

Florida Fish and Wildlife Conservation Commission – Division of Law Enforcement

	TITLE	GENERAL ORDER
	SEALED AND EXPUNGED RECORDS	50
		EFFECTIVE DATE July 21, 2008
APPLICABILITY	ALL MEMBERS	RESCINDS/AMENDS N/A
REFERENCES S.943.045 (13) (14), and 943.059 F.S.; IMPP 1.7		

1 POLICY

- A** It is the policy of the FWC Division of Law Enforcement to comply with all court orders to seal or expunge records as required by Florida Statutes.
- B** It is further the policy of the FWC Division of Law Enforcement to establish uniform procedures regarding the sealing or expunction of records to ensure compliance with court orders and Florida Statutes.
- C Definitions**
 - (1) S. 943.045 (13), F.S. states: "Expunction of a criminal history record" means the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency having custody thereof, or as prescribed by the court issuing the order, except that criminal history records in the custody of the Florida Department of Law Enforcement (FDLE) must be retained in all cases for purposes of evaluating subsequent requests by the subject of the record for sealing or expunction, or for purposes of recreating the record in the event an order to expunge is vacated by a court of competent jurisdiction.
 - (2) S. 943.045 (14), F.S. states: "Sealing of a criminal history record" means the preservation of a record under such circumstances that it is secure and inaccessible to any person not having a legal right of access to the record or the information contained and preserved therein.

2 RESPONSIBILITIES

- A Members**
 - (1) All members are required to comply with the policies and procedures provided in this General Order.
- B Field Services Section**
 - (1) The Field Services Section is responsible for ensuring that all court orders to seal or expunge criminal history records are executed.
 - (2) The Field Services Section is responsible for maintaining a log of all court orders to seal or expunge criminal history records and for documenting compliance with said court orders.
 - (3) The Field Services Section is responsible for coordinating the identification, sealing or expunction of all electronic data files of the criminal history record to be sealed or expunged.
 - (4) The Field Services Section is responsible for coordinating the identification, sealing or expunction of physical files of the criminal history record to be sealed or expunged.

3 PROCEDURES

A Process

- (1) Upon receipt of a court order to seal or expunge any record in the possession of the Division, the receiving member shall forward the original order to the Field Services Section.
 - (a) A copy of the order shall be forwarded through the chain of command to the appropriate Deputy Director.
 - (b) A copy of the order shall also be forwarded to the Commission's Agency Clerk as identified in FWC IMPP 1.7.1. *Agency Clerk*.
- (2) All orders to seal or expunge and all related written or electronic communication shall be maintained by the Field Services Section.
- (3) Upon receipt and review, the Field Services Section shall:
 - (a) Send an e-mail in search of information relating to the case to be sealed or expunged to the appropriate Division sections or units (could also be division-wide);
 - (b) Search or request the search of ArrestNet, the Computer-Aided Dispatch (CAD) databases, the Statewide Investigative Case Management System, and any other Division systems;
 - (c) Search or request the search of all paper files and evidence, including files (notes, copies of citations, etc.) maintained by the arresting officer and other involved members;
 - (d) Coordinate the search of Commission and Division web sites for press releases or other relevant information; and
 - (e) Coordinate the search for relevant information of paper and electronic versions of any Commission or Division publications. This may include copies of incident reports sent to other Divisions or Offices of the Commission for statistical reporting purposes (e.g. hunting accidents, boating accidents, etc.). In these situations, it is only necessary to ensure that the criminal charges noted on the report form are redacted and that only the portions of the accident report directly related to the arrest or prosecution of the defendant are sealed or expunged.
- (4) Once all relevant information is identified, the Field Services Section shall ensure that all physical and electronic data files are properly sealed or expunged.
 - (a) The Field Services Section shall provide a detailed list of electronic documents and/or fields of information to be sealed or expunged to the appropriate system administrators for removal from the respective electronic data systems.
 - (b) The Field Services Section shall provide a detailed list of physical files to be sealed or expunged to the appropriate record holders/ managers.
 - (c) The appropriate system administrators or record holder/ administrator shall redact or remove all information identified by the Field Services Section.
 - (d) Upon completion, the appropriate system administrators or record holder/ administrator shall notify the Field Services Section via e-mail.
- (5) All records shall be sealed or expunged within 30 days of dissemination of the court order by the Field Services Section.

B Order to Seal Records

- (1) All written case information and evidence should be sealed in an envelope, box or other appropriate container.
- (2) All electronic data files shall be printed and maintained in the written case file. The electronic

version can then be deleted. If the electronic data files cannot be printed and maintained in a written case file, the files may be copied to an appropriate archival quality data carrier.

- (3) All sealed envelopes, boxes or other containers shall be prominently marked with the following:

*“Case number _____ relating to defendant _____
_____ contains sealed material pursuant to Florida Statute and
Florida Rules of Criminal Procedure. Dissemination to unauthorized entities is a violation of
Florida Law and Division Policy.”*

- (4) All electronic documents in the Division’s electronic data systems relating to the case to be sealed shall contain the following heading prominently displayed:

*“Case number _____ relating to defendant _____
_____ contains sealed material pursuant to Florida Statute and
Florida Rules of Criminal Procedure. Dissemination to unauthorized entities is a violation of
Florida Law and Division Policy.”*

C Order to Expunge Records

- (1) In some cases, expunction involves the destruction of documents while in other cases all personally identifying information of the defendant would be redacted. That determination must be made after considering the number of defendants involved in the case.

- (2) Single Defendant Case

- (a) All electronic data files related to the case shall be removed from the Division’s electronic data systems.
- (b) All paper documents and evidence shall be destroyed.
- (c) No electronic or written copies shall be maintained.
- (d) Once expunction is complete, a single document shall be created and maintained in lieu of the case file. This document shall only state:

“Case number _____ was expunged pursuant to Section 943.059, Florida Statutes.”

- (3) In situations involving a court order to expunge a file that has multiple defendants, the Division is not required to destroy all of the documents and computer files relating to the case. Rather, the Division must analyze each of those documents and electronic data files to determine which documents or files contain personally identifying information of the defendant named in the order. In documents or files where multiple defendants are named, the identifying information relating to the subject named in the order shall be redacted. The Division shall then apply the standard applicable in a single defendant case to those remaining documents and computer files that pertain only to the defendant named in the order.

4 FORMS

FORM NUMBER	FORM TITLE
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