
Records Sealing Procedure

352.1 DEFINITIONS

Requests or Court Orders to “seal” an arrest record are authorized by Penal Code (PC) §851 and the California Department of Justice. This policy will outline the department’s policy in processing requests. Requests to seal records may be in different forms or received by the department in a variety of ways. The forms will be of two primary types:

- (a) Court ordered sealing – adult and juvenile
- (b) Citizen requests for sealing – adult and juvenile

352.2 COURT-ORDER SEALING

This is an order of the court for a record to be sealed. It is mandatory and will be handled explicitly as follows:

- (a) Date/time stamp the request upon receipt.
- (b) Log the receipt of the Notice of Sealing in the Petition to Seal and Destroy Records Log.
- (c) Complete a Notice of Records Sealing.
- (d) Send a copy of the Notice of Records Sealing to Investigations, CSI and Crime Analysis.
- (e) Upon receipt of all records, seal according to the Records Bureau procedures.
- (f) Send form notification letters to the arrestee, court, etc., notifying them of the sealing.
- (g) Retain unsealed documents and court order in locked cabinet until destruction date.

352.3 CITIZEN REQUEST FOR RECORD SEALING

This is a request from a private citizen to have the records from their arrest sealed. It is a personal request (not a court order) to have records sealed based on provisions as outlined in PC851.8. A request, whether received by mail or via the front desk, will be handled in the following manner:

- (a) Records Bureau:
 - 1. Date/time stamp the request upon receipt.
 - 2. Forward the request to the Records Bureau Supervisor or designee.
 - 3. Log receipt of the request in the “Petition to Seal and Destroy Records Log” in the Record Bureau Supervisor’s bookcase.
 - 4. Run the requesting party through the Records Management System to verify case number.
 - 5. Complete a cover sheet (Citizen Request for Record Sealing) with the name, date of birth, I.P.D. case number and court number, if available.

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6. Fill in a due date for fifteen days from the date of receipt of the request. (The department has 60 days to respond to the request. Failure to respond will be reflected as a formal denial of the request.).
 7. Forward the cover letter and petition, to the Criminal Investigation Division (CID) Lieutenant for review.
- (b) Criminal Investigation Division (CID) Lieutenant - The CID Lieutenant should review the request and forward it to the appropriate area supervisor for review and comment. The review should encompass two areas:
1. Factual Innocence:
 - (a) Factual Innocence can be determined by comparing the case in question to standards of:
 1. Did a crime occur?
 2. Was the defendant responsible?
 3. Was the defendant arrested without cause and subjected unnecessarily to the processes of the court?
 4. The court determined via trial, the defendant is factually innocent.
 5. If the defendant was not involved in the crime or a crime was not committed, his/her factual innocence may be established.
 - (b) Factual Innocence is not established by:
 1. The court fails to file charges
 2. The court's lack of prosecution
 3. The case is dismissed in the furtherance of justice (PC 1385).
 2. Pending Litigation:
 - (a) The reviewing supervisor will contact the Office of Professional Standards to determine if the defendant or co-defendant has filed a claim or civil action against the officers, the department, or the City in the case in question.
 - (b) Records will not be destroyed in a case with litigation pending, or until that action is resolved.
 - (c) The reviewing supervisor will forward the results of the inquiry to the CID Lieutenant. The CID Lieutenant will forward the completed inquiry to the Records Bureau for additional processing.

352.4 SEALING APPROVED

If this is the determination of the department, this action must have concurrence by the District Attorney's Office before proceeding.

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- (a) Produce a cover letter to the District Attorney explaining the request and the determination by the department. Establish a response due date thirty days from the date the request was sent.
- (b) Forward the cover letter and complete package via the Court Liaison officer to the District Attorney's Office (Upon return/approval from the District Attorney):
 - 1. Send standard sealing notice to necessary areas of the department.
 - 2. Upon receipt of all records, seal according to the Records Bureau procedures.
 - 3. Notify California Department of Justice.
 - 4. Send form notification letter(s) to arrestee, court, etc., notifying them of the sealing.

352.5 SEALING DENIED

If this is the determination of the department, then the following steps should be followed:

- (a) Remove and destroy the copy of the case from the returned packet.
- (b) Complete standard form denial letter and send to the requesting party.
- (c) Place copy of the request, denial from the CID Lieutenant and the standard form denial letter sent to the requesting party with the case file for future reference.