

TITLE 8 SOCIAL SERVICES
CHAPTER 14 JUVENILE JUSTICE
PART 22 SEALING CLIENT RECORDS

8.14.22.1 ISSUING AGENCY: Children, Youth and Families Department.
[8.14.22.1 NMAC - N, 6/1/2010]

8.14.22.2 SCOPE: This rule applies to clients and staff of the juvenile justice division, also referred to as juvenile justice services, of the children, youth and families department.
[8.14.22.2 NMAC - N, 6/1/2010]

8.14.22.3 STATUTORY AUTHORITY: Sections 32A-1-1 et seq., 32A-2-1 et seq., 32A-3-1 et seq., 32A-4-1 et seq., 32A-11-1 et seq., 32A-15-1 et seq. NMSA 1978 Comp., as amended.
[8.14.22.3 NMAC - N, 6/1/2010]

8.14.22.4 DURATION: Permanent.
[8.14.22.4 NMAC - N, 6/1/2010]

8.14.22.5 EFFECTIVE DATE: June 1, 2010, unless a later date is cited at the end of a section.
[8.14.22.5 NMAC - N, 6/1/2010]

8.14.22.6 OBJECTIVE: To establish standards and guidelines for sealing the records of juvenile justice services client.
[8.14.22.6 NMAC - N, 6/1/2010]

8.14.22.7 DEFINITIONS:

A. “Cambiar (Change) New Mexico” refers to the name designated by the children, youth and families department (CYFD) for its juvenile justice reform initiative that focuses on rehabilitation and relationships. Clients and juvenile justice services’ staff members build one-on-one relationships with each other and learn to interact in a completely different way than the old “correctional” model. Group building activities designed to build trust and communication are key components as well as family and community involvement.

B. “Client” refers to a person who is committed to the custody of the CYFD’s juvenile justice services or who is receiving services from CYFD’s juvenile justice services.

C. “Department” refers to the New Mexico children, youth and families department.

D. “FACTS” refers to the family automated client tracking system, CYFD’s management information system.

E. “Facility” refers to a facility operated by, or on behalf of the CYFD’s juvenile justice services, or any other facility or location designated by the juvenile justice services director to house or provide care to clients committed to the custody of CYFD.

F. “Facility records manager” or “FRM” is the person designated by the superintendent of each JJS facility to manage the files and records of JJS clients and former clients.

G. “Files and records” means the master delinquency file of a JJS client, which includes all facility master file records and field referral records, and actions taken while in custody including but not limited to commitment papers, court orders, detainers, personal property receipts, visitor’s lists, photographs, fingerprints, types of custody, disciplinary infractions with actions taken, work assignments, program participation, program progress and other relevant case data. It does not include the separate medical, behavioral health, or education sub files.

H. “Juvenile justice services” or “juvenile justice division” refers to the organizational unit within CYFD that operates juvenile justice facilities, and provides other services under the Delinquency Act, NMSA 1978 section 32A-2-1 et seq.

I. “Juvenile probation office” or “JPO field office” refers to a CYFD department county or district office where JPO staff persons, who provide court ordered and informal supervision for clients, work from.

J. “Office of general counsel records custodian” or “OGC records custodian” is the person designated by the CYFD office of the secretary to respond to all requests from the public for information on CYFD clients, former clients, programs or services, including Inspection of Public Records Act requests.

K. “Sealing records” or “sealing” refers to the closing or restriction of access to client files and records in accordance with the provisions of the Children’s Code Section 32A-2-26, NMSA 1978.

L. “Secretary” refers to the cabinet secretary of CYFD.

M. “Staff” refers to employee(s) of CYFD.

N. “Superintendent” refers to the chief facility administrator at a JJS facility.

[8.14.22.7 NMAC - N, 6/1/2010]

8.14.22.8 INITIAL NOTICE OF SEALING ELIGIBILITY

A. Each month, the FACTS system will review all open and closed cases to identify those cases that are closed and meet the criteria for sealing in 60 days.

B. FACTS will generate a report of clients which meet the above criteria as well as individual letters to clients who meet the criteria for sealing in 60 days.

