

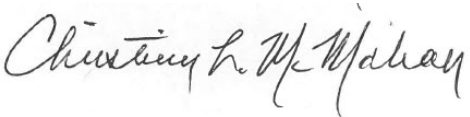



Oregon Juvenile Justice Information System Policy Statement

Subject: III – Governance and Administration

Section: A — Access and Security

Policy III-A-4 — Privacy and Protection of Confidential Information in JJIS

 Christina McMahan, Co-chair JJIS Steering Committee	Effective Date:	8/15/2018
	Supersedes:	6/8/2009
	Date of Last Review/Revision:	8/15/2018
 Peter Sprengelmeyer, Co-chair JJIS Steering Committee	REFERENCE:	
	<ul style="list-style-type: none"> – ORS 192.311 to 192.478: Inspection of public records – ORS 419A.255: Maintenance; disclosure; exceptions to confidentiality – ORS 419B.035: Confidentiality of records; when available to others; rules – JJIS Policies: <ul style="list-style-type: none"> I-A-1 — JJIS Mission, Vision, Goals, and Values III-A-1 — Granting Access to JJIS & JJIS Data III-A-2 — JJIS User Security III-A-3 — JJIS Security Coordination 	

PURPOSE:	To protect the privacy and security of all confidential Information stored in JJIS, including authorization and appropriate access to JJIS by sponsored external partners that have been granted access to JJIS.
DEFINITIONS:	<p>Internal Partners — Oregon Youth Authority (OYA) and Oregon’s county juvenile departments</p> <p>External Partners — other public and private agencies that work with youth served by the county juvenile departments or OYA</p> <p>Sponsored External Partners — external partners sponsored by a county juvenile department or OYA to have authorized access to JJIS</p> <p>JJIS Protection Indicator — a software feature within JJIS when used with specific information starts and maintains an electronic Access Log that tracks who has accessed the information and when</p> <p>JJIS Restriction Indicator — a software feature within JJIS when used with specific information sets the Protection Indicator and restricts the information to the worker who restricts it and any security group and/or individual worker who has been granted access to that information</p> <p>Security Group — a software feature in JJIS that provides for the creation of groups of selected workers to whom designated categorized information can be restricted</p>

Progress Notes — notes entered by a juvenile justice worker (Probation or Parole Officer or Assistant, OYA Treatment Manager or other OYA Close Custody staff) or a contracted professional working with the case to record a youth's general progress and compliance toward achieving goals and conditions of the juvenile department or OYA such as attendance and participation in required treatment, case plan reviews or reviews of goals in various domains, or treatment completion status.

Clinical Case Notes — specific clinical notes entered by a health care provider such as a psychiatrist or qualified mental health professional's psychotherapy notes or a nurse or doctor's medical chart notes to record a youth's diagnosis or clinical treatment activities

HIPAA — Health Insurance Portability and Accountability Act of 1996

Health Care Provider — provider of services as defined in section 1861(u) of the Social Security Act, a provider of medical or other health services as defined in section 1861(s) of the Social Security Act, and any other person who furnishes or bills and is paid for health care services or supplies in the normal course of business

Health Information — oral or recorded information created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearing house; and relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provisions of health care to an individual

Identifiable Health Information — information that meets the above definition and that identifies the individual or for which there is a reasonable basis to believe it can be used to identify the individual

Protected Health Information — individualized identifiable health information transmitted or maintained by electronic media or in any other form or medium, except education records covered by the Family Educational Rights and Privacy Act; and employment records held by a covered entity in its role as employer

Personal Health Information (PHI) — any health information, individually identifiable or protected health information that relates to a specific person.

Special PHI — Mental Health Psychotherapy notes, Substance Abuse Records; HIV Testing Records; and Genetic Testing Records

42CFR — federal regulation governing the confidentiality of Alcohol and Drug Abuse patient records

POLICY:

All information in JJIS is confidential unless otherwise allowed by statute. Some confidential information is further protected under federal and state laws, such as personal health information or substance abuse patient records.

