

Policy # 01-03
Date Adopted:
June 6, 2001

Expungements and Seals
Division of Criminal Justice Services

Approved By:
VIBRS Advisory
Board
Updated: 2/6/19

NOTE - This is a mandatory policy.

1. Goals

- 1.1 To develop an expungement policy that addresses the removal of record information in a CAD/RMS system that is in compliance with Vermont law.
- 1.2 To provide a system for seals and expungements that takes into consideration the needs of the victim.
- 1.3 To provide a system for seals and expungements that are easily handled with our existing resources in a CAD/RMS environment.
- 1.4 The Department of Public Safety with guidance from the VIBRS Advisory Council shall take action to expunge the record within 90 days of receipt of the court order.

2. Policies

- 2.1 On receipt of a court order, the local agency/state police office shall place the case number on the order.
- 2.2 The local agency/state police office that receives the order shall delete the appropriate references in the law incident narrative/supplement to the offender as required by the recommended seal and expungement procedure.
- 2.3 A copy of the court order with the agency case number shall be forwarded to the Department of Public Safety designee.
- 2.4 Any involvements to the named offender pertaining to the court order shall be deleted from the law incident.

Court Order Suggested Procedures

Local and Sheriff Departments

January, 2017

Please NOTE: If you receive an Order to Expunge or Seal that states anything OTHER than what is listed here, please bring it to the attention of Betty Wheeler, ADS OTM Dept, as she is required to report it to the Courts Standards Clerk.

- I. Court Orders- Court orders should ONLY state that a case is being expunged OR sealed- the order should not use both terms, as the procedure for handling the orders is completely separate both at the Court level and at the Law Enforcement agency level.
- II. For both the Orders to Expunge or the Orders to Seal, the **Courts DO NOT want you to send the file to them**. For Expungements, the Law Enforcement Agency should shred all paperwork and otherwise dispose of any materials related to the incident. For Seals, the Law Enforcement Agency should seal the file as listed below, DO NOT send the file and related materials back to the court.
- III. **When removing an Offender's name, you should also include any PERSONAL IDENTIFYING information**. That includes the name, date of birth, DL#, SS#, State or local IDs or address. To verify you have removed the proper information, when looking at the record either in the file or any computer system, it should be impossible to determine who the offender is by any information contained there.
- IV. **Orders to Expunge**
 - a. According to Vermont State Statutes, a Judge may at any time sign an order to expunge an offender's record.
 - b. The order should contain the Offender's name, date of birth, specific count being expunged and in most cases the incident number. It is up to the Law Enforcement Agency's appointed person to pull the hard copy record of the file, **shred** all paperwork and destroy any other related materials in the file. For incidents with *MULTIPLE OFFENDERS*, the materials must be manually modified (**IE blacked out so as not to be able to read**) to remove the personal identifying information (see **III. above**) for the offender being expunged, leaving the remaining paperwork intact relating to other offenders. Do not, in these cases, shred the entire file.
 - c. In the instances when ONE of multiple offenses are being expunged, materials must be manually modified (**IE blacked out so as not to be able to read**) referencing to that one offense. For example, if an offender is charged with DUI and DLS, but only the DLS is expunged, then remove any specific reference to the DLS, while leaving the rest of the case file intact.
 - d. Once the physical file has been dealt with, all narratives and supplementals within Spillman should be modified by the Law Enforcement Agency and references to the offender must be manually modified, replacing the personal identifying information for the Offender to "expunged". **Be particularly careful** that you are removing ALL personal identifying information (**as listed in III. above**) and NOT just replacing the Offender's name only. That is all that is necessary for the agency to modify in Spillman. (Only the individual is being expunged, so do not make notes about the entire case being expunged in the narrative or supplementals.)
 - e. Make a photocopy of the order to send to Dept of Public Safety's IT section. **The copy of the order that IT receives MUST contain the name, date of birth and incident # and offense information**. Any other information added to the order is helpful, such as the name number, booking number, etc. **Fax the copy to IT at 802-241-5560**, or mail the copy to: Betty Wheeler ATTN: Expungements Department of Public Safety 45 State Drive, Waterbury, VT 05676. If the order is removing only one or more of multiple counts to a booking, please highlight or reference the count numbers to be removed.
 - f. The ADS OTM department will be responsible for removing the Offender's name involvement on the incident and modifying the arrest to replace the name of the Offender with the generic name record "Expunged", or in the case of multiple counts, will be responsible for removing the charges from the arrest record as listed in the expungement order.

- g. Once the Law Enforcement Agency has faxed the order to DPS, the copy of **the order MUST BE SHRED**. No record should remain anywhere other than the court that could possibly tie the Offender to the incident listed on the Order.

