

Number:	4.5
Subject:	CASES RECORD SEALING
Category:	Cases Section
Date:	March 18, 2011
Date Revised:	February 28, 2014, April 8, 2015, June 15, 2017, January 4, 2018
Related Sections:	Cal-ID Sealing 3.8, Booking Record Sealing 2.6
In Compliance With:	389, 781, 786, 793(c), of the Welfare & Institution Code 236.14, 236.23 851.7, 851.8, 1170.9(h), 1203.45 of the Penal Code 11361.8(f) of the Health and Safety Code 21USC844(b)(1), 214USC844(b)(2) of the US Federal Code

PURPOSE:

To establish a standard procedure for compliance with orders issued by the Courts, other Law Enforcement Agencies, and the Department of Justice for the Sealing of criminal records.

POLICY:

It is the responsibility of the Records & ID Division's Cases Section to process all Court orders, adult or juvenile, relating to the sealing of arrest and crime incident reports. The Cases Section shall also be responsible for processing all Petitions for a finding of Factual Innocence when submitted by subject of record to the department.

APPLICABLE CODES AND COURTS OF JURISDICTION:

ADULT:

- **236.14 PC:** This is a court order issued for the sealing of a person arrested for or convicted of any nonviolent offense committed while he or she was a victim of human trafficking, including, but not limited to, prosecution as described in subdivision (b) of Section 647, the person may petition the court for vacatur relief of his or her convictions and arrests under this section. The petitioner shall establish, by clear and convincing evidence, that the arrest or conviction was the direct result of being a victim of human trafficking.
- **236.23 PC:** This is a court order issued based on the affirmative defense. It is a defense to a charge of a crime that the person was coerced to commit the offense as a direct result of being a human trafficking victim at the time of the offense and had a reasonable fear of harm. This defense does not apply to a serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5, or a violation of Section 236.1. The defendant asserting the affirmative defense specified in subdivision (a) has the burden of establishing the affirmative defense by a preponderance of the evidence.

If the adult defendant prevails on the affirmative defense provided under subdivision (a), the court shall order that all records in the case be sealed pursuant to Section 851.86.

If, in a proceeding pursuant to Section 602 of the Welfare and Institutions Code, the juvenile court finds that the offense on which the proceeding is based was committed as a direct result of the minor being a human trafficking victim, and the affirmative defense established in subdivision (a) is established by a preponderance of the evidence, the court shall dismiss the proceeding and order the relief prescribed in Section 786 of the Welfare and Institutions Code.

- 851.8 PC: An application submitted by a person who has been arrested and no accusatory pleading has been filed, the person may submit to the arresting agency a petition for a finding of factual innocence. The arresting agency has 60 days to confer with the local prosecutor and determine a finding of factual innocence or deny the petition. If 60 days elapses and no finding is made by the agency, the petition is considered to be denied. In this instance, the person may petition the court of jurisdiction at which time the District Attorney must be served 10 days prior to hearing date and the responsibility rests with the petitioner to provide sufficient information to the Court to prove factual innocence.

If an accusatory pleading was filed and the court having jurisdiction over the offense grants the seal, in general the record is sealed for three years from the date of the arrest and thereafter destroyed. If the order to seal is granted more than three years after the date of arrest, the arrest records and the petition are destroyed immediately.

- 1170.9 PC Court Ordered: This code provides for probation; mental health treatment services; sentence credits; treatment program preference; collaboration; and restorative relief up to and including sealing of the record when the defendant is or has been a member of the United States Military and has suffered from sexual trauma, traumatic brain injury, post-traumatic stress disorder or mental health problems as a result of such service in the military.
- 1203.45 PC: This is a one-time Court order issued for the sealing of any record which has been adjudicated as a misdemeanor and a crime was committed by a person under the age of 21 and over the age of 18 years.
- 11361.8(f) HS: The court orders the conviction be set aside, dismissed and sealed as legally invalid as now established under Proposition 64.
- 21USC844(b)(1): Violation of any Federal Code under Title 21, Section 844, where defendant is over 21 years of age and it is a drug violation can be sealed under this section by Federal Court Order. All records to be sealed except those maintained by the US Department of Justice, Washington D. C.
- 21USC844(b)(2): Violation of any Federal Code under Title 21, Section 844, where defendant is under the age of 21 years, dealing with a drug violation can be sealed. All records to be sealed including those maintained by the US Department of Justice, Washington, D. C.

