

**SEALING/RELEASE/DESTRUCTION OF JUVENILE RECORDS
PURSUANT TO WELFARE AND INSTITUTIONS CODES 786 AND 786.5**

- AUTHORITY:** Welfare and Institutions Code (WIC) Sections 208.5 388(e), 389(c), 602, 625, 626, 654.2, 654.3, 656.2, 707(b), 725, 730.5, 730.6, 781 (d), 781.5, 786, 787, 790, 826, 827, 828, 831, and 903
Penal Code 290.008, 29820, 299
California Rules of Court Rule 5.504 (Judicial Council Forms), Rule 5.552 (Confidentiality of Records), Rule 5.840 (Dismissal of Petition Sealing of Records Section 786), and Rule 5.850 (Sealing of records by probation in diversion cases Section 786.5)
Victim's Bill of Rights Act 2008 (Marsy's Law)
California Constitution, Article 1, Section 28
- RESCINDS:** Procedure Manual Item 2-5-010, dated 05/16/18
- FORMS:** Sealing of Records Outcome Sheet/ Distribution (ICMS Generated Form) of Sealing of Records
Dismissal and Sealing of Records-Welfare and Institutions Code Section 786 (JV-596)
Sealing of Records for Satisfactory Completion of Probation (JV-596-INFO)
Sealing of Records for Satisfactory Completion of Probation (JV-596-INFO S)
Notice of Compliance of Sealing of Records (Court Form)
Order for Sealing of Juvenile Records (CR 035)
Acknowledgement of Juvenile Record Sealed (JV-591)
Probation Department Notice on Sealing of Records After Diversion Program (JV-597)
Petition to Review Denial of Sealing of Records After Diversion Program (JV-598)
Notification to the Department of Justice Sealing of Records-Welfare and Institutions Code 786.5 (Records Unit Form)
- PURPOSE:** To provide guidelines for the sealing and destruction of probation records pursuant to WIC 786 and WIC 786.5.

I. GENERAL INFORMATION

- A. The legislature has taken repeated action to ensure that all people with juvenile records who are eligible to have them sealed can have the opportunity to do so with as few barriers as possible, **sealing** a juvenile record at the conclusion of a term of probation.
- B. **When a youth satisfactorily completes a term of court ordered WIC 654.2 or 725 (informal probation), WIC 790 (Deferred Entry of Judgment [DEJ]), or WIC 602 (formal probation) for any offense that is not a WIC 707(b), the Court shall order sealed all records pertaining to the dismissed petition in the custody of the juvenile court, law enforcement agencies, the probation department, or the**

Department of Justice (DOJ). The Court shall send a copy of the order to seal to each agency and specify a date by which the sealed records shall be destroyed. Upon the court's dismissal of the petition, the arrest, and other proceedings in the case shall be deemed not to have occurred and the person who was the subject of the petition may reply accordingly to any inquiry by employers, educational institutions, or other persons or entities regarding the arrest and proceedings in the case.

- C. **Upon granting the record sealed**, the court to provide notice to the youth and the youth's counsel once the youth's petition has been dismissed and the records sealed in the case, as well as providing the youth with an advisement of their right to nondisclosure of the arrest and proceedings.
- D. **Additionally**, WIC 786.5 addresses the sealing of a youth's records upon successful completion of **WIC 654** diversion or **informal probation**. In such circumstances, in addition to sealing their own records pertaining to the offense, the probation department will also be required to notify the **law enforcement agency who submitted the out of custody petition and the** public or private diversion agency to which the youth has been referred under these circumstances to seal the records in its custody relating to the youth's arrest or referral and participation in the program.

Satisfactory completion of the program of diversion **or informal probation** is defined as substantial compliance by the youth with the reasonable program terms of participation that are within the capacity of the youth to perform. A determination of satisfactory or unsatisfactory completion shall be made by the probation department within sixty (60) days of completion of the program by the youth, or if the youth does not complete the program, within sixty (60) days of determining that the program has not been completed by the youth.

The probation department will be responsible for notifying the youth once their record relating to this offense was sealed. If the record is not sealed, the probation department shall notify the youth in writing to the reason(s) for not sealing the record.

A youth who receives notice from the probation department that they have not satisfactorily completed the diversion program and their record has not been sealed pursuant to WIC 786.5 may petition the court for review of the decision. In such instances, the court will make a determination on whether the record shall be sealed.

- E. Financial information cannot be taken into consideration when assessing the applicant's rehabilitation. Sealing does not prohibit the court from enforcing a civil judgment for outstanding restitution. Nor does a sealing relieve a youth from the obligation to pay victim restitution **and** restitution fines. If there **is** still outstanding restitution, the court can determine whether to convert the unfulfilled order of restitution to a civil judgment.
- F. Records to be sealed must include records, including electronic records, in the custody of the court, law enforcement agencies, the probation department, and the Department of Justice. It also allows the youth to request that additional records be sealed and/or the court to order sealing and destruction of all records pertaining to the dismissed petition(s) and/or prior petitions if it is determined that sealing the

additional record(s) will promote the successful reentry and rehabilitation of the youth and if the sealing criteria have been met. Satisfactory completion is defined as “no new findings of wardship or conviction for a felony offense or a misdemeanor involving moral turpitude during the period of supervision or probation and if the youth has not failed to substantially comply with the reasonable orders of supervision or probation that are within the youth’s capacity to perform. The period of supervision or probation shall not be extended solely for the purpose of deferring or delaying eligibility for dismissal of the petition and sealing of the records.

The only exemption to having a petition dismissed is if the petition was sustained based on the commission of an offense listed in WIC 707(b) that was committed when the youth was fourteen (14) years of age or older, unless the finding on that offense was reduced or dismissed to a lesser offense not listed in WIC 707(b). Records will be permanently retained by the department for youth, fourteen (14) years of age or older, who have substantiated WIC 707(b) offenses.

