




# KANSAS DEPARTMENT OF CORRECTIONS

	<b>INTERNAL MANAGEMENT POLICY AND PROCEDURE</b>	<b>SECTION NUMBER</b>  05-102	<b>PAGE NUMBER</b>  1 of 5
		<b>SUBJECT:</b>  <b>INFORMATION TECHNOLOGY AND RECORDS: Expungement of Offender Records; Reversed/ Vacated/Dismissed Conviction(s)</b>	
<b>Approved By:</b>  <b>Secretary of Corrections</b>		<b>Original Date Issued:</b>	<b>08-15-82</b>
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		<b>Replaces Amendment Issued:</b>	<b>05-21-01</b>
<b>Reissued By:</b>  <b>Policy &amp; Procedure Coordinator</b>		The substantive content of this IMPP has been reissued as per the appropriate provisions of IMPP 01-101. The only modifications within the reissue of this document concern technical revisions of a non substantive nature.	
		<b>Date Reissued:</b>	<b>07-15-11</b>

## POLICY

Orders for Expungement, or Reversing, Dismissing or Vacating an offender's conviction, which meet statutory requirements from courts of competent jurisdiction shall result in the collection of all information contained in the Department of Corrections' offender records pertaining to the conviction specified in the court document. Provisions shall be made to ensure that all information regarding expunged, reversed, vacated, or dismissed convictions are secured separately from any other records related to the offender, accessible only to designated staff. Information regarding such case records shall be released only by the Department's Legal Counsel.

## DEFINITIONS

Expungement: An action by a court of competent jurisdiction which sets aside, for limited purposes, a criminal conviction and requires the sealing of arrest, conviction, and confinement records by law enforcement, court, and corrections agencies.

Facility Records Office: The records storage area for the facility.

Inactive Offender Records Repository: A centralized inactive records section for the Department of Corrections, located at the Topeka Correctional Facility - Central Unit (TCF-C).

Offender: A person who is in the legal custody of the Secretary of Corrections. This term refers to both inmates and persons under post-incarceration supervision.

Parole Records Office: The records storage area for parole services.

Records: Information concerning the offender's criminal, personal, and medical history and behavior and activities while in custody, including but not limited to commitment papers, court orders, detainees personal property receipts, visitors lists, photographs, fingerprints, custody level, disciplinary infractions and actions taken, grievance reports, work assignments, program participation and miscellaneous correspondence. This information may be computerized and contained in the Management Information System, Total Offender Activity Documentation System, Electronic Medical Records System, hard copies, or imaged files of documents contained in various files within a facility, parole office and/or Central Office Records.

Reversed/Vacated/Dismissed Conviction(s): An action by a court that removes a conviction(s) from the offender's record.

State Records Center: A centralized inactive records repository for the State of Kansas managed by the Kansas Historical Society and located in Topeka, Kansas.

## **PROCEDURES**

### **I. Processing of Expungement Orders**

- A. All actions to enforce the expungement of offender records by Department personnel shall be initiated by the Central Office Records Unit.
  - 1. Expungement orders received directly from the court by facility personnel or field service staff shall be forwarded to the Central Office Records Unit.
- B. Upon receipt of an order of expungement, the Central Office Records Unit shall inquire of the KDOC legal counsel as to whether the expungement order meets statutory requirements.
- C. If the expungement order is determined to be invalid, the KDOC Chief Legal Counsel shall return it to the court of jurisdiction with an explanation as to why the order was not honored.
  - 1. Only a copy of the explanatory letter of transmittal to the court shall be filed in the offender's file.
- D. If the order is determined to be valid, the Central Office Records Unit shall direct the collection of all hard copy records relating to the individual's conviction upon which the expungement order applies.
- E. The Central Office Records Unit shall forward a copy of the court order to each facility where the subject of the expungement order was confined, and the inactive offender records repository. The Central Office Records Unit shall also request the retrieval of all files for the subject of the expungement order from the State Records Center.
  - 1. Facility records units shall be responsible for collecting all hard copies of any records or documents not transferred to the inactive offender records repository pertaining to the individual's conviction upon which the expungement order applies.
  - 2. All hard copies pertaining to the individual's conviction shall be sent to the Central Office records clerk.
- F. All information maintained in electronic data storage shall be printed to hard copy and placed with other hard copy documents.
  - 1. All information regarding the offender's conviction as specified in the expungement order shall be deleted from the computerized information system.
  - 2. All electronic copies of offender documents stored in the Department's Imaging System will be re-indexed to a secure area of the system and made available to only the Records Administrator.
- G. All hard copy records pertaining to the conviction for which the expungement action applies shall be placed in an envelope, which shall bear the following instructions:  
**Expunged Record: Custodian shall deny the existence of this record to the extent expunged, subject to the provisions of KSA 21-4619.**
- H. Staff having questions relating to the disclosure of expunged records shall direct those questions to departmental legal staff.