Each JJIS internal partner shall develop local policy on the use of the JJIS Protection and Restriction Indicators to provide specific local direction prior to the use of these features.

Accessing JJIS Information

JJIS internal partners and sponsored external partners will use, request and disclose only the minimum amount of confidential information necessary to accomplish the intended purpose unless the use or disclosure is pursuant to a signed release of information authorization.

Annual Agency Agreements

Oregon's county juvenile departments, OYA and any sponsored external partners who are granted access to JJIS must sign annual agency agreements describing commitments and responsibilities with the JJIS system and how each agency will assure the privacy and security of confidential information stored in JJIS.

County juvenile departments and OYA must also sign annual IT Developer Agency Agreements if the agency provides access to JJIS for reporting or use in external applications.

Consent to Release Information

State and federal laws require a youth's written consent before a provider of services can disclose certain mental health, alcohol and drug abuse treatment, or other personal medical information.

Subject to a youth's written consent, the juvenile department and/or OYA may share personal medical information with others in the juvenile justice system who have a legitimate business purpose for the information for monitoring progress as it relates to a youth's required participation in that program.

JJIS internal partners and sponsored external partners shall obtain a youth's written consent to release information about the youth's required participation in Mental Health or Alcohol and Drug treatment services prior to entering the information in JJIS.

Subject to local agency policy and pursuant to a youth's written consent to release information, the following information may be entered in JJIS regarding required participation in Mental Health or Alcohol and Drug Treatment without any additional protection:

- Provider and Program Name
- Type of Program
- Service Start Date
- Service End Date
- Service Completion Status
- Referral Date
- Wait List Status
- Acceptance/Denial Status and Date
- Placement Status and Date

Service records containing these data may be recorded in several different JJIS features including Case Plan Interventions, Programs associated with Conditions, Services, or JJIS Population Groups. Condition records may be entered in JJIS without consent.

Use of the JJIS Protection Indicator

The JJIS Protection Indicator is a software feature within JJIS that creates and maintains an electronic Access Log to track JJIS users who have accessed protected information, including when the information is accessed. The JJIS Protection Indicator:

- is subject to local agency policy
- may be activated to protect references to medical, mental health and alcohol and drug program/treatment services or any other information determined to be sensitive by agency policy or directive that may be included in Progress Notes, Long-Term Goal Reviews, Case Plan Reviews, Documents, Assessments and Incident Reports.
- must be authorized by an agency director or designee through a formal Help Request and set by a JJIS Developer on a Master Document or Assessment.

Removing the Protection Indicator

Removal of the protection indicator is subject to local agency policy. Only Security Coordinators are authorized to remove Protection Indicators who may not remove a Protection Indicator selected by another office.

While access will no longer be logged once the Protection Indicator is removed, the prior access log will be retained — including the date the Protection Indicator was removed.

Protection Indicators selected by a master document or assessment template cannot be removed from individual documents and assessments.

Viewing Information with Protection Indicator

JJIS users will seek, obtain, and use only the minimum amount of information needed to accomplish an authorized job task.

Users will be reminded that access to “Protected” information will be logged when they attempt to access it. During each JJIS session, workers may discontinue the JJIS reminder.

All access to information designated with the Protection Indicator will be logged in the Access Log for that information, including when the information was protected. Printing the information will be logged as viewed.

Any user with access to the youth may view the Access Log to the information. The access log will be disclosed as required.

Re-disclosure of Information Entered Pursuant to Consent

All JJIS users are responsible for the information they access and to adhere to appropriate policies regarding re-disclosure of information obtained from JJIS.

The JJIS record is the equivalent of the paper file. Privacy Notices and Release consents will clearly identify what information will be entered into JJIS and disclosed to others in connection with their duty to monitor supervision, including information that requires an original release.

Re-disclosure is managed through the existing software security tools as well as local agency policy.

Specific limited information (e.g., Provider and Program name, Type of Program, Service Start and End Dates; Service Completion Status) entered into JJIS pursuant to an original release, may be re-disclosed to others that have a need to know in connection with their duty to monitor supervision in reliance on the original release.

