

## Proposed Filing - Coversheet

### **Instructions:**

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” ([CVR 04-000-001](#)) adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms and enclosures with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted to the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of Proposed Filing Coversheet will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**Reporting of Offender Information**

/s/ Todd W. Daloz , on 8/7/23  
(signature) (date)

Printed Name and Title:

Todd W. Daloz  
Deputy Secretary  
Agency of Human Services

RECEIVED BY: \_\_\_\_\_

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Filing Confirmed

280 State Drive – Center Building  
Waterbury, VT 05671-1000



OFFICE OF THE SECRETARY  
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JENNEY SAMUELSON  
SECRETARY

TODD W. DALOZ  
DEPUTY SECRETARY

STATE OF VERMONT  
AGENCY OF HUMAN SERVICES

MEMORANDUM

**TO:** Sarah Copeland Hanzas, Secretary of State

**FROM:** Jenney Samuelson, Secretary, Agency of Human Services

A handwritten signature in blue ink, appearing to be 'Jenney Samuelson', written over the 'FROM:' line.

**DATE:** January 31, 2023

**SUBJECT:** Signatory Authority for Purposes of Authorizing Administrative Rules

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I hereby designate Deputy Secretary of Human Services Todd W. Daloz as signatory to fulfill the duties of the Secretary of the Agency of Human Services as the adopting authority for administrative rules as required by Vermont's Administrative Procedure Act, 3. V.S.A § 801 et seq.

Cc: Todd W. Daloz

1. TITLE OF RULE FILING:

**Reporting of Offender Information**

2. ADOPTING AGENCY:

Department of Corrections

3. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: Christopher Antoine, Staff Attorney

Agency: Agency of Human Services, Department of Corrections

Mailing Address: 280 State Drive Waterbury, VT 0567

Telephone: 8022412442 Fax: 802-241-0020

E-Mail: Christopher.Antoine@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*: [www.doc.vermont.gov](http://www.doc.vermont.gov)

4. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: Ana Burke, Senior Policy & Implementation Analyst

Agency: Agency of Human Services, Department of Corrections

Mailing Address: 280 State Drive Waterbury, VT 05671

Telephone: 802-241-2442 Fax: 802-241-0020

E-Mail: [ana.burke@vermont.gov](mailto:ana.burke@vermont.gov)

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?)* Yes

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

28 V.S.A. § 204(d); 42 C.F.R. Part 2.

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

Prior to the sentencing of an individual for specific crimes, the Department of Corrections (DOC) may conduct a Presentence Investigation, which is the process by which DOC staff investigate and compile a report on a defendant's assessed risk, background, and offense. This written report includes confidential information related to the defendant and impacted parties, if

applicable. To that end, the DOC shall not disclose a report, or its contents, to anyone outside of the DOC except for parties with a specific interest (e.g., the court, a treatment provider).

This rule further derives authority from 42 C.F.R. Part 2, which prohibits the disclosure of any records of patients with substance use disorders without a signed release.

**6. LEGAL AUTHORITY / ENABLING LEGISLATION:**

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

28 V.S.A. § 102 (b) (2) .

**7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:**

28 V.S.A. § 102 (b) (2) establishes the authority by which the Commissioner shall oversee the policies that govern the operations of the Department of Corrections (DOC) including the records of individuals under the custody or supervision of the DOC.

**8. CONCISE SUMMARY (150 WORDS OR LESS):**

The Vermont Department of Corrections (DOC) is proposing the repeal of the Reporting of Offender Information Rule, APA #96-18/CVR #13-130-017 because it is no longer the guiding document for this subject matter. DOC policy, #251.01, Offender/Inmate Records and Access to Information, dated 8/18/2019, and its associated guidance documents, and APA Rule #19-035/CVR 13-130-036, describe the procedures that the DOC shall follow when releasing, or permitting the inspection of, a record belonging to individual under the custody or supervision of the DOC.

