

ILLINOIS STATE POLICE DIRECTIVE

ADM-007, ORDERS TO EXPUNGE OR SEAL

RESCINDS: ADM-007, 2014-050, revised 06-06-2014.	REVISED: 10-24-2017 2017-060
RELATED DOCUMENTS: OPS-006	RELATED CALEA STANDARDS: 42.1.3, 82.1.2, 82.1.3

I. POLICY

The Illinois State Police (ISP) will expunge or seal identifiable Criminal History Record Information (CHRI) in accordance with the law.

II. AUTHORITY

- II.A. 20 ILCS 2605/2605-110, "Department of State Police Law – Criminal Identification Act"
- II.B. 20 ILCS 2630/5.2, "Criminal Identification Act - Expungement and Sealing"
- II.C. 705 ILCS 405/5-915, "Juvenile Court Act of 1987 - Expungement of juvenile law enforcement and court records"
- II.D. Title 20, Chapter II, Part 1205 of the Illinois Administrative Code, "Expungement Procedures"

III. DEFINITIONS

- III.A. Expunge – to physically destroy the records or return them to the petitioner and to obliterate the petitioner's name from any official index or public record, or both. This section adopts the definition contained in 20 ILCS 2630/5.2(a)(1)(E).
- III.B. Seal – to physically and electronically maintain the records, unless the records would otherwise be destroyed due to age, but to make the records unavailable without a court order, subject to the exceptions in Sections 12 and 13 of the Criminal Identification Act. This section adopts the definition contained in 20 ILCS 2630/5.2(a)(1)(K).

IV. RESPONSIBILITY

- IV.A. The Division of Administration (DOA) is responsible for fulfilling the requirements of properly executed orders to expunge and/or seal documents in their possession.
 - IV.A.1. The Bureau of Identification (BOI), DOA, is responsible for all correspondence and communications in fulfilling the requirements of properly executed orders to expunge and/or seal CHRI.
 - IV.A.2. Orders that expunge and/or seal cases in which the Illinois State Police holds investigative, field and/or I-Case reports and TraCS reports shall only be expunged or sealed by the Records Bureau, DOA, after all other divisions report they have completed the expungement and/or sealing process and report such completion to the Bureau Chief of the Records Bureau or their designee.
- IV.B. The Division of Operations (DOO), when properly notified by DOA Records Bureau by electronic communications (e-mail), is responsible for ensuring patrol, investigative, intelligence units and administrative units within its division fulfill the requirements of properly executed orders to expunge and/or seal records within the prescribed 60-day time frame as outlined by state law.
- IV.C. The Division of Internal Investigations (DII), when properly notified by DOA Records Bureau by electronic communications (e-mail), is responsible for ensuring investigative units within its division fulfill the requirements of properly executed orders to expunge and/or seal records.

- IV.D. The Division of Forensic Services (DFS) is responsible for ensuring its units fulfill the requirements of properly executed orders to expunge and/or seal CHRI.

DFS shall develop policies and procedures specific to ISP Crime Laboratories complying with the requirements of properly executed orders to expunge and/or seal records.

V. PROCEDURES

- V.A. When the Department receives orders to expunge and/or seal and petitions to expunge and/or seal, the receiving unit within the Department will forward the orders to the BOI for processing.

V.A.1. The receiving unit should not expunge and/or seal any documents until notified to do so by the BOI.

V.A.2. The receiving unit will mail the original copy of the order to expunge and/or seal or the petition to expunge and/or seal to the following address:

Illinois State Police
Bureau of Identification
260 North Chicago Street
Joliet, Illinois 60432-4072

- V.B. Upon receipt of an order to expunge or order to seal records from a Circuit Court, the BOI will review the order to expunge and/or seal to ensure compliance with statutory and operational requirements.

V.B.1. The court order must bear an original signature or a copy of the signature of the issuing judge.

V.B.2. The name of the arresting agency and the correct date of arrest must be stated in the order.

V.B.3. The court order must direct the ISP to expunge or seal the record.

V.B.4. The court order must have the arrestee's sex, race, and date of birth.

V.B.5. The following information will assist the Department in expediting orders to expunge:

V.B.5.a. Illinois State Identification (SID) Number

V.B.5.b. The Chicago Police Department Incident Report (IR) Number

- V.C. If it appears that a court order is inconsistent with the Criminal Identification Act or state law, the BOI shall notify the ISP Legal Office, who will determine if a challenge of the court order is warranted and if so determined, initiate a challenge of the court order.

