

Chapter 04 Information Requests and Notifications

Section 01 - Requests for Information

Authority: 42 CFR 2; Health General Article, § 8-601, Annotated Code of Maryland; State Government Article, § 10-611, *et. seq.*, Annotated Code of Maryland; COMAR 12.11.02.

A. Purpose.

The purpose of this section is to identify:

- (1) The essential content of the Public Information Act;
- (2) What information may be shared with a person who requests information of the Division; and
- (3) The procedures to be followed when an employee receives a request for information.

B. Definitions.

- (1) In this section, the following terms have the meanings indicated.
- (2) Terms defined.
 - (a) "Custodian" means a divisional employee who has custody and control of agency records.
 - (b) "Disclose" means to give information to a person or to confirm information for a person.
 - (c) "Legal disability" means an incapacity that disqualifies an individual from exercising certain legal rights. Examples of legal disability include an individual who is under eighteen or who is declared to be insane.
 - (d) "Medical and psychological information" means information concerning an individual's care or treatment received for the purpose of diagnosing, evaluating, rehabilitating, managing, treating or maintaining a physical or mental condition of the individual. Medical and psychological information does not include information about an individual's substance abuse treatment or substance abuse testing.
 - (e) "Official custodian" means the Director or the Director's designee.
 - (f) "Person in interest" means:
 - (i) A person that is the subject of a public record or a designee of the person; or
 - (ii) The parent or legal representative of a person, if the person has a legal disability.

(g) "Public Information Act" means the Maryland Public Information Act, State Government Article, § 10-611, *et. seq.*, Annotated Code of Maryland.

(h) "Public information officer" means the employee designated by the Director to evaluate and to respond to Public Information Act requests received by the Division.

(i) "Public record" means a record, in any form, that is made by, or received by, the Division in connection with the transacting of public business.

(j) "Request for information" means a request:

(i) To inspect a divisional record;

(ii) For a copy of a divisional record; or

(iii) For information contained in a divisional record.

(k) "Requester" means a person who submits a request for information to the Division.

(l) "Violent crime" means a crime as defined in Operations Manual 06.01B(2)(g).

C. Public Information Act.

(1) The Public Information Act:

(a) Applies to all branches and units of State government;

(b) Grants the public a right to inspect and to receive a copy of a public record that is in the custody and control of a State agency;

(c) Mandates that a State agency grant a request for information unless denial of a request is required or permitted by law; and

(d) Is available online through the Maryland State Law Library website, at <http://www.lawlib.state.md.us/>. (See, State Government Article, Title 10, Subtitle 6, Part III.)

(2) Except as provided in subsection D(1) of this section, a request for information shall be in writing.

D. Procedure – Divisional Office.

(1) An employee who receives an oral request for information shall provide the requested information if the:

(a) Information requested is not restricted or prohibited from disclosure, as set forth in subsections E through I of this section; and

(b) Requester does not want:

- (i) A written response from the Division;
- (ii) A copy of a record;
- (iii) To inspect a record; or
- (iv) Information pertaining to an arrest warrant, including whether or not there is an open warrant for an offender's arrest.

(2) An employee shall advise a requester to put a request in writing when the requester wants one or more of the items listed in paragraph (1)(b) of this subsection.

(3) A written request for information shall be sent to:

Public Information Officer
Division of Parole and Probation
6776 Reisterstown Road, Suite 305
Baltimore, Maryland 21215

(4) An employee who receives a written request for information shall, on the same workday that the request is received:

- (a) Forward the request to the public information officer; and
- (b) Submit a copy of the request to the employee's supervisor.

E. Restricted Disclosure.

(1) Definition. In this subsection, the following term has the meaning indicated.

(2) "Sociological information" means personal information and includes:

- (a) An offender's:
 - (i) Sexual preference;
 - (ii) Political affiliation or membership;
 - (iii) Views or opinions; and
 - (iv) Leisure time activities;
- (b) The identity of a dependent or a relative of an offender;
- (c) A description of the condition or the adequacy of an offender's residence;
- (d) The address, occupation or school status of a member of an offender's family;
- (e) Child custody or child support information;

- (f) Religious preference, affiliation or attendance;
 - (g) The name of a friend of an offender;
 - (h) Financial information, including the information listed in paragraph (12) of this subsection; and
 - (i) Risk and needs assessment information or the outcome of any instrument used to assess or to predict an offender's attitude, behavior, or adjustment.
- (3) **Arrest Warrant.** Except as set forth in paragraph (4) of this subsection, an employee may not disclose the existence of a court-issued arrest warrant that is open and fewer than 91 days old.
- (4) An employee may disclose information pertaining to a court-issued arrest warrant that is open and fewer than 91 days old if the disclosure is made to:
- (a) A judicial officer;
 - (b) A court employee;
 - (c) A prosecutor;
 - (d) A peace officer, as defined in the Maryland Annotated Code, Criminal Procedure Article, § 2-101(c), at <http://www.lawlib.state.md.us/>;
 - (e) A correctional officer who is authorized to serve an arrest warrant;
 - (f) A member of a federal, state, or local criminal justice agency;
 - (g) An attorney for the individual named on the arrest warrant;
 - (h) A bail bondsman or surety who executed a bail bond for the individual who is subject to arrest under the arrest warrant; or
 - (i) A victim if the:
 - (i) Victim made a written request for victim notification;
 - (ii) Individual named on the arrest warrant is an offender who is under supervision for a violent crime; and
 - (iii) Arrest warrant was issued for the offender's alleged violation of probation, parole, or mandatory release.
- (5) An employee may not disclose to an offender the existence of an arrest warrant that is open and more than 90 days old unless the offender submits a written request for that information.

