

12.806 PROCESSING AND ACCESSING SEALED CONVICTION/NON-CONVICTION RECORDS

Reference:

Manual of Rules and Regulations – 1.07
Records Section Standard Operating Procedure
Ohio Revised Code – Sealing of Record of Conviction, Sections 2953.31 – 2953.61

Purpose:

To outline methods of processing records and documents created in conjunction with conviction/non-conviction records requiring sealing in accordance with orders from the courts.

To ensure compliance with the law in all such instances.

To outline the types of sealed records maintained by Records Section and how each may be legally utilized by police officers.

To centralize the authority and responsibility for maintaining and coordinating processing of sealed Cincinnati records with Cincinnati Police Records Section.

Policy:

According to State law, no person who is employed by the Cincinnati Police Department, with the exception of the Records Section Supervising Management Analyst, shall knowingly release, disseminate, or otherwise make any information contained in a sealed non-conviction record jacket available to, or discuss any information contained in same, with any person not employed by the Department.

Information:

The Ohio Legislature has passed several statutes which provide the means for persons with conviction and non-conviction history to apply for court orders which require the expungement (for purposes of Ohio law, a "Sealing") of those conviction and non-conviction records and other related indexes.

A computer hit will result whenever a query is performed relative to a person with a sealed conviction record that was sealed after September 26, 1984.

Non-conviction records sealed after September 26, 1984, will not result in a computer hit as a result of a query. There is no index to sealed non-conviction records sealed after September 26, 1984, available to anyone other than Ohio agency Records Section Supervising Management Analyst.

Court sealing orders after September 26, 1984, may require certain actions be performed at the direction of the Records Section Supervising Management Analyst.

Procedure:

- A. Accessing Sealed Conviction Records
1. When performing a query on an individual with a sealed conviction record, the following message will appear: "For more information, contact the entering agency's Record Unit supervisor." This is an indication that some type of sealed record may be on file with the indicated agency.
 2. Access to and copies of sealed Ohio conviction records can be obtained by any police officer under the following conditions:
 - a. If the subject of the sealed record is under arrest or the officer intends to sign a warrant for the subject and the officer wishes to determine if the defendant could be charged as a "Second Offender" on the basis of a previous offense which had been sealed.
 - 1) In a criminal proceeding under the above conditions, a sealed conviction record is admissible evidence of a "Second Offender" status.
 - b. If an officer was personally involved in the sealed case, and is the subject of a civil action arising out of that case, the officer may then use the sealed record in his/her defense.
- B. Accessing Sealed Ohio Non-Conviction Records
1. Any Cincinnati police officer may view the "Investigatory Work Product" portion of any sealed non-conviction record upon request to the Records Section Supervising Management Analyst. Requests will be made on a Form 17 via the chain of command.
 2. Other law enforcement agencies, under certain conditions, may view certain Cincinnati sealed non-conviction records. Application must be made to the Records Section Supervising Management Analyst.
 3. Cincinnati police officers, under certain conditions, may view the "Investigatory Work Product" portion of non-conviction records in the custody of other Ohio or non-Ohio police agencies. Application must be made to the Records Section Supervising Management Analyst of that agency.
- C. Processing and Coordinating Court Ordered Sealings
1. Upon receipt of a court order to seal records, the Records Section Supervising Management Analyst will:
 - a. Ensure the Records Section sealing process is carried out according to existing Records Section Standard Operating Procedure.
 - b. Notify affected district/section/unit commanders and administrative sergeants via e-mail and Form 17, on a weekly basis, regarding new court orders received and of the requirements for sealing a record.

- 1) The e-mail notification will include a link to the Expungement/Record Sealing folder on the H: drive. District commanders and other designated personnel will have “read only” access to the Expungement/Record Sealing folder.
 - 2) Hard copies will be forwarded to the district requiring the district commander’s signature on the Form 17 for verification of compliance.
- c. Records Section will ensure all duplicate electronic copies of court orders saved in the Expungement/Record Sealing folder are expunged after sealing the hard copies.
2. Upon receipt of the weekly e-mail notification and the Form 17 from the Records Section Supervising Management Analyst, indicating action to be taken as a result of a court ordered sealing, the district/section/unit commander will:
- a. Refer the request to the appropriate personnel for completion, sign all Form 17s, and forward with the required to the Records Section Supervising Management Analyst for sealing in special files.