

# RANCHO MURIETA COMMUNITY SERVICES DISTRICT

Category:	Security	Policy # P2021-01
Title:	Custodian of Records	

## PURPOSE

The purpose of this policy is to establish the duties of the agency Custodian of Records and meet the requirements of the State of California, California Department of Justice (DOJ), Division of California Justice Information Services, for any agency that receives Criminal Offender Record Information (CORI).

The Custodian of Records is responsible for the security, storage, dissemination and destruction of the criminal records furnished to the agency and will serve as the primary contact for the DOJ.

The overall responsibility for the administration of this policy rests with the General Manager.

## BACKGROUND

Penal Code sections 11105 and 13300 identify who may have access to criminal history information and under what circumstances it may be released.

The DOJ maintains the California Law Enforcement Telecommunications System (CLETs) that provides law enforcement agencies with information directly from federal, state, and local computerized information files. However, restrictions have been placed on the user to ensure that the rights of all citizens of California are properly protected.

Article 1, section 1 of the California Constitution grants California citizens an absolute right to privacy. Individuals or agencies violating these privacy rights place themselves at both criminal and civil liability. Laws governing Californians' right-to-privacy were created to curb, among other things, the excessive collection and retention of personal information by government agencies, the improper use of information properly obtained for a proper purpose, and lack of a reasonable check on the accuracy of existing records. {White v. Davis (1975) 13 Cal. 3d 757,775.)

### Employment Background Checks:

It is only through the submission of fingerprints to the DOJ that the true identity of an individual can be established. In a 1977 lawsuit (Central Valley v. Younger), the court ruled that only arrest entries resulting in conviction, and arrest entries that indicate active prosecution, may be provided for evaluation for employment, licensing, or certification purposes.

## **POLICY STATEMENT**

The Custodian of Records is responsible for the security, storage, dissemination and destruction of the criminal records furnished to the agency and will serve as the primary contact for the DOJ.

The overall responsibility for the administration of this policy rests with the General Manager.

The Rancho Murieta Community Services District (RMCSD) will notify the DOJ regarding any change of agency name, address, telephone number, fax number, Custodian of Records, and contact person. The RMCSD will send an updated Live Scan Subscriber Agreement form to the DOJ signed by our agency official, when applicable.

## **CUSTODIAN OF RECORDS (COR)**

The General Manager or their designee, is designated as the Custodian of Records for the RMCSD.

## **CUSTODIAN OF RECORDS DUTIES**

1. The information provided by the Department of Justice (DOJ) to this agency is confidential and shall not be disseminated to any other person or agency not authorized by law. A violation of this section is a misdemeanor (Penal Code section 11142). However, the requesting agency may provide a copy of the DOJ applicant response to the subject of the record.
2. The COR shall ensure that all personnel/individuals with access to CORI will have a signed "Employee Statement Form" on file acknowledging an understanding of laws prohibiting its misuse. (See Employee Statement Form)
3. Training: The COR shall ensure that all personnel/individuals with access to CORI will be trained in the secure handling, storage, dissemination, and destruction of CORI. Staff with access to criminal offender record information shall receive training and counseling on the handling of criminal offender record information and have signed employment statement forms acknowledging and understanding of the criminal penalties for the misuse of criminal offender record information (Penal Code sections 502, 11142, and 11143).
4. Record Storage: The information provided by the DOJ will be maintained in a secured area/locked cabinet separate from the employees personnel file and be used only for the purpose for which it was acquired.
5. Record Security: Any questions regarding the release, security and privacy of CORI are to be resolved by the RMCSD General Manager or their designee.
6. Record Destruction: The State summary of CORI obtained for employment, licensing or certification purposes shall be destroyed once a decision is made to employ, license or certify the subject of the record, other than the requirement for the specific request by the applicant for the DOJ response.
7. Record Dissemination: CORI shall be used only for the purpose for which it was requested.
8. Secure Areas to Receive Information: Reasonable measures shall be taken to locate terminals and fax machines in a secure area to provide protection from unauthorized

- access to criminal offender record information by other than authorized personnel. Access is defined as the ability to view criminal offender record information on a terminal or on paper.
9. Record Reproduction: CORI shall not be reproduced for secondary dissemination to any other employment or licensing agency. However, the requesting agency may provide a copy of the DOJ applicant response to the subject of the record. In this case, the record must be kept in a sealed envelope with the applicant's name, and shall not be opened by any person, as this record is only for the applicant upon request of his/her record.

### **UNAUTHORIZED ACCESS AND MISUSE**

The unauthorized access and misuse of CORI may affect an individual's civil rights. Additionally, any person intentionally disclosing information obtained from personal or confidential records maintained by a state agency or from records within a system of records maintained by a governmental agency has violated various California statutes. There are several code sections that provide penalties for misuse or unauthorized use of CORI.

### **AUTHORIZED ACCESS**

CORI shall be accessible only to the COR and/or hiring authority charged with determining the suitability for employment or licensing of an applicant. The information received shall be used by the requesting agency solely for the purpose for which it was requested and shall not be reproduced for secondary dissemination to any other employment or licensing agency.

The retention and sharing of information between employing and licensing agencies are strictly prohibited. Retention and sharing of information infringe upon the right of privacy as defined in the California Constitution, and fails to meet the compelling state interest defined in Loder v. Municipal Court (1976) 17 Cal. 3d 859.

CLETS Policies, Practices, and Procedures state that any information transmitted or received via CLETS is confidential and for official use only by authorized personnel (section 1.6.4). The California Code of Regulations, Article 1, section 703, addresses the "right and need" to know CLETS-provided information.

### **EMPLOYEE STATEMENT FORM**

All personnel/individuals with access to CORI will have a signed "Employee Statement Form" on file acknowledging an understanding of laws prohibiting its misuse and acknowledging the criminal penalties for the misuse of criminal offender record information (Penal Code sections 502, 11142, and 11143). **See Employee Statement Form.**

Approved by Rancho Murieta Community Services District's Board of Directors	1/20/2021
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