- G. When there is an order to seal, the court shall send a copy of the order to each agency and official named in the order, direct the agency or official to seal its records, and specify a date by which the sealed records shall be destroyed. Each agency and official named in the order shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and after advising the court, shall seal the copy of the court’s order that was received. The clerk of the issuing court shall provide a copy of the order to the individual whose records have been sealed. Additionally, the court shall provide the individual with a copy of *Satisfactory Completion of Probation* form (JV-596-INFO) and a copy of the order to seal, as well as include an advisement of the person’s right to nondisclosure for the arrest and proceedings for the offense in which the record was sealed.
- H. An unfulfilled order or condition of restitution, including a restitution fine that can be converted to a civil judgment under WIC 730.6 or an unpaid restitution fee, shall not be deemed to constitute unsatisfactory completion of supervision or probation. However, the court is not prohibited from enforcing a civil judgment for outstanding restitution, nor does a sealing relieve a youth from the obligation to pay victim restitution, restitution fines, and court ordered fines and fees.
- I. **Pursuant to PC 299, when a youth’s record is ordered sealed and there was DNA collected in regard to the matter that was sealed, it is the responsibility of the youth to petition DOJ to have their DNA sample destroyed and searchable database profile expunged from the data bank program.**

II. DESTRUCTION GUIDELINES

- A. On cases that have been ordered sealed, destruction of juvenile court and probation records and papers regarding the proceedings, including Minute Orders, Disposition Sheets, probation records, Integrated Case Management System (ICMS) records, and youth-related documents, is to take place on the following timelines pursuant to WIC 781(d) and WIC 826(a):
 - 1. If the court orders a specific date for destruction, all records pertaining to that case shall be destroyed on that date. Per **California Rules of Court Rule 5.840 (Dismissal of petition and sealing of records)**, the court must

specify in its order the date by which all sealed records must be destroyed. For court records, this date may be no earlier than the date the subject of the order attains the age of twenty-one (21) and no later than the end of the timeframe set forth in WIC 781(d). For all other records, the date may be no earlier than the timeframe set forth in WIC 781(d) unless that time frame expires prior to the date the youth attains the age of eighteen (18).

2. Cases ordered sealed pursuant to WIC 781.5 and 786.5 shall be destroyed three (3) years after the date of the arrest or citation. This includes non-court ordered **WIC 654** and non-custody intake diversion cases where a youth satisfactorily completed **informal sanctions or** diversion in which the youth was referred by a **deputy probation officer (DPO)** or prosecutor in lieu of the filing of a petition to declare the youth a ward of the juvenile court.
3. WIC 601 cases shall be destroyed five (5) years after the order to seal or once the youth reaches the age of twenty-one (21) and has no new law violations.

FOR WIC 601 cases with new law violations, all records pertaining to the youth may be sealed and destroyed five (5) years from the date on which the court terminates jurisdiction over the youth for the new law violation and/or any additional subsequent criminal matters.

4. Department of Education (DOE) Community School Program paperwork and files pertaining to youth shall be maintained **for five (5) years from the date of the signed agreement and then sealed** pursuant to WIC 781.
5. Court ordered WICs 654.2, 725, and 790 cases shall be destroyed five (5) years after the order to seal and after the youth reached the age of twenty-one (21).
6. WIC 602 cases that are not sustained as WIC 707(b) offenses shall be destroyed when the youth reaches the age of thirty-eight (38) for court records and the age of **thirty (30)** for non-court records, unless for good cause the court determines that the juvenile record shall be retained.
7. **If a record contains a sustained petition rendering the person ineligible to own or possess a firearm until thirty (30) years of age pursuant to PC 29820, the sealed records are prohibited from being destroyed until that person turns thirty-three (33) years of age.**
8. Juvenile court records which are not permitted to be sealed pursuant to WIC 781(f) shall not be destroyed pursuant to WIC 826. Refer to Procedure Manual Item (PMI) 2-5-009 (Sealing/Release/Destruction of Juvenile Court Records Pursuant to Welfare and Institutions Code 781).
9. **Exception: Cases/files pending litigation are not to be destroyed until litigation is complete. In such instances, the Professional Standards Division (PSD) will flag them as "Legal Hold" in ICMS. Once litigation is complete, PSD will make an ICMS entry as to such and will notify the MOB 4 Clerical Services Unit Office Supervisor that the records are clear for destruction.**

- B. On cases that have not been sealed, destruction is to take place on the following timelines:
1. WIC 601 cases shall be destroyed once the youth reaches the age of twenty-one (21).
 2. **Department of Education (DOE) packets shall be destroyed five (5) years from the date of the signed agreement.**
 3. Non-court ordered diversion cases in which no petition was filed in juvenile court shall be destroyed five (5) years after jurisdiction over that case was terminated and after reaching the age of twenty-one (21).
 4. WIC 602 cases that are not WIC 707(b) offenses shall be destroyed by the time the youth reaches the age of thirty-eight (38) for court records and the age of **thirty (30)** for non-court records.
 5. Cases wherein a WIC 707(b) offense is sustained shall not be destroyed, unless ordered destroyed by the court.
 6. Cases that were previously direct filed as a result of California Proposition 21 between March 7, 2000 and November 7, 2016 or remanded to a court of criminal jurisdiction as a result of California Proposition 57 on or after November 8, 2016 shall not be destroyed.

III. PROCEDURE

A. Full Sealing of Record

If the only petition contained in the youth's probation file and ICMS records is that for which the youth was granted their records sealed, the youth's entire record can be sealed.

1. The assigned deputy probation officer (DPO) will:
 - a. Make appropriate victim notifications if there are victims associated with the matter being sealed. The DPO will verify in ICMS or check with the Victim Services Coordinator to see if the victim(s) have requested to be notified of matters in which the right of the victim is at issue.
 - (1) If the victim has asserted their right and requested to be notified, the DPO will contact the victim via telephone, explain the purpose of the phone call and inform them of the record sealing and their right to an action for civil damages pursuant to WIC 656.2. If necessary, also provide them with the Victim/Witness Assistance Program contact information (714-935-7074) for additional assistance.
 - (2) The DPO shall make an ICMS-ECR entry documenting the conversation.

(3) The California Constitution, Article 1, Section 28, Section (b) provides specific enumerated rights to victims. See Procedure Manual Item (PMI) 1-1-117 (Juvenile Victim Services) for further information.

b. Complete a Termination Chrono.

c. Initiate the WIC 786 sealing of record process via [REDACTED].

(1) [REDACTED]

[REDACTED]

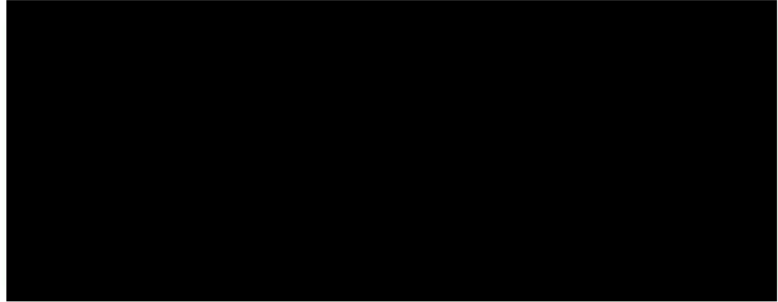
(2) [REDACTED]

[REDACTED]



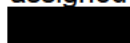
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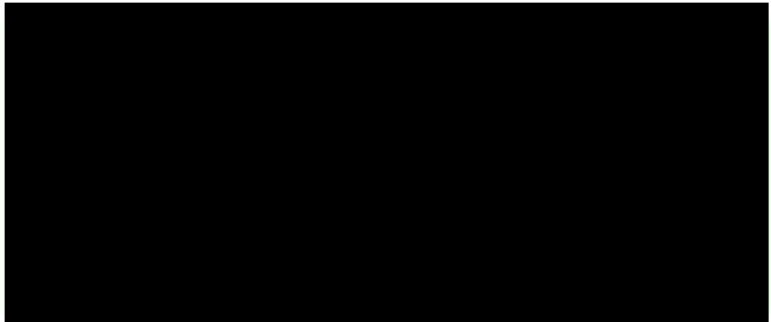
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(4) [REDACTED].



