

## **Chapter VIII: Additional Case Management Activities**

This chapter will address additional and critically important case management activities for which CSOSA Community Supervision Officers (CSOs) are responsible. The universal case management function of report writing is essential to every type of supervision case. Standards for the transfer and closure of offender supervision cases that differ by various releasing authorities are presented in detail. The management of sensitive and confidential case management information and the performance requirements of the Freedom of Information Act (FOIA) will provide the CSO with specific directions for the efficient handling of critical offender information. The final area of concern covered in this chapter involves the responsibility of each CSO for the reporting of accurate and timely information to the Immigration and Customs Enforcement Agency (ICE) with reference to the activities and statuses of all non- U.S. citizens who become involved with CSOSA in any and all official statuses.

### **A. Report Writing**

Reports vary in nature, purpose and prospective uses but there are characteristics that are common to all effective reports. Critical decisions are made based on the information presented in reports and thus, reports must be factual, accurate, clear, concise, complete and timely. Reports are professional documents that always contain correct punctuation, grammar and spelling. Reflecting sound professional judgment, the flow of information presented in each report, regardless of its type, should carry the reader to a logical, supportable recommendation or conclusion.

Below is a summary and description of various CSS supervision report types and their formats:

#### **1. Probation Reports**

##### **a. Request for Expungement - D.C. Official Code 1981 §48-904.01**

**(e)**– is used to request a judicial expungement of a probation record (case). The form defines the conditions of probation, docket identifying information and lists the Agency’s formal certification statement and the signature line recommending expungement.

**b. Notice YRA Sentence Set Aside - D. C. Official Code §24-906 YRA Act of 1985** – is used as a notification and should be sent thirty days prior to case expiration to MPD and the FBI. The form verifies that an offender’s sentence has been set aside under D.C. Superior Court’s YRA Expungement 906. There are three attachments to this report as follows:

- i. **Judicial Notification Form** – is a list of identifying docket information, response to probation conditions, recidivism record, overall adjustment and the Agency official recommendation statement. It should be noted that the Form defines the offender as a defendant who was sentenced under the D.C. Youth Rehabilitation Act of 1985.
- ii. **Order of Discharge and Certification Form** – identifies docket information that explains the set aside conviction, certifies successful completion of community supervision and provides a signature line for judicial approval.

The Court will send the executed certification statement back to the CSO who will then forward copies to the MPD and the FBI as well as maintain a copy in the offender file. It should be further noted that because these cases have been supervised by CSS, a copy of the form would **not** be sent to PSA.

- iii. **FBI and MPD Notification Form** – contains/includes the offender's identifying docket and criminal tracking numbers, current offender information, the official Agency Notification of a set aside sentence and the CSS official signatures.

It is the CSO responsibility to send copies of the form to the MPD and the FBI as well as maintain a copy in the offender file once the executed form has been returned from the Court.

**c. Request for Early Termination of Probation** – is used to request early termination of probation supervision when an offender has satisfactorily completed all general and special probation conditions and is not deemed a threat to public safety. The report lists all identifying docket information and provides a space to describe the probationer's adjustment. A SCSO approval line is followed by a space for the judge to approve or deny the request.

**d. CSO Notification of Non-Compliance (Civil Protection Order)** – is used to notify the U.S. Attorney's Office of offender non-compliance with a Civil Protection Order. The report form lists all identifying docket information, the civil order conditions, and describes how the offender failed to comply with the Court's order. A copy of the report is also sent to the sentencing judge.

**e. Non-Compliance to Deferred Sentencing Agreement** – is used to notify the U.S Attorney’s Office of an offender’s non-compliance with a Deferred Sentencing Agreement. The report form lists all identifying docket information, the terms of the deferred sentencing agreement and describes how the offender failed to comply. A copy of the report is also sent to the sentencing judge.

## **2. Parole/Supervised Release Reports**

**a. USPC/Dept. of Justice Travel Request Information Report** – is used to document official requests from parolees who seek permission to travel outside of the local Washington, D.C. Metropolitan area.

**b. USPC/Dept. of Justice Report for Drug Use** – is used to document and report a parolee’s positive urinalysis results to the USPC.

**c. USPC/Dept. of Justice Modification of Release Conditions** – is used to document the following:

- (1) To request a modification(s) of the release conditions by CSS
- (2) To list a parolee compliance with and/or failure to adhere to these requirements and/or
- (3) For USPC to officially concur with or deny the CSS request for a modification of the parole conditions of release.

**d. USPC/Dept. of Justice D.C. Code YCA/YRA Offender Supervision Report** – is used to document and evaluate parolee progress under supervision and levels of compliance with the general and special conditions of release.

**e. CSOSA Annual Parole Supervision Report** – is used to document and evaluate parolee progress under the period of supervision and levels of compliance with the general and special conditions of release.

## **3. Alleged Violation Report (AVR)**

SMART has an automatically generated AVR report that is used to report new arrests and technical violations and make recommendations to the releasing authority regarding an offender’s supervision status. This report is used for all types of cases (see SMART Note 54, AVR Reports in SMART and Appendix T for instructions on how to create the report.)

The AVR report must be created in SMART since it pulls data from SMART onto the report, and SMART maintains the record of the report being created and submitted for future reference. Therefore, it is very important that the offender’s

SMART record is up-to-date when the report is created. Data placed onto the report from the offender's SMART record includes the offender's photo, name, and identifiers; sentencing information, including all sentences, date of sentences, and charges; age and gender; alleged violations, including all sanctions imposed; home address, length of time at the current address, last home verification, and method of home verification; work address if employed, length of employment or unemployment; current supervision level and date placed on that level of supervision; assigned CSO, SCSO, Team, and Branch, and contact information.

The report has five basic sections:

- a. Cover Page**, which indicates to whom the AVR is being sent, the date, the offender's photo, address, identifiers, contact information on the CSO submitting the report, the reason the report is being submitted (for example, Non-compliance with Parole), and the action the CSO is recommending, such as Warrant;
- b. Sentencing Information**, which provides the offender's age, gender, sentencing date(s), charges, and all special conditions;
- c. Alleged Violation(s)**, which lists all violations the offender has violated during the time period the AVR report is being submitted and corresponding sanctions and dates;
- d. Case Summary**, which provides data on where the offender resides, length of stay in the current residence, last home verification and method, employment status, supervision level, date placed on the most recent level of supervision, and the CSO's assessment of the offender's overall adjustment to supervision.
- e. Recommendation**, which provides the CSO's impression of the offender's risk to the community and summarizes the CSO's recommended action (i.e., request for a warrant). *An AVR recommendation is the course of action the CSO is recommending to the releasing authority at the time of the submission of the AVR to that same releasing authority.* For example, in probation cases, staff can recommend a Show Cause Hearing (with no jail time being recommended) or a Show Cause Hearing with a recommended length of time, for example: 5 Days Jail Term (recommending a five day jail sentence). This type of recommendation is not appropriate for other case types. Similarly, for parole and supervised release cases, a CSO can recommend the issuance of a warrant. This type of AVR recommendation would not be appropriate for Deferred Sentencing Agreements, Civil Protection Orders, or Probation cases. If the CSO is not recommending any specific action, but needs to inform the releasing authority about some matter concerning the offender, then the CSO can submit an AVR with a recommendation

value of: No Action Taken. This AVR recommendation value is available for any case type.

*An **AVR Outcome** is the value staff must use to document what the releasing authority did in response to the CSO submitting the AVR.*

For instance, in a probation case where the CSO recommended a ShowCause Hearing with or without a recommended jail term, did the court schedule a Show Cause Hearing, close the case in unsatisfactory status or was no action taken.

*An **AVR Disposition** is the value staff is to use to document what occurred as a result of a hearing that was held by the releasing authority in response to the submitted AVR.. For example, in a parole or supervised release case, was the offender revoked on a new offense or a technical violation, revoked and immediately reinstated or was the case unsatisfactorily closed? (See new Appendix Z).*

Supervision staff will use the appropriate AVR recommendation, outcome, and disposition values for each type of case. ***CSS staff must be careful to choose values according to the chart reflected in new Appendix Z, based on the particular case type. For instance, staff that are submitting an AVR on a parole or supervised release case should not choose an AVR recommendation of Show Cause Hearing. This value would only be appropriate for probation cases.*** Future SMART updates will ensure that staff can only choose the appropriate AVR recommendation, outcome, and disposition values based on the overall case type.

The CSO can also add detailed information to any of the sections above to support the CSO's action recommended in the AVR, including running record entries.

All AVRs must be supported by verified, relevant evidence of the violation that is described in the body of the AVR. A copy of the available evidence, such as Running Records, automated database system's screen printouts, copy of PD 163 Arrest Report (MPD Arrest Report), and other related documents must accompany all AVRs. If a document is not available, the CSO must clearly indicate why the document is not attached and what efforts were made to obtain the required document. Each violation also should include a graduated sanction and sanction date.

AVRs are to be mailed to the appropriate releasing authority. However, in cases where the SCSO determines immediate action is required by the releasing authority, the AVR and supporting documentation will be faxed.