C. The report will be posted to a centralized location for JPO offices and facilities to review and research.

D. The OGC records custodian will access the report electronically and print the letters.

E. The OGC records custodian will mail the form letters to the clients identified on the list notifying them of impending sealing and giving them the opportunity to retrieve their records prior to sealing.

F. If a client who has received a notice of sealing letter requests a copy of the their records and files, the facility or field office who holds the records shall notify the OGC records custodian of the request, and upon notification from the records custodian to proceed, shall ask the client to complete a request for information form and upon receipt of a signed form, provide the records to the client free of charge. All confidentiality provisions pursuant to the Children’s Code Section 32A-2-32, NMSA 1978 are followed prior to releasing the record to the client.

[8.14.22.8 NMAC - N, 6/1/2010]

8.14.22.9 ELECTRONIC (FACTS) RECORDS SEALING

A. Each month, the FACTS system will seal the FACTS case for clients who turned 18 over 60 days ago or were already 18 and their case has been closed for 60 days.

B. Several lists are generated for notification of sealing for the courts, district attorneys, defense attorneys and the local law enforcement/referring agencies.

C. The office of general counsel will notify all parties involved in the client’s case of the record sealing, with the exception of law enforcement/referring agencies.

[8.14.22.9 NMAC - N, 6/1/2010]

8.14.22.10 SEALING NOTIFICATION - OUTSIDE ENTITIES

A. On a regular basis, the department will electronically notify the courts of CYFD records that have been sealed.

B. The department will ensure that electronic information on sealed cases will be available for other entities who are required to seal cases, including public defenders or other listed attorneys of record for the client, district attorneys, and local law enforcement agencies.

[8.14.22.10 NMAC - N, 6/1/2010]

8.14.22.11 COURT ORDERS TO SEAL

A. All court orders for sealing received by the department will be forwarded to the OGC records custodian.

B. When the OGC records custodian receives a court order for sealing, an office of general counsel attorney will review the order to ensure that it is valid and enforceable.

C. Once the order has been reviewed and approved by OGC legal, the OGC records custodian will notify the FACTS unit, the facility and the JPO field office of the order via email, who will then follow procedure for sealing the record.

[8.14.22.11 NMAC - N, 6/1/2010]

8.14.22.12 PHYSICAL FACILITY RECORDS SEALING

A. Upon receipt of notification of the posting of the sealed spreadsheet to a designated CYFD internal computer storage drive, facility records managers will go to that drive and retrieve the list.

B. Facility records managers will seal the files and records of the names of the clients on the spreadsheet or pursuant to a court order received from OGC and forwarded to them. As soon as possible, the facility records manager will pull the client file and record, secure it in a manila envelope and mark the envelope “sealed” indicating the date sealed, the client’s FACTS #, and the destruction date. The files and records are placed in a box or file cabinet that is marked as 'SEALED RECORDS'.

C. Upon meeting the records retention schedule, the facility records manager will deliver the sealed files and records to the state records center.

[8.14.22.12 NMAC - N, 6/1/2010]

8.14.22.13 ACCESSING SEALED RECORDS

A. Files and records that have been sealed may only be re-opened pursuant to a valid court order or for internal research and reporting purposes by designated staff in CYFD.

B. If an order is received to unseal a previously sealed file and record, OGC will review the order for legal sufficiency. Upon a determination that the order is legally sufficient, the order will be forwarded to the FACTS unit and the JPO field office or facility records manager to unseal the file and record. Once the file and record has been re-opened, OGC will be notified, the file and record delivered to OGC, and the file and record will be provided to the court that issued the order.

C. Any other request for files and records on a sealed case received at a facility or JPO field office will be forwarded to the OGC records custodian for a determination of the proper response.

D. Research and reporting includes providing information to CYFD’s data analysis unit, interstate compact for juveniles officials, department of health fatality review panels, and other entities approved by OGC.

[8.14.22.13 NMAC - N, 6/1/2010]

HISTORY OF 8.14.22 NMAC: [RESERVED]