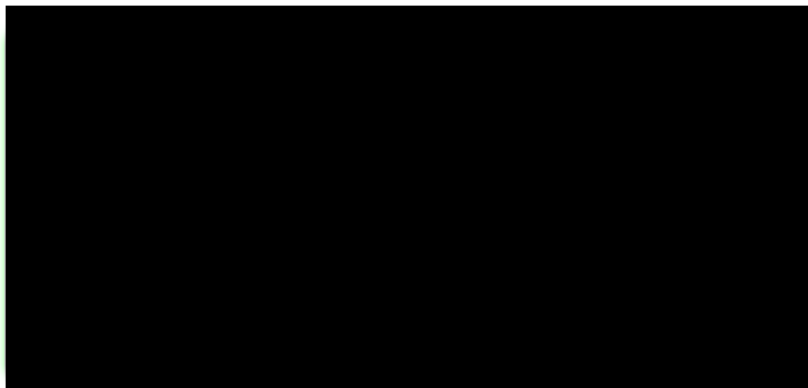
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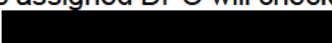
 This will prompt the system to update with all the facilities and programs that the youth has been housed at or participated in (e.g. Juvenile Hall, YGC, YLA, PPP, None). If there are others not identified, select "Other" and specify in the "Other" box. Select from the drop down box or input as indicated the following information into the screen: assigned  assigned supervising probation officer (SPO), the  to be sealed (as indicated on the Minute Order and/or the *Order for Sealing of Juvenile Records, Dismissal and Sealing of Records-Welfare and Institutions Code Section 786* or the *Notice of Compliance of Sealing of Records*-verify that documents match), the date the record was ordered to be sealed pursuant to "WIC 786." Also, make any necessary notations in the NOTES Section.



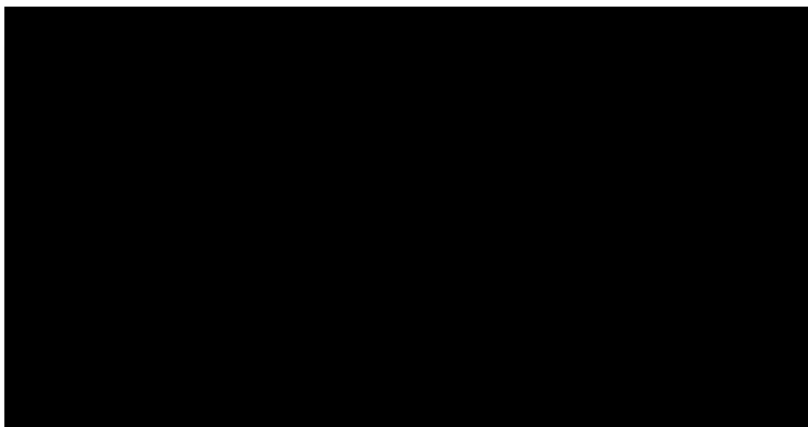
(6)

This will generate the *Sealing of Records Outcome Sheet/Distribution of Sealing of Records*, as well as notify the appropriate parties to route all files/paperwork (e.g. facility files, PPP paperwork, etc.) to the requesting DPO. Print a copy and put in the front of the youth's file.

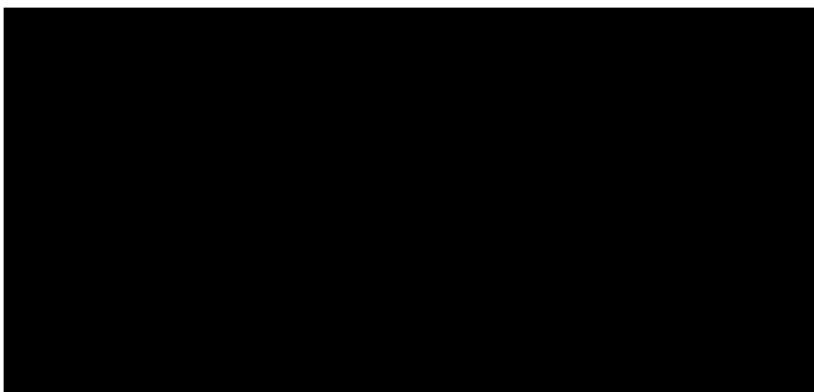


- (7) Maintain the file until all requested files/documents have been received. Once received, the assigned DPO will check them in as being received via the 

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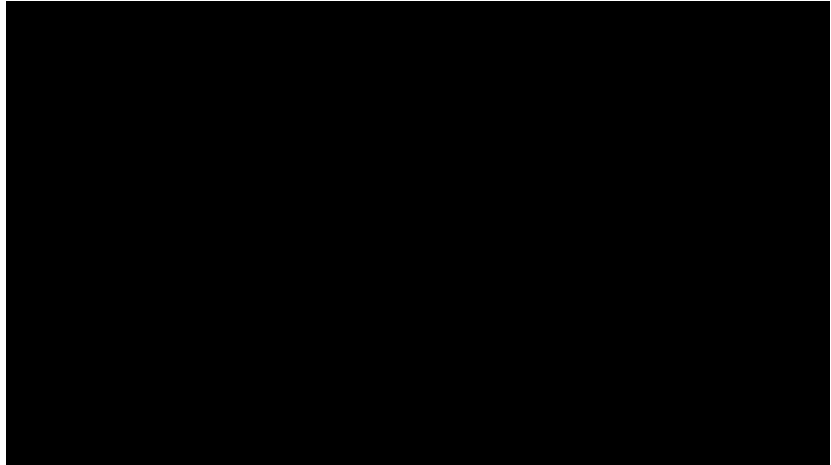


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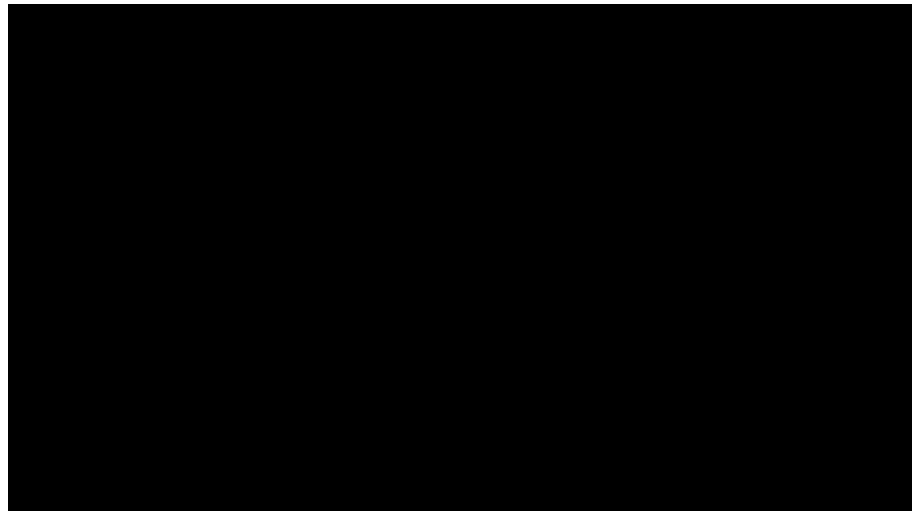


- d.





