

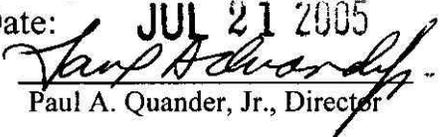


POLICY STATEMENT

Policy Statement 4012

Policy Area: Supervision

Effective Date: JUL 21 2005

Approved: 
Paul A. Quander, Jr., Director

DISCLOSURE TO AUTHORITIES OF SUSPECTED VIOLATIONS OF LAW BY OFFENDERS

I. COVERAGE

This Policy Statement establishes procedures for the disclosure of non-sensitive information to the appropriate federal, state, local and foreign authorities by the Court Services and Offender Supervision Agency (CSOSA) staff involved in the supervision of offenders. CSOSA staff with specific responsibilities under this Policy Statement include Community Supervision Officers (CSOs) and their supervisors (SCSOs), CSOSA staff working in a substance abuse treatment capacity, Victims' Services Program (VSP) staff, and the attorneys of the Office of the General Counsel (OGC).

II. BACKGROUND

Occasionally, personnel at CSOSA experience situations involving offenders who admit to past criminal acts or where the CSO receives information of alleged civil law (e.g., immigration violations, domestic violence and child neglect) or criminal law violations from third-party sources. CSOSA has also recognized the need to address the circumstances under which information should be shared with the Department of Homeland Security (DHS), Bureau of Immigration and Customs Enforcement, relative to illegal immigration matters. Against this backdrop, CSOSA continues to develop partnerships with various law enforcement entities through which the sharing of non-sensitive information contributes to community safety.

III. POLICY

In accordance with CSOSA's System of Record Notice published pursuant to the Privacy Act, CSOSA staff are authorized to make disclosures of information to the appropriate federal, state, local, foreign or other public authority responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order, where CSOSA staff receive first-hand information concerning an alleged violation of civil law (e.g., immigration violations, domestic violence and child neglect) or criminal law. After

consultation with an SCSO, staff may also provide reliable information received from an offender, a third party or first-hand observation to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to the recipient agency. Any information request from a foreign or international law enforcement entity should be referred to the OGC.

In the event that CSOSA staff believe mental health information must be disclosed to protect the health or safety of a mental health patient or another person in accordance with law, they may consult with CSOSA management and then may contact any of the authorities specified in the law, and, if necessary, consult with the OGC for guidance in these matters.

Disclosure of information concerning violations of law that is obtained in a therapeutic/treatment environment may be made only upon being approved by an OGC attorney.

IV. AUTHORITIES, SUPERSEDURES, REFERENCES, AND ATTACHMENTS

A. Authorities

Regulatory Authority: 28 C.F.R. Part 810; Notice of New Systems Notice, 67 Fed. Reg. 11816; Privacy Act of 1974, 5 U.S.C. § 552a; Freedom of Information Act, 5 U.S.C. § 552; D.C. Official Code § 7-1203.03 (disclosure of mental health information on emergency basis)

B. Supersedures

None.

C. References

Procedural References: 42 C.F.R. Part 2 (alcohol/drug treatment regulations; see § 2.65, orders authorizing disclosure and use of records to criminally investigate or prosecute patients); D.C. Official Code §§ 4-1301.02(1) (definition of “abused” child), and 16-2301(9) (definition of “neglected child”); Sensitive Offender File Information Procedure Statement, July 10, 2000; CSOSA Management and Administrative Division Directive 500.2, Safeguarding Sensitive, Unclassified Information

D. Attachments

Appendix A. General Procedures

APPENDIX A GENERAL PROCEDURES

A. Disclosure to Law Enforcement Authorities by CSOs of Information Other Than That Obtained in a Therapeutic/Treatment Environment

CSOs are required to make disclosures of non-sensitive information to law enforcement authorities when the CSO receives first-hand knowledge (e.g., through personal observation) of an offender's suspected violation of a civil law (e.g., immigration violations, domestic violence and child neglect) or criminal law. Non-sensitive information is defined as any information *not* pertaining to an offender's drug test results, drug/alcohol treatment, HIV/AIDS, cancer, and other health information, mental health information, Presentence Investigation Reports, D.C. Pretrial Services information, and information obtained in a therapeutic/treatment environment. CSOs shall make disclosures in cases involving suspected child abuse or neglect; domestic violence; immigration violations, and any suspected criminal act that is a threat to the physical safety of an individual or the general public. See Section B of this Appendix for procedures regarding disclosure of information obtained in a therapeutic/treatment environment.

1. Disclosure of Suspected Child Neglect

- a. When a CSO receives reliable information from an offender, a third-party or through first-hand observation of an offender's suspected act of child neglect (term includes all forms of child abuse and child neglect), the CSO shall document the information in CSOSA's Supervision And Management Automated Record Tracking (SMART) system on the same day the information is received. The documentation in SMART shall include the source, date and description of the witnessed or reported incident.
- b. On the same day the CSO receives this information, the CSO shall report the incident to the appropriate law enforcement authorities or child protective services agency after consultation with his/her SCSO. In the event the CSO's SCSO is not available, the CSO shall inform another appropriate management representative, in the chain-of-command, who shall contact the appropriate law enforcement authorities on the same day.

- c. The CSO shall note in SMART that child neglect information has been reported, and shall include the authorities notified, including the name of the agency contact person receiving the information, the date and time of the report. The CSO shall continue to report any repeat incidents of child neglect to the proper authorities and note it in SMART. The CSO is not responsible for ascertaining or ensuring any action on the part of the contacted agency.
- d. The Agency is not prohibited by law from reporting incidents of suspected child neglect that are revealed in a therapeutic/treatment setting.