#### 4. Where to Send Reports

**a. Parole/Supervised Release Cases:** If the report is a notice or a request in a parole case, the CSO is to send the report to the USPC at:

United States Parole Commission  
5550 Friendship Boulevard  
Chevy Chase, MD 20815-7201  
(301) 492-5830  
(301) 492-5543 Fax

**b. Probation Cases:** If the report is a notice or a request in a probation case, the report is to be sent to the sentencing judge. If the judge is no longer a member of the Bench or assigned to a non-criminal docket at the time the report is written, the report is to be sent to the respective Clerk's Office based on the charge status:

Misdemeanor Clerk's Office  
500 Indiana Ave. NW, Room 4001  
Washington, D.C. 20001  
(202) 879-1655/1350

Felony Clerk's Office  
500 Indiana Ave. NW, Room 4019  
Washington, D.C. 20001  
(202) 879-1019

**c. Special Reports:** Reports that are submitted directly to the U.S. Attorney's Office in Domestic Violence cases are to be sent to:

U.S. Attorney's Office  
555 4<sup>th</sup> Street, NW  
Washington, D.C. 20001  
(202) 514-2000

**d. Other Documents:** Reports or certifications that are mailed to the Metropolitan Police Department (MPD) are to be sent to:

Metropolitan Police Department  
Criminal Records Section (Police Clearances)  
300 Indiana Ave., NW, Room 3055  
Washington, DC 20001-2106  
202-727-4245

e. **FBI:** Reports or certifications to the FBI are to be sent to:

Federal Bureau of Investigations  
Attn: Identification Division  
1000 Custer Hollow Road  
Clarksburg, WV 26306  
(304) 625-2000

f. **Office of the Assistant U.S. Attorney (AUSA)**

Violation reports, warrants or summons being submitted to the Office of the Assistant U.S. Attorney (AUSA) are to be sent to:

Office of the AUSA  
Attn: Operations Manager  
D.C. Superior Court Division  
555 4<sup>th</sup> Street, NW  
Washington, D.C. 20001  
202-544-2000

g. **Office of the Attorney General (OAG)**

Deferred sentencing agreements (non-Civil Protection Orders) and compulsory education case documentation are to be sent to:

Office of the Attorney General for the District of Columbia  
441 – 4<sup>th</sup> Street, N.W.  
Washington, DC 20001

## **5. Tracking Alleged Violation Reports in SMART:**

The AVR Tracking Report is a business objects report that is available in SMART at the Agency-Branch, Team, and CSO levels. The AVR Tracking Report provides valuable information to staff regarding the creation of AVRs in SMART over a specified time period.

***CSS staff are to use the AVR Tracking Report to ensure that the date the AVR was submitted to the releasing authority, the type of AVR outcome, and the AVR disposition and date are tracked and updated, as appropriate in SMART. (SMART will be updated in the future to include an AVR outcome date).***

For every AVR submitted to the releasing authority, SMART should include an AVR date that the report was submitted to the releasing authority and an outcome related to submitting the AVR. Depending on the outcome of submitting an AVR, there may not be any data for the AVR disposition or AVR disposition date. For instance, if the outcome of submitting the AVR was “Close Case Unsatisfactory” or “No Action Taken,” then the AVR disposition and AVR disposition date would not have any data.

*Staff due diligence is required in tracking AVR recommendations, submissions, outcomes, and dispositions, particularly as the AVR outcome and disposition may not be known for some time after submission of the AVR.* This report should help supervision staff at all levels in the Agency keep track of this very important critical success data. (See new Appendix X).

## **B. Case Transfer Guidance Procedures**

Cases are assigned to supervision based on the Police Service Area in which the offender resides or special focus offender population, i.e. Sex Offender, Mental Health, Domestic Violence, Traffic Alcohol or Interstate Supervision. The following guidelines are to be used when making intra-branch case transfers that occur within a branch or inter-branch case transfers, which occur between branches.

### **1. Reasons for Case Transfer**

Cases may be transferred for one of the following reasons:

**a. Intake/SCSO assignment error:** In instances where the Intake staff assigns the case to a SCSO in error, the receiving SCSO, based on PSA or special focus offender population must forward the case to the correct SCSO within seven (7) calendar days upon learning of the error. If the CSO is assigned a case in error from a SCSO, the CSO must return the case to his or her SCSO for proper assignment within two (2) business days. **A missing or unavailable case folder or other case file materials shall not prevent or delay a case transfer to the appropriate team.**

**b. Change in offender address:** Based on the offender moving from one PSA to another, the offender may have to be transferred to another CSO or unit/branch. Prior to submitting a case to a SCSO for transfer based on movement from one PSA to another, the sending CSO must:

- i.** Complete a computerized NCIC/WALES and CIS criminal record check and document results in the SMART running record.
- ii.** Conduct a home visit within five (5) business days of notification of the move to verify that the offender resides at the new address. If the offender is the homeowner or lessee, a copy of the deed or lease must be provided to the CSO. If the offender is not the homeowner or lessee, the CSO must obtain a written statement from the homeowner or lessee, at the time of the home visit, which authorizes the offender to reside at the address. The document verifying the change of residence must be transmitted with the case file.

The offender must show stable residence at the new location for a period of 30 calendar days and a subsequent home visit at the end of the 30-day calendar period that must be conducted by the sending CSO prior to the transfer being initiated.

- iii. Case Precedence: A case may be transferred if there is a new or additional case that has precedence over the original special condition or new case category. Except in the case of Traffic Alcohol, assignment or transfer to special supervision units, mental health, sex offender, domestic violence, and Interstate will take priority over assignment to General Supervision Units.
- iv. Discretionary Transfer: A case may also be transferred in conjunction with new program development, Agency or Division reorganization or at the discretion of management.

## **2. Special Focus Offender or Interstate Supervision Populations**

If an offender has a case under supervision that involves another active open docket that meets the criteria for assignment to the Sex Offender, Mental Health, Domestic Violence or Traffic Alcohol Program Units, it should be transferred accordingly.

No case should be presented to the judiciary by a CSO for transfer to the Mental Health Unit without a prior assessment or consultation with the Branch Chief responsible for the Mental Health Teams.

## **3. Cases Eligible for Transfer**

Cases may be considered for transfer if they are in compliance with CSOSA/CSS policies, and have a minimum of ninety (90) calendar days remaining on the supervision term.

### **a. Probation Cases**

The offender must not have any pending Court hearings within thirty (30) calendar days of the transfer based on the filing of an Alleged Violation Report (AVR). The assigned (transferring) officer will represent the case at the Show Cause Hearing and obtain any additional adjustment information from the newly assigned CSO prior to the hearing.

**b. Parole Cases**

In the event that an Alleged Violation(s) Report (AVR) has been submitted, cases are not to be transferred until notification of USPC action (NOA) is received. In the case of a USPC reprimand and continued parole supervision, the case can be transferred upon receipt of the NOA (as long as there are no new violations that have not been addressed). If a hearing is not set within thirty (30) calendar days upon receipt of notification, the case can be transferred with the understanding that the reporting officer will transfer the case at the hearing with any additional updated adjustment information obtained from the newly assigned CSO.

**c. Halfway House Cases**

If an offender has been ordered to serve a period of time in a halfway house facility, either as a special condition of probation or as a parole sanction, and the halfway house is located in a PSA other than the offender's home address of record, the case is not eligible for transfer to the PSA where the halfway house is located. During the offender's halfway house designation, the case will remain assigned to the offender's home PSA. Upon the offender's completion of his/her term in the halfway house, and if the offender relocates to another PSA, the offender must maintain a stable residence for 30 calendar days and a subsequent home visit at the end of the 30 calendar day period must be conducted by the sending CSO prior to the transfer being initiated.

**d. Offenders in Substance Abuse Treatment**

In cases where the offender is placed in an in-patient treatment program for any length of time, the case is not to be transferred until the entire treatment modality has been completed.

Upon completion of the entire treatment modality (when the offender is released from in-patient care), the offender must maintain a stable residence for 30 calendar days and a subsequent home visit at the end of the 30 calendar day period must be conducted by the sending CSO prior to the transfer being initiated. The Case Audit Form is to be used to review all cases prior to transfer.

**4. Transfer Procedures**

The following procedures are to be followed when transferring an eligible case:

- a. The transferring CSO will e-mail the SCSO requesting approval for transfer after the offender has remained stable in the new residence for 30 calendar days and a subsequent home visit has been conducted.

- b.** Within three (3) business days of the transfer notification, the transferring SCSO will audit the case for compliance, certify that the case meets the standards for transfer and advise the transferring CSO accordingly.
- c.** The transferring SCSO will e-mail the receiving SCSO to give notification of the transfer. The transferring SCSO will forward the case file to the receiving SCSO within one (1) business day.
- d.** Within three (3) business days, the receiving SCSO will review the case for acceptance and advise the transferring SCSO of his/her decision via e-mail or telephone.
- e.** If accepted, the receiving SCSO will give the transferring SCSO a date and time for the offender to report to the new unit. The transferring SCSO is responsible for making the SMART running record entry noting that in consultation with the receiving SCSO to whom the case is being transferred. The change in team assignment will be made in SMART by the transferring SCSO.
- f.** If based on the criteria for transferring cases, the case is deemed SCSO of the decision with justification. Further discussions about the transferability of the case will be between the two SCSOs, with the intervention of the respective Branch Chief, only if a stalemate occurs.

## **5. Timeframe for Finalizing Case Transfers**

If the case is determined to be transferable, the case transfer is to be initiated by the transferring CSO/SCSO within three (3) business days and completed within ten (10) business days of initiation.

## **6. Review of New and Transfer Cases**

- a.** As part of the SCSO case review of all new and transfer cases, when applicable, the SCSO is to provide specific instruction to the assigned CSO regarding the offender's case. In addition, the SCSO is to establish a specific period in the future to ensure that the specific SCSO instructions are followed.

For example, a team may receive a new case or a case by transfer in which a detained offender has been ordered to serve a period of time in a halfway house as a special condition of his/her probation term.

After reviewing the new or transferred case, the SCSO is to ensure that the halfway house placement process is initiated in a timely manner by providing specific instructions to the CSO on where to fax a copy of the

offender's Judgment and Commitment Order to request the halfway house placement. The SCSO should then follow-up with the CSO in twenty (20) business days to ensure that the halfway house placement occurred as ordered by the sentencing judge.