- V.D. If the court order meets statutory and operational requirements and it is for ISP arrests, the BOI will forward, with the court order to expunge and/or seal, a memorandum directing expungement and/or sealing to the Records Bureau. The Records Bureau will forward notification of expungement and/or sealing to DOO, DFS, and DII only for those cases where the respective Division would have records related to the court order to expunge and/or seal. The BOI will notify the Federal Bureau of Investigation (FBI) of approved court orders to expunge or seal.

V.D.1. If the record is not an ISP arrest and it meets all of the statutory requirements, the BOI will comply with the court order and forward the court order to the FBI. The Records Bureau will forward notification of expungement and/or sealing to DOO, DFS, and DII only for those cases where the respective Division would have records related to the court order to expunge and/or seal.

V.D.2. The BOI will NOT send memoranda to arresting agencies outside the ISP.

- V.E. Division(s) advised of an order to expunge and/or seal that is applicable to them will:

V.E.1. Search the appropriate files to comply with the order.

- V.E.2. Respond to the court order by performing one or more of the following actions:
- V.E.2.a. Advising the petitioner or his/her legal counsel that there are no arrest records pursuant to the order
 - V.E.2.b. If a record is computerized within an ISP system:
 - V.E.2.b.1) Placing "Expunged Record" in the name field of the record to be expunged; or
 - V.E.2.b.2) Placing verbiage in the record indicating information contained is sealed and cannot be released without a court order
 - V.E.2.c. Shredding the affected expunged records
 - V.E.2.d. Non-computerized records will be sealed pursuant to work unit procedures (i.e., manila envelope marked as "Sealed Record")

NOTE: This aforementioned process is included in the 60-day timeframe regarding expungements as mandated by state law.

V.F. The Records Bureau will coordinate expungement and/or sealing for written investigative, field I-Case and TraCS Reports submitted to DOO and will forward copies of any correspondence and the court order to the appropriate work unit advising of the need to expunge and/or seal. The work unit will expunge or seal all applicable records and notify the Records Bureau of compliance or there were no records to expunge and/or seal.

V.G. The BOI will only notify the FBI of approved court orders to expunge or seal.

V.H. Divisional records to be expunged and/or sealed

V.H.1. Based on an interpretation of 20 ILCS 2630/5.2 and 705 ILCS 405/5-915, divisions will expunge and/or seal the following records as the result of an order to expunge and/or seal.

NOTE: Instructions to "Destroy at Division" apply to specific expunged records that are not required to be returned to the petitioner or his/her legal counsel or cannot be returned because they have been microfilmed. To expunge microfilmed records, obliterate the name and identifiers.

V.H.2. DOA

- V.H.2.a. Arrest Data on Traffic Crash Reports – destroy at division
- V.H.2.b. Arrest Fingerprint Card - destroy at division
- V.H.2.c. Arrest Index Card (reflecting identifiers) - destroy at division
- V.H.2.d. Computerized indices - delete at division
- V.H.2.e. Computerized TIPS Data – remove from data
- V.H.2.f. FBI Disposition Report - destroy at division
- V.H.2.g. FBI Fingerprint Card - destroy at division
- V.H.2.h. ISP Disposition Report - destroy at division
- V.H.2.i. ISP Personal History - destroy at division
- V.H.2.j. Photographs - destroy at division
- V.H.2.k. Rap Sheet - computer generated - destroy at division
- V.H.2.l. Rap Sheet - manually generated - destroy at division

V.H.3. DOO only

- V.H.3.a. Citation and Complaint Form - destroy at division
- V.H.3.b. Field Reports - destroy at division
- V.H.3.c. Video tape - destroy at division
- V.H.3.d. Evidence management System (EVM) – destroy at division
- V.H.3.e. All other forms at the District level, i.e., breath analysis, index notation, etc. - destroy at division
- V.H.3.f. Any field or investigative reports created in ISP reporting software

V.H.4. BOI

V.H.4.a. Acting as the custodian of Criminal History Record Information (CHRI) for each arresting authority within Illinois, the BOI will expunge or seal records in accordance with the Criminal Identification Act and the Juvenile Court Act of 1987.

NOTE: In the event these procedures do not address the terms of a particular expungement and/or sealing order, or other unusual circumstances exist relating to a court order, the Legal Office shall be consulted and will advise how to proceed.

| Indicates new or revised items.

-End of Directive-