- I. Expunged records shall be stored at the State Records Center and made available to only the Records Administrator.

## **II. Processing Court Orders Reversing or Vacating a Sentence**

- A. When a Court order reversing or vacating an inmate's sentence is received by the Department or a facility:
  1. Appropriate legal counsel shall be provided a copy of the order and shall provide guidance regarding the impact of the order; and,
  2. The inmate's file shall be reviewed to determine whether there are detainers or other sentences against the inmate.
- B. If the Department has no authority to hold the inmate in custody, the prosecuting attorney in the vacated or reversed case shall be notified and advised that the inmate will be released unless a detainer is filed immediately.
- C. If a detainer is received and the Department has no other basis to continue to hold the inmate, local law enforcement shall be requested to take custody of the inmate and hold for the requesting agency.
- D. The KDOC Victim Notification Coordinator shall be notified of the inmate's release and the reason for the release, per IMPP 01-121, for a determination if victim notification is applicable.

## **III. Processing of Reversed/Vacated/Dismissed Convictions**

- A. Upon receipt of a court order reversing, vacating or dismissing a conviction(s) or sentence the following actions shall be taken:
  1. Notify the CMI or CCII assigned to the Centralized Sentence Computation Unit that an order has been received and forward a copy of the order.
  2. Upon receipt of the order, the Sentence Computation staff shall take the following actions;
    - i. Verify that the order has been certified and is authentic
    - ii. Review the order with a member of the Legal staff
    - iii. Make an electronic copy of the order
    - iv. Indicate in the automated Sentence Record Summary that the conviction(s), case or sentence has been reversed/dismissed or vacated.
    - v. Review the sentence for any existing active convictions, cases or sentences.
    - vi. Notify the Chief Records Administrator or designee at the facility in which the inmate is housed that the sentence has been modified
  3. If the inmate is eligible for immediate release, the facility record staff shall initiate standard release procedures including, but not limited to conducting a check for warrants or wants in accordance with IMPP 05-108.
  4. If the inmate is on release status, the supervising parole officer shall be notified.

- i. Notify the KDOC Public Information Officer (PIO)
  - ii. Review KASPER the following business day to ensure that the sentence record information is correctly displayed.
- A. When an offender's sentence is terminated because the conviction(s) is/was reversed/vacated/dismissed, all actions to remove the offender's records by Department personnel shall be initiated by the Central Office Records Unit.
1. Court orders received directly from the court by facility personnel or field service staff shall be forwarded to the Central Office Records Unit.
- B. The Central Office Records Unit shall direct the collection of all hard copy records relating to the individual's conviction(s) upon which the reversed/vacated/dismissed order applies.
- C. The Central Office Records Unit shall forward a copy of the court order to each facility where the subject was confined, the inactive offender records repository, and the State Records Center.
1. Facility records officers shall be responsible for collecting all hard copies of any records or documents not transferred to the inactive offender records repository pertaining to the individual's conviction upon which the order applies.
  2. All such hard copies shall be sent to the Central Office Records Unit.
- D. All information relating to a reversed/vacated/dismissed conviction maintained in electronic data storage shall continue to be preserved, but shall receive a special "Vacated Sentence" designation.
1. This special designation shall prevent access to or inclusion of reversed/vacated/dismissed conviction information in reports recounting "Active Sentence" information.
  2. Convictions labeled with the "Vacated Sentence" designation shall be accessed only through the Sentence Record option within the Department's centralized electronic database.
- E. All hard copy records pertaining to the conviction(s) for which the action applies shall be placed in an envelope marked "Reversed/Vacated/Dismissed Conviction."
1. Staff having questions relating to the disclosure of these records shall direct those questions to departmental legal staff.
  2. Information pertaining to reverse, vacated and/or dismissed convictions shall be stored at the State Records Center and made available to only the Records Administrator.
- F. All records pertaining to the conviction(s) for which the action applies that are resident within the electronic imaging system shall be removed.

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy

and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

**REPORTS REQUIRED**

None.

**REFERENCES**

KSA 21-4619, 75-5205  
IMPP 01-121  
ACO 2-1E-01

**ATTACHMENTS**

None.