**b.** In all new and transfer cases the SCSO must review the Judgment and Commitment Order and all other relevant case documents in cases assigned to his/her respective team to ensure accuracy and awareness in the following areas:

- (1) Correct case assignment based on the offender's PSA or other criteria;
- (2) Equal distribution of work to caseloads within the team;
- (3) Cognizance of media related cases;
- (4) Specific instruction is given to staff to address and accomplish time-specific tasks.

**c.** The SCSO is to note the date of the initiated and/or transfer case review in SMART for documentation. Specific written case instructions are to be given to the assigned CSO. The SCSO is also responsible for developing a system for follow-up to ensure that case specific instructions are accomplished by the assigned CSO.

**d.** During periods of leave for a week or more, the SCSO is to seek guidance from his/her Branch Chief as to who will be responsible for the SCSOs team case review process until the SCSO returns to work status.

## **7. Criteria for the Transfer of Cases to Specialized Supervision Teams**

All cases transferred to Specialized Supervision Teams must meet the criteria set forth in the Case Transfer Guidance Procedures as well as the criteria listed below under each specialized team. Cases meeting the criteria **MUST** be referred for transfer to the appropriate unit with a review toward acceptance.

### **a. Domestic Violence (DV) Teams**

- i.** Criminal and civil cases with a special condition for Domestic Violence Treatment.
- ii.** Cases in which the offender is under supervision for an offense that is not domestic assault, but the underlying circumstance(s) of the case are domestic in nature (i.e., Unlawful Entry, Simple Assault); prior to transfer, the Court order must be modified to include domestic violence treatment.

- iii. Cases in which the offender is not on supervision for a domestic offense, but the sentencing judge has ordered the offender to be supervised by a domestic violence unit. When in question, the transferring team is to contact the Domestic Violence Supervision team SCSO assigned to the PSA in which the offender resides.

**b. Sex Offender Unit (SOU)**

- i. Cases in which the offender is on probation, parole or supervised release for a sexual offense (i.e., Misdemeanor Sexual Abuse, Indecent Exposure, 1<sup>st</sup> Degree Sexual Abuse, Rape, etc...).
- ii. Cases in which the offender is not on probation, parole or supervised release for a sexual offense but the circumstances of the crime are sexual in nature (offenses to look for: Simple Assault, Burglary, Kidnapping, Cruelty to Children, Child Abuse, Breaking and Entering, Stalking, Peeping, Murder, Manslaughter, Carjacking).
- iii. Cases in which the offender is not on probation, parole or supervised release for a sexual offense, however the sentencing Judge has recommended that the offender be supervised by the Sex Offender Unit (this must be written on the Court order).
- iv. Cases in which the offender is not on probation, parole or supervised release but he/she was convicted of a sex offense in the past. (This requires an in-depth review of the offender's criminal history.).
- v. Cases in which the offender is convicted of a sex offense as a juvenile should be evaluated by one of the SOU SCSOs prior to transfer.

**c. Mental Health Supervision Unit (MHSU)**

- i. Cases in which there is a judicial order specifying mental health team supervision.
- ii. Cases in which there is a judicial order specifying mental health and/or psychological assessment or evaluation.

- iii. Cases where an offender has been assessed and deemed appropriate for supervision by a mental health team as proffered by a CSOSA mental health specialist

**d. TAP Supervision Unit**

- i. Cases where the offender, who is presently supervised in a misdemeanor case, incurs a traffic arrest/conviction that results in Court ordered TAP supervision. The case shall be transferred upon expiration of the original misdemeanor matter.
- ii. Any general supervision felony or other special focus case will always supercede the assignment or transfer to the TAP supervision unit; therefore these cases are ineligible for transfer to the TAP Supervision Unit.
- iii. Offenders with existing felony, sex, and DVIP offenses, who incur traffic related offenses, shall not be transferred to the TAP Unit because felony, sex and DVIP offenses supercede traffic, with respect to supervision status.  
In these cases, the current supervision officer shall maintain his/her supervision responsibilities and refer the offender to CIT for TAP treatment.
- iv. Offenders incurring convictions for felony, sex or domestic violence offenses, during their TAP Supervision term shall be transferred to the appropriate supervision team (following established transfer guidance procedures). In the event an offender incurs a new conviction for a misdemeanor offense, the TAP Unit will maintain supervision until the expiration of the traffic offense, after which the case will accordingly be transferred to a General Supervision Unit.

**C. Case Closure Responsibilities by Various Releasing Authorities**

The releasing authority may independently close cases. The following special circumstances may require that an offender's case be closed by the releasing authority:

**1. Cases Under Appeal**

When CSS becomes aware that a case is under appeal and the offender is released, the case will be assigned to a CSO so that it can be monitored while the offender remains in release status.

The offender shall be supervised as ordered by the releasing authority unless there are conditions that limit our supervision. If the offender remains incarcerated while the case is being appealed, the case will remain in CSS. If the offender wins the appeal, the supervision case is closed according to normal case closure practice. If the offender loses the appeal, active supervision will continue. The assigned CSO will actively monitor the status of the appeal.

## **2. Reconsideration of Sentence**

When a sentence is reconsidered and as a result of the reconsideration, the offender is released to the community, the case will be assigned to supervision staff office.

If the offender remains incarcerated, then the Federal Bureau of Prisons will calculate an adjustment to the sentence. If the sentence is reduced and the offender has satisfied the supervision commitment requirement, then the sentencing authority may order that the case be closed. The CSO will then follow normal case closure procedures (see page 64, Case Closures by Scheduled Expiration).

## **3. Revocations**

When a case is scheduled for a revocation hearing and the sentencing authority has decided upon revocation of probation or parole, the offender will be incarcerated and the sentencing authority will order the case closed.

For those cases in pending status, the CSO will monitor those matters until final disposition. The CSO will then follow normal case closure procedures.

## **4. Early Termination**

### **a. Early Termination of Probation**

When a case is considered for closure before its original sentence expiration date due to the offender's successful completion of all supervision requirements and conditions as set forth by the Court or releasing authority, early termination of supervision may be considered. Generally, early termination is not to be considered until the offender has satisfactorily served at least 50 percent of his/her term of community supervision.

In such circumstances, offender behavior will generally reflect a prior period of crime free activity in the community while under supervision, no violations or re-arrests and no drug positive urine tests.

The CSO may submit a request to the Court for early termination of probation supervision once these behaviors have been documented. Prior

to requesting early termination of probation supervision, the following criteria must be met:

- CSO must discuss the case with his/her SCSO prior to submitting any official documentation;
- A national and local criminal records check must be made to screen for any new violations;
- Complete a home visit and employment verification within 30 days of the submission of the early termination request;
- Advise Victim Services of the recommendation for early termination if there is an identified victim(s);
- The offender has made satisfactory adjustment under supervision;
- There are no pending charges;
- Verify that all fines, Court costs, restitution and/or fees have been paid or were waived;
- Determine that all general and special supervision conditions must have been fulfilled or abated;
- The case is not currently classified as an Intensive Supervision case;
- Verify and document that the offender has remained drug free for a minimum of six months prior to submission of the request for early termination;
- If drug testing has been ordered as a special condition, a urine specimen must be taken within thirty (30) days of the request for early termination of supervision. If the urinalysis is positive, the CSO may not proceed with the request for early termination. Instead, the offender will be referred for drug assessment, testing and/or treatment;
- After determining eligibility, the CSO will prepare a status report in the form of a memorandum recommending termination of probation supervision;
- Prior to Court submission the CSO will obtain a supervisory signature on the memorandum;
- If the CSO recommendation to the Court is not accepted, the case will be placed in Minimum Supervision status until the scheduled date of expiration or until approval to close the case is subsequently obtained from the Court.

In addition to the foregoing, in Domestic Violence cases, the following eligibility criteria will apply:

- Offender is a first time offender for a domestic offense

- Offender has no active stay-away orders
- Must successfully have completed DVIP, FVIP or Anger Management Program(s)
- Contact must be made with the victim and the US Attorney to advise of the recommendation for early termination
- Treatment CSO must be contacted to obtain feedback on recommendation (obtain a progress review via SMART if treatment was completed during the supervision period)
- Completed report to the judiciary must include feedback from victim and USAO.

**b. Early Termination of Parole/Supervised Release**

The USPC, in its discretion, may release a parolee or mandatory releasee from further supervision prior to the expiration of the maximum term or terms for which s/he was sentenced because of satisfactory adjustment.

The USPC “in its discretion, may terminate a term of supervised release and discharge the release from further supervision at any time after the expiration of one year of supervised release, if the USPC is satisfied that such action is warranted by the conduct of the release and the interests of justice.” (See website [www.doj.gov](http://www.doj.gov) Section D, USPC Rules and Procedures Manual, Part D).

A parolee originally classified in the very good risk category is eligible for early termination of supervision at any time after completing two (2) continuous years of incident-free parole supervision in the community, has satisfied all general and special conditions and has met the following criteria:

- CSO must discuss the case with his/her supervisor prior to the preparation and/or submission of any documentation to the USPC
- Was sentenced to less than life imprisonment
- Is not classified at the Intensive level of supervision.
- Is not deemed to be in need of supervision for society’s protection.
- Any disposition(s) of pending criminal matters or new violations of supervision would be considered crime free behavior.
- When urinalysis has been ordered as a special condition, a urine specimen shall be taken within thirty (30) days of the request for early termination of parole supervision.  
If the urinalysis is positive, the CSO may not proceed

with the request for early termination. The offender is to be referred for a drug assessment, testing and/or treatment.

- Supervisory sign-off must be obtained on the report prior to submission of the early termination request to the USPC.