As youth move through the juvenile justice system and transfer from one agency to the next, the current agency responsible for the youth is responsible to safeguard information marked with the Protection Indicator. Information marked "Protected" with the Protection Indicator will be disclosed to others that have a need to know in connection with their duty to monitor supervision, consistent with policy and the software and security tools in JJIS. Information that has been marked Protected will not be released outside of JJIS without written permission from the current agency responsible for the case.

If other information contained in the original release is subject to expiration or revocation of release, it can be further restricted with the restriction feature by the agency who entered it when needed.

Any restricted information will stay restricted to the current group of users and will only be granted to additional users pursuant to a new release.

Removing Information with the Protection Indicator

When information marked with the Protection Indicator is removed, the access log must also be removed.

Only a JJIS developer may remove information that has been marked with the Protection Indicator, pursuant to a Help Request from an agency director or authorized designee. Information shall not be removed unless the agency making the request is the agency that protected the information.

Use of the JJIS Restriction Indicator

The following Special Personal Health Information shall not be used or disclosed without a specific release from the individual who is the subject of the information:

- Mental Health Psychotherapy Records

- Substance Abuse Treatment Records
- HIV Testing Records
- Genetic Testing Records

Special Personal Health information may not be entered in JJIS without a release from the youth and adherence to local policy that addresses and implements the Restriction Indicator.

JJIS partners may also utilize the Restriction Indicator to restrict any other information that local agency policy or directive determines requires restriction.

Pursuant to local agency policy, JJIS users who record Clinical Case Notes, Documents, Assessments or Incident Reports containing special PHI into JJIS pursuant to an authorized release of information will assure its confidentiality and security by setting the JJIS Restriction Indicator on information that contains the special Personal Health Information (PHI) and granting access to only those workers identified in the release.

JJIS internal and sponsored external partners will not re-disclose or grant access to Restricted information in JJIS to anyone unless they have a need for the information in connection with their duty to monitor the youth's progress, pursuant to an additional specific signed release from the youth authorizing the disclosure, or pursuant to a court order.

JJIS internal and sponsored external partners who re-disclose or grant access to Restricted Information pursuant to an authorized release or court order will obtain reasonable assurance from the person or entity to which the Restricted Information has been provided that the person or entity will:

- Hold the Restricted Information in confidence and use it only for the purpose for which it was granted as required by law;
- Not re-disclose or grant access to the Restricted Information without an additional specific authorized release; and
- Promptly notify the agency that restricted the information of any instance of which the person or entity becomes aware in which the confidentiality or security of the Restricted Information was breached.

Disclosures without Consent

Restricted Special Personal Health Information (PHI) may be disclosed without a patient's consent to:

- Medical personnel who have a need for information about a patient for the purpose of treating a condition which poses an immediate threat to the health of any individual and which requires immediate medical intervention;
- Researchers for the purpose of conducting scientific research subject to a Research Access Agreement approved by the JJIS Steering Committee;

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- Any person who agrees in writing to comply with the limitations on re-disclosure and performs an audit or evaluation activity on behalf of any Federal, State, or local governmental agency which provides financial assistance to the program or is authorized by law to regulate its activities; or any private person which provides financial assistance to the program, which is a third party payer covering patients in the program, or which is a quality improvement organization performing a utilization or quality control review; or is determined to be qualified to conduct an audit or evaluation activities.

Penalties

Any person who violates JJIS policies that impact the privacy and protection of confidential information will be subject to the provisions of the JJIS User Security policy regarding security violations and may be subject to personnel disciplinary measures. In addition, any person who violates any provision of the statutes regulations governing special PHI may be fined as provided by federal regulation 42CFR or HIPAA.

Local Agency Policy and Training

County juvenile departments and OYA are responsible to assure that their agencies and sponsored external partners develop and implement local agency policy that complies with this policy and that any worker and sponsored external partners who are granted security to access Protected and Restricted Information receive authorized training on this policy, other JJIS Security and Access Policies and any local policy on Confidentiality or HIPAA.