Note* Orders issued by the Federal Court under 21USC844 will be distributed by the Federal Court or the US Probation Officer and we are concerned with only our records.

JUVENILE:

- 781 W&I: Five years or more after the jurisdiction of the juvenile court has terminated as to the person, or five years since the juvenile was cited to appear before a probation officer or law enforcement agency or at any time after the person has reached the age of 18, the person may petition the court for the sealing of the records relating to the person's case. 781(a) The person must not have been convicted of any felony or misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court. 781(a) convictions **do** qualify for sealing under code 781.
- 781.5 W&I: Same as adult record sealing under 851.8 PC
- 793(c) W&I Deferred Entry of Judgment (DEJ): Juvenile record sealing under 793(c) W&I applies to an arrest where the minor was granted and successfully completed a deferred entry of judgment procedure.

A sealing granted under this Section would only cover one arrest event, the one in which the minor was granted the deferred entry of judgment, not the entire juvenile record. (If in doubt about which arrest the order pertains to, check with the Juvenile Probation Dept.)

- 786 W&I Modification of Juvenile Court Judgments and Orders: Juvenile record sealing under 786 W&I applies to an arrest where the minor completes an informal program of supervision, probation or a term of probation for any offense not listed in subdivision of Section 707.

PROCEDURE:

Upon receipt of a sealing order proceed with instructions for sealing of Arrest or Crime report. Samples of all forms and a set of instruction will be readily available in the Sheriff's Records & ID shared drive folder titled "Forms". The Department of Justice will occasionally forward a CII Rap Sheet notifying our agency that a record has been sealed. Treat as official sealing order and process accordingly.

Sealing Work Flow:

1. Log order in Sealing Order Tracking Log with your initials and the date in the "Processed By" column

SAN DIEGO SHERIFF'S RECORDS & ID DIVISION - POLICIES & PROCEDURES MANUAL

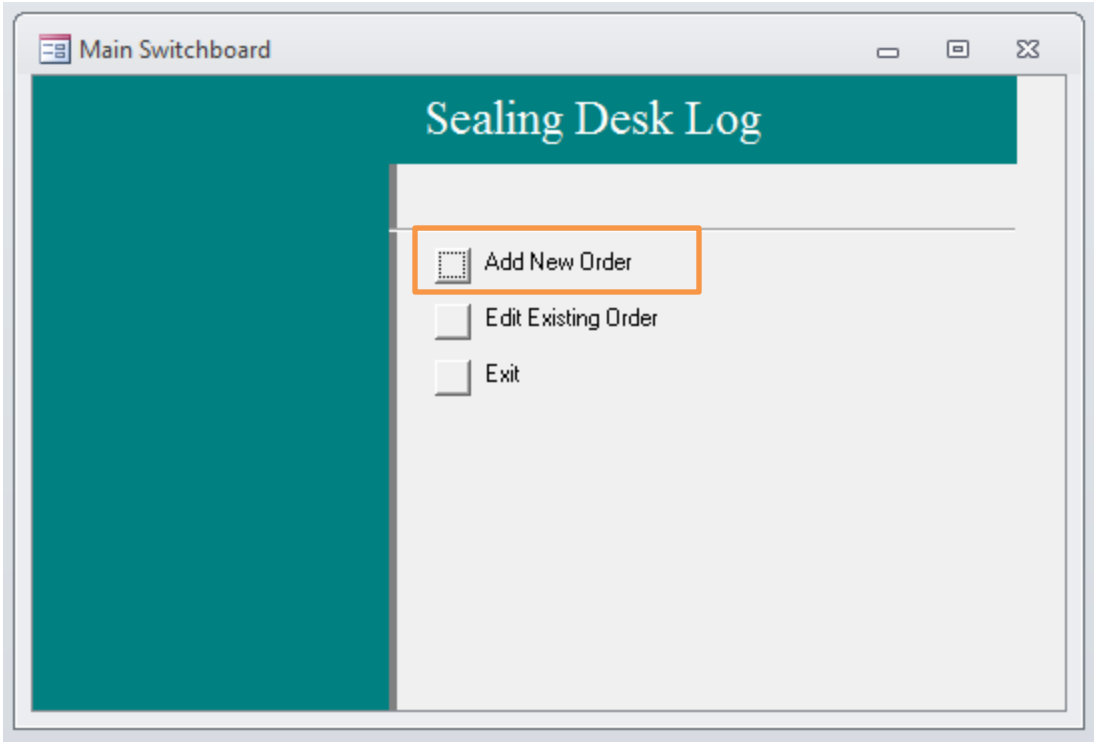
DATE RECEIVED	ADULT/JUVENILE	LAST NAME	FIRST/MIDDLE NAME	AKA	COURT ORDER #	LOGGED BY	PROCESSED BY
5/16/16	J	GONZALEZ PICON	ANDRES DAVID		JCM237377 01	SD 5/17/16	
5/16/16	J	SEUVAAI	BENJAMIN SEETIA		JCM229254 03	SD 5/17/16	
5/18/16	J	VINCENT	DALTON		JCM237144 01	SD 5/18/16	
5/18/16	A	SIMMONS	DORIS MARIE	DORIS MARIE ARCHIE	BKG# 07-741423A	SD 5/19/16	
5/18/16	A	PEINADO	JONATHAN DOUGLAS		BKG# 15-774482A	SD 5/19/16	
5/19/16	A	DUFY-DENO	KATHLEEN			AL 5/19/16	AL 5/19/16