## **5. Case Closures by Scheduled Expiration**

Case closure by scheduled expiration date will occur when the set probation term has expired, the terms and conditions of supervision have been met and there is no violation pending with the Court.

Prior to case closure by expiration, the CSO must conduct a WALES records check (to include NCIC and Interstate Identification Index (Triple I) thirty days prior to the maximum expiration date. If arrests and or violations are noted, the Supervision Officer will prepare the appropriate report for the Court/U.S. Parole Commission.

Ninety days prior to case closure, if a case has financial obligations ordered, the CSO will determine that all monies collected and disbursed are complete and accurate. A hard copy of the Fines and Restitution Balance Sheet is to be reviewed, approved by the SCSO and placed in the case file. If monies are outstanding, the CSO is to request a show cause hearing.

The case will be submitted to the SCSO prior to but within 10 business days of the scheduled case closure date. The appropriate data designation will be entered by the CSO so that the SMART database system accurately reflects the type of case closure.

The CSO will complete a final report entry in the offender's case file and enter the case closing data in the SMART database management system:

- Case closing information is to be reported on the Case Record Update.
- In the event of probation termination/expiration, the SCSO after reviewing the case and confirming the required closing entries in SMART will turn in the case folder to the OPU.
- The SCSO will close in SMART those cases in satisfactory or unsatisfactory status by order of the Court or at scheduled expiration.

When a significant period of time has passed following the initial report, the final report may simply refer to the earlier report and indicate the circumstances surrounding the closing of the case. In all other cases (including out-of-state matters), a written final report is to be submitted with the supplemental report. A second page is to be attached for the report narrative.

- For any case that has financial obligations ordered, the CSO must determine prior to closing that all monies collected and disbursed are accurately accounted for and obtain a copy of the CSS database management information system (SMART) case summary screen and attach it to the form that closes the case and enter it into the case file.
- If a probationer has more than one active probation case and one of the cases expires, the SCSO is responsible for updating SMART. Upon final expiration of probation, SMART is updated by the CSO and the case folder is to be sent to OPU.
- When OPU receives a closed case, the staff supervisor must make sure all data entry has been completed before placing the case in Closed Files.
- The OPU staff will maintain a log of all closed cases.

For Interstate Compact cases being supervised by CSS, the CSO is required to submit a final report briefly summarizing the offender's adjustment to community supervision and submit closing information on the Case Closure Report. The SMART information system also offers additional options for offender case closures.

## **6. Death of an Offender**

In the event of an offender's death, the CSO must submit to the Vital Records Department in the city where the death occurred, a Death/Birth Certificate Request for official verification.

After obtaining this verification, the CSO must submit closing information within ten (10) business days of receipt. If reasonable efforts have been made without success, the case may be closed with a final report to the Court/USPC detailing the efforts made by CSOSA to secure the death certification with SCSO approval. The CSO must also notify the Court/USPC and submit a copy of the death certificate, if available. Case closing information shall be entered in SMART, and the death certificate, if available, is to be placed in the case file.

If a death certificate is not available, a newspaper article or funeral program will be sufficient. The supervising CSO must send a letter to the judge to notify the Court when ordered fines, fees, restitution and other debts are involved.

## **D. Release of Sensitive Offender Information and Data**

### **1. Sensitive Offender File Information**

CSOSA is committed to ensuring only the authorized disclosure of offender file information. It is CSOSA policy to ensure that sensitive information contained in an offender's supervision file remains undisclosed and such information may not be released to anyone without a release of information authorization by the offender. This policy does not preclude the release of offender file information to the United States Parole Commission or the sentencing judge. Other supervision case management circumstances may require the disclosure of non-sensitive information to authorities in instances wherein an offender is suspected of a new law violation (see Appendix L, Disclosure To Authorities of Suspected Violations of Law By Offenders – Policy Statement 4012).

Certain information contained in an offender's supervision file may be released after a Freedom of Information Act ("FOIA") review has been conducted by the CSOSA FOIA Officer. Once the FOIA review indicates that disclosure is permissible, the General Counsel may release information contained in supervision files or CSOSA databases under the circumstances and subject to the limitations set forth in greater detail herein.

CSOSA policy does not permit staff to reveal that an offender is participating in alcohol or drug abuse treatment to anyone without appropriate authority. CSOSA policy, however, permits staff within a treatment program to make certain disclosures to each other and to those individuals with direct administrative control over the program.

The restrictions on disclosure contained in this policy do not apply to communications of information between or among professional personnel having a need for the information in connection with duties related to the provision of diagnosis, treatment, quality assurance or referral for treatment of alcohol or drug abuse. The restrictions on disclosure do not apply if the communications are conducted: (1) within a program or (2) between or among program staff and an entity that has direct administrative control over that program.

CSOSA policy requires that information from the D.C. Pretrial Services Agency ("PSA") concerning an offender/defendant, whether in hard copy or electronic format, may only be disclosed to a CSOSA employee who is not employed by PSA with the expressed written consent of that offender/defendant. This approval must be demonstrated by the offender's/defendant's execution of the "Consent for Use of Confidential Information Form: Drug Testing and Drug Treatment Records." CSOSA policy restricts the release of information concerning the medical or mental health condition of persons under supervision to disclosures authorized by the FOIA, the Privacy Act and District of Columbia law governing the confidentiality of HIV/AIDS and mental health records.

CSOSA policy permits the release of information obtained through social and rehabilitative efforts with social services agencies interested in the defendant's/offender's rehabilitation only with the expressed written consent of the defendant/offender. Mental health and sex offender treatment information may only be disclosed if the offender has signed the "Consent for the Release of Sensitive Offender Information: Mental Health and Sex Offender Treatment Waiver." Substance abuse treatment information may only be disclosed if the offender has signed the "Consent for the Release of Sensitive Offender Information: Substance Abuse Treatment Waiver." Similarly, HIV/AIDS and tuberculosis treatment information may only be disclosed if the offender has signed the "Consent for the Release of Sensitive Offender Information: HIV/AIDS and Tuberculosis Treatment Waiver." These forms allow for the reciprocal exchange of vital treatment information between CSOSA and treatment providers or any other entity to which the offender has authorized release of the information. Disclosure of substance abuse treatment information across component entities within CSOSA for purposes other than diagnosis, treatment or referral for treatment also requires the offender's written consent.

CSOSA policy permits the release of information concerning a defendant/offender to that defendant/offender and his/her attorney in accordance with the FOIA/Privacy Act. CSOSA policy requires that all subpoenas and Court orders be served upon the CSOSA General Counsel Office. CSOSA will obtain the regulatory authority to make certain routine use disclosures of the information it collects. Such authority will permit CSOSA staff to share general offender information with the MPD.

Occasionally, law enforcement personnel may request documentation from an offender's supervision file in order to aid an ongoing criminal investigation. CSOSA policy permits responses to such inquiries to be made verbally but not in writing.

The CSO is not to release copies of official file documents to law enforcement personnel. Certain criminal justice agencies have limited access to the Automated Bail Agency Database (ABA DABA). They can review information concerning Name, Employment and Probation/Parole screens to the extent that it is otherwise available in the public record.

They can review the Address, Prior Case History, Arrest, Charge, Docket, Release, Appearance and Bench Warrant screens. Agencies with limited access to ABA DABA are: the United States Attorney's Office, the Metropolitan Police Department, the D.C. Department of Corrections, the United States Marshals Service, the United States Parole Commission, the Federal Bureau of Prisons and designated law enforcement and criminal justice agencies from other jurisdictions. Employees should refer requests for any additional information to the CSOSA General Counsel. The execution of a search warrant on premises where sensitive

records are stored also requires the issuance of an order by a Court of competent jurisdiction. All such matters are to be referred to the OGC.

## **2. Community Justice Partnerships (CJP) Data**

The Community Justice Partnership (“CJP”) initiative seeks to enhance public safety and unite the resources of the Metropolitan Police Department (“MPD”), CSOSA, other law enforcement agencies and the community to increase the accountability of individuals on post-trial release (see Chapter VII, Community Justice Partnerships for more information on the CJP initiative.). In furtherance of these goals, it is essential that certain information contained in an offender’s file be shared among CSOSA and law enforcement agencies. This section guides the sharing of offender file information among CSOSA staff and law enforcement agencies within the context of the CJP.

Information that can be shared include the offender’s name(s), home address, date of birth, sex, race, social security number (if available), PDID/DCDC number, current charges, supervision commencement and expiration dates, conditions of release (special and general), and warrant status information. CSOSA staff may share information regarding an offender’s high-risk status including unspecified drug use history, incidents of violence and sex offender reporting requirements upon request from law enforcement entities.

This information is essential in identifying those individuals whose conduct indicates the possibility of relapse and allows for corrective action to be taken before the offender slides into deeper substance abuse, criminality and poses greater risk to the community.

**This section does not authorize CSOSA staff to share specific drug test results or treatment information with law enforcement agents unless the release of information has been properly authorized and signed by the offender.**

**CSOSA staff is prohibited from disclosing any information that would identify an offender as a participant in a drug or alcohol treatment program, either directly or by implication, unless the offender has signed a waiver authorizing the release of such information.**

**Without specific written consent from an offender, CSOSA staff may only disclose to law enforcement agents that an offender has a history of unspecified illegal drug use, has certain conditions of supervision, and, where applicable, that an offender has relapsed. No additional information may be provided, even upon further questioning by law enforcement. The CSO is not to release copies of official file documents to law enforcement personnel.**

This section precludes CSOSA staff from sharing sensitive offender file information with the public and other requesting sources.