(6) An employee who receives a written request for arrest warrant information shall forward the request to the public information officer in accordance with subsection E(4).

(7) Unless an additional basis for disclosure is listed in paragraphs (8) through (14) of this subsection, an employee may not disclose the information set forth in those paragraphs except:

(a) To the person in interest;

(b) To a person authorized in writing by the person in interest to receive the information;

(c) To a person named on a court order to receive the information; or

(d) As authorized by law, regulation, executive order, or policy.

(8) **Personnel Information.** Information contained in an employee's personnel file may not be disclosed except to a divisional supervisor with a business purpose for having the information.

(9) **Employee's Home Address or Telephone Number.** An employee may not disclose the home address or personal telephone number of another employee unless the Secretary or the Director authorizes the disclosure to protect the public interest.

(10) **Hospital Records.** An employee may not disclose a hospital record that:

(a) Relates to the medical administration, staff, medical care or other medical information of a hospital; and

(b) Contains information about at least one named individual.

(11) **Financial Information.** An employee may not disclose financial information regarding another individual.

(12) Financial information includes:

(a) Assets;

(b) Income, exclusive of annual salary if the individual is a public employee;

(c) Liabilities, except a fine, court costs, or restitution;

(d) Net worth;

(e) Bank balances;

(f) Financial history;

(g) Financial activities; or

(h) Creditworthiness.

(13) **Medical and Psychological Information.** An employee may not disclose medical or psychological information about an individual.

(14) **Sociological Information.** An employee may not disclose sociological information about an individual unless the individual is the person in interest who provided the sociological information.

(15) **Investigative Records.** An employee may not disclose an investigative record unless the official custodian or the public information officer has approved disclosure.

(16) An investigative record includes:

(a) An investigation conducted by the Attorney General, a prosecutor, a city or county attorney, a police department, or a sheriff;

(b) The content of an investigative file compiled for a law enforcement, judicial, correctional, or prosecution purpose; or

(c) Intelligence information or security procedures of the Attorney General, a prosecutor, a city or county attorney, a police department, a State or local correctional facility, or a sheriff.

(17) **Building Plans and Emergency Response Information.** An employee may not disclose information about divisional building plans, office plans, or emergency response plans unless disclosure is approved by the official custodian.

F. Presentence Investigation Reports.

(1) Except as provided in paragraph (2) of this subsection, an employee may not disclose the content of a presentence investigation report.

(2) A presentence investigation report prepared at the request of a court shall be provided to the court and, upon request, only to:

(a) The defendant;

(b) The defendant's attorney;

(c) The State's Attorney;

(d) A correctional facility;

(e) A parole, probation, or pretrial release official of this State, any other state, or the United States;

(f) A public or private mental health facility located in this State or any other state if the subject of the report has been committed, or is being evaluated for commitment, to the facility for treatment as a condition of probation;

(g) A community substance abuse treatment provider located in this State or any other state if the subject of the report will be treated or evaluated for treatment by the provider as a condition of probation; or

(h) A person authorized by court order to receive a presentence investigation report.

G. Substance Abuse Testing and Treatment Information.

(1) Definitions. In this subsection, the following terms have the meanings indicated.

(2) Terms defined.

(a) "Substance" means:

(i) An illicit or licit drug; or

(ii) Alcohol.

(b) "Substance abuse test" means a test administered to detect substance use by an offender.

(c) "Substance abuse treatment" means inpatient or outpatient treatment administered by a certified treatment provider. "Substance abuse treatment" does not include the fellowship meetings of Alcoholics Anonymous or Narcotics Anonymous.

(3) Except as set forth in paragraph (4) of this subsection, an employee may not disclose information relative to an offender's past, present or pending substance abuse:

(a) Treatment;

(b) Testing; or

(c) Test result.

(4) An employee may disclose information regarding an offender's substance-abuse treatment or testing to:

(a) A court;

(b) The Parole Commission;

(c) Another employee; or

(d) A person specified in a written release of information, signed by the offender, to receive the information.

H. Criminal History Information.

(1) Except as permitted in paragraph (2) of this subsection, an employee may not disclose an individual's criminal history.

(2) An employee may disclose:

(a) That a particular offender is being supervised or monitored by the Division;

(b) The crime or crimes for which an offender is being supervised or monitored by the Division; and

(c) The start and end dates of an offender's current term of parole, probation, or mandatory release.

I. Requests for Information about Crime Victims.

(1) Except as provided in paragraph (3) of this subsection, an employee may not disclose information about a crime victim.

(2) An employee who receives a written request for information about a victim shall forward the request to the public information officer in accordance with subsection D(4) of this section.

(3) An employee may disclose information about a victim:

(a) To a court;

(b) To the Parole Commission;

(c) To the Office of the State's Attorney;

(d) To the Office of the Attorney General;

(e) To another State employee with a business purpose for having the information; and

(f) As set forth in Operations Manual 06.01.