- e. Once all materials pertaining to the Sealing of Record petition have been received, place all including, but not limited to the petition, Disposition Sheets, Minute Orders, police reports, facility files, PPP documents, etc., in a manila envelope. The envelope needs to be labeled with the youth's last name, first name, DL#, and date of birth and then placed in the file.



- f. Submit the above to the assigned SPO for review.
2. The SPO will review the file and all documentation to ensure that the Minute Order and/or the Order for Sealing of Juvenile Records, Dismissal and Sealing of Records-Welfare and Institutions Code Section 786 or the Notice of Compliance of Sealing of Records match and that all documentation to be sealed is correct. If complete, the SPO will initial on the Sealing of Record Outcome Sheet/Distribution of Sealing of Records form. Once completed, the SPO will forward this form and the above-referenced items to the unit clerk.
 3. The unit clerk will process the termination and log out/route the file to MOB-4 SOR Desk (786) in ICMS File Request/Transfer screen.
 4. The **MOB 4 Clerical Services Unit SOR Office Specialist (OS) Desk** verifies the *Dismissal and Sealing of Records-Welfare and Institutions*

Code Section 786 court form and all relevant information pertaining to the record seal for accuracy and completes the record seal.

In addition to sealing traditional department files, the **MOB 4 Clerical Services Unit SOR OS Desk** seals all information associated with the client or court case number in ICMS. Once sealed, this information will no longer be visible in the ICMS screens and reports. ECR notes and Risk Needs information will hide all notes created before the petition filed date of the first non-sealed case number. Sealed records can only be accessed by specific designated positions/functions associated with DEJ, diversion, programming eligibility, and research. As such, staff associated with these functions will be provided access on a need to know, right to know basis.

Once all pertinent records are sealed, the **MOB 4 Clerical Services Unit SOR OS Desk** will forward the *Acknowledgement of Juvenile Records Sealed* (JV-591) to the Juvenile Court Services Division Director for final signature pertaining to the sealing. Once signed and returned to the Sealing of Record Clerk, copies are made for the probation file and the original is ponied to court within fifteen (15) days of sealing.

5. All sealed files will remain secured in the Sealing of Record Office-MOB 2nd Floor Sealing of Record Room. The file will remain there until it is scheduled to be destroyed according to the destruction timelines outlined in section II. A. and B. above.

B. Partial Sealing of Record:

A partial sealing of record is needed when there are other Applications for Petition handled informally by Probation, OCDE cases or when the youth was placed on court ordered WIC 602, 654.2, or 725 probation.

1. The assigned DPO will:
 - a. Make appropriate victim notifications if there are victims associated with the matter being sealed. The DPO will verify in ICMS or check with the Victim Services Coordinator to see if the victim(s) have requested to be notified of matters in which the right of the victim is at issue.
 - (1) If the victim has asserted their right and requested to be notified, the DPO will contact the victim via telephone, explain the purpose of the phone call and inform them of the record sealing and their right to an action for civil damages pursuant to WIC 656.2. If necessary, also provide them with the Victim/Witness Assistance Program contact information (714-935-7074) for additional assistance.
 - (2) The DPO shall make an ICMS-ECR entry documenting the conversation.
 - b. Complete a Termination Chrono for the records to be sealed.
 - c. Initiate the WIC 786 sealing of record process via ICMS.

(1) [REDACTED]

[REDACTED]

(2) [REDACTED]

[REDACTED]

(3) [REDACTED]

[REDACTED]

(4) [REDACTED]

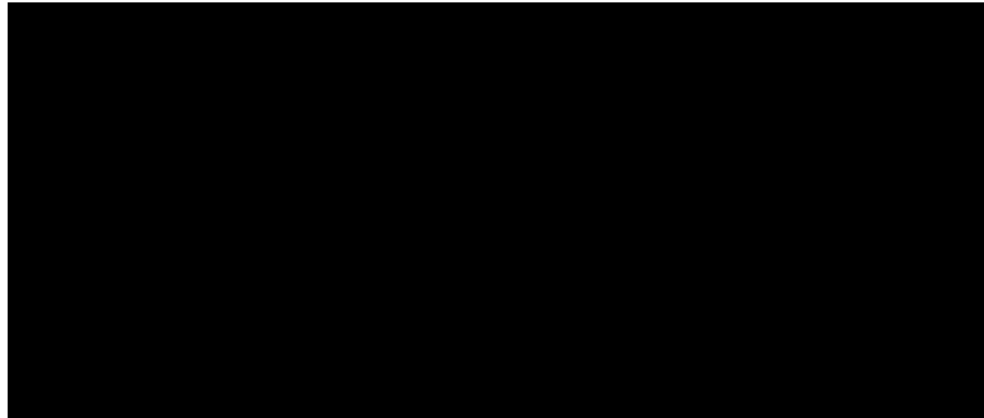


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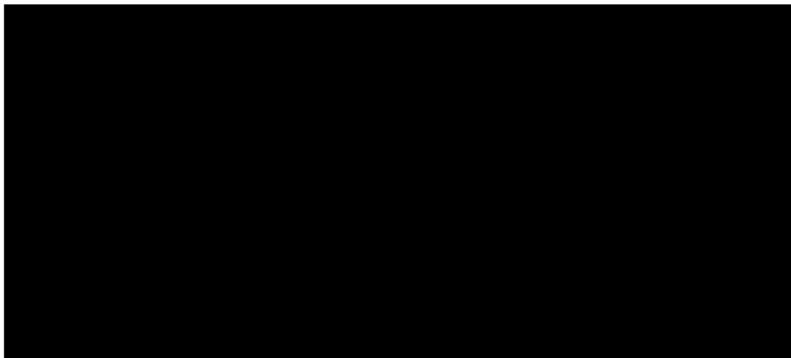
. This will prompt the system to update with all the facilities and programs that the youth has been housed at or participated in (e.g. Juvenile Hall, YGC, YLA, PPP, None). If there are others not identified, select "Other" and specify in the "Other" box. Select from the drop down box or input as indicated the following information into the screen: assigned [redacted] assigned SPO, the [redacted] to be sealed (as indicated on the Minute Order and/or the *Order for Sealing of Juvenile Records, Dismissal and Sealing of Records-Welfare and Institutions Code Section 786* or the *Notice of Compliance of Sealing of Records*-verify that documents match), the date the record was ordered to be sealed pursuant to "WIC 786." Also, make any notations in the NOTES Section that are needed.

