

## RETENTION AND DESTRUCTION OF CASE FILES

- AUTHORITY:** California Rules of Court Rule 5.504 (Judicial Council Forms), 5.552 (Confidentiality of Records), and 5.830 (Sealing of Records)  
 Government Code (GC) §§ 26202 and 26205  
 Juvenile Court Administrative Order 11/004-Petitions and Motions for Sealing Records (Welfare and Institutions Code 781)  
 Penal Code (PC) §§ 987.8 (g), 667, 1203.1 and 1203.45  
 Welfare and Institutions Code (WIC) §§ 389 (c