2. Search sealing subjects information in Electronic Sealing Desk Log to verify if order is new or a duplicate

	<u>Adult:</u>	<u>Juvenile:</u>
Last Name Search	Lee	Vincent
Fist/Middle Name Search	David Leon	Dalton
Court Order #/Booking#	MCR 16029	JCM237377 01

Duplicate: Give order to sealing clerk who is processing or has processed the original order

Not a duplicate: Log order into the Electronic Sealing Desk Log. Click "Add New Order" and enter the corresponding information in order to assign a sealing number



Sealing Number	Today's Date	Last Name	First Name
<input type="button" value="New"/>			
Birthdate	Court Order Date	Judge	Court
Sealing Clerk Name	ARJIS #	CR03	
System Control Number	Report1 #	Report2 #	
Report3 #	Report4 #	Report5 #	
Report6 #	Booking1 #	Booking2 #	
AFIS # / REJIS #			
Sealed Per Code		Court Order Number:	
Returned From Station	Returned From Bookings	Returned From Cal-ID	Returned From DOJ/FBI
Returned From Other	Destruction Date		
Miscellaneous Notes			

Record: 1 of 1 Unfiltered Search

3. Run Sealing Subject in the following screens:

- ARJIS
 - M0I11
- NETRMS
- COPLINK
- SD Law – (Adults only)
 - EJIMS
 - County Locals

***SD Law printouts not needed - to be used as a tool to verify case number information**

Note: If the Report(s) have been purged, delete the COMPLETE ARJIS entry and send a No Record Compliance Letter

4. Prepare a Sealing Envelope or create "Sealing Flagged for Destruction" pink cover sheet

- a. Stamp JUVENILE or ADULT in top left corner
 - b. Sealing subject last name and first name.
 - c. Destruction date
 - d. Write the Sealing Log number in the top right corner of the sealing envelope
- Adult Destruction Date
- 236.14 PC – 3 Years from the Date of Arrest or within 1 year after the court order is granted (whichever occurs later)
 - 236.23 PC – 3 Years from the Date of Arrest
 - 851.8 PC – 3 Years from the Date of Arrest
 - 851.85 PC – 3 Years from the Date of Arrest
 - 1170.9 PC – No destruction date
 - 11361.8 HS – No destruction date

ADULT	DOE, JOHN L	DEST: 01/01/2020	#1234
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Note: If no destruction date, create a Sealing Envelope and leave destruction date blank

*If the destruction date has passed there is no need to prepare a Sealing Envelope, instead create a **SEALING FLAGGED FOR DESTRUCTION** cover sheet to be attached to the Sealing Order and documents.