**9. EXPLANATION OF WHY THE RULE IS NECESSARY:**

The Rule, APA #96-18/CVR #13-130-017, is no longer relevant because the DOC promulgated APA rule #19-035/CVR 13-130-036 and policy #251.01, Offender/Inmate Records and Access to Information, regarding the release, and inspection of, an individual's record who is under the custody or supervision of the DOC pursuant to V.S.A. §107 (b) (5) .

**10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY AS DEFINED IN 3 V.S.A. § 801(b)(13)(A):**

This rule is no longer necessary because the guiding documents for this subject matter are covered in promulgated APA rule #19-035/ CVR 13-130-036 and policy #251.01, Offender/Inmate Records and Access to Information.

**11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:**

- (1) Incarcerated and supervised individuals in the care and custody of the Department of Corrections.
- (2) VT Agency of Digital Services
- (3) JailTracker (administrator of the Offender Management System)
- (4) Law enforcement
- (5) Attorney General's Office
- (6) Defender General and Prisoner Rights office
- (7) Justice Related Advocacy Groups
- (8) Department of Corrections staff

**12. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):**

It is anticipated that the repeal of this Rule will not have an impact on the DOC's budget because the corresponding policy to the rule the DOC seeks to repeal was superseded and replaced by updated policy, #250.01 and promulgated rule, APA rule #19-035/ CVR 13-130-036 in 2019. For similar reasons, it is anticipated that the entities listed in question 11 will not be affected.

**13. A HEARING IS SCHEDULED .**

**IF A HEARING WILL NOT BE SCHEDULED, PLEASE EXPLAIN WHY.**

**14. HEARING INFORMATION**

**(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).**

**IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.**

Date: 10/6/2023  
Time: 10:00 AM  
Street Address: 280 State Drive, Waterbury, VT  
Zip Code: 05671-2000

URL for Virtual:

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Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

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Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

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Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

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15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

16. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Records of individuals under the custody or supervision of the DOC

Files of individuals under the custody or supervision of the DOC

Release of Information

Inspection

Confidentiality

## Adopting Page

### Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

**Reporting of Offender Information**

2. ADOPTING AGENCY:

Department of Corrections

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **A REPEAL OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

SOS Rule Log #96-18, CVR 13-130-017, Reporting of Offender Information (255), March 6, 1996.

## Economic Impact Analysis

### **Instructions:**

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn’t appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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#### 1. TITLE OF RULE FILING:

**Reporting of Offender Information**

#### 2. ADOPTING AGENCY:

Department of Corrections

#### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

Individuals under the custody or supervision of the  
Department of Corrections

The Department of Corrections

#### 4. IMPACT ON SCHOOLS:



*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

No impact.

5. **ALTERNATIVES:** *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

Not applicable.

6. **IMPACT ON SMALL BUSINESSES:**

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

No impact.

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

No impact.

8. **COMPARISON:**

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

The repeal of Reporting of Offender Information Rule, APA #96-18/CVR #13-130-017 should not represent any discernable economic impact between the current rule and repealing this rule.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

Not applicable.

## Environmental Impact Analysis

### **Instructions:**

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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### 1. TITLE OF RULE FILING:

#### **Reporting of Offender Information**

### 2. ADOPTING AGENCY:

Department of Corrections

3. **GREENHOUSE GAS:** *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*  
No impact.

4. **WATER:** *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*  
No impact.

5. **LAND:** *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*  
No impact.

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*  
No impact.

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*  
No impact.
8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*  
No impact.
9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*  
No impact.

## Public Input Maximization Plan

### **Instructions:**

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

**Reporting of Offender Information**

2. ADOPTING AGENCY:

Department of Corrections

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The Department of Corrections (DOC) will hold a public hearing and post the proposed repeal of the Reporting of Offender Information Rule, APA #96-18/CVR #13-130-017 on its website to elicit feedback from the public.

