

Release of Offender Records, Reports and Other Materials

Frequently Asked Questions (FAQ)

- 1. A member of the public calls on the telephone and asks questions regarding an offender in OYA custody. What information can I release to the public without a signed release agreement?**

ORS 419A.255(5)(e) is our guide regarding this type of release. The following information can be provided:

- the fact that the youth is in OYA custody;
- the name and date of birth of the youth;
- the basis for the juvenile court's jurisdiction;
- the date, time and place of any juvenile court proceeding;
- the act alleged in the petition;
- the portion of the juvenile court order providing for legal disposition of the youth;
- the names and addresses of the youth's parents; and
- the court record register (described in ORS 7.020). [ORS 419A.255(5)]

Any additional information requested by a member of the public cannot be disclosed without a written release signed by the offender, court order, or subpoena.

- 2. A member of the public calls on the telephone and asks questions regarding an offender in OYA custody because the offender has been charged with a new criminal offense. What information can I release without a signed release agreement?**

In addition to the information that may be released without a signed release agreement (see Question # 1):

If the youth is arrested on a new crime pursuant to a summons, warrant, or court order under ORS 419C.080, and held in a detention center, jail, or OYA facility, you may disclose the following information unless there is a clear need to delay disclosure during a specific investigation, including the need to protect the complaining party or the victim:

- The youth's name and age and whether the youth is employed or in school;
- The youth's offense for which the youth was taken into custody;
- The name and age of the adult complaining party and the adult victim, unless disclosure is otherwise prohibited;
- The identity of the investigating and arresting agency; and
- The time and place that the youth was taken into custody and whether there was resistance, pursuit or a weapon used in taking the youth into custody. [ORS 419A.255(6)]

- 3. A member of the public has called and has asked for the address of an offender. Can I provide this information?**

No, but you can provide the address of the parents. This issue is usually driven by a parent concerned with a registered sex offender living next door or in their neighborhood. If that is the case, refer them to the Oregon State Police for that information.

4. The policy says that written requests must specify the type of records to be released. Is “all records” considered a specific records request?

It is, however, each request for records requires a case-specific evaluation of what information is requested and whether the requestor is authorized to receive the records they have requested.

5. A member of the public has requested to view an offender’s case file so they can determine what records they want to request. Is this acceptable?

No, it is not. Only the offender’s attorney has this privilege. If the offender’s attorney makes a request to view the record, they must do so in writing. See Policy I-E-2.1 (Public Information Requests) and Policy I-E-2.3 (Requests for Offender Records, Reports, and Other Materials) for guidance.

6. I’ve received a “subpoena duces tecum.” What does that mean?

A subpoena duces tecum, other wise known as a “subpoena for production of evidence” is a court summons to appear and produce tangible evidence for use at a hearing or trial. A subpoena duces tecum is a specific form of subpoena requiring that a person bring certain documents or other evidence to the court. Refer to policy I-E-1.2 (Response to Subpoenas) for additional information and direction.

7. If I receive a subpoena duces tecum, what should I do?

Refer the matter to the subpoena coordinator. The subpoena coordinator will work with the Director’s office to respond. Refer to policy I-E-1.2 (Response to Subpoenas) for additional information and direction.

8. My office has received a request for records and determined what records can be released, what are the next steps?

- a. The records that have been approved to be released must be copied and redacted (redacting is the deleting or obscuring of information that is exempt from disclosure. See the policy I-E-2.3 for a more complete definition).
- b. Staff must make a copy of the redacted record and attach the written request to this copy as policy dictates that a copy of the record OYA releases must be maintained.
- c. Provide the copied record upon receipt of payment (if required). The record can either be mailed or provided in person.

9. I want to refer an offender to a service provider for therapy, what documents can I release?

You may release the information to any member of the public without a release or court order (see question # 1). Additionally, in relation to providing services to the offender the following information can be disclosed to treatment providers:

- Records and information in the legal file relating to the youth’s history and prognosis, including psychological reports. [ORS 419A.255(2) and (3); ORS 411.320; ORS 418.130; 42 USC § 602(a)(9); 42 USC § 671(a)(8); 42 USC § 1396a(7); 45 CFR § 205.50]

Be cautious about releasing medical information as it is confidential and must be protected by limiting access only to those providers needing such information to provide treatment. Generally, offenders will sign an authorization for release of information that allows the disclosure of medical information to provider prior to referral to or placement with the provider. In the case of a medical emergency, a youth's medical treatment records may be disclosed without a release. [42 USC § 290dd-2.]

Service providers who examine or obtain copies of materials are responsible for preserving confidentiality and should return or destroy copies at conclusion of involvement in the case. [ORS 419A.255 (2).]