- Juvenile Destruction Date
- 781 WI – 5 Years from the Court Order Date
 - 781.5 WI – 5 Years from the Court Order Date
 - Processed through Probation by the Court
 - 786 WI – 5 Years from the Court Order Date
 - 793(C) WI – 3 Years from the date of Arrest

JUVENILE	DOE, JOHN L	DEST: 01/01/2020	#1234
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*If Non SDSO Arrest or the destruction date has passed there is no need to prepare a Sealing Envelope, instead create a **SEALING FLAGGED FOR DESTRUCTION** cover sheet to be attached to the Sealing Order and documents.

5. Update Sealing Desk Log

6. Create an Adult or Juvenile Check-Off List

SDSO ARREST

Pre NetRMS Reports:

1. Remove the subjects' information from one or more of the following ARJIS screens:

- Arrest Screen: AR400/AR450/AR460
- Crime Case Screen: CCS01U
- Citation Screen: CA100
- Field Interview Screen: FIENT

Note: If the Report(s) have been purged, delete the COMPLETE ARJIS entry and send a No Record Compliance Letter

A. Crime Report only

- Pull the original report from the file
- Make a copy of the report
- Redact the sealing subjects' personal information from the copy including the narrative
- Make a copy of the redacted report, attach the **Sealed Info Cover Sheet** and place in the file
- Place the original un-redacted report in the sealing envelope
- Place sealing envelope or pink cover sheet with attached documents in overhang labeled "Sealing's 2nd Party".

B. Crime and Arrest Report(s)

- Pull the original crime and arrest report(s) from the file
- Make a copy of the crime report and redact the Sealing Subjects' personal information from the copy
- If the Sealing Subject is the only arrestee, place the original arrest report in the sealing envelope (No redactions will be made)
- If the case has multiple arrestees
 - Place the Sealing Subjects' arrest report in the sealing envelope (No redactions will be made)
 - Make a copy of the other arrest report(s) and redact the Sealing Subjects personal information if listed
- Make a copy of the redacted crime and arrest report(s) and attach the **Sealed Info Cover Sheet**
- Place the redacted copy of crime and arrest report(s) in the file
- Place the original un-redacted crime and arrest report(s) along with Sealing Subjects arrest report in the sealing envelope

- Place sealing envelope or pink cover sheet with attached documents in overhang labeled "Sealing's 2nd Party".

C. Arrest Report(s) only

- If the Sealing Subject is the only arrestee, remove the original arrest report and any documents from the file and replace it with a **Sealed Info Cover Sheet** and place the report in the sealing envelope
- If the case has multiple arrestees
 - Place the Sealing Subjects' arrest report in the sealing envelope (No redaction will be made)
 - Make a copy of the other arrest report(s) and redact the Sealing Subjects' personal information from the copy if listed
- Make a copy of the redacted arrest report(s) and attach the **Sealed Info Cover Sheet**
- Place the redacted copies in the file
- Place the original un-redacted arrest report(s) along with the Sealing Subjects' arrest report in the sealing envelope
- Place sealing envelope or pink cover sheet with attached documents in overhang labeled "Sealing's 2nd Party".

NetRMS Reports

Adult Sealing

1. Contact County Claims via email Betsy.Metz@sdcounty.ca.gov and Elisabetta.Pastorelli@sdcounty.ca.gov to verify if there are any pending claims or litigations.

Contact City Claims via email SAlonso@sandiego.gov to verify if there are any pending claims or litigations.

