



**PROBATION AND PAROLE BUREAU
STANDARD OPERATING PROCEDURES**

Procedure No.: P&P 40-7	Subject: OFFENDER RECORDS RETENTION AND DESTRUCTION
Reference: DOC 1.5.5; DOC 4.5.38; 2-6-201 through 213, MCA Records Management Bureau (Secretary of State)	Page 1 of 3
Effective Date: 11/19/01	Revision Dates: 06/17/02; 03/01/05; 08/01/05; 06/22/12; 05/01/14
Signature / Title: /s/ Ron Alsbury, Probation & Parole Bureau Chief	

I. BUREAU DIRECTIVE:

The Probation & Parole Bureau will retain and destroy adult offender case records in accordance with applicable federal laws, Montana statutes and State of Montana records regulations.

II. DEFINITIONS:

Conditional Discharge from Supervision – As defined in §46-23-1020, MCA: 1) a discharge from supervision by the Department of Corrections for the time remaining on the sentence imposed if the probationer or parolee complies with all the conditions imposed by the District Court or the Board of Pardons & Parole; and 2) a release from the obligation to pay supervision fees imposed as part of a sentence or as terms of parole or probation.

Correctional Facility – Montana State Prison, Montana Women’s Prison, and the private and regional prisons contracted to the Department of Corrections.

Department – The Montana Department of Corrections.

Destruction – The act of incinerating or shredding printed case records and deleting electronic records in a manner that renders the records permanently irretrievable.

Electronic Offender Case Record – A record that is stored in a computer (outside of OMIS), floppy disk, compact disc, or other electronic medium.

Inactive Offender Case Record – The hard copy field file of an offender no longer under the supervision of the adult Probation & Parole Bureau or Adult Interstate Bureau. Also referred to as “dead file.”

Offender Field File – The OMIS and/or hard copy record used for offender management containing legal documents, reports, and offender records to include, but not limited to, material regarding custody, classification, treatment programs, and community supervision. Also referred to as “case records.”

Printed Offender Case Record – A paper record that comprises the offender field file.

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III. PROCEDURES:

A. Conditional Discharge from Supervision (CDFS)

The field file of an offender granted a CDFS will be returned to the county of commitment to be placed in a location specifically for CDFS offender files until the date of the offender's discharge. The file will then be placed with the inactive case records.

B. Adult Inactive Offender Case Record Retention

The Probation & Parole (P&P) office in the original sentencing jurisdiction shall retain offender field files for five (5) years after the offender has completed his/her sentence, not counting the calendar year the file was deemed inactive. This includes deferred offender records, records of criminally convicted youth, and records of deceased offenders.

C. Youth Offender Case Record Retention/Destruction

Youth records that are a part of the adult offender's field file and maintained in blue file folders will be sent to the Department's Youth Services Division (YSD) to be sealed as follows. Youth records in OMIS will be deleted on the date the record will be sealed by YSD.

1. 208 transfers (§41-5-208, MCA) – upon the youth's 25th birthday, or sooner if designated by court order.
2. Extended jurisdiction transfers (§41-5-Part 16, MCA) – upon termination of the District Court order.

D. Case Records Storage

Printed offender case records shall be stored in locked file cabinets or locked storage rooms that can only be accessed by authorized employees. Electronic case records shall be archived and stored in a manner that ensures electronic access is limited to the positions identified as having access to the printed records.

These offender field files shall be available to authorized positions or employee as follows:

- Adult Community Corrections Division Administrator
- P&P Bureau Chief
- Regional Administrators/POIIs
- Adult P&P Officers
- Administrative Support
- Board of Pardons and Parole

E. Inactive Offender Case Record Destruction

Inactive case records may be destroyed five (5) years after termination or discharge from P&P Bureau supervision, not counting the calendar year the file was deemed inactive (for example, all records deemed inactive during 2006 are eligible to be destroyed after 1/1/2012). Records destruction shall be permanent and accomplished under direct supervision. Regions may contract to have destruction accomplished or choose to destroy them within the region, which requires a witness be present.

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F. Records Retention and Destruction Designee

Administrative Support shall be assigned the responsibility of records retention and destruction.

G. Medical Records

Adult offender medical records obtained in the course of probation and parole supervision shall be retained in the same manner as other documents in the field file. Adult offender medical records that are part of incarceration in a correctional facility should be kept separate from the offender field file until the file is considered inactive. It will then be retained with the offender's field file for five (5) years, not counting the calendar year it was deemed inactive.

H. Approval to Destroy Records

The Department's Administrative & Financial Services Division (AFSD) will maintain a Rolling Disposal Request, RM7, with the Records Management Bureau of the Secretary of State's office. This allows offender case records to be destroyed without further approval.

For the destruction of other types of records, a Records Disposal Request form (RM5) must be completed and sent to AFSD for approval. This must be done whether or not the record is on the AFSD's Retention Schedule.

IV. CLOSING:

Questions concerning this procedure shall be directed to the Regional Administrator or designee.