

CF OPERATING PROCEDURE  
NO. 155-59

STATE OF FLORIDA  
DEPARTMENT OF  
CHILDREN AND FAMILIES  
TALLAHASSEE, June 2, 2021

Mental Health/Substance Abuse

SURVEILLANCE TECHNOLOGY IN THE MENTAL HEALTH TREATMENT FACILITIES

1. Purpose. This operating procedure provides general directives for the use of surveillance technology in the Mental Health Treatment Facilities.
2. Policy. Video and audio surveillance will be employed in the treatment facilities to assist with monitoring the status of residents, staff, and visitors; to help provide adequate responses to situations requiring assistance; to preserve Protected Health Information in accordance with the Health Insurance Portability and Accountability Act; to provide information for the purpose of risk management; and to provide facility administrators, security staff, recovery team members, and quality improvement staff with the means to assist when investigating events.
3. Scope. This operating procedure applies to state mental health treatment facilities, whether operated by the Department of Children and Families (DCF) or by contract with private entities.
4. References.
  - a. Health Insurance Portability and Accountability Act (HIPAA) of 1996, Public Law 104-191.
  - b. Security Systems, Records and Meetings Exempt from Public Access or Disclosure, Section 281.301, Florida Statute (F.S.).
  - c. General exemptions from inspection or copying of public records, Section 119.071(3)(a)(2), F.S.
  - d. Florida Attorney General's Office, Advisory Legal Opinion, 2015-06, Security Systems – Video Tapes – Public Records.
  - e. 45 Code of Federal Regulations (CFR) 164.512(f).
  - f. CFOP 15-4, Records Management.
5. Definitions.
  - a. Surveillance Technology (ST). Any electronic system used to monitor, record, and archive data related to the whereabouts and actions of residents and staff members.
  - b. Protected Health Information (PHI). Individually identifiable health information that is transmitted or maintained in any form or medium (electronic, oral, or paper). PHI stored in electronic format is known as e-PHI or E-PHI.
  - c. De-Identified Health Information. Information that neither identifies nor provides a reasonable basis to identify an individual.

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This operating procedure supersedes CFOP 155-59 dated June 30, 2017.

OPR: SMF

DCF Tracker Assignment Number: A21-002289.

d. Individually Identifiable Health Information. Information, including demographic data, that relates to: the individual's past, present, or future physical or mental health or condition; the provision of health care to the individual; payment information; and which identifies the individual or for which there is a reasonable basis to believe can be used to identify the individual.

#### 6. General Guidelines and Procedures.

a. Images and/or sounds of residents recorded by surveillance technology are confidential under Section 281.301, F.S. Electronic recordings are Individually Identifiable Health Information and e-PHI as the recordings contain the identity and condition of a resident. Surveillance data that is saved and not routinely erased because of limited storage capacity shall be maintained in accordance with CFOP 15-4, Records Management.

b. In the Mental Health Treatment Facilities, recordings may be reviewed by employees and representative legal counsel in the course of their assigned duties. Surveillance technology viewed will only be that which is minimally necessary to accomplish the original need for viewing.

(1) Job assignments with access to recordings consist of the following:

- (a) Security staff;
- (b) Administrators;
- (c) Supervisors of direct care staff;
- (d) Direct care staff;
- (e) Supervisors or Clinical Supervisors of treatment team members;
- (f) Treatment team members;
- (g) Facility legal counsel, DCF Office of General Counsel, and Office of the Florida Attorney General;
- (h) Quality improvement staff including those performing mortality reviews;
- (i) Representatives of Adult Protective Services;
- (j) Staff assigned to process recordings;
- (k) Chief Hospital Administrator or designee; and,
- (l) Risk Management staff members.

(2) The facility administrator or designee may decide if any additional staff not listed above need access to recordings.

c. During investigations of a death or an alleged crime, recordings may be released to legal authorities without consent of a resident. The recordings may be provided without de-identification if de-identification cannot be reasonably achieved.

