

Treatment Providers and Programs Are Prohibited From Re-Disseminating Criminal Offender Record Information

Probation officers and parole agents with sex offender case loads are required to provide certified sex offender treatment providers with all relevant records pertaining to registered sex offenders in certified treatment programs. (Pen. Code, §§ 290.07, 290.09.) This information is provided solely to enable accurate scoring of risk assessment instruments pursuant to Penal Code section 290.09. Such records are confidential criminal history information which cannot legally be re-disseminated. (Pen. Code, §§ 11075, 11076.) Criminal history information is confidential and provided for official use only. (CLETS Policies, Practices and Procedures, § 1.6.4 (rev. 9/2014), pursuant to requirements of FBI Criminal Justice Information Systems). It is not subject to re-disclosure under the Public Records Act, HIPAA, or any other state or federal statute.

The prohibition against further dissemination of criminal justice information and documents applies both in the case where a client requests to be allowed to review his or her own records or seeks to actually obtain copies of those records. The prohibition also precludes further dissemination of criminal justice documents to other parties who may seek access to such records, even if they produce a “Release of Information” form or “Waiver of Confidentiality” form appropriately drafted and signed by the client.

Although some interpret HIPAA as allowing and requiring disclosure of all client records, including ‘third party materials,’ to a requesting client or other appropriately requesting persons, HIPAA is clear that such disclosure cannot be provided where the further disclosure of specific records is specifically prohibited.

12/30/14