

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PD-56 (rev. 7), “REQUEST FOR AND RELEASE OF EMPLOYMENT
INFORMATION OR DOCUMENTS”

JUNE 1, 2017

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TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

NUMBER: PD-56 (rev. 7)

DATE: June 1, 2017

PAGE: 1 of 8

SUPERSEDES: PD-56 (rev. 6)
May 1, 2010

EXECUTIVE DIRECTIVE

SUBJECT: REQUEST FOR AND RELEASE OF EMPLOYMENT INFORMATION
OR DOCUMENTS

AUTHORITY: *Prison Rape Elimination Act* of 2003, 42 U.S.C. §§ 15601–15609; *Public Information Act*, Tex. Gov't Code §§ 552.001–.353; BP-02.08, "Statement of Internal Controls"; *TDCJ Public Information Act Manual*

Reference: 28 C.F.R. §§ 115.17(h), 115.76(d), 115.87(f)

APPLICABILITY: Texas Department of Criminal Justice (TDCJ)

EMPLOYMENT AT WILL CLAUSE:

These guidelines **do not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of these guidelines at any time.

Nothing in these guidelines and procedures limits the executive director's authority to establish or revise human resources policy. These guidelines and procedures are adopted to guide the internal operations of the TDCJ and **do not** create any legally enforceable interest or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

POLICY:

The release of information or documents relating to active or former TDCJ employees shall be in accordance with the guidelines established in this directive.

DEFINITIONS:

"Discovery" is a pretrial phase of litigation in which parties obtain facts and information for use in a case.

“Institutional,” for the purpose of this directive, is pertaining to a prison, jail, lockup, community confinement facility, juvenile facility, or state facility for persons who are mentally ill, disabled, mentally handicapped, chronically ill, or handicapped; a residential care or treatment facility for juveniles; or a facility that provides skilled nursing, intermediate or long-term care, or custodial or residential care.

“Offender,” for the purpose of this directive, is an individual under the supervision or custody of the TDCJ, including a TDCJ offender housed in privately operated, federal, county, or other states’ facilities. These individuals include, but are not limited to, parolees, individuals under mandatory supervision, incarcerated individuals, and individuals housed in county jails that have been sentenced to the TDCJ but are not yet in TDCJ custody.

“Public Information” is information collected, assembled, or maintained pursuant to a law or ordinance or in connection with the transaction of official business by or for a governmental body and the governmental body owns the information or has a right of access to it.

“Subpoena duces tecum” is an order for a witness to appear in a court proceeding with documents or other items relevant to issues of a pending controversy. However, subpoenas duces tecum often do not require personal appearance and may be satisfied by providing documents or other items to the requesting attorney.

DISCUSSION:

As a public agency, the TDCJ is subject to the provisions of the *Public Information Act*, which establishes guidelines for the release of all information collected, assembled, or maintained by governmental bodies pursuant to laws or ordinances or in connection with the transaction of official business. For complete information on the *Public Information Act*, consult the TDCJ *Public Information Act Manual*, located on the TDCJ employee intranet at http://itd.tdcj.texas.gov/TDCJ_Intranet/manuals_publications/ogc_pia/index.html.

PROCEDURES:

- I. Telephone Requests for Active or Former Employee Information
 - A. All telephone requests for active or former employee information shall be referred to the active or former employee’s human resources representative.
 - B. The employee verification (VER1-VOE) screen of the Payroll/Personnel System contains releasable information, except the screen contains social security numbers, which are confidential and not releasable.

The release of information via telephone shall be restricted to data located on the VER1-VOE screen, except the social security number. Releasable information includes the following:

1. Payroll name;

2. Gender;
3. Ethnicity;
4. Current or last unit or department of assignment;
5. Current or last job title held;
6. Employment Dates:
 - a. Original or most recent hire date; or
 - b. Separation date, if applicable;
7. Current or last gross monthly salary, including hazardous duty pay, longevity pay, benefit replacement pay, or incentives, if applicable;
8. Total months of TDCJ service;
9. Employment status, such as active or inactive; and
10. Employment type, such as full- or part-time.

II. Written Requests for Active or Former Employee Information

A written request may include a request sent by email or fax.