2. Remove the subjects' information from one or more of the following ARJIS screens:
 - Arrest Screen: AR400/AR450/AR460
 - Crime Case Screen: CCS01U
 - Citation Screen: CA100 ****See instructions regarding Citations**
 - Field Interview Screen: FIENT ****See instructions regarding Field Interviews**

3. Scan Sealing Order into the NetRMS Records folder and label as "SEALING ORDER"
 - Create a Records folder if one has not been created already

All Sealing Orders with SDSO Arrest will be sent to the assigned Station or Specialized Unit along with the Notification Letter.

- **(Does not apply to 851.8 Granted Petitions)**

Station Mail Stops:

NA-222	Alpine	N-182	Fallbrook
N-173	4S Ranch	S-178	Imperial Beach
NA-220	Julian	S-138	Lakeside
S-155	Lemon Grove	N-131	North Coastal
NA-221	Pine Valley	N-241	Poway
N-245	Ramona	S-159	Ranch San Diego
N-145	San Marcos	S-126	Santee
N-143	Valley Center/Pauma	N-141	Vista

Rural Offices:

NA-220	Borrego Springs/Julian/Ranchita/Warner Springs
NA-221	Boulevard/Campo/Jacumba/Pine Valley/Tecate

4. NetRMS Citations/Field Interviews

Email the NetRMS Unit to request the "Citation (Cite) and/or Field Interview (FI)" be sealed for the specific sealing subject and include a copy of the sealing order.

- Delete record from ARJIS once sealing confirmation is received from the NetRMS Unit
- Print NetRMS screen that shows Citation and/or FI is sealed

***If the Citation/Field Interview is not in NetRMS do not email the NetRMS Unit to seal. Delete the file from ARJIS.**

5. Complete and forward the Cal-ID/Booking Notification Letter along with a copy of the sealing Order and facesheet of the NetRMS case report

6. Once Cal-ID/Booking's response has been received

- If a record is found, review the information to verify that it corresponds to the sealing subject and arrest record to be sealed. Update all the appropriate fields in the electronic sealing log
- If no record is found, update the electronic sealing log with "No Record" in the miscellaneous field

7. Complete the Adult Compliance Letter. Place a copy in the sealing envelope. Send the original letter to the appropriate Court, Law Enforcement Agency, and/or District Attorney's Office (Applies only to 851.8 PC Granted Petitions).

San Diego County Superior Court Mail Stops:

C-44 County Courthouse
S-117 East County Courthouse
S-111 South Bay Courthouse
N-161 North County Courthouse

8. Complete the following letters only for SDSO Granted 851.8 PC Petition to Seal
 - Adult Petition to Seal Approved to Petitioner
 - Second Letter to DOJ
 - Letter to the DA- Attn: DDA Supervisor

9. Make a case note in NetRMS to document Sealing with the appropriate agency information.

***Note: See examples below**

Order to seal Court Records
Case #SCN0000001
Superior Court of California
County of San Diego
Central Division, County Courthouse
220 West Broadway
San Diego, CA 92101

Related Case XXXXXXXXX Sealed:
Order to Seal Court Records
Case #
Superior Court of California
County of San Diego
North County Division
325 S. Melrose Dr.
Vista, CA 92081

Penal Code 851.8 Petition Granted
Vista Patrol Station
Captain S. Rossall
325 S. Melrose Drive Suite 210
Vista, CA 92081-6696
Telephone: 760 940-4559

Penal Code 1170.9 Petition Granted
Case #
State of California
Department of Justice
Record Sealing Unit

P.O. Box 903417
Sacramento, CA 94203-4170

10. Review the Case Report to verify if Evidence is listed

Evidence:

- Send a copy of the Sealing Order with a Notification Letter to Property & Evidence via email addressed to Mike Otis
- Update Adult Check-Off sheet with the date notification was sent

No Evidence

- Verify if the case was released by our department
 - If the arrest report was released, send an Outside Agency Notification Letter along with a copy of the Sealing Order to the Agency whom the arrest report was released to
 - If the report was not released or a **victims copy** was released, proceed to seal case

11. Scan Compliance Letter, Station/Specialized Unit Notification Letter, and Property & Evidence letter into the Records folder and label as "Sealing Correspondence"

12. Seal NetRMS Case Folder

- Refer to "How to Seal A Case in NETRMS" instructions
- Print NetRMS screen that shows case is Sealed
- If the case was sealed per a previous court order, give the completed documents to a supervisor to scan into the Records folder and make the case note.