### **3. Media Requests for Offender Interviews**

Representatives of the media may at times request direct access to an offender for the purposes of conducting personal interviews, obtaining statements for the record, photographs, etc. CSOSA staff is prohibited from arranging such meetings or discussions between an offender and the media. All media requests are to be directed to the Office of Legislative, Intergovernmental and Public Affairs (“OLIPA”). OLIPA will review the nature of the media request and all relevant privacy and security issues before authorizing any interaction between offenders and the media. The final decision to grant or deny a media request for an interview will be made by the offender and/or his/her representative. If a media interview is approved and the offender elects to be interviewed, the offender will be required to provide expressed written consent by the execution of the CSOSA Media Consent form.

### **4. WALES/NCIC Access and Monitoring**

CSOSA employees have access to a variety of automated criminal justice systems. All use of these systems is monitored. The SMART automated criminal justice database system is to be used for legitimate law enforcement purposes only.

Any misuse, inappropriate disclosure or dissemination of this information, including personal use, is strictly prohibited and may result in disciplinary action. In addition, WALES and NCIC regulations provide for a penalty (fine and/or imprisonment) for misuse or unlawful disclosure of the information contained therein. Federal law has established criminal and civil penalties for unauthorized disclosure of the aforementioned information.

### **5. Duty of CSOSA Employees**

CSOSA staff are Federal employees who are privy to a wide range of sensitive information. By signing the “Non-Disclosure of Sensitive Information Agreement,” all CSOSA staff acknowledge that they:

- a.** Understand the Agency’s Sensitive Information Policy as stated above. Specifically, they understand the circumstances under which employees can release information, the persons to whom information can be released, the nature of the information that can be released and their responsibilities in maintaining and releasing privileged information;
- b.** Understand the penalties for improperly disclosing information;
- iii.** Agree not to disclose any information except where permissible under statute, CSOSA policy, or Court order; and

- iv. After leaving CSOSA, agree not to disclose any information obtained while employed by CSOSA, without the expressed written authorization of the OGC.

Any employee violation this policy is subject to disciplinary action.

## **6. Release of Offender Drug Test Information**

At certain points in the adjudicative process, it is important that information about offender drug test results is released to key decision-makers and/or system actors. These releases may only happen if the appropriate releases/authorizations have been executed in full accord with FOIA requirements.

Community Supervision Officers (CSOs) are responsible for releasing:

- Drug test results, drug levels interpretations and Gas Chromatography/Mass Spectrometry (GCMS) confirmations to offenders/defendants and, with appropriate prior written authorization, to counsel for an offender/defendant; and
- Drug test information in accordance with routine use by CSOs as defined in the Privacy Act.

The Lab is responsible for releasing:

- Specimen history reports (including concentration levels) and chain of custody reports to counsel for an offender/defendant; and
- Drug test information to releasing authorities and prosecutors in accordance with routine use by the CSO or PSO as defined in the Privacy Act.

FOIA is responsible for releasing (or authorizing the release of):

- Drug test result information to offenders/defendants with or without counsel;
- Drug test information in accordance with a routine use r as otherwise authorized under the Privacy Act.

### **Authorities:**

Statutory Authority: 5 U.S.C. § 552a; 42 U.S.C. § 290 dd-3 and ee-3 Regulatory Authority: 28 C.F.R. Part 802; 42 C.F.R. Part 2

Counsel for defendants do not need written consent to obtain drug test results concerning their clients from a Pretrial Services Officer, but counsel for offenders must obtain written consent to obtain their clients' drug test results from a CSO, as a result of a difference in the routine uses published respectively in CSOSA and PSA system notices.

**a. Instructions for Processing Drug Test Information Requests from Offenders and Other Members of the Public**

Community Supervision Officers and technicians shall inform offenders of the appropriate channels for making requests for drug test information. A pamphlet outlining the various channels shall be sufficient for this purpose. In addition, the Lab and Collection Units shall have a sign posted within the facility advising the public of the appropriate channels for making requests for drug test information.

**b. Release of Drug Test Results and Drug Levels Interpretation** The following procedures apply to the release of an offender's drug test results and drug levels interpretations from testing performed as a condition of CSOSA supervision:

- i.** The CSO shall be authorized to release to an offender his or her own drug test results and levels interpretations, provided that the offender submits a signed written request to the supervising CSO. The CSO shall provide the offender with the drug test results within one (1) business day of the date of receipt of the request. The CSO shall retain the original written request in the offender's file and provide a copy to the offender. The CSO shall also note in the offender's running record that the request was made and describe the information that was provided.
- ii.** The CSO shall be authorized to release an offender's drug test results and levels interpretations to the offender's attorney, provided that the attorney has obtained a signed written waiver/consent form from the offender.
- iii.** The CSO shall forward the drug test results within one (1) business day of receipt of the request
- iv.** The CSO shall be authorized to release an offender's drug test results and levels interpretations to the United States Parole Commission (USPC), the sentencing judge or the Assistant United States Attorney (USAO), provided the drug tests were ordered, by phone (pending

verification of the requestor) or in writing, in the case under review or prosecution by that entity. These releases are in accordance with routine uses under the Privacy Act. The CSO shall provide requested information to these entities no later than the next business day after the information is requested, if available.

- v. The CSO/Treatment Specialist shall be authorized to release an offender's drug test results and levels interpretations to a particular CSOSA treatment vendor, provided that a signed waiver/consent form from the offender for that release has been obtained.
- vi. Requests from any source not mentioned in these procedures or for any other purpose shall be submitted to the CSOSA Freedom of Information Act (FOIA) Office.

**c. Release of Specimen History Reports and Chain of Custody Reports**

The following procedures apply to the release of the offender's Specimen History Reports (including concentration levels) and Chain of Custody Reports from tests performed as a condition of the offender's CSOSA supervision:

- i. Requests from an offender's counsel for Specimen History Reports and Chain of Custody Reports must be submitted to the Lab. Only the Lab shall be authorized to release to an offender's attorney information regarding the offender's drug test levels, as defined in these procedures. The offender's attorney shall be required to present a written waiver/consent form, signed by the offender, to the Lab, specifying the information being requested, the name of the intended recipient and the purpose of the request. Within one business day, the Lab shall provide the attorney a copy of the requested information upon presentation of the offender's written waiver/consent form.
- ii. In instances where the offender is not represented by counsel, the offender should contact the FOIA Office in order to obtain Specimen History Reports and Chain of Custody Reports.
- iii. The Lab shall be authorized to release Specimen History Reports and Chain of Custody Reports to the USPC, the judge (or designee) presiding over the

offender's related case and the USAO prosecuting the related probation case, without the offender's written consent, provided that these reports do not contain any treatment information. If they contain treatment information, including a reference to referral for treatment, an appropriate consent form must be signed by the offender and placed in that person's file. A requested Specimen History Report and/or Chain of Custody Report may be picked-up at the Lab upon presentation of the required written consent form signed by the offender.

- iv. Requests for Specimen History Reports or Chain of Custody Reports from any source not mentioned in these procedures shall be submitted to the CSOSA FOIA Office.

#### d. Definitions

As indicated by the current procedure, the following definitions shall apply:

- i. **Drug Test Results:** The conclusion of a drug test, either positive or negative.
- ii. **Concentration Levels:** The numerical amount of a drug in a biological specimen, namely urine, as contained in a specimen history report.
- iii. **Drug Levels Interpretation:** A determination of new or residual drug use.
- iv. **Gas Chromatography/Mass Spectrometry (GCMS) confirmation:** The conclusion of a GCMS analysis; either confirmed or not confirmed.
- v. **New Use:** The concentration level of drug in the urine from new or additional use from a particular timeframe.
- vi. **Residual Use:** A determination that the concentration level of drug in the urine remains from previous use.
- vii. **Routine Use:** Disclosure of a record to specified entities for a purpose compatible with the purpose for which the record was collected, as established in CSOSA/PSA Privacy Act systems notices. See 5 U.S.C. § 552a (a) (7), 28 F.R. Part 802, and 67 F.R. 11816.

- viii. **Written Waiver/Consent Forms:** The CSOSA release forms utilized to provide written authorization for disclosure of defendant/offender information, otherwise protected by the Privacy Act, to a third party. The forms must be completed, signed and dated by the offender and signed and dated by a witness in order to be valid. The forms are available on the CSOSA Internet Website.
- ix. **Specimen History Report:** A report of laboratory data including drug test concentration levels
- x. **Chain of Custody Report:** A report of the continuity of possession of a drug test specimen.

Each person who handled and/or tested the specimen is accounted for, and the date and time is indicated. Also included in the Report are the results and any available interpretation.

**e. Procedure for Releasing Offender File Information**

Only the CSOSA Office of General Counsel may authorize the release of sensitive information.

The OGC handles the actual release of information from an offender's file. In order for information that is sensitive and otherwise non-disclosable to be released, the offender must sign an "Authorization for Release of Information Waiver." This form states, among other things, the extent or nature of information to be disclosed and how long the authorization is valid.

All "Authorization for Release of Information Waivers" is to be placed in the appropriate offender's file by the CSO. In the context of the CJP, CSOSA staff may verbally disclose limited sensitive offender information so long as the offender has signed an "Authorization for Release of Information Waiver." In the absence of a signed waiver, CSOSA staff may only disclose offender information that is of a general nature.

Subpoenas should be only served upon the CSOSA Office of General Counsel. In the event that a Court order or subpoena is served upon CSOSA personnel, it should be forwarded to the OGC for review within one (1) business day of receipt by the receiving employee.

**Statutory Authority:** 42 U.S.C. § 290ee-3(f); 42 U.S.C. § 290dd- 3(f); 42 C.F.R. § 2.4; 5 U.S.C. § 552a (i); D.C. Code § 6-1204; D.C. Code §§ 6-2061-2062

## **E. Procedures for Expungements and Set-Aside and Conviction Orders**

In certain defined cases, the expungement of criminal record information (old D.C. Code S.33-541 (e) renumbered as D.C. Code S.48-904.01 (e)) and the setting-aside of conviction(s) (old D.C. Code 806(b) renumbered as D.C. CodeS.24-903 (a)) may be appropriate.