Once this information is entered, select "Save" at the top right corner.

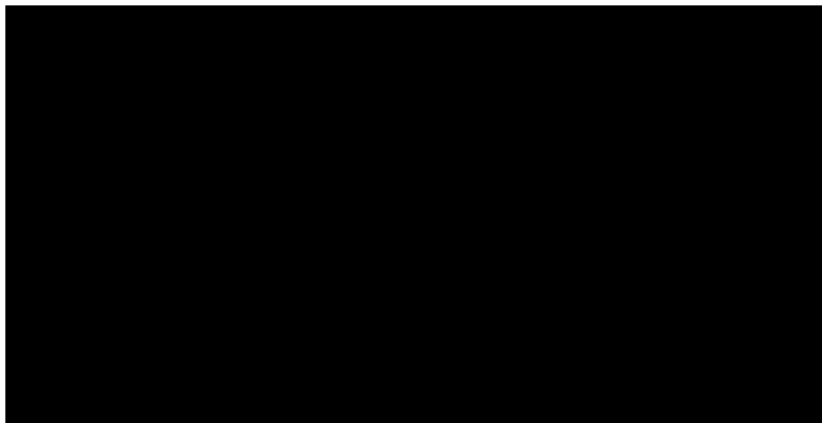


(6) This will generate the *Sealing of Records Outcome Sheet/Distribution of Sealing of Records*. Print a copy and put in the front of the youth's file.

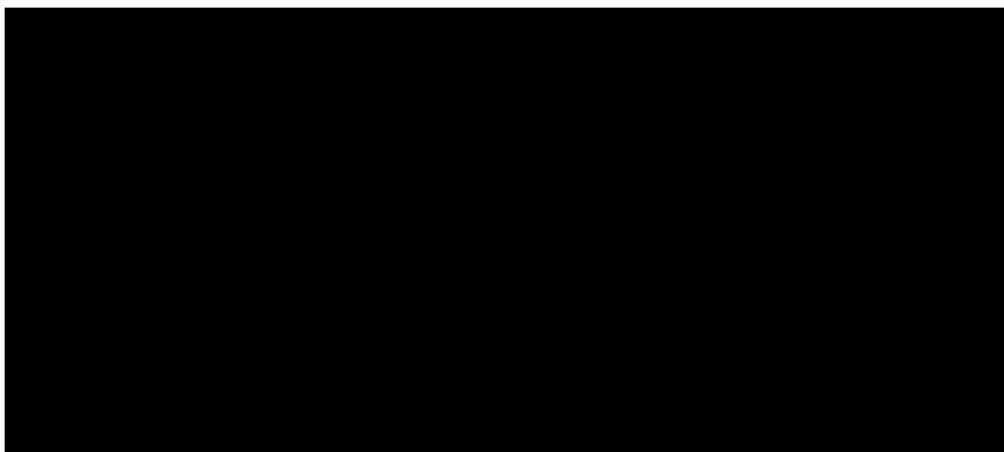
Note: If multiple cases are ordered sealed, above steps III. B.1.c.1.-6. will need to be completed for each sealed case.



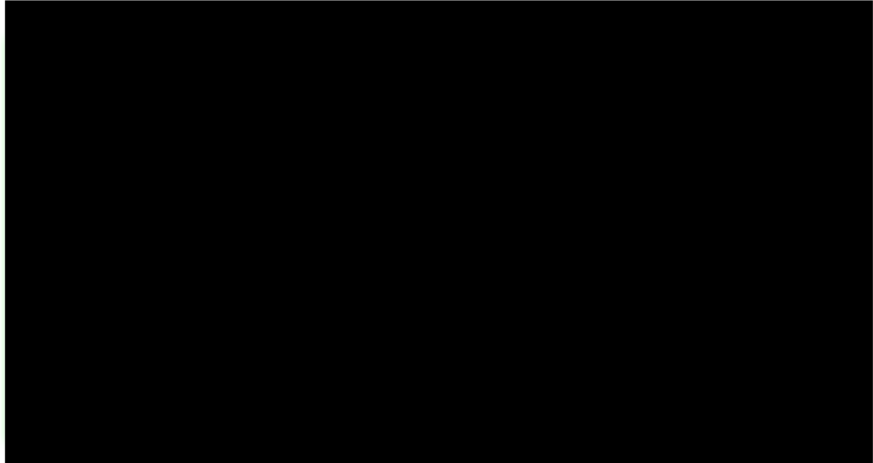
- (7) Maintain the file until all requested files/documents have been received. Once received, the assigned DPO will check them in as being received via the [REDACTED].



- (8) Select the [REDACTED] or [REDACTED] from the list or input the [REDACTED] and select go to open the sealing document.

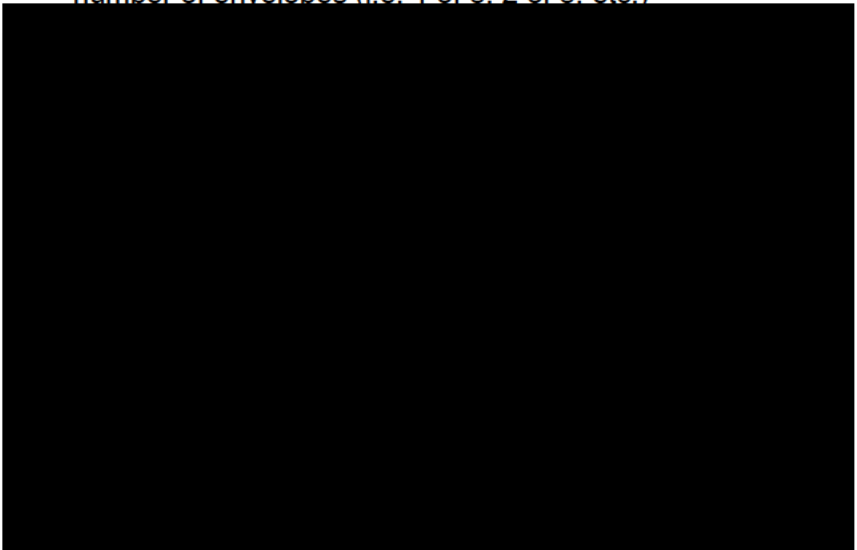


- (9) [REDACTED] For partial record seals, there may be information in the facility files that is not part of the seal. In such instances, only information pertaining to the records being sealed it to be pulled. Any additional non-seal material is left in the file and returned to the facility.