- A. An incarcerated offender's written request for information relating to an active employee shall be forwarded to the unit access to courts supervisor at the offender's unit of assignment. The access to courts supervisor maintains a list, printed monthly, of the names and titles of all active employees at the particular unit and will permit the incarcerated offender access to that list upon request. Additional information regarding an employee shall not be provided to an incarcerated offender.
- B. All other written requests for active or former employee information shall be forwarded to Employee Services, Records, Human Resources Division, within 24 hours of receipt. Employee Services, Records, Human Resources Division, shall respond to the request in accordance with the TDCJ *Public Information Act Manual* or verification procedures.
- C. Unless prohibited by law, the TDCJ shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee after receiving a request from an institutional employer for whom such employee has applied to work.

III. Requests for Copies of Documents

A. Request from an Active or Former Employee

An active or former employee shall submit a signed written request that includes the employee's first and last name and social security number to obtain copies of documents maintained in the employee's unit or department file, Employee Master Human Resources File, or Employee Master Medical File.

1. Employee Unit or Department File Documents

a. Active Employee

An active employee shall submit the request to the employee's human resources representative.

b. Former Employee

A former employee shall submit the request to Employee Services, Records, Human Resources Division, or Executive Services.

2. Employee Master Human Resources File or Master Medical File Documents

An active or former employee shall submit the request to Employee Services, Records, Human Resources Division, or Executive Services.

B. Request from an Incarcerated Offender

An incarcerated offender's written request for copies of any documents maintained in an active or former employee's unit or department file, Employee Master Human Resources File, or Employee Master Medical File shall be forwarded to the unit access to courts supervisor at the offender's unit of assignment. For purposes regarding access to courts, an incarcerated offender is entitled to the name, title, and last known business address of an active or former employee. Copies of documents maintained in an active or former employee's files shall not be provided to an incarcerated offender.

C. Request from Another Individual

1. If someone other than the active or former employee requests copies of confidential documents contained in an active or former employee's unit or department file, Employee Master Human Resources File, or Master Medical File, the requestor must provide a release of information authorization. The release of information authorization must include the active or former employee's first and last name, and social security

number, and must have been signed and dated by the active or former employee within 180 calendar days prior to the request. The requestor must submit the request and release of information authorization to Employee Services, Records, Human Resources Division. If no release is provided, the request will be considered a public information request under the *Public Information Act* and processed in accordance with the *TDCJ Public Information Act Manual*.

2. If such a request is received by a human resources representative or other employee, the recipient shall immediately fax the request to Employee Services, Records, Human Resources Division, even if the request does not include a release of information authorization.
3. Employee Services, Records, Human Resources Division, shall provide copies of the requested confidential documents to the requestor upon receipt of an appropriate release of information authorization, or provide redacted records in accordance with the *TDCJ Public Information Act Manual*, if no release authorization was provided.

D. Subpoenas Duces Tecum and Requests for Discovery

A subpoena duces tecum or a request for discovery requires the recipient to produce specific documents. A subpoena duces tecum and request for discovery are not covered by the *Public Information Act*.

1. All subpoena duces tecum for copies of an active or former employee's unit or department file, Employee Master Human Resources File, or Master Medical File shall immediately be provided to the Huntsville Office of the General Counsel (OGC) to determine the validity of the subpoena duces tecum. If the OGC determines the subpoena duces tecum is valid, the custodian of the requested documents shall notify the requestor of the cost for reproducing the documents.

Employee Services, Records, Human Resources Division, will serve as custodian of all Employee Master Human Resources and Master Medical Files.

2. Generally, requests for discovery are submitted through the Office of the Attorney General or the OGC Litigation Support Division to appropriate TDCJ staff. If an employee receives a request for discovery for copies of an active or former employee's files from a plaintiff's attorney, the recipient employee shall contact the OGC director of litigation support.