### **1. Expungements**

A recommendation for expungement of record is to be submitted to the Clerk's Office in the Special Proceedings Branch of the Criminal Division of D.C. Superior Court by the CSO only in cases where the offender has successfully completed a term of probation having been sentenced under DC Code S.48-904.01 (e) formerly known as 541(e) cases). Expungement of record is a one-time benefit for a first time conviction for Simple Possession of a Controlled Substance (not including PWID). The benefit allows all electronic and paper records of both the arrest and conviction to be removed from all law enforcement data files.

If granted the benefit, the Court orders that the case files and all documented information referring to the offender's case be sent back to the Court. Court personnel are responsible for sealing the offender's probation and Court files.

CSS is responsible for ensuring that all electronic records related to the offender's case (only the case in which the offender was afforded the expungement benefit) is removed from its database system or any other electronic device used in the normal course of Agency business).

In order to recommend expungement, the CSO must send a Notice of Service Completion Form to the Special Proceedings Branch Clerk's Office 30 days prior to the scheduled expiration of probation. Copies of the form are to be simultaneously forwarded by the CSO to the USAO, MPD, the offender and the defense attorney. This form is not to be forwarded directly to the sentencing judge, as it is the responsibility of Special Proceedings personnel to forward the document along with the Court jacket so the judge can get a clear picture of the offender's adjustment to probation.

If the offender does not successfully fulfill his/her probation requirements, this form does not need to be submitted, as the offender will not be afforded the benefit. When the case has expired, the CSO is responsible for forwarding the closed case file to the CSS Closed Files section.

Once the case is expunged, personnel in the CSS Probation Intake Unit are responsible for making the request to the CSOSA Office of Information Technology to remove the case from SMART. These staff must also ensure that the physical file is removed from closed files and forwarded to the Court.

### **2. Conviction Set-Asides**

A recommendation for conviction set aside is to be submitted to the Special Proceedings Branch Clerk's Office by the CSO only in cases where the offender

has successfully completed a term of probation having been sentenced under D.C. Code, Title 24, Section 903(a) (formerly S. 24-803(a)) pursuant to the Youth Rehabilitation Act of 1985). Offenders sentenced under the YRA may receive the benefit of having the conviction itself physically removed from public access, but the record is not expunged. The record of the arrest and the subsequent conviction may still be used for legitimate law enforcement purpose.

In order to recommend Conviction Set-Aside, the CSO must send a **Recommendation of the Defendant's Completion of Probation Pursuant to the Youth Rehabilitation Act, D.C. Code 24-903(a) Form** along with a **Certificate Setting-Aside Conviction Form** within 30 calendar days prior to the expiration of the probation term. If the CSO recommendation is that the offender not be granted the benefit of conviction set aside due to unsuccessful completion of the terms of probation or other circumstances, these forms must still be completed and forwarded top the Clerk's Office in the prescribed time frame. Court personnel will then forward the reports to the sentencing judge. These forms are not to be directly forwarded to the judge from CSS.

Once the judge has signed the Certificate Setting-Aside the Conviction, it is returned to the Special Proceedings Clerk's Office. The signed Certificate is then forwarded by the Clerk's Office to the USAO and the CSO (it is important accordingly that the CSO provide his/her address on all forms).

Upon receiving the signed Certificate, the supervision team CSA will then complete and forward the Notification of Conviction Set Aside Form along with the signed Certificate to the appropriate contacts within the FBI and MPD. At case expiration, the CSA will then forward the case file to the CSS Closed Files section. (Note: offenders sentenced under the old D.C. Code 502 (b), pursuant to the Federal Youth Corrections Act (now repealed) must follow the same paper flow as the YRA cases).

All of the above referenced forms must be accurately filled out in their entirety and forwarded to the correct parties/locations in timely fashion. Furthermore, the correct form must be filled-out for the corresponding order (i.e., the CSO must not recommend conviction set aside for an expungement case and conversely, not recommend expungement for the same offender in a Youth Act case).

#### **F. Reporting Non-U.S. Citizens to Immigration and Customs Enforcement (ICE)**

Refer to CSOSA Intranet Website Homeland Security Act for in-depth policy presentation. The U.S. Immigration and Customs Enforcement (ICE) is an Agency of the Department of Justice, responsible for enforcing laws that regulate the admission of foreign-born persons (i.e., aliens) to the United States and for administering various immigration benefits, including the naturalization of resident aliens.

The Immigration and Customs Enforcement (ICE) will carry out any national immigration policy that will enforce the immigration laws and promote the public health and safety, economic welfare, national security and humanitarian interests of this country.

In addition to preventing unlawful entry, employment or the acquisition of benefits to which they are not entitled, ICE is responsible for the apprehension and removal of aliens who enter or remain in the United States or whose stay jeopardizes the public interest or safety.

## **1. Law Enforcement Activities of ICE**

The ICE works in conjunction with other law enforcement agencies to enforce immigration laws. The ICE also conducts investigations to determine if aliens who have been involved in criminal activities are removable as a result of their crimes.

## **2. Identification of Alien Offenders and Procedure to Notify ICE**

### **a. Pretrial Status**

During the initial interview, the CSO should not make efforts to determine the defendant's citizenship and assumptions should not be made. Instead, in the course of completing the Pre-Sentencing Investigation (PSI), the defendant will be asked to state his/her nationality and citizenship.

The CSO is to complete the ICE Notification Letter (see Forms/Template Manual, Form No. GS-0018). The information is to be faxed to the Special Agent of the Detained Criminal Alien Unit (ACAP). A copy of the form and the fax confirmation will be maintained with the Diagnostic case materials.

ICE designates the following charges as crimes that may be used to initiate removal proceedings (this list should not be considered to be all-inclusive.):

- Robbery;
- Murder;
- Unlawful Wounding;
- Manslaughter;
- Malicious Wounding;
- Maiming;
- Grand Larceny;
- Concealment of Merchandise;
- Assault and Battery/Assault (minimum 1 year sentence);
- Use of a Firearm;
- Carry a Concealed Weapon (firearm);
- Reckless Discharge;

- Any Narcotics Distribution;
- Possession of Controlled Substances (more than 30 grams if MJ);
- 2 Possession Charges = Aggravated Felony;
- Burglary;
- Abduction;
- Rape;
- Sexual Assault;
- Sexual Battery;
- Aggravated Sexual Battery;
- Exposure of Genitalia (to Minors);
- Credit Card Theft, Fraud or Forgery;
- Embezzlement (felony and misdemeanor);
- Forgery;
- Bad Check;
- Fraud Charges in General;
- Uttering;
- Domestic Assault; and
- Failure to Appear (FTA) (for a felony).

### **3. ICE Investigation for Possible Removal**

It should be noted the ICE (in most cases) would not detain defendants until after the criminal matter has been adjudicated. Once ICE has received disposition information from CSOSA, an investigation will be conducted. ICE will investigate whether the defendant shall be processed for “removal.” The term “removal” refers to aliens who are processed by ICE and considered for possible extradition or return to their native country or last resident country. The term removal has replaced the previously used term “deportation”. The following dispositions can result from an investigation:

- A felony case can be entitled to a waiver of removal
- An immigration bond can be given
- Under the court decision, ICE can not hold an alien with final orders but instead the alien must be released from ICE custody within a reasonable time period (six months or less)
- Countries without reparations agreements may refuse to accept the return of the alien (i.e., Cambodia, Laos, Vietnam and Cuba) Countries that are slow to receive aliens are (i.e., Ghana, Jamaica and Korea)
- The alien could be given an ICE release date and told to report monthly to the ICE
- The alien could be removed from U.S. territory
- An executive order could specify that an alien or aliens from certain countries will not be removed.

ICE may detain defendants/offenders who have committed serious crimes in ICE Detention Centers.

In the Recommendation Section of the PSI, the CSO shall document the notification to ICE and the defendant's ICE status. The CSO will recommend that an ICE investigation be completed and that the defendant be ordered as a special condition of release or a special order of custody, to cooperate with the ICE investigation.

#### **4. Post-Release Status Reports**

Ideally, citizenship shall be determined at Pre-Trial and/or Post-Release status, however, when a case is received, the CSO is to determine (during the initial interview) the citizenship status of the offender.

Cases already under supervision are also to be reviewed to determine the country of citizenship. If the offender is not a citizen of the United States, the ICE is to be notified.

The CSO is to complete the ICE Notification Letter (see Forms/Template Manual, Form No. GS-0018). The information is to be faxed to the Special Agent of the Detained Criminal Alien Unit (ACAP). A copy of the form and the fax confirmation is to be placed in the case file. The identification and referral of an alien offender to the ICE is to be noted in the SMART Running Record.

Once ICE is notified, the CSO must contact the ICE every thirty (30) days until a disposition is made and/or the offender is detained by ICE. Supervision of the offender is to continue until ICE has notified the CSO that s/he has been detained or deported.

Once ICE receives the ICE Notification Letter, it will conduct his or her own investigation to determine if the offender is eligible for removal or any other sanction.

##### **a. Official ICE Identification Card**

INS provides for immigrants the following official ICE identification cards:

- i. Permanent Resident Card (Green Card) I-551** – “INS I-551, was introduced in December 1997. Noticeable difference on the front of the card include: Change of card title from RESIDENT ALIEN CARD to PERMANENT RESIDENT CARD, a three line machine readable zone and a hologram. The Optical Memory Stripe contains encoded cardholder information as well as a personalized etching which depicts the bearer's photo, name, and signature, date

of birth, alien registration number, and card expiration date and card number.” “As of March 20, 1996, the

Form 151 is no longer acceptable as evidence of permanent residence. I-551 was introduced in January 1977 and phased in over a period of time. In addition to the photograph, the I-551 contains the bearer’s signature and fingerprint.”