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- (10) Once all materials pertaining to the Sealing of Record petition have been received, place all including, but not limited to the petition, Disposition Sheets, Minute Orders, police reports, facility files, PPP/JCWP documents, etc., in a manila envelope. The envelope needs to be labeled with the youth's last name, first name, DL#, date of birth, and **court case numbers. The envelope is** then placed in the file. For cases in which the matter ordered sealed was initially handled informally by probation and failed diversion, these records are also to be sealed.

Those items remaining in file need to be reviewed and redacted, if needed pursuant to PMI 2-6-008 (Destruction or Redaction of Juvenile Records Pursuant to Health and Safety Code 11361.5).

Note: If there are multiple petitions to be sealed, a separate packet will need to be created for each sealed petition and labeled as mentioned above, as well as labeled with the number of envelopes (i.e. 1 of 3, 2 of 3, etc.)



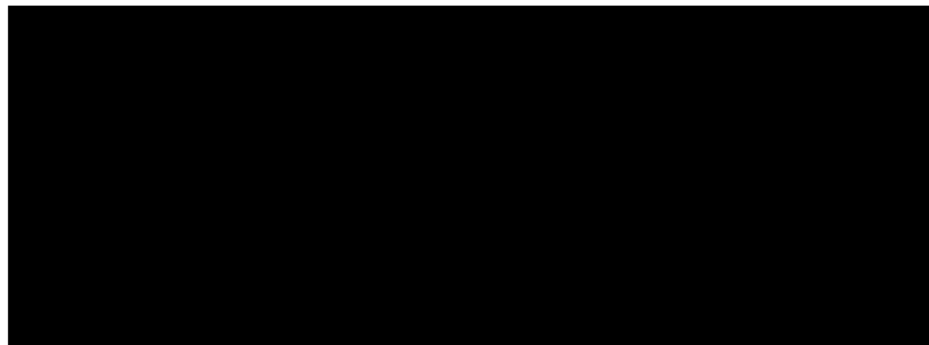
(11) Print out a Chrono History Sheet and circle, in red ink, all entries the unit clerk is to delete from ICMS.

(12) Submit the above to the assigned SPO for review.

2. The SPO will review the file and all documentation to ensure that the Minute Order and/or the Order for Sealing of Juvenile Records, Dismissal and Sealing of Records-Welfare and Institutions Code Section 786 or the Notice of Compliance of Sealing of Records match and that all documentation to be sealed is correct. If complete, the SPO will initial on the Sealing of Record Outcome Sheet/Distribution of Sealing of Records form. Once completed, the SPO will forward this form and the above-referenced items to the unit clerk.
3. The unit clerk will log out/route the sealing packet(s) to MOB-4 SOR Desk (786) via the ICMS File Request/Transfer screen.
4. The **MOB 4 Clerical Services Unit SOR OS Desk** verifies the *Dismissal and Sealing of Records-Welfare and Institutions Code Section 786* court form and all relevant information pertaining to the record seal for accuracy and verifies the partial seal and forward the *Acknowledgment of Juvenile Records Sealed* to the Juvenile Court Services Division Director for final signature pertaining to the seal. Once signed and returned to the Sealing of Record clerk, copies are made for the probation files and the original is ponied to the court with fifteen (15) days of sealing.
5. The sealed file will remain secured in the Sealing of Record Office-MOB **2nd Floor Sealing of Record Room** until scheduled to be destroyed according to the destruction timelines outlined in Section II.A. and B. above.

C. Unsuccessful Termination with Court Denial of Seal:

1. When probation has been terminated unsuccessful and the court has denied the sealing of record, generate the *Sealing of Records Outcome Sheet/Distribution of Sealing of Records* form as listed in above sections; however, check the SOR Denied by Court box and input the date the court denied the seal.



2. Complete the termination chrono, close out the file, and submit to assigned SPO for review and approval.

3. Upon review, the SPO will forward the file to the unit clerk who will log out and route the file to MOB2 File Room via the ICMS File Request/Transfer

D. Dismissed Applications with a Court Order to Seal:

Effective January 1, 2018, and pursuant to WIC 786 (e), if a youth's petition is not sustained by the court after an adjudication hearing, the court shall order sealed all records pertaining to the dismissed petition in the custody of the juvenile court, and in the custody of law enforcement agencies, the probation department, or the Department of Justice. The court shall send a copy of the order to each agency and official named in the order, direct the agency or official to seal its records, and specify a date by which the sealed records shall be destroyed. Once this is done, the agency shall advise the court of its compliance.

Court ordered dismissed applications will be processed as full or partial seals (depending on whether there are other cases associated with the youth) in the same manner as described in the above sections. This will be completed **by** the assigned field DPO, Contested Court Officer, or Non-Custody Intake Diversion (NCID) Unit (Unit 074) Screener **dependent upon who the case is assigned to.**

E. Sealed Diversion Cases Pursuant to WIC 786.5:

A sealing of WIC 654 **diversion** or **informal probation cases assigned to the NCID Unit** is needed when a youth **has been referred and dismissed, referred and counseled, or referred and** satisfactorily completes **their sanctions or** non-court ordered diversion contract.

1. **Pursuant to WIC 786.5 and California Rules of Court Rule 5.850, within sixty (60) days of the agreed upon due date, the NCID DPO shall:**

- a. **Unsatisfactory Completion of Diversion or Informal Probation:**

Confirm that the youth **has been referred and dismissed, referred and counseled, or referred and satisfactorily** completed all sanctions and programs that the youth was referred to. If the youth did not, the DPO will need to obtain specific documentation as to why not from the program the youth was referred. The DPO will also need to generate two (2) copies of the ***Probation Department Notice on Sealing of Records After Diversion Program (JV-597 form)*** and indicate the specifics of the unsuccessful completion.

Additionally, if the youth failed to complete their sanction and the matter will not be sealed, the DPO needs to attach a copy of the *Petition to Review Denial of Sealing or Records After Diversion Program (JV-598 form)*. This form notifies the youth of their right to seek court review of the Probation Department's determination within sixty (60) days of making that determination.

One copy is sent via certified mail to the youth. The other copy is retained in the youth's file. The DPO shall make an ECR entry as to the reason(s) for the unsuccessful completion, as well as the date the certified letter was mailed.

b. Satisfactory Completion of Diversion or Informal Probation:

The DPO will also need to generate multiple copies of the *Probation Department Notice on Sealing of Records After Diversion Program (JV-597 form)* and include the information specified on the form relating to the youth and each agency (e.g. youth's name and date of birth, the DR #, date of offense, and code section pertaining to the offense. The form then needs to be sent to the law enforcement agency that submitted the Application for Petition and police report, as well as the community-based organization(s) that provided the diversion program(s) to seal their records pertaining to the youth's offense, program referral, and participation in the program pursuant to WIC 786.5.