The DOC shall include a printed copy of the proposal to repeal the Rule in each of the DOC law libraries. The DOC shall make a printed copy available to all incarcerated individual upon request to the Law Librarian, Legal Assistant, or any other law library staff. Further, a digital copy of the proposal to repeal the rule shall be added to the tablets that are available to incarcerated individuals. Each DOC correctional facility shall make an announcement to all incarcerated individuals that a copy of the proposed rule is available to them for review and comment in the law library and tablets, as applicable.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

## Public Input

DOC shall ensure that staff and individuals under the custody or supervision of the DOC have the opportunity to review and comment on the proposal to repeal the Rule.

Prior to the filing of the rule with the Interagency Committee on Administrative Rules (ICAR), the DOC informed, and provided a copy of the filing, the Department of Public Safety, Prisoner's Rights Office - Defender General, and the Attorney General's office of the intent to repeal this rule.

1 ~~13 130 017. Reporting of Offender Information (255)~~

2

3 **SECTION 1. Authority**

4

5 ~~33 V.S.A. "4913(a) and 6903 Counseling Service of Addison County, Inc., 146 Vt. 61~~  
6 ~~(1985); 28 V.S.A. §505(b); 28V.S.A. §204(d); 42 C.F.R. Part 2~~

7

8 **SECTION 2. Purpose**

9 ~~This policy establishes the guidelines for the reporting of offender information to~~  
10 ~~courts, state's attorneys, the Vermont Parole Board, the commissioner of Social~~  
11 ~~and Rehabilitative Services, the Commissioner of Aging and Disabilities, other~~  
12 ~~agencies and departments as noted in this policy and third parties.~~

13 **SECTION 3. Applicability/Accessibility**

14 ~~This policy applies to all Department of Corrections employees, volunteers, and~~  
15 ~~service providers and to all offender information in the control and custody of the~~  
16 ~~Department. Anyone may have a copy of this policy.~~

17 **SECTION 4. Definitions**

18 ~~Counseling Notes: written comments by DOC employees or health care providers~~  
19 ~~in an offender's mental health records that document the author's hypothesis or~~  
20 ~~opinion about an offender's behavior for future evaluation by the author, and are~~  
21 ~~written solely for the author's future evaluation.~~

22 ~~Criminal History Information: documents, forms, reports, or data of a specific~~  
23 ~~offender currently or formerly under supervision by the Department, or currently~~  
24 ~~or formerly confined in any Department correctional facility, that pertain to that~~  
25 ~~offender's involvement in the criminal justice system, including but not limited to~~  
26 ~~arrest/search warrants, court orders, indictments, information or formal charges,~~  
27 ~~presentence reports, Intermediate Sanction Reports, pre-parole reports,~~  
28 ~~supervisory history of probationers and parolees, investigations, pleadings in~~  
29 ~~criminal proceedings, pleas, motions, citations, summons, appearance bonds,~~  
30 ~~notice/receipts of bail, a court order or mittimus, and records of judicial~~  
31 ~~proceedings.~~

**Annotated Rule on Reporting of  
Offender Information**

1 ~~Foreseeable Risk of Harm: a case-by-case determination by department~~  
2 ~~employees in consultation with treatment providers and others involved in the~~  
3 ~~offender's case planning that is based upon: (1) an offender's prior criminal~~  
4 ~~background, personal history and current conduct; (2) the type of crime for which~~  
5 ~~the offender was most recently convicted; and (3) the surrounding circumstances~~  
6 ~~in which the offender is being supervised, including the relationship of the~~  
7 ~~offender to a third party or third parties.~~

8 ~~Information: any statement, whether or not it is in writing, that pertains to a~~  
9 ~~specific offender.~~

10 ~~Intermediate Sanction Report: the Intermediate Sanction Report (ISR) is a statute~~  
11 ~~mandated, court ordered assessment of offender criminogenic risk/need and the~~  
12 ~~planned correctional response to controlling that risk/need. It is considered,~~  
13 ~~regardless of format, the equivalent of a pre-sentence investigation.~~

14 ~~Non-Confidential Information: (1) the name of a specific offender; (2) the~~  
15 ~~offender's current offense; (3) date and length of sentence received; (4) date of~~  
16 ~~commencement of furlough, supervised community sentence, probation, parole,~~  
17 ~~or incarceration; (5) the offender's attorney of record; and (6) the DOC employee~~  
18 ~~assigned to supervise the offender.~~

