

BERKELEY POLICE DEPARTMENT

DATE ISSUED: December 9, 1993

GENERAL ORDER R-30

SUBJECT: SEALING OF RECORDS - MISDEMEANOR CONVICTION

PURPOSE

- 1 - The purpose of this Order is to describe procedures governing the sealing of records of certain misdemeanor arrests.

POLICY

- 2 - Berkeley Police Department employees shall follow the guidelines set forth in this Order as they relate to the sealing of arrest records.

LEGAL PROVISIONS

- 3 - Section 1203.45 of the Penal Code provides for the sealing of certain records if the person was under the age of 18 years at the time of the commission of a misdemeanor, and if he/she was eligible for, or has previously received relief as provided under 1203.4 or 1203.4a of that Code, or the person was under the age of 21 and the misdemeanor offense was committed prior to March 7, 1973.
- 4 - Section 851.7 of the Penal Code provides for the sealing of certain records of a minor arrested for a misdemeanor and subsequently released under Section 849(b)(1) of that Code, or otherwise not convicted, or the person was under the age of 21 and the misdemeanor offense was committed prior to March 7, 1973.
- 5 - Section 781 of the Welfare and Institutions Code provides that a ward may petition the Juvenile Court for reasons described in Sections 601 and 602 of that Code. The court, under certain conditions, may order sealed the records and other papers relating to the case in the custody of the Juvenile Court.

PROCEDURE

- 6 - When an "Order of the Court" is received, it shall be processed by an assigned member of the Service Bureau. A copy of the order shall be mailed to both the Federal Bureau of Investigation and the California Department of Justice. Pertinent Youth Services **Detail** records shall also be sealed by a member of the Service **Bureau** and filed as stated in paragraph 11(c).
- 7 - Under Section 103.45 PC, the "Arrest Disposition Report" initiated by the court shall be completed and copies sent to the California Department of Justice, Alameda County Central Identification Bureau, and the Federal Bureau of Investigation with a copy of the court order attached.
- 8 - Under Section 851.7 P.C. or Section 781 W & I Code, the issuing court must be advised of compliance by letter and a copy of the court's order sealed with the record.

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- 9 - If the petitioner's fingerprints have been forwarded to the FBI, a letter will be sent to that Bureau requesting the return of the fingerprint card and the deletion of the entry from the criminal history sheet. When received, the FBI fingerprint card shall be processed as stated in paragraph 11(c).
- 10 - As used in this Order, "sealed" means: "to exclude from examination, to secure against opening or disclosure, or to prevent from being released."
- 11 - When the petitioner is the only responsible subject named in the report:
- (a) It shall be removed from the Records Management System (RMS) and **applicable record storage system (i.e., microfilm, optical disc storage)**.
 - (1) **Depending upon the type of record storage system used (i.e., microfilm, optical disc storage), the record will be amended as appropriate to reflect information regarding** the case number and the notation that the report was sealed as directed by the court.
 - (b) All criminal Alpha index cards, fingerprints, photographic negatives and loose positives, the CORPUS arrest form, and the criminal record envelope and contents shall be removed from the files.
 - (c) The documents in (a) and (b) shall be placed in the petitioner's criminal record envelope, the envelope sealed with tape and placed in a confidential file. An index card containing the name of the petitioner and the case shall be placed in a confidential master index, the sole purpose of which is to locate sealed records pursuant to a court order.
 - (d) The petitioner's name shall be deleted from the Alpha tapes and RMS.
- 12 - When a report names more than one responsible subject and the court order does not provide for the sealing for all those named:
- (a) The numbered report shall not be removed from the master file. A notation that the report regarding the petitioner has been sealed shall be placed on **the applicable record storage system (i.e., microfilm, optical disc storage)**.
 - (b) All documents described in paragraph 11(b) shall be removed from the files and processed as stated in paragraph 11(c). A reference card shall be sealed in place of the numbered report, and this card shall state that since names of responsible subjects other than the petitioner appear in the report, it has not been sealed.

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- (c) The petitioner's name shall be deleted from RMS and from the Alpha tapes.

- 13 -** No sealed record shall be opened for inspection without a written order of the court, and all inquiries concerning the subject of a sealed record shall be answered to the effect that the person has no record.

References: California Penal Code Sections 851.7 and 1203.45
General Order R-19
Welfare and Institutions Code Section 781
CALEA Standards