13. Remove copies/duplicate documents.

14. Sign off and date the check off list with first initial, last name, ARJIS number, and date.

15. Update the Electronic Sealing Log with the Records that have been sealed: Case No, Citation No, Field Interview No, and any additional information provided

16. Place all documents to be sealed in sealing jacket in the following order: 1. Check off list, 2. Sealing order, 3. Compliance letter, and 4. all other documents.

17. Sign sealing stamp on back of sealing jacket, sealed by: with first initial, last name, and ARJIS number.

18. Place sealing envelope or pink cover sheet with attached documents in overhang labeled "Sealing's 2nd Party".

Juvenile Sealing

1. Refer to Adult sealing instructions 2 - 6
2. Complete the SDSO Juvenile Compliance Letter or Acknowledgment of Juvenile Record Sealed (if provided). Place a copy in the sealing envelope. Send the original letter to the appropriate Court.
San Diego County Juvenile Court Mail Stop:
P-299 JUVENILE COURT SAN DIEGO
3. Complete the following letters only for SDSO Granted 781.5 PC Petition to Seal
 - Juvenile Petition to Seal Approved
 - Letter to DOJ
4. Make a case note in NetRMS to document Sealing with the appropriate agency information.

***Note: See examples below**

Order to Seal Juvenile Records
Case #JCM235431 01
Superior Court of California
County of San Diego
Juvenile Division
2851 Meadow Lark Drive
San Diego, CA 92123

Related Case 12345678 Sealed:
Order to Seal Juvenile Records
Case #JCM
Superior Court of California
County of San Diego
Juvenile Division
2851 Meadow Lark Drive
San Diego, CA 92123

Order to Seal Juvenile Records
Case #J-255724
Superior Court of California
County of San Bernadino
Juvenile Court
14455 Civic Dr.
Victorville, CA 92392

Welfare and Institution Code 781.5 Petition Granted
Santee Patrol Station
Detective John Whiteman
8811 Cuyamaca St
Santee, CA 92071
Telephone: 619-956-4000

5. Refer to Adult sealing instructions #10 – 18

Non SDSO Arrest: (Adult/Juvenile)

1. Complete and forward the Cal-ID/Booking Notification Letter along with a copy of the sealing Order
2. Once Cal-ID/Booking's response has been received

If a record is found and removed prepare a Compliance Letter

- Review the documents to verify that it corresponds to the sealing subject and the arrest record to be sealed
- Create a sealing envelope if destruction date is more than 6 months away
- Complete an Adult Compliance Letter, Juvenile Compliance Letter, or Acknowledgment of Juvenile Record Sealed
- Place a copy in the sealing envelope

If no record is found prepare a No Record Compliance Letter

- Complete a No Record Compliance Letter and include a copy with all other documents
- Attach a "Sealing Flagged for Destruction Cover Sheet"

3. Send the original Compliance/No Record Compliance letter to DOJ, the appropriate Court, and/or LE Agency.

We do not send any sealing notifications to Property & Evidence on Non SDSO Arrest

4. Complete and sign off on the check off list
5. Update the Electronic Sealing Log with the Record(s) that have been sealed
6. Place all documents to be sealed in sealing jacket or attach pink cover sheet in the following order: 1. Check off list, 2. Sealing order, 3. Compliance letter, and 4. All other documents.
8. Sign sealing stamp on back of sealing jacket "sealed by" with first initial, last name, and ARJIS number.

7. Place sealing envelope or pink cover sheet with attached documents in overhang labeled "Sealing's 2nd Party" ..

Sealing 2nd party checks:

1. Verify all steps are followed.
2. Sign off and date the check off list and place in sealing envelope.
3. Update Electronic Sealing Log
4. Sign and date sealing stamp "verified by" with first initial, last name, and ARJIS number.
5. Seal envelope with clear packing tape and file in appropriate cabinet in numerical order.