V. Orders to Seal

- a. As of the Legislative 2005/2006 session, the State of Vermont statutes now refer to Orders to Seal as being handled separately from Orders to Expunge. By legislative order 33 V.S.A. § 5119, *"...to seal" a file or record means to physically and electronically segregate the record in a manner that ensures confidentiality of the record and limits access only to those persons who are authorized by law or court order to view the record. A "sealed" file or record is retained and shall not be destroyed unless a court issues an order to expunge the record.*"
- b. The order should contain the Offender's name, date of birth and in most cases the incident number. It is up to the Law Enforcement Agency's appointed person to pull the hard copy record of the file. A "sealed record notice" noting the date the record was sealed will replace the file. **(Sealed record notice: This is a placeholder in the case file that contains the case number that was sealed, and the date it was sealed. No names or other identifying information are included on this placeholder.)**
- c. If more than one individual is involved in the case, make a copy of the entire file. The copy of the file must be manually modified **(IE blacked out so as not to be able to read) to remove the personal identifying information (see III. above)** for the offender referenced on the order to seal, leaving the remaining copy of the file intact relating to other offenders. The copy of the file should be returned to the regular case file, the original documents should be dealt with as required by law as stated in letter A above.
- d. Once the physical file has been dealt with, all narratives and supplementals within Spillman should be modified by the Law Enforcement Agency and references to the offender must be manually modified, replacing the personal identifying information for the Offender to "sealed". **Be particularly careful** that you are removing ALL personal identifying information **(as listed in III. above)** and NOT just replacing the Offender's name only. That is all that is necessary for the agency to modify in Spillman. (Only the individual is being sealed, so do not make notes about the entire case being sealed in the narrative or supplementals.)
- e. **Make a photocopy of the order to send to Dept of Public Safety's IT section. The copy of the order that IT receives MUST contain the name, date of birth and incident information.** Any other information added to the order is helpful, such as the name number, booking number, etc. **Fax the copy to IT at 802-241-5560**, or mail the copy to: Betty Wheeler ATTN: Orders to Seal Department of Public Safety 45 State Drive, Waterbury, VT 05676.
- f. The ADS OTM department will be responsible for removing the Offender's name involvement on the incident and modifying the arrest to replace the name of the Offender with the generic name record "SEALED"; or in the case of multiple counts, will be responsible for removing the charges for the individual as listed in the order to seal.
- g. **Once the Law Enforcement Agency has faxed the order to DPS, the case file and all copies of the Order to Seal should be moved into the locked or otherwise segregated location created by the agency following legislative order 33 V.S.A. § 5119**

Court Order Suggested Procedures

VSP Locations

January, 2019

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 - d. Once the physical file has been dealt with, all narratives and supplementals within Spillman should be modified by the Law Enforcement Agency and references to the offender must be manually modified, replacing the personal identifying information for the Offender to "expunged". **Be particularly careful** that you are removing ALL personal identifying information (as listed in III. above) and NOT just replacing the Offender's name only.
 - e. **Make a photocopy of the order to send to Dept of Public Safety's OTM section. The copy of the order that IT receives MUST contain the name, date of birth and incident and offense information.** Any other information added to the order is helpful, such as the name number, booking number, etc. **Fax the copy to IT at 802-241-5560**, or mail the copy to: Criminal Justice Services ATTN: Expungements Department of Public Safety, 45 State Drive, Waterbury, VT 05676. If the order is removing only one or more of multiple counts to a booking, please highlight or reference the count numbers to be removed.
 - f. The DPS OTM department will be responsible for removing the Offender's name involvement on the incident and modifying the arrest to replace the name of the Offender with the generic name record "Expunged", or in the case of multiple counts, will be responsible for removing the charges from the arrest record as listed in the expungement order.

- g. Once the Law Enforcement Agency has faxed the order to DPS, the copy of **the order MUST BE SHRED**. No record of an Order to Expunge should remain anywhere other than the court that could possibly tie the Offender to the incident listed on the Order.

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- b. The order should contain the Offender's name, date of birth and in most cases the incident number. It is up to the Law Enforcement Agency's appointed person to pull the hard copy record of the file. A "sealed record notice" noting the date the record was sealed will replace the file. (Sealed record notice: This is a placeholder in the case file that contains the case number that was sealed, and the date it was sealed. No names or other identifying information are included on this placeholder.)
- c. If more than one individual is involved in the case, make a copy of the entire file. The copy of the file must be manually modified (IE blacked out so as not to be able to read) **to remove the personal identifying information** (see III. above) for the offender referenced on the order to seal, leaving the remaining copy of the file intact relating to other offenders. The original case file should be forwarded as listed in letter G. below.
- d. Once the physical file has been dealt with, all narratives and supplementals within Spillman should be modified by the Law Enforcement Agency and references to the offender must be manually modified, replacing the personal identifying information for the Offender to "sealed". **Be particularly careful** that you are removing ALL personal identifying information (as listed in III. above) and NOT just replacing the Offender's name only.
- e. Make a photocopy of the order to send to Dept of Public Safety's IT section. The copy of the order that IT receives **MUST** contain the name, date of birth and incident information. Any other information added to the order is helpful, such as the name number, booking number, etc. **Fax the copy to IT at 802-241-5560**, or mail the copy to: Criminal Justice Services ATTN: Orders to Seal Department of Public Safety 103 South Main St Waterbury, VT 05676.
- f. The DPS IT department will be responsible for removing the Offender's name involvement on the incident and modifying the arrest to replace the name of the Offender with the generic name record "SEALED", or in the case of multiple counts, will be responsible for removing the charges for the individual as listed in the order to seal.
- g. Once the Law Enforcement Agency has faxed the order to DPS, the case file and all copies of the Order to Seal will be forwarded, in total, to: **VSP Headquarters, Attn: Imaging Office, 45 State Drive, Waterbury, VT 05828** marked *Confidential*. The Imaging Office will be responsible for maintaining the file record in a secure location.