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33-601.901 Confidential Records.

(1) Inmate and offender access to records or information.

(a) Inmate and offender access to non-medical and non-substance abuse records or information.

1. No inmate or offender under jurisdiction of the Department shall have unlimited or routine access to any information contained in the records of the Department. Section 945.10(3), F.S., authorizes the Department of Corrections to permit limited access to information if the inmate or offender makes a written request and demonstrates an exceptional need for information contained in the Department's records and the information is otherwise unavailable. Such information will shall be provided by the Department when the inmate or offender has met the above requirements and can demonstrate that the request is being made under exceptional circumstances as set forth in section 945.10(3), F.S.

2. It will shall be the responsibility of the inmate or offender to maintain such information, and repeated requests for the same information will shall not be honored. Copies of documents which have been previously provided to the inmate or offender under other rules of the Department will not be provided unless the inmate or offender can demonstrate that exceptional circumstances exist.

3. No change.

4. An inmate desiring access to non-medical or non-substance abuse information must shall submit the written request to their his or her classification officer or officer-in-charge of a community facility, ; A supervised offender must shall submit the request to their his or her supervising officer. If the request does not meet the requirements specified in section 945.10(3), F.S., the request will shall be denied in writing. If the request meets the requirements specified in section 945.10(3), F.S., the request will shall be approved without further review. If the request meets the requirements specified in section 945.10(3), F.S., but details exceptional circumstances other than those listed, the classification officer or officer-in-charge will shall review the request and make a recommendation to the classification supervisor, who will shall be the final authority for approval or disapproval of requests from inmates, ; For supervised offenders, the recommendation will shall be submitted to the correctional probation circuit administrator or designee, who will shall be the final authority for approval or disapproval.

(b) Inmate and offender access to their own medical or substance abuse clinical files is addressed in Rule 33-401.701, F.A.C.

(2) Copy costs and special service charge for review of records.

(a) If the information being requested requires duplication, the cost of duplication will shall be paid by the inmate or offender, and the inmate or offender will sign a receipt for such copies. The cost for copying is \$0.15 per page for single-sided copies. Only one sided copies will be made for inmates; two-sided copies will not be made for inmates. Additionally, a special service charge will be assessed for providing information when the nature or volume of the records requested requires extensive clerical or supervisory assistance by department personnel. "Extensive" means that it will take more than 15 minutes to locate, review for confidential information, copy, and refile the requested material. The special service charge will be computed to the nearest quarter of an hour exceeding 15 minutes based on the current rate of pay for the paygrade of the person who performed the service. Exceptions will not be made for indigent inmates or offenders; indigent inmates will be required to pay for copies.

(b) If the inmate requests copies of their his own medical file under section 766.204, F.S., copies will be provided in accordance with rule 33-501.302, F.A.C. If funds are not available at the time of request, a lien will be placed on the requesting inmate's account for copies.

(3) The following records or information contained in Department files will shall be confidential and will shall be released for inspection or duplication only as authorized in this rule or in Rule 33-401.701, F.A.C.:

(a) through (h) No change.

(i) Records that are otherwise confidential or exempt from public disclosure by law. This confidentiality is not intended to prevent the use of the file material in management information systems or to limit the dissemination of information within the Department to health services staff having a need to know or to other criminal justice system agencies approved by the Department.

(j) Information or records held by the Department that identify or could reasonably lead to the identification of any person or entity that participates in, has participated in, or will participate in an execution, including persons or entities administering, compounding, dispensing, distributing, maintaining, manufacturing, ordering, preparing, prescribing, providing, purchasing, or supplying drugs, chemicals, supplies, or equipment necessary to conduct an execution in compliance with Chapter 922, F.S.

(4) through (8) No change.

(9) Unless expressly prohibited by federal law, protected health information and mental health, medical and substance abuse

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records as specified in subparagraph (3)(a), may be released as follows:

(a) through (c) No change.

(d) To a state attorney or law enforcement agency if the inmate is or is suspected of being the victim of a crime provided that the inmate agrees to the disclosure and provides written consent or if the inmate is unable to agree because of incapacity or other emergency circumstance, if:

1. through 3. No change.

4. If the Department determines the disclosure is in the best interests of the inmate victim.

(e) To a state attorney or a law enforcement agency if the Department believes in good faith that the information and records constitute evidence of criminal conduct that occurred in a correctional institution or facility, provided that:

1. through 3. No change.

(f) To the Division of Risk Management of the Department of Financial Services, upon certification by the Division that the information is necessary to investigate and provide legal representation for a claim against the Department.

(g) To the Department of Legal Affairs or to an attorney retained to represent the Department in a legal proceeding if the inmate or offender is bringing a legal action against the Department.

(h) To another correctional institution or facility or law enforcement official having lawful custody of the inmate, if the information is necessary for:

1. through 3. No change.

4. The administration and maintenance of the overall safety and security of the institution or facility.

(i) To the Department of Children and Families and the Florida Commission on Offender Review, if the inmate received mental health treatment while in the custody of the Department and becomes eligible for release under supervision or upon the end of their ~~his or her~~ sentence.

Rulemaking Authority 20.315, 944.09, 945.10 FS. Law Implemented 119.07, 944.09, 945.10, 945.25 FS. History—New 10-8-76, Amended 6-10-85, Formerly 33-6.06, Amended 1-12-89, 7-21-91, 9-30-91, 6-2-92, 8-4-93, 6-12-96, 10-15-97, 6-29-98, Formerly 33-6.006, Amended 9-19-00, 7-8-03, 2-9-06, 11-27-07, 11-14-10, 5-25-16, 9-5-18, _____.