(1) The following entities may receive recordings:

- (a) Law enforcement officers;

(b) Coroners and medical examiners; and,

(c) Florida courts of law.

(2) The facility administrator shall make sure that legal authorities receive a copy of the notification of confidentiality found in Appendix A to this operating procedure.

(3) The facility administrator or designee shall notify the Chief Hospital Administrator any time the above entities request recordings.

d. PHI related to surveillance technology may also be reviewed or released to parties through the following means.

(1) Release by Court Order; or,

(2) The resident consents to the release of stored electronic data.

(a) When a release of information is not consented to by all residents in a recording, the images and audio recordings of the residents not providing consent shall have their PHI electronically redacted and muted or bleeped in the copy. If the PHI of non-consenting residents cannot be held confidential, and the request is from other than federal, state or local law enforcement or legal agencies, there shall be no release of information. If information is sent out unredacted due to a request in response to a criminal event, notation of reason for such release will be documented per a memo by the facility administrator to the Chief Hospital Administrator. In addition, prior to the release of such information, the requesting organization will have signed the notification of confidentiality found in Appendix A to this operating procedure.

(b) Residents shall have access to review their PHI, but any review must be directly related to an event being investigated involving the resident. The audio/video review must include redacted images and muted or bleeped audio of any other residents, and if this is not possible, the review is prohibited unless the other recorded residents consent to release information.

e. Images and audio recordings of staff members are the property of DCF and no staff member may individually control whether any work related recordings of them are released or held in private by the Department.

f. All requests for the release of audio/video information must be reported to the Chief Hospital Administrator.

g. No surveillance technology shall intrude upon the dignity and respect of any individual by use in bedrooms, bathrooms, showers, medical examination rooms, or any area in which privacy is reasonably expected. This paragraph does not ban the use of surveillance technology in bedrooms used for special observation. The use of body cameras by staff may occur in any location when staff is responding to a call or is in an emergency situation with a resident.

h. Occurrences of certain events require that recordings be saved indefinitely. Such events would include Critical Events defined in CFOP 155-25 and include Sexual Battery, Sexual Misconduct, Elopement, Escape, any Death, Significant Resident Injury, Suicide Attempt, and suspected or verified Abuse/Neglect. Other events to be saved are any information related to physical altercations, slips and falls, any suspected criminal activity, or any other event which the facility administrator or designee determines should be saved.

i. Recordings from surveillance technology should be stored in an area controlled by security staff or other designated staff members. Recordings will be labeled or identified by year-month-date, location of incident or place recorded, and the last names of principal persons in the recording.

BY DIRECTION OF THE SECRETARY:

*(Signed original copy on file)*

JACQUELINE A. YOUNG  
Director, Policy and Programs

SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

Revised paragraph 6d(2)(a).



**RELEASE OF ELECTRONIC RECORDINGS TO LEGAL AUTHORITIES  
 NOTIFICATION OF CONFIDENTIALITY  
 AGREEMENT TO ASSIST WITH THE PROTECTION OF CONFIDENTIALITY FOR RESIDENTS**

The stored electronic data being released depicts a resident or residents of a mental health treatment facility operated or contracted by the Florida Department of Children and Families (DCF). The previously mentioned data or recording is electronic-protected health information and it is not intended for viewing by any parties not authorized by law. The information is protected under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, Public Law 104-191; and Security Systems Records and Meetings Exempt from Public Access or Disclosure, Section 281.201, Florida Statutes. The legally protected information released to you is for an investigation in accordance with 45 Code of Federal Regulations (CFR) 164.512(f).

I, \_\_\_\_\_, understand that any public release of the recordings by my organization are to be de-identified to maintain confidentiality unless prohibited by Florida law or rule.

\_\_\_\_\_  
 Name of Organization

\_\_\_\_\_  
 Representative's Printed Name

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

cc: Administrative File