19 ~~Offender: any person convicted of a crime of offense who is placed in the care,~~  
20 ~~custody, or supervision of the Vermont Department of Corrections.~~

21 ~~Presentence Report: any written report prepared by DOC employees and~~  
22 ~~provided to a judge that contains a recommendation for a sentence and factual~~  
23 ~~information pertaining to the offender and/or victim.~~

24 ~~Reporting: any communication of offender information that is made by a DOC~~  
25 ~~employee, volunteer, agent or contractor that is required by law or this policy~~  
26 ~~whether or not a request for such information is made.~~

27 ~~Serious Risk of Danger: a case-by-case determination by a therapist, a medical~~  
28 ~~professional, mental health professional, or other person as defined in 12 V.S.A.~~  
29 ~~§1612(a) that is based upon: (1) the offender's proclivity to violent behavior as~~  
30 ~~evidenced by prior criminal background or history of mental health treatment:~~

**Annotated Rule on Reporting of  
Offender Information**

1 ~~and (2) the expressed intent of that offender to harm the person or property of~~  
2 ~~an identifiable third party.~~

3 ~~Service Provider: an employee, agency or department providing a service to~~  
4 ~~offenders pursuant to an agreement or contract with the Vermont Department of~~  
5 ~~Corrections.~~

6 ~~Special Relationship: a relationship between an offender and a third party that~~  
7 ~~has been established as a result of the supervision of the offender by the~~  
8 ~~Department; e.g. a special relationship may exist between a third party and the~~  
9 ~~DOC if an offender is required or allowed to work or live with the third party.~~

10 ~~Supervising Employees: DOC staff and employees who are tasked with monitoring~~  
11 ~~offenders, or involved in directly working with, or supervision, offenders in the~~  
12 ~~community.~~

13 ~~Treatment Notes: any written notes used in the Department's programs for~~  
14 ~~offenders that address need areas such as violence, sexual deviancy, or~~  
15 ~~drug/alcohol abuse.~~

16 ~~Treatment notes would include daily journals, thinking reports, treatment group~~  
17 ~~or review form, treatment team log book, relapse prevention plans, sexual~~  
18 ~~autobiographies, and references or documentation pertaining to identifiable~~  
19 ~~victims.~~

20 **~~SECTION 5. Policy~~**

21 ~~Department employees, volunteers, and service providers shall report offender~~  
22 ~~information to state officials and third parties in the following situations:~~

23 ~~**A.** Supervising employees shall disclose non-confidential information pertaining to~~  
24 ~~that offender to a third party and/or to appropriate law enforcement officials~~  
25 ~~where there is a foreseeable risk of harm to that third party by the offender.~~  
26 ~~While sound judgement and common sense should be exercised to avoid causing~~  
27 ~~unjustified alarm, fear or reaction, Department employees should realize that the~~  
28 ~~offender's behavior patterns, need areas, personal history and special relationship~~  
29 ~~to a third party may create a foreseeable risk of harm to that third party triggering~~  
30 ~~the need to disclose information. This does not prevent the offender from being~~



**Annotated Rule on Reporting of  
Offender Information**

1 ~~encouraged or permitted to make the required disclosure with the understanding~~  
2 ~~that an employee will verify the disclosure.~~

3 ~~The determination of a foreseeable risk of harm is a question of fact that should~~  
4 ~~be determined on a case-by-case basis. Those usually involved in the~~  
5 ~~determination include supervising employees, any employees or service providers~~  
6 ~~working with the offender in a treatment program, and any caseworkers involved~~  
7 ~~in the offender's case planning. the Department's Legal Division should be~~  
8 ~~consulted where the issue of foreseeable risk of harm is unclear.~~