2. Disclosure of Suspected Domestic Violence

- a. When a CSO receives reliable information from an offender, a victim, a third-party or first-hand observation related to an offender's alleged domestic violence, the CSO shall document the information in SMART on the same day the information is received. The information shall include the source, date, time and description of the reported incident.
- b. The CSO shall offer a third-party who is an alleged victim of domestic violence the telephone number of the Victims Services Program (VSP) staff no later than the next business day. The CSO shall document this information and action in SMART. VSP staff shall respond to the CSO and the alleged victim within two (2) business days.
- c. On the day the information is received regarding the offender's alleged domestic violence, the CSO may notify the appropriate law enforcement authorities after consultation with his/her SCSO. In the event the CSO's SCSO is not available, the CSO shall consult with another appropriate management representative, in the chain-of-command on the day the information is received.
- d. The CSO shall note in SMART that the domestic violence incident has been reported to law enforcement authorities, and shall include the authorities notified, including the name of the agency contact person receiving the information, the date and time of the report. The CSO shall continue to report any repeat incidents of domestic violence to the proper authorities and note it in SMART.
- e. The CSO shall also notify the VSP Manager of the suspected domestic violence incident on the same day the CSO reports the

information so that any appropriate assistance can be provided to the suspected victim.

3. Disclosure of Suspected Immigration Law Violations

- a. When a CSO receives reliable information from an offender, a third-party, or a personal observation related to an offender's alleged violation of U.S. immigration laws, the CSO shall document the information in SMART on the same day the information is received. The information shall include the source, date, time and description of the reported incident.
- b. On the same day the information is received regarding an offender's alleged immigration law violation, the CSO shall contact the DHS Bureau of Immigration and Customs Enforcement after consultation with his/her SCSO. In the event the CSO's SCSO is not available, the CSO shall advise another appropriate management representative, in the chain-of-command, on the same day the information is received.
- c. The CSO shall note in SMART that information regarding an offender's alleged immigration law violation has been reported to DHS, including the date, time and agency contact person who received the information. The CSO shall continue to report any repeat incidents of immigration law violations to the proper authorities and note it in SMART. The CSO is not responsible for ascertaining or ensuring any action on the part of DHS.

4. Disclosure of Criminal Law Violations

- a. When an offender discloses new criminal offenses during the presentence investigation report process, the CSO shall discuss the disclosure with his/her immediate supervisor and forward the information in writing to MPD's Office of the Superintendent of Detectives.
- b. At any other time, when a CSO receives reliable information from an offender, a third-party or personal observation related to an offender's alleged violation of criminal law, the CSO shall document the information in SMART on the same day the information is received. The information shall include the source, date, time and description of the alleged criminal law violation.

- c. On the same day the information is received regarding an offender's alleged criminal law violation, the CSO may contact the appropriate law enforcement authorities, after consultation with his/her SCSO. In the event the CSO's SCSO is not available, the CSO shall advise another appropriate management representative, in the chain-of-command, on the day the information is received.
- d. The CSO shall note in SMART that information regarding an offender's alleged criminal law violation was reported to law enforcement authorities, and shall include the authorities notified, including the name of the agency contact person receiving the information, the date and time of the report. The CSO shall continue to report any repeat incidents of criminal law violations to the proper authorities and note it in SMART. The CSO is not responsible for ascertaining or ensuring any action on the part of the contacted agency.

5. Disclosure of Mental Health Information on an Emergency Basis

In the event a staff member believes that mental health information should be disclosed to those authorized by D.C. Official Code § 7-1203.03(a) to receive information to protect an intended victim or to seek emergency hospitalization of a mental health patient or to "otherwise protect the [patient] or another from a substantial risk of imminent and serious physical injury," staff may make such disclosures after consulting with the SCSO and, if necessary, the OGC, for assistance in determining the appropriate course of action.

B. Disclosure of Information Obtained in a Therapeutic/Treatment Environment

1. For purposes of this policy, a therapeutic/treatment environment is one that involves the management and care of a patient suffering from alcohol or drug abuse, a condition which is identified as having been caused by that abuse, or both, in order to reduce or eliminate the adverse effects upon the patient.
2. The drug/alcohol treatment regulations do not prevent the reporting under state law of incidents of suspected child neglect to the appropriate state and local authorities that are revealed in treatment.
3. CSOSA staff shall refer any information disclosed by an offender in a therapeutic/treatment environment concerning an extremely serious crime that the offender has committed (for example, one that involves loss of life

or serious bodily injury) to the OGC for a determination of the appropriate action. The OGC will advise the referring staffer of the status of the matter within two (2) business days. A complete resolution of the issue may take longer than two (2) business days, due to the need to involve the United States Attorney's Office and the U.S. District Court for the District of Columbia.

4. On the same day the information is received the CSOSA staffer shall notify his/her immediate supervisor. The supervisor shall review the information regarding the alleged civil law (e.g., immigration violations, domestic violence and child neglect) or criminal law violation and contact the OGC regarding the matter on the same day. In the event the CSOSA staffer's supervisor is not available, the staffer shall inform another appropriate management representative, in the chain-of-command, who shall contact the OGC on the same day the information is received.
5. The CSOSA staffer shall note in SMART that the information regarding the offender's alleged civil law (e.g., immigration violations, domestic violence and child neglect) or criminal law violation, disclosed during a therapeutic/treatment session, has been reported to the OGC, indicating the date, time and the OGC attorney contact who received the information.
6. If the OGC determines that CSOSA should seek a federal court order for the release of information concerning past criminal conduct, OGC shall take the necessary actions to seek a court order for the release of the information. CSOSA staff **shall not** make any disclosures until further advised by the OGC.