- ii. **Employment Authorization Card I-688B** – “is issued to aliens who are not permanent residents but have been granted permission to be employed in the U.S. for a specific period of time. The card was produced originally with a Polaroid process similar to the I-666 and I-688A, but has the added feature of interlocking gold lines across the front.”
- iii. **Non-resident Alien Mexican Border Crossing Card I-190** – “Form, I-586, issued to Mexican nationals who reside in Mexico and frequently cross into the U.S. for visits, shopping, or to conduct commerce. The status granted to the bearer is B-1/B-2, a visitor for business or pleasure. The bearer of this card is not entitled to work in the U.S., is restricted to stays of no more than 72 hours, and may only travel within 25 miles of the border. This card is similar in design to the I-551 Resident Alien Card, except for the color.”
- iv. **Passport Stamp** issued until a permanent resident card is created.
- v. **Arrival/Departure Record I-94** – “When an alien has been granted admission into the U.S. by an Immigration Inspector at an authorized Port of Entry, he/she is issued an ARRIVAL/DEPARTURE RECORD, Form I-94 the bottom portion of which is stapled to a page in the Alien’s passport. This document explains how long the bearer may remain in the U.S. and the Terms of admission.”
- vi. **Non-Immigrant Visa Waiver Arrival-Departure Record I-94W**
- vii. **Canadian Border Boat Landing Permit I-68** – “The persons named herein have been granted the privilege, during the current season, of making entries on the U.S. side of the body of water named herein without reporting to

a U.S. Port-of-Entry when traveling by small pleasure craft of less than five net tons without merchandise to be landed.

Except for U.S. citizens and lawful permanent residents of the U.S., the permit is valid only if such persons intend to remain in the U.S. for the purpose of visits not to exceed 72 hours and only if they will remain in nearby shopping areas, nearby residential neighborhood; or other similar areas adjacent to the immediate shore area of the United States.”

- viii. **Non-Resident Alien's Canadian Border Crossing Card I-175** – “Application for Nonresident Alien’s Canadian Border Crossing Card. Not permitted to work.”
- ix. **Application for Travel Document I-131** – “This form is used to apply for an INS travel document, re-entry permit, refugee travel document, or advance parole document. Each applicant must file a separate application.”

## 5. Required Documentation

It is the CSOs ministerial duty to request identification of citizenship when there is reasonable doubt. To verify U.S. citizenship, ICE requires the following U.S. documents:

- Birth Certificate
- U.S. Passport

If it is suspected that an offender is presenting fraudulent identification, the ICE Fraud Unit should be contacted by telephone.

## 6. ICE Releases

An Immigration Judge makes the decision on release status. If the alien is released and ordered to report to ICE, the alien is instructed to report monthly.

The terms of this agreement include:

- Instructed not to leave the jurisdiction;
- Notified that an investigation may be conducted;
- Refrain from recidivism;
- Instructed to advise of change of address;
- Require a monthly reporting schedule

The CSO must maintain the active supervision case and ICE surveillance is seen as a complement to community supervision.

## **7. Immigration and Customs Enforcement (ICE) Detained Offenders**

Some offenders under CSOSA supervision are aliens who may have been arrested and subsequently detained by Immigration and Customs Enforcement (ICE), pending a hearing before an ICE judge. Once arrested, these offenders' status is to be changed to Monitored-Confined. Like any monitored offender, these offenders' immigration status must be monitored monthly to determine if the offender has been granted release or ordered deported by an ICE judge. The monthly record check is to be documented in the SMART running record.

To check the status of an ICE detained offender, the CSO must obtain the offender's alien registration, or "A" number. The "A" number is an 8 digit number preceded by the letter "A." The "A" number usually can be obtained by conducting a criminal background check. CSOs are to use WALES, NCIC, SENTRY, and the FBI databases. The "A" number must be searched for in the different databases as it is not routinely located in any one particular database or on any specific screen. For instance, the "A" number could be listed in the remarks section of an offender profile in NCIC or could be listed as an arrest number in the FBI database. The "A" number may or may not be hyphenated; however, the alien number will be preceded by this same designation (the letter "A").

Once the "A" number is located, the CSO is to call the following number on a monthly basis to track the status of the offender's ICE case: 1 (800) 898-7180. Once this number is dialed, the CSO will receive a recorded message and can press a "1" or "2" to hear options in English or Spanish. Upon selecting "1," the CSO will be directed to enter the offender's 8-digit "A" number, minus the letter "A." For instance, if the offender's "A" number is A12345-678 (which may or may not be hyphenated), staff is to enter "12345678." Upon entering the number, the CSO will hear the name and spelling of the offender's name and be asked to press "1" to confirm.

Upon confirming the offender's name, the CSO will be asked to select one of the following five options:

- Hearing Date;
- Case Processing;
- Decision on Information;
- Case Appeal; and
- Filing.

Staff are to select "3," "Decision on Information," to hear the offender's current status. The CSO will hear the offender's current ICE status as well as hear the address of the ICE office that is overseeing the offender's case. If the offender is "granted release," that means the offender has been released to the community. The CSO is to change the offender's status to "Active" and is to immediately begin Loss of Contact procedures.

If the offender has been "deported," the CSO is to maintain the offender's case in monitored status and is to conduct monthly record checks that are documented in

SMART under the running record. The CSO also may contact the offender's ICE office for additional information via letter or phone.

CSOs are to conduct monthly record checks for all ICE detained offenders in Monitored status until the offender's supervision obligation has expired, the offender is deceased, or the releasing authority has closed its interest in the case.

## **G. Freedom of Information Act (FOIA) – Release of Information**

### **1. Guidelines for Disclosure Under the Federal Freedom of Information and Privacy Acts**

The Agency provides for the disclosure of all official CSOSA information pursuant to applicable laws, e.g. the Freedom of Information Act (5 U.S.C. § 552), and the Privacy Act (5 U.S.C. § 552a). **The authority to release or deny access to records and information under the Privacy Act (5 U.S.C. § 552a) and the Freedom of Information Act (5 U.S.C. § 552) is limited to the General Counsel and his or her designee.** Agency staff will only release an agency record in response to a written request, unless a valid legal exemption to disclosure is asserted. Questions regarding the applicability of exemptions should be referred to the Office of the General Counsel, Attn. Privacy Act Requests. Defendant/offender records are exempt from disclosure under the Privacy Act; therefore, defendant/offender requests for records under the Privacy Act will be processed in accordance with the FOIA. Any request for a list of defendants/offenders under Agency supervision shall be forwarded upon receipt to the CSOSA Office of the General Counsel.

The FOIA and PA Acts interact with each other in the following ways:

- a. When any person requests access to his/her personal records, both statutes become potentially applicable.
- b. When any person requests access to another individual's record through FOIA, the Privacy Act may prohibit the disclosure of that record.
- c. If a record is required to be released under the FOIA, the Privacy Act does not bar its disclosure. Unlike the FOIA, the Privacy Act applies only to US citizens and aliens admitted for permanent residence.

The correct management of sensitive Agency information requires that staff have a basic understanding of Federal information processing laws and regulations. Agency staff must also be aware that the Privacy Act establishes criminal penalties and civil liabilities for unauthorized disclosures.

## **2. Production of Records in Court**

Agency records may be sought by subpoena, Court order, or other Court demand in connection with official proceedings. The U.S. Attorney General has directed that records may not be produced in Court without the approval of the U.S. Attorney General or his or her designee. The guidelines are set forth in 28 C.F.R. Part 16, Subpart B. Agency staff who receive a subpoena, Court order or other Court demand shall forward the documentation to the Office of the General Counsel for proper handling.

## **3. Disclosure of Records to Third Parties**

It is imperative that Agency employees maintain and process all information concerning individuals, to ensure that information is accurate, relevant and timely, and to ensure that no inadvertent disclosure of information is made. Information that concerns an individual and that is contained in a system of records maintained by the Agency shall not be disclosed to any person, or to another agency, except under the provisions of the Privacy Act, 5 U.S.C. § 552a, or the Freedom of Information Act, 5 U.S.C. § 552. Staff may disclose information from an Agency system of records only if one or more of the following criteria apply:

- With the written consent of the individual to whom the record pertains
- To employees within the Agency who have a need for the record in the performance of their duties
- If disclosure is permitted under FOIA, e.g. "public information," when the public interest in disclosure of the information outweighs the privacy interest involved
- For a routine use described in the Agency system of records as published in the Federal Register

The published notices for these systems describe the records contained in each system and the routine uses for disclosing these records without first obtaining the consent of the person to whom the records pertain. Some examples of routine uses for CSOSA systems of records may include the following:

- To Federal, state, local and foreign law enforcement officials for law enforcement purposes such as investigations, possible criminal prosecutions, civil court actions or administrative and regulatory proceedings.
- To the Census Bureau for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13, United States Code.

- To a recipient who has provided the Agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record which has sufficient historical or other value to warrant its continued preservation by the U.S. Government, or for evaluation by the Administrator of the General Services Administration or his or her designee to determine whether the record has such value.
- To either House of the U.S. Congress, or, to the extent of a matter within its jurisdiction, any Congressional committee or subcommittee, any joint committee of Congress or subcommittee of any such joint committee is to be transferred in a form that is not individually identifiable.
- To the National Archives and Records Administration (NARA) as a record which has a sufficient historical or other value to warrant its continued preservation by the US Government, or for evaluation by the Administrator of the General Services Administration or his/her designee to determine whether the record has such value.
- To either House of the US Congress, or, to the extent of a matter within its jurisdiction, any Congressional committee or subcommittee, any joint committee of Congress or any subcommittee of any joint committee.
- Pursuant to an order of a court of competent jurisdiction.

