900

III. Purpose

To clarify the Department of Corrections procedures, according to Alaska statutes and Alaska Administrative Code for responding to requests for public information. These procedures are intended to provide guidance to staff on how to comply with the Alaska Public Records Act and are intended to provide consistency in Department responses to requests for public information.

IV. Application

All Staff

V. Definitions

As used in this document, the following definition shall apply:

A. Alaska Public Records Act (Public Records Act, or “the Act”)

Alaska Statutes 40.425.100 through 40.25.295 and the regulations that implement, 2 AAC 96.199 through 96.900.

B. Public Records Coordinator

A staff person designated by the Commissioner to receive, process and respond to Public Records Requests.

C. Records Custodian

The staff person who has possession, custody or control of Department records.

VI. Policy

It is the policy of the Department of Corrections to disclose public records and provide copies of those records in accordance with the Public Records Act.

VII. Procedures

A. The Commissioner shall appoint a Public Records Coordinator (Coordinator) to receive and respond to public records requests. All staff shall be directed to forward any public records request to a supervisor who shall then forward the request to the appointed person.

B. The Coordinator, or designee, shall consult with the Department of Law in responding to public records requests. The Coordinator, or designee, shall inform the

- Commissioner and Division Director affected by the request of the request and response. No response shall be sent to a requestor prior to informing and consulting with the Commissioner, Division Director and Department of Law.
- C. The Department is not required, under the Act, to compile or summarize records or to manipulate data to create new records.
 - D. A record is provided in the form in which it is maintained or disseminated by the Department.
 - E. A copy of an electric public record is generated by copying the electronic file that was used to produce the printed form of the public record. If there is a question of a release of proprietary software, consult with the IT Manager and/or the Department of Law.
 - F. Responding to Requests for Public Information, the Coordinator, or designee, shall:
 1. Determine whether the request is covered by the Public Records Act. While a request may not reference the Act, the requested record must be a public record as defined by AS 40.25.220 (3).
 2. Identify requested records which are not subject to release under the Act.
 3. Identify the records custodian and instruct records custodian to preserve records.
 4. Comply with all regulatory deadlines.
 5. Within 10 working days of receiving a public records request, Coordinator, or designee, shall work with Records Custodian to estimate search and copying costs. The following provisions apply:
 - a. If, in a calendar month, searching for and copying records in response to the request of a single requestor exceeds five person-hours, the requestor must pay for the entire amount of time required to perform these tasks.
 - b. Time spent reviewing records for protected information or tasks not including searching and copying is not recoverable.
 - c. For Department records, the requestor is charged the salary and benefit costs of the employee doing the actual work. The hourly rate is the employee's annual salary and benefit costs divided by 1,950 hours. The least expensive qualified person should perform the actual search and copying.
 - d. The requestor is charged \$0.25 per page for paper records. The Department may waive a fee that is \$5 or less. Checks should be made payable to The State of Alaska.
 6. The Coordinator, or designee, shall not ask for the reason of the request, or discriminate among classes of requestors, for example academic researchers, news media, members of the public, federal agencies, etc.
 7. The Coordinator, or designee, shall respond to oral requests as well as written requests. The department may require the request be submitted in writing:
 - a. If requestor cannot make a written request due to physical or mental disability, the Department shall either assist the requester in preparing a written request or treat the oral request as if it was a written request.
 - b. Upon receipt of an oral request, the Coordinator, or designee, shall inform the requestor of the provisions of Section 2 AAC 96.310.
 - c. An oral request is deemed denied if not granted within five working days, which does not include the day the request was received.
 - d. If an oral request is denied, the requestors only remedy is to make a written request.
 8. The Coordinator, or designee, shall log the written Public Records Request electronically and also maintain a permanent hard copy file of logged documents. The electronic log is maintained at ETS SharePoint > Public Record Request Logs > DOC. The IT help desk should be contacted to arrange desktop access to
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this location. Electronic log entries are retained for one year. The following information is logged:

- a. Date the request was received;
 - b. Name of the requestor;
 - c. Whether notice of receipt of the request was sent to the requestor.
9. The Coordinator, or designee, shall acknowledge receipt of the request and include date and time the request was received.
 10. The Coordinator, or designee, shall determine whether or not the requestor is involved in litigation with the state. The requestor may be asked whether it is involved in litigation, i.e., is a party or is representing a party involved in judicial or administrative litigation, with the state where requested records could be sought "in accordance with the rules of procedure applicable in a court or an administrative adjudication." If this is the case, the Coordinator, or designee, shall consult with the Department of Law.
 11. The Coordinator, or designee, may request clarification within 10 working days after receiving the request. The time limit for response begins anew upon receiving clarification.
 12. If the requestor is not a news organization, request and receive payment for recoverable costs before beginning a document search and copying.
 13. If the requestor is a news organization, it must pay the estimated search costs in advance only if the request is unreasonable or in bad faith, if the news organization failed to pay for a previous request, or if searching for records requires extraordinary expenditure of state resources.
 14. For billing purposes, each employee or contractor participating in the search and/or copying must record how much time was spent performing those tasks.
 15. Records may be reviewed by the requestor at one of the Department's Central Offices. Access to review the records shall not be granted until all recoverable fees are paid. If a requestor wishes to review records at a Department office that is not where the documents are located, this may be permitted if the documents are not working copies, however the requestor must pay shipping costs in advance.
 16. If actual costs exceed estimated costs, the Coordinator, or designee, shall suspend work, and estimate the cost for completing the search and/or copying. The requestor can withdraw the request and the amount paid will be returned, or the requestor can pay the chargeable fees to complete the task or, in some cases, the requestor may opt to receive the records collected so far; the Department of Law should advise on whether this option is available.
- G. Responding to Requests for Public Information contained in electronic mail (e-mails):
1. The search will be conducted by the Department or by the Division of Enterprise Technology Services.
 - a. Only the Department can search draft e-mails.
 - b. Only ETS / State Security Office (SSO) can search the emails of former employees.
 - c. Only ETS / SSO can search for emails that were emptied from deleted item folders.
 2. The coordinator, or designee, shall obtain an estimate of search costs from ETS / SSO.
- H. The Coordinator, or designee, shall consult with the Commissioner if requestor seeks a reduction of, or waiver of, fees. The Act contains a provision for waiving or reduction of fees.
- I. Extending the 10 working day period:
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1. Any deadline can be extended if the requestor agrees in writing that the requested record need not be supplied until a specific date.
 2. The time to respond can be extended an additional 10 working days if at least one of the following criteria applies:
 - a. There is a need to search for and collect the requested records from a field office or facility that is separate from the office responsible for maintaining the records;
 - b. There is a need to search for, collect and examine a voluminous amount of separate and distinct records sought in a single request;
 - c. There is a need to consult with a staff member who is absent on approved leave or official business;
 - d. The basic response period comes during a peak workload period; or,
 - e. There is need to consult with legal counsel to insure the protected interests of private or government persons or entities are not infringed.
 3. Notify the requestor of an extension before the initial 10 day working period expires. The notice must state the reasons for the extension and the date by which the office expects to be able to furnish the requested records or to issue a determination that the records are not disclosable. The letter must include the statement that the extension is "not invoked for the purposes of delay."
- J. If more than 20 working days are needed to avoid substantially impairing the other functions of the public agency or an office responsible for maintaining the public records, the Commissioner may ask the Attorney General to grant an additional extension.
- K. Consider notifying persons who might have a legally protected interest in nondisclosure. Some records may contain information about a person that the person does not want the Department to disclose. Consult with the Department of Law if there is a circumstance where the Coordinator, or designee, is given reason to believe that a reasonable person might wish to dispute a determination that a record may be disclosed.
- L. Review Documents for Protected Records; log them along with redacted information if necessary:
1. Consult with the Department of Law if any question exists regarding redacted information.
 2. Review each responsive record to determine if it is exempt from disclosure if it contains confidential information.
 3. If protected information and non-protected information can be meaningfully separated, redact the protected information.
 4. There is no need to log a redacted record if that record contains un-redacted information that is contained in records that will be produced.
 5. Do not log a record that is withheld if logging that record would violate a right, for example where logging a medical record acknowledges the existence of a medical record that, by its acknowledgment, violates a right to privacy.
- M. A denial must be in writing and must state reasons for the denial, including any specific legal grounds. A denial is issued upon delivery to the United States Postal Service or hand-delivery to the requestor. A denial must include a copy of 2 AAC 96.335 through 96.350. The denial must be signed by the Coordinator, or designee,. A request is denied under 2 AAC 96.335 (a) if:
1. No responsive records exist;
 2. No responsive records were located despite a diligent search; or
 3. Responsive records are denied or redacted.
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- N. If a request is denied because a public record the Department believes it possesses cannot be located, the office responsible for maintaining the record must continue to search for it and periodically update the requestor, through the Coordinator, or designee,, of its progress.
- O. If a denial or any other action taken by the Coordinator is appealed by the requestor, the Coordinator, or designee, shall consult with the Department of Law.

VIII. Implementation

This policy and procedure is effective as of the date signed by the Commissioner. Each manager shall incorporate the contents of this document into local policy and procedure within 14 days. All local policies and procedures must conform to the contents of this document and any deviation from the contents of this document must be approved in writing by the Commissioner or designee.

9/17/2013

Date

SIGNATURE ON FILE

Joseph D. Schmidt, Commissioner
Department of Corrections