

<p style="text-align: center;"><b>STATE OF VERMONT</b> <b>AGENCY OF HUMAN SERVICES</b> <b>DEPARTMENT OF CORRECTIONS</b></p>	<p><b>Title:</b> <b>SEALED &amp; EXPUNGED RECORDS – FIELD</b></p>		<p style="text-align: right;">Page 1 of 7</p>
<p><b>Chapter:</b> <b>Management Information Systems</b></p>	<p style="text-align: center;"><b>#254.05</b></p>	<p style="text-align: center;">NEW</p>	
<p><b>Attachments, Forms &amp; Companion Documents:</b></p> <ol style="list-style-type: none"> <li>1. Request to Seal or Expunge Records</li> <li>2. Department of Corrections – Financial Transaction Request</li> </ol>			
<p><b>Local Procedure(s) Required:</b> No  <b>Applicability:</b> All staff (including contractors and volunteers)  <b>Security Level:</b> “B” – Anyone may have access to this document.</p>			
<p><b>Approved:</b></p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div data-bbox="151 856 630 982" style="text-align: center;">   <hr style="width: 80%; margin: 0 auto;"/> <p><b>Andrew A. Pallito, Commissioner</b></p> </div> <div data-bbox="784 915 954 982" style="text-align: center;"> <p><u><b>May 2, 2013</b></u> <b>Date Signed</b></p> </div> <div data-bbox="1114 915 1312 982" style="text-align: center;"> <p><u><b>June 3, 2013</b></u> <b>Date Effective</b></p> </div> </div>			

**PURPOSE**

The purpose of this Administrative Directive is to provide guidelines to Vermont Department of Corrections (DOC) field staff for managing court orders to seal or expunge records of offenders under supervision of the DOC. DOC staff will follow the guidelines outlined in this Administrative Directive unless the court issues specific guidelines on the court order.

**POLICY**

It is the policy of the Department of Corrections to comply with court orders to seal or expunge records of offenders under supervision of the DOC.

**AUTHORITY**

28 V.S.A. § 101 (3); 13 V.S.A. §§ 7601-7608.

**REFERENCE**

Department Administrative Directives #429.01, *Youthful Offender Status*; #430.10 *Risk Management Supervision*; Interim Procedure - *Response Supervision Contact Standards – Field*;

**DEFINITIONS**

Deferred Sentence: A sentence that is suspended until after a defendant has completed a period of probation.

Expunged Record: An offender record in which the court has issued an order to effectively erase or destroy the document(s), typically occurring after a deferred sentence agreement has expired.

Expungement: Process by which an offender's record of criminal conviction is destroyed or sealed.

Index: A DOC confidential electronic list of offender records that are sealed.

Sealed Record: An offender record in which the court has issued an order which states that access is prevented to the document(s).

Site Legal Administrator: The administrative staff person at each field site responsible for sentence computation; court-related legal paperwork processing, including sealed and expunged records of offenders; and any related database entry.

State Records Center: ("Public Records"): A function of the Secretary of State's Office where government documents, including offender case files, are securely stored.

Youthful Offender: A person who has attained the age of 10 but not the age of 22, and who was charged with a criminal act prior to the age of 18.

## **PROCEDURAL GUIDELINES**

### **A. Index of Sealed Records**

1. The Site Legal Administrator or designee, for each field Probation & Parole office will maintain an index (electronic list) of sealed records. The index will contain:
  - i. The name and date of birth of the individual whose records have been sealed;
  - ii. The docket number;
  - iii. The offender PID number; and
  - iv. The date of the sealing.

*NOTE: An index shall not be kept for expunged records.*
2. The index shall be kept confidential. The index will be accessed only to facilitate a request to seal or unseal a record. Only the following individuals may request to access the index:
  - i. The DOC Commissioner or Deputy Commissioner, or designee;
  - ii. An Assistant Attorney General;
  - iii. The Site Legal Administrator or designee charged with keeping the index;
  - iv. District Managers;
  - v. IT Manager
3. The index will be stored electronically in a shared drive on the computer system with access limited to allow for compliance monitoring.
4. Staff must respond to any inquiry from any persons regarding an expunged or sealed record by stating, "No record exists."