A copy is sent to the arresting agency and any community-based organization(s) that provided services to the youth. A copy is retained in the youth's file. The DPO will make an ECR entry of the date the certified letter was mailed and the names of the agencies they were mailed to.

- c. Subsequently, these agencies are then to notify the Probation Department when their records are sealed within sixty (60) days from the date of notification from the Probation Department.
- d. Within thirty (30) days from receipt of notification by the arresting law enforcement agency that the records have been sealed, the Probation Department shall notify the youth in writing that their records have been sealed via the *Probation Department Notice on Sealing of Records After Diversion Program (JV-597 form)*.
- e. Complete a Termination Chrono.
- f. The NCID DPO notifies the unit clerk who changes the case APP ID# to a DIV#.
- g. The NCID DPO then initiates the WIC 786.5 sealing of record process via ICMS.

(1)



[REDACTED]

(2) [REDACTED]


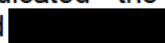

[REDACTED]

(3) [REDACTED]

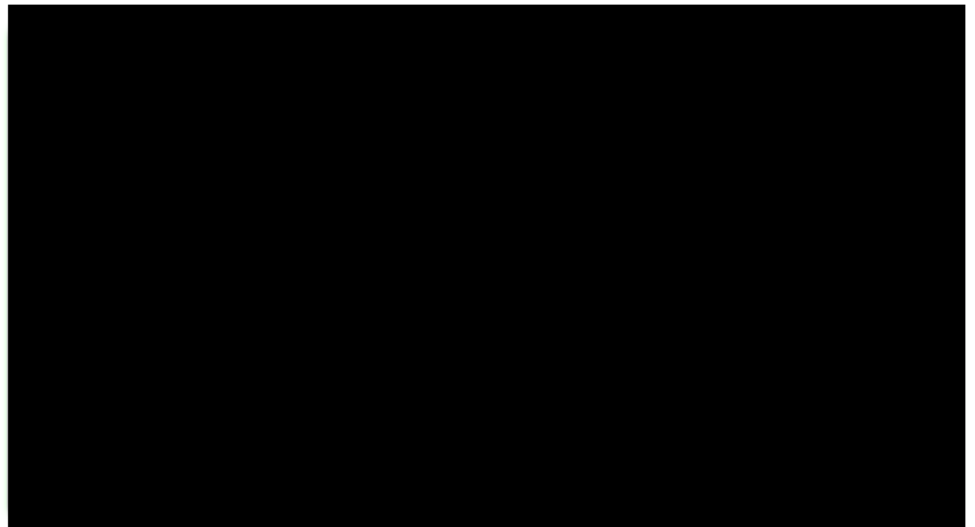
[REDACTED]

(4) [REDACTED]

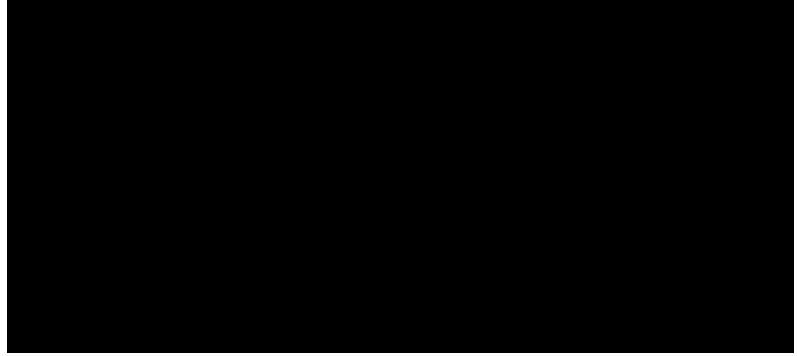


- (5)  Select from the drop-down box or input as indicated the following information into the screen: assigned  assigned SPO, the  to be sealed, and the date of the sealing pursuant to "WIC 786.5." Also, make any notations in the NOTES Section that the file only contains documents that are needed.

Once this information is entered, select "Save" at the top right corner.



- (6) This will generate the *Sealing of Records Outcome Sheet/Distribution of Sealing of Records*. Print a copy and put in the front of the youth's file.



- h. **Complete above step E.1.a. for unsatisfactory completion or steps E.1.b.-d. for satisfactory completion of diversion or informal probation.**
 - i. Place all materials pertaining to the Sealing of Record petition, including, but not limited to police reports and printed copies of the ICMS Chrono History to be sealed, in a manila envelope. The envelope needs to be labeled with the youth's last name, first name, date of birth, and J# and then placed in the file. If the file is a partial seal, only include those items to be sealed in the envelope, including the ICMS Chrono History, circled in red ink, that are to be sealed.
 - j. Submit the above to the NCID SPO for review.
- 2. The NCID SPO will review the file and ensure that all documentation to be sealed is correct and that the appropriate notification of sealing letters were prepared and ready to be sent via certified mail to the client. If complete, the SPO will initial on the *Sealing of Record Outcome Sheet/Distribution of Sealing of Records* form. Once completed, the SPO will forward this form and the above-referenced items to the NCID unit clerk.
 - 3. The NCID unit clerk will process the termination, send out the letters via certified mail, and route the file to the **MOB 4 Clerical Services Unit SOR OS Desk to process and finalize the record seal.**

For WIC 786.5 records seals, the Records Units senior office supervisor or support staff will send the *Notification to the Department of Justice Sealing of Records-Welfare and Institutions Code 786.5* Form to the Department of Justice and store the file in a secure location. All sealed files will remain secured in the Sealing of Record Office-MOB 2nd Floor. The file will remain there until it is scheduled to be destroyed according to the destruction timelines outlined in section II. A. and B. above.

IV. ACCESSING SEALED RECORDS

- A. **Pursuant to WIC 786(g)(1), a record that has been ordered sealed by the court under this section may be accessed, inspected, or utilized in order to carry out statutory obligations only under any of the following circumstances:**
 - 1. **By the prosecuting attorney, the probation department, or the court for the limited purpose of determining whether the youth is eligible**

and suitable for DEJ pursuant to WIC 790 or is ineligible for a program of supervision as defined in WIC 654.3.