E. Payment for Copies

1. For *Public Information Act* requests consult the *Public Information Act Manual*, Chapter 2, “Costs,” for complete information regarding payment for copies.
2. The TDCJ may charge for costs associated with subpoena compliance. However, the TDCJ does not charge governmental entities or the offices of prosecuting attorneys for costs to produce records.
 - a. To determine charges for records produced in subpoena responses, use “Attachment A – Summary of Charges” from the *Public Information Act Manual*, Chapter 2, “Costs.” If costs are estimated to be more than \$100, the custodian of records or designee should inform the OGC which will make a good faith effort to notify the subpoena’s issuer of the estimate prior to copying documents. This notification protects the TDCJ from expending resources should the issuer choose to narrow a request to avoid high costs.
 - b. Responsive records must be produced according to deadlines on the subpoena and may not be withheld pending receipt of payment. Contact the OGC if payment is not received within 10 days after request for payment.

IV. Victim Information

- A. Any information identifying an employee as the victim of a crime, for example a police photograph, report, newspaper article, or any language associating the employee’s name with a crime, is confidential for three years after the date of the crime. An employee who has been the victim of a crime may complete a PERS 501, Crime Victim’s Election to Allow Public Access to Information (Attachment A) electing to:
 1. Allow the information to be public information before the end of the three-year period; or
 2. Make the information confidential forever.
- B. When the Office of the Inspector General (OIG) investigates a crime against an employee, the OIG investigator shall provide the employee with a copy of the PERS 501. An employee who has been the victim of a crime that is not investigated by the OIG may obtain the PERS 501 from the employee’s human resources representative. The employee may contact Employee Services, Records, Human Resources Division, for assistance in completing the PERS 501.

V. Required Notice

A sign containing basic information about the rights of a requestor, the responsibilities of the TDCJ, and the procedures for inspecting or obtaining a copy of public information shall be displayed in each human resources representative's office and other designated areas. The sign shall be plainly visible to members of the public who request public information in person and to employees whose duties include receiving or responding to such requests.

Bryan Collier
Executive Director

Texas Department of Criminal Justice
Crime Victim’s Election to Allow Public Access to Information

THIS FORM IS CONFIDENTIAL

The TDCJ may have information about you that would identify or tend to identify you as a victim of crime, including a photograph or other visual representation. In order to be considered a victim of crime, a person must suffer physical or mental harm as a result of the crime. Ordinarily, information identifying you as the victim of a crime is confidential for three years after the date of the crime. You may choose to make that information public now, or you may choose to make that information confidential forever.

Some information is public information even if you are the victim of a crime, for example TDCJ employment status, employment location, salary, and other information possessed by the TDCJ in connection with your employment that does not reveal that you are the victim of a crime.

Some information is confidential even if you are not the victim of a crime, such as your home address, personal telephone number, social security number, the number of people in your family and their names, and information that reveals whether you have a family.

Please answer the following questions to make your choice.

1. Have you suffered physical or mental harm as a result of the criminal conduct against you? Yes No

If your answer to this question is no, stop here because for this purpose you are not considered a victim of crime.

2. You must make this choice within three years of the latest following dates.

| | |
|-------------------------------------|--------|
| Date of Crime: | |
| Current TDCJ Date of Hire: | |
| Date form (PERS 501) was developed: | 9/1/03 |

If all of the dates listed above occurred more than three years prior to the date you are filling out this form, stop here. You do not need to complete this form.

3. Do you want your photograph or other visual representation, or other information identifying you as a victim of crime, to be public information? Yes No

If you answered yes, your photograph or other visual representation will be public information if it is requested. If you answered no, your photograph or other information in relation to this matter identifying you as the victim of a crime will be confidential.

Employee Name: _____ SSN: _____
(Print) Last First MI

Signature: _____ Date of Signature: _____
(Employee or Employee’s Guardian) (mm/dd/yyyy)

Employee Instructions: Upon completion of this form, mail to Employee Services, Records, Human Resources Division; 2 Financial Plaza, Suite 600; Huntsville, TX 77340-3558.

Note to Employee: With few exceptions, you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Texas Government Code §§ 552.021 and 552.023, to receive and review the collected information. Under Texas Government Code § 559.004, you are also entitled to request, in accordance with TDCJ procedures, that incorrect information the TDCJ has collected about you be corrected.

Employee Services, Records, Human Resources Division

Name: _____ Date Received: _____
(Print) Last First MI (mm/dd/yyyy)

Signature: _____ Date of Signature: _____
(mm/dd/yyyy)