**B. Managing Electronic Records**

1. For offenders with no corrections history outside of the dockets associated with the order to seal or expunge records:
  - i. The Site Legal Administrator or designee will:
    - a. Complete the *Request to Seal or Expunge Records (Attachment 1)* and upload it to the Secure File Transfer Protocol (SFTP) folder.
    - b. Delete the local electronic file of the form once it has been placed in the SFTP folder.
  - ii. Submit an IT Helpdesk ticket stating that a *Request to Seal or Expunge Records Form (Attachment 1)* was placed in the SFTP folder.
  - iii. The IT Unit will:
    - a. For orders to expunge records: Remove records relating to the docket ordered to be expunged from the database.
    - b. For orders to seal records: Make records relating to the docket ordered to be sealed inaccessible to users.
    - c. The information that will be removed or made inaccessible will include but not limited to:
      - Offender's name;
      - Address;
      - Case Notes;
      - Probation/parole case;
      - Docket numbers and information;
      - Charges;
      - Booking slips;
      - Headcount record;
      - Disciplinary Reports;
      - Incident Reports;
      - Sentence information.
    - d. Verify with the Site Legal Administrator that the information has been removed.
    - e. Delete the *Request to Seal or Expunge Records Form (Attachment 1)* from the SFTP folder.
2. For offenders who have previous or additional dockets outside of the dockets associated with the order to seal or expunge records:
  - i. The Site Legal Administrator or designee will:
    - a. For orders to expunge of probation charges: Expunge the docket using the process in place in the computer database (PROBER).
    - b. For all other orders to expunge or seal records: Complete the *Request to Seal or Expunge Records (Attachment 1)* and upload it to the SFTP folder. The specific records to be expunged or sealed must be outlined on the form.
    - c. Delete the local electronic file of the form once it has been placed in the SFTP folder.
  - ii. Submit an IT Helpdesk ticket stating that a *Request to Seal or Expunge Records Form* was placed in the SFTP folder.
  - iii. The IT Unit will:
    - f. Remove records related to the docket ordered to be sealed or expunged from the database. This will include but not limited to:
      - Offender's name;

- Address;
  - Case Notes;
  - Probation/parole case;
  - Docket numbers and information;
  - Charges;
  - Booking slips;
  - Headcount record;
  - Disciplinary Reports;
  - Incident Reports;
  - Sentence information.
- g. Verify with the Site Legal Administrator that the information has been removed.
  - h. Delete the *Request to Seal or Expunge Records Form (Attachment 1)* from the SFTP folder.
3. At no time will DOC or IT staff communicate with each other concerning sealing or expunging records through email. If additional information is needed to successfully expunge records IT staff will contact the requesting site via telephone or in person.

### **C. Managing the Core File**

- i. For orders to expunge records: The Site Legal Administrator or designee will shred all documents related to the order.
- ii. For orders to seal records: The Site Legal Administrator or designee will mail the core file and any paperwork pertaining to the order to the Director of Policy Development and Due Process, where the file will be stored.

### **D. Managing Financial Records**

When an order to seal or expunge records is received, the Site Legal Administrator or designee will complete a *Financial Transaction Request (Attachment 2)* to have the offender's financial records sealed or expunged. Once the records have been sealed or expunged, The *Financial Transaction Request* will be shredded.

### **E. Requests to Unseal a Record**

1. Sealed records will only be accessed when the court has ordered the record to be unsealed.
2. Other parties may have standing to motion the court, but will not have access to the records unless a court order unseals the record.
3. If the court grants permission for the Department to inspect the records, the records shall be unsealed. If the court does not establish a deadline for the record to be unsealed, the Site Legal Administrator will review the status every thirty (30) days and document such reviews on the index and in electronic case notes.
4. To unseal a record, in whole or in part, the Site Legal Administrator will submit an IT ticket to request to unseal the record.

5. The Site Legal Administrator will place a copy of the order to unseal the record with the name, date of birth, and PID of the offender for whom the record is to be unsealed.
6. The IT Unit will unseal records related to the docket ordered to be unsealed, making the information accessible to users.

### **TRAINING**

The District Managers will ensure that all staff members under their supervision have been trained on their responsibilities, if any, related to this administrative directive.

### **QUALITY ASSURANCE**

1. All District Managers are responsible to ensure staff members comply with this administrative directive to ensure that sealed and expunged records are maintained properly.
2. The Central Financial Director is responsible to ensure that staff under their supervision comply with this administrative directive.

**ATTACHMENT 1 - SAMPLE**

**Vermont Department of Corrections  
Request to Seal or Expunge Records**

**\*\*\*DO Not Email this document**

**\*\*\* Immediately delete the local electronic copy of this request, once it is successfully uploaded to the SFTP.**

**REQUEST TYPE: Sealed Records(S)**

**OFFENDER NAME:**

**OFFENDER PID:**

**DOCKET NUMBER(S):**

**CASE NOTE UNIQUE ID(S) – Specify all notes to be sealed or expunged:**

**ATTACHMENT 2 –SAMPLE**

**DEPARTMENT OF CORRECTIONS – FINANCIAL TRANSACTION REQUEST**

<b>Section I.</b>			
<b>TO</b>	(BUSINESS OFFICE REP)	<b>CUSTOMER #</b>	<b>PGID:</b>
<b>FROM</b>			
<b>DATE</b>		<b>DOB</b>	<b>MW:</b>
<b>OFFENDER NAME</b>		<b>PID</b>	<b>OFM:</b>
<b>DOCKET NUMBER(S)</b>			

A copy of all Financial Transaction Requests must be kept in the offender's file with supporting documentation & approval.

**Section II.**

<b>DECREASE DEBT ON EXISTING OFFENDER ACCOUNT</b>		<b>CHECK ALL THAT APPLY.</b>
<b>SUPERVISION FEES</b> (use when offender is assessed erroneously - explain below -) <i>REQUIRES ORIGINAL FINANCIAL SHEET AND, IF APPLICABLE, COURT ORDER</i>		<input type="checkbox"/>
<b>CORRECT DATA ENTRY ERROR</b> (use when wrong account is assessed, etc.) <i>REQUIRES ORIGINAL INPUT SOURCE DOCUMENTS AND EXPLANATION:</i>		<input type="checkbox"/>
<b>TRANSFER OUT OF OFFICE</b> <input type="checkbox"/>	<b>RECEIVING OFFICE</b> <input type="checkbox"/>	
<i>OFFENDER INFORMATION MEMORANDUM TO BE COMPLETED BY BUSINESS OFFICE STAFF</i>		
<b>CLOSE OFFENDER ACCOUNT FOR THE FOLLOWING REASON:</b>		
<b>P&amp;O - SATISFACTORY</b> , <i>REQUIRES COPY OF COURT ORDER</i>		<input type="checkbox"/>
<b>P&amp;O - UNSATISFACTORY</b> , <i>REQUIRES COPY OF COURT ORDER</i>		<input type="checkbox"/>
<b>REVOCAION (VIOLATION)</b> , <i>REQUIRES COPY OF COURT ORDER</i>		<input type="checkbox"/>
<b>MODIFICATION/AMENDMENT</b> , <i>REQUIRES COPY OF COURT ORDER</i>		<input type="checkbox"/>
<b>DATE/NATURE OF CASE CLOSURE AND NOTES:</b>		

**Section III.**

<b>FINANCIAL TRANSACTION DETAIL</b>		<i>Completed by Business Office Staff</i>			
<u>FEES</u>		<u>AMOUNT</u>	<u>FINES</u>	<u>AMOUNT</u>	
<b>SUP</b>	Supervision Fee	\$	<b>VAT</b>	VT Agency Transportation	\$
<b>VAF</b>	Victim Assistance Fee	\$	<b>GFF</b>	General Fund	\$
<b>VCF</b>	Victim Compensation Fee	\$	<b>RSF</b>	Restitution Surcharge	\$
<b>DUI</b>	DUI Fee	\$			
<b>CJF</b>	Criminal Justice Fee	\$			

**Section IV.**

<b>EXPUNGED RECORDS - Indicate dockets in section 1.</b>			
<b>Date Expungement Ordered:</b>	<input type="text"/>	<b>Date Records Expunged:</b>	<input type="text"/>
<b>Sentencing Court:</b>	<input type="text"/>	<b>DOC Records Expunged by:</b>	<input type="text"/>
<b>THIS SECTION REQUIRED WHEN SUBMITTING HARD COPY OF FORM:</b>			
<b>SUBMITTED BY:</b>	<input type="text"/>	<b>DATE</b>	<input type="text"/>
<b>APPROVED BY:</b>	<input type="text"/>	<b>DATE</b>	<input type="text"/>
<b>PROCESSED BY:</b>	<input type="text"/>	<b>DATE</b>	<input type="text"/>