9 ~~**B.** Service providers and Department employees who are physicians, medical~~  
10 ~~specialists, nurses, dentists, mental health professionals, probation/parole~~  
11 ~~officers, or supervising employees who have reasonable cause to believe that an~~  
12 ~~offender has abused or neglected a child, shall make a report within 24 hours to~~  
13 ~~the Commissioner of SRS. If there is a reason to believe that an offender under~~  
14 ~~the supervision or control of the Department has abused, neglected or exploited~~  
15 ~~an elderly or disabled adult, a report shall be make to the commissioner of the~~  
16 ~~Department of Aging and Disability. The report shall occur within 24 hours of~~  
17 ~~gaining that knowledge. Additional reporting pursuant to Policy 291—Reporting~~  
18 ~~Incidents—shall also be made.~~

19 ~~**C.** Department employees who are not supervising offenders and who have~~  
20 ~~reasonable cause to believe that an offender has abused or neglected a child, may~~  
21 ~~make a report to the commissioner of SRS. If a non-supervising employee of the~~  
22 ~~Department has reason to believe that an offender under the supervision or~~  
23 ~~control of the Department has abused, neglected or exploited an elderly or~~  
24 ~~disabled adult, a report may be made to the Commissioner of the Department of~~  
25 ~~Aging and Disability. However, a report also shall be made pursuant to Policy 291.~~

26 ~~**D.** Service providers or Department employees who are authorized to practice~~  
27 ~~medicine, dentistry, nursing or mental health care, shall notify an identifiable~~  
28 ~~victim as soon as possible when an offender poses a serious risk of danger to the~~  
29 ~~person. A report shall also be made pursuant to Policy 291.~~

30 ~~**E.** Department employees shall provide the Vermont Parole Board information~~  
31 ~~required to address parole and supervised community sentences, except that~~  
32 ~~disclosure of counseling and treatment notes shall not be made. Information from~~  
33 ~~alcohol and drug treatment programs shall be provided to the Board but only~~  
34 ~~after the offender executes a written consent pursuant to 42 C.F.R. Part 2.~~

**Annotated Rule on Reporting of  
Offender Information**

~~F. Department employees shall provide a sentencing court information required for a presentence report or Intermediate Sanctions Report except that disclosure of counseling and treatment notes shall not be made.~~

~~G. Department employees, volunteers and service providers shall report to law enforcement authorities (e.g. State Police, States Attorney) admissions of past criminal conduct by offenders when (1) the admission was not made during the course of health care, mental health care, alcohol and drug abuse treatment, or spiritual guidance or counseling of a penitential character; and (2) the admission is specific as to surrounding circumstances including the identity of the victim(s).~~

~~H. Any person may be provided offender criminal history information (except presentence reports and Intermediate Sanction Reports) by the commissioner, designee, the Director of Correctional Services, or the site manager, if it is determined that an emergency exists or exceptional circumstances warrant the disclosure of criminal history information in order to control a disturbance, apprehend an escapee, ensure institutional safety or protection of any offender, or otherwise address a legitimate public safety interest.~~

~~I. The Department of corrections shall, upon request, notify the Vermont print media and the Vermont law enforcement community of an offender's name, current offense, and identity of supervising officer, when an offender is released from confinement from a correctional facility and placed on supervision in the community. Law enforcement officials shall be provided the offender's residential address if:~~

~~1) there is reason to believe that public protection and/or protection of the offender is an issue; and~~

~~2) the law enforcement agency agrees not to make public the offender's residential address.~~

~~If an offender is serving a sentence for any violent or sexual offense involving a minor as a victim, the Department of SRS shall be notified of the offender's name, current offense, identity of supervising officer, and place of residence and employment.~~

**SECTION 6. Legal Guidance**

~~Department employees, volunteers, and service providers are encouraged to seek guidance at any time from the Department's Legal Division whenever there is a~~

**Annotated Rule on Reporting of  
Offender Information**

- 1 ~~question about the application of this policy in a given situation. Statutory~~
- 2 ~~Authority: 28 V.S.A. § 204 (d), 505 (b); 33 V.S.A., § 4913(a), 6903~~
- 3 ~~**Effective Date:** March 6, 1996 (SOS Rule Log #96-18)~~