#### **4. Freedom of Information Act Requests**

Requests for any Agency record (including policy) ordinarily will be processed pursuant to the Freedom of Information Act, 5 U.S.C. § 552. Such a request must be made in writing and addressed to the FOIA Officer, Court Services and Offender Supervision Agency. The requester should clearly mark on the face of the letter and the envelope "FREEDOM OF INFORMATION REQUEST" and clearly describe the records sought.

#### **5. Requests by Offender**

An offender may request a copy of his or her records by writing to the FOIA Officer for the Court Services and Offender Supervision Agency. Such requests will be processed pursuant to the provisions of the Freedom of Information Act.

The request must be clearly marked on the face of the letter and on the envelope "FREEDOM OF INFORMATION ACT REQUEST," and must describe the record sought, including the approximate dates covered by the record. An offender making such a request must provide his or her full name, current address, and date of birth.

In addition, the requester must provide with the request an example of his or her signature, which must be either notarized or sworn under penalty of perjury pursuant to 28 U.S.C. § 1746, and dated within three (3) months of the date of the request. Offenders must provide their DCDC or PDID numbers to assist in properly identifying requested records.

The information that can be directly released to the offender includes:

- Drug Tests Results
- Accountability Contract or Performance Contract
- Parole/Supervised Release Certificate
- Notice of Action
- Judgment and Commitment Order
- Supervision Report Form (GS-009)
- Narcotics Anonymous/ Alcoholics Anonymous Attendance Log (Individual)
- Attendance Sheet(s) for Treatment or Group Sessions (Individual)
- Referral for Drug/Alcohol Testing/Treatment Form (CSOSA/CSS DS-001)
- Sanctions/Intervention Form
- Cognitive Sanction Intervention Performance Contract
- Modification of Release Conditions (after approval by the USPC)
- Parole Registration Form (PARS-S-009)

Please note: Individual refers to forms used only by the offender to document his/her attendance.

## **6. Requests on Behalf of an Offender**

A request for records made by an authorized representative of an offender will only be released with the subject's written authorization. This authorization must be dated within three (3) months of the date of the request letter. Requesters must provide the DCDC or PDID numbers to assist in properly identifying requested records. All requests for records under the Freedom of Information Act received by the FOIA Officer will be reviewed.

If a document contains information exempt from disclosure, any reasonably segregable portion of the record will be provided to the requester after deletion of the exempt portions. If a request made pursuant to the Freedom of Information Act is denied in whole or in part, a denial letter must be issued and signed by the FOIA Officer and will state the basis for denial.

The requester who has been denied access will be advised of the right to appeal that decision to the General Counsel, Court Services and Offender Supervision Agency. Both the envelope and the letter of appeal itself should be clearly marked: "Freedom of Information Act Appeal."

The Office of the General Counsel staff processing requests for release of information under the FOIA are expected to be familiar with the provisions of 5 U.S.C. § 552, as follows:

- A requester must be notified of the decision on the request within 20 days after its receipt (excluding Saturdays, Sundays and legal public holidays).
- Generally, all FOIA requests will be processed in the approximate order of receipt unless the requester shows that exceptional circumstances exist to justify an expedited response. Examples that might justify an expedited response include:
  - (1) A threat to life or safety
  - (2) The loss of substantial due process rights or
  - (3) In cases of widespread and exceptional interest to the media, possible questions about the Government's integrity that affect public confidence.

Because a decision to take a FOIA request out of order delays other requests, simple fairness demands that such a decision be made by the FOIA Officer only upon careful scrutiny of truly exceptional circumstances.

## **7. Accounting of Disclosures to Third Parties**

Accounting of disclosures to third parties must be made in accordance with Agency regulations. Except for disclosures of information to other Agency employees and except for disclosures required under the FOIA (e.g., public information, etc.), an accounting of disclosure to third parties of any information concerning an individual contained in an Agency system of records will be made in accordance with the following guidelines:

### **a. Oral Disclosure**

Staff may orally release only public information. When public information is disclosed, no accounting is necessary. The following defines the term "public information" with respect to offenders:

### **i. Parole Offenders**

The U.S. Parole Commission considers the following to be public information on a parolee:

- Name
- Register Number
- Offense of Conviction
- Past and Current Places of Incarceration (**an inmate's designated future place of incarceration is not public information**)
- Age
- Sentence data on the Federal Bureau of Prisons sentence computation record
- Date(s) of parole and parole revocation hearings; and
- The decision(s) rendered by the Commission following a parole or parole revocation proceeding, including the dates of continuances and parole dates.

### **ii. Probation Offenders**

The U.S. Probation Office for the District of Columbia considers the following to be public information on a probationer:

- The information that a person could find out by going to the court jacket such as the charging document, disposition and docketed information in the case. The D.C. Superior Court considers the following to be public information on a probationer:
  - The information that a person could find out by going to the Court jacket such as the charging documents, pretrial reports, motions, discovery requests, Judgment and Commitment Orders and probation violation reports. However, if the information is sealed or expunged, nothing can be released.
- Although non-public information on a probationer can be obtained from the Court if a FOIA request is made to CSOSA, only public information, i.e., name, age, PDID or DCDC number, may be released without the subject's notarized authorization.

### **iii. Offenders-General**

The Federal Bureau of Prisons considers the following to be public information on an inmate:

- Name
- Register number

- Place of incarceration. The release of inmate designation information is prohibited. An inmate's designated place of incarceration becomes public information only after the inmate has arrived at the designated institution.
- Age
- Race
- Conviction and sentencing data: this includes the offense(s) for which convicted, the court where convicted, the date of sentencing, the length of sentence(s), the amount of good time earned, the parole eligibility date and parole release (presumptive or effective) date, and the date of expiration of sentence, and includes previous Federal, state and local convictions;
- Past movement via transfers or writs;
- General institutional assignments.
- Information in the foregoing eight bullets may not be released if confidential for protection cases.
- **Only in an emergency will staff orally release non-public information to parties other than Agency employees.**
- Before an emergency oral disclosure is made, staff must contact the FOIA Officer. If this is not possible, staff must inform the FOIA Officer as soon as practicable after the disclosure.
- Upon oral disclosure of non-public information, a memorandum will be prepared and retained in the individual's file from which the record is disclosed, or an appropriate notation must be maintained in the file and attached to the record disclosed. The memorandum or notation must include the following information:
  - The date of the disclosure
  - The name and address of the person to whom the record was disclosed and the name of the agency that person represents, if any
  - The purpose of the request for disclosure and
  - Identification of the specific record disclosed.

**b. Written Disclosures**

Accounting for a written disclosure may be made by:

- Retaining a copy of the correspondence requesting the information and a copy of the response in the file from which the records are disclosed; or
- Following the procedure for an accounting of an oral disclosure, as described above.

**c. Disclosure Records Maintenance**

It is the responsibility of the staff member making a disclosure of non-public information to provide an accurate accounting of that disclosure. Accounting records of the disclosure of non-public information must be maintained in the individual's file for five years or until the record is destroyed, whichever is longer.

An exemption under 5 U.S.C. § 552a (j) does not relieve the Agency from the responsibility to account for all disclosures other than those within the Agency or under the FOIA.

**i. Non-Agency Documents FBI/National Crime Information Center (NCIC) Information**

The NCIC prohibits the Agency from disclosing NCIC identification records. Procedures to request a copy of an offender's FBI/NCIC identification record directly from the FBI are contained in 28 C.F.R. §§ 16.30 through 16.34.

**□ Documents from Other Federal Agencies**

When a request for records includes a document from another Federal agency, the document will be referred to the originating Federal agency for a determination of its releasability.

**□ Documents from Non-Federal Agencies**

When a request for records includes a document from a non-Federal agency, CSOSA staff must make a determination of its releasability.

**□ Laboratory Reports**

Laboratory reports that contain only scientific testing results are ordinarily disclosable.

**ii. Fees**

Within a reasonable time after a request, Office of the General Counsel staff will provide disclosable documents to a requester. Fees for these documents and services will be assessed in accordance with the schedule maintained by that office.

**iii. Exemptions to Disclosure provided in the Freedom of Information Act**

The Freedom of Information Act (5 U.S.C. § 552) provides in general for the disclosure of Agency records. Section 552(b) exempts from mandatory disclosure matters that are records or information that have been compiled for law

enforcement purposes but only to the extent that such documents:

- ❑ Could reasonably be expected to interfere with enforcement proceedings
- ❑ Would deprive a person of a right to a fair trial or an impartial adjudication
- ❑ Could reasonably be expected to constitute an unwarranted invasion of personal privacy
- ❑ Could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source
- ❑ Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law or
- ❑ Could reasonably be expected to endanger the life or physical safety of any individual
- ❑ Were contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or geological and geophysical information and data including maps concerning wells.
- ❑ Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions that are exempt under this subsection. The amount of information deleted shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in the subsection under which the deletion is made.  
If technically feasible, the amount of information shall be indicated at the place in the record where such deletion is made.

**iv. Obtaining Informed Offender Consent for the Release of Sensitive Information**

The release of sensitive offender information from numerous sources requires that written (signed) consent be obtained from the offender specifying certain exact information that includes: the identity of the subject, the nature, scope and purpose of the information to be obtained, the date of the authorization and the period or term during which the consent will remain valid.

The CSO may not have an offender sign a partially completed form since that person has no way of knowing for what purpose(s) consent is being given. Having the offender sign such a document fails to satisfy the legal requirement that the consent be informed.