2. **By the court for the limited purpose of verifying the prior jurisdictional status of a ward who is petitioning the court to resume its jurisdiction pursuant to WIC 388(e).**
3. **If a new petition has been filed against the youth for a felony offense by the probation department for the limited purpose of identifying the youth's previous court ordered programs or placements, and in that event solely to determine the individual's eligibility or suitability for remedial programs or services. The information obtained shall not be disseminated to other agencies or individuals, except as necessary to implement a referral to a remedial program or service, and shall not be used to support the imposition of penalties, detention, or sanctions upon the youth.**
4. **Upon a subsequent adjudication of a youth whose record has been sealed under this section and finding that the youth is a person described in WIC 602 based on the commission of a felony offense, by the probation department, the prosecuting attorney, counsel for the youth, or the court for the limited purpose of determining an appropriate juvenile court disposition.**
5. **In accordance with WIC 707, under the prosecuting attorney's motion to initiate court proceedings to determine whether the case should be transferred to a court of criminal jurisdiction, by the probation department, the prosecuting attorney, counsel for the youth, or the court for the limited purpose of evaluating and determining the youth's suitability to be dealt with under juvenile court. In such instances, the DA will file a request with the Court. If such request is granted, the Court order to access the sealed records will be provided to the Probation Department Custodian of Record, who will process the request and schedule a file review.**
6. **By the person whose record has been sealed, upon said person's request and petition to the court to permit inspection of the records.**
7. **By the probation department of any county to access the records for the limited purpose of meeting federal Title IV-B and Title IV-E compliance.**
8. **By the county agency responsible for the supervision and placement of a youth for the limited purpose of determining an appropriate placement or service that has been ordered by the court. This information may be shared with the court but shall in all other aspects remain confidential and shall not be disseminated to any other person or agency.**
9. **By the prosecuting attorney for the evaluation of charges and prosecution of offenses pursuant to PC 29820.**

10. **By the Department of Justice to determine if the person is suitable to purchase, own, or possess a firearm, consistent with PC 29820.**
 11. **By the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation.**
 12. **By the court or prosecution to access specified sealed juvenile records for the limited purpose of processing the request of a victim of victim's family members to certify victim helpfulness on specified United States Department of Homeland Security forms. Specifically, an application for a U-Visa or a T-Visa.**
 13. **By the probation department, prosecuting attorney, counsel for the youth, and the court for the limited purpose of assessing a youth's competency in the proceedings on a subsequent petition against the youth if the issue of competency has been raised in those proceedings.**
- B. When a record has been sealed by the court based on a dismissed petition pursuant to WIC 786(e), the prosecutor, within six (6) months of the date of dismissal, may petition the court to access, inspect, or utilize the sealed record for the limited purpose of refiling the dismissed petition based on new circumstances, including, but not limited to, new evidence or witness availability. The court shall determine whether the new circumstances alleged by the prosecutor provide sufficient justification for accessing, inspecting, or utilizing the sealed record in order to re-file the dismissed petition. This shall not be deemed an unsealing of the record and shall not require notice to any other agency.
- C. **Additionally,** pursuant to WICs 786 and 787, notwithstanding any other law, a record sealed pursuant to WIC 781 or 786 may be accessed by a law enforcement agency, probation department, court, the Department of Justice, or other state or local agency that has custody of the sealed record for the limited purpose of complying with date collection or date reporting requirements that are imposed by other provisions of law, including Title IV-B and Title IV-E compliance. It also applies pertains to Deferred Entry of Judgment (DEJ), WIC 654.3 and diversion determinations, and other programming eligibility, WIC 707 suitability determination, and research, as well as for the county responsible for the supervision and placement of a youth or non-youth dependent in order to access a sealed record for the limited purpose of determining an appropriate placement or service. The person whose records have been sealed may also petition the court to permit inspection of their sealed records.

However, no personally identifying information from a sealed record accessed under this section may be released, disseminated, or published by or through an agency, department, court, or individual that has accessed or obtained information from the sealed record. Access to, and inspection of, authorized sealed records shall remain confidential and shall not be disseminated to others unless authorized by law. Further, access to, or inspection of, sealed records as authorized by the above referenced codes shall not be deemed an unsealing of the record and shall not require notice to any other agency.

- D. Once sealed, records (including electronic records) cannot be accessed, excluding the above-referenced justification. Sealed records will be completely destroyed five (5) years from the court ordered date of the sealing, but after the youth reaches eighteen (18) years of age for non-court records and when they reach thirty eight (38) years of age for court records and twenty-five years (25) years of age for non-court records.
- E. Once a record is sealed, the matter is considered to have never occurred. As such, Probation Department staff are not permitted to release information to other agencies regarding a youth's prior history even if they may have knowledge of it.

V. NOTIFICATION OF RIGHTS REGARDING SEALING OF RECORDS

- A. WIC 781 (h)(1)(A) and (B) mandates that the Probation Department shall ensure that information regarding the eligibility for and the procedures to request the sealing and destruction of records pursuant to this section shall be provided to each person who is either of the following:
 - 1. A person for whom a petition has been filed on or after January 1, 2015 to adjudge the person a ward of the juvenile court.
 - 2. A person who is brought before a DPO pursuant to WIC 626.
- B. The intake DPO and/or assigned DPO shall provide youth listed in above numbers 1) and 2) with the following forms pertaining to sealing of records under WIC 781 and 786 upon at the time of intake/indoctrination:
 - 1. WIC 781
 - (a) How to Ask the Court to Seal Your Records (JV-595-INFO)
 - English: <http://www.courts.ca.gov/documents/jv595info.pdf>
 - Spanish: <http://www.courts.ca.gov/documents/jv595infos.pdf>
 - AND
 - (b) *Request to Seal Juvenile Records* (JV-595) <http://www.courts.ca.gov/documents/jv595.pdf>
 - 2. WIC 786
 - Sealing of Records for Satisfactory Completion of Probation (JV-596-INFO)
 - English: <http://www.courts.ca.gov/documents/jv596info.pdf>
 - Spanish: <http://www.courts.ca.gov/documents/jv596infos.pdf>
 - The information described in V.B. above is also available on ProbNet or the Orange County Probation Department's public internet site.*

REFERENCES:

Procedures:	1-1-101	Access to and Release of Criminal Record Information (CORI)
	1-1-117	Juvenile Victim Services
	1-1-118	Federal Agency Request for Juvenile Record Information and Character References (Including Military Recruiter, Department of Defense, and Job Corps)
	1-5-305	Retention and Destruction of Case Files
	2-5-009	Sealing/Release/Destruction of Juvenile Court Records Pursuant to Welfare and Institutions Code 781
	2-5-012	Deferred Entry of Judgment
	2-6-008	Destruction or Redaction of Records Pursuant to Health and Safety Code 11361.5 (Juvenile)
Policies:	A-9	Request for Information and Assistance
	B-1	Case Confidentiality-Client's Rights to Privacy
	B-2	Inter- and Intra-Agency Confidentiality
	B-3	Case File Management and Security
	B-4	Sensitive Cases
	F-11	Sealing of Juvenile Court Records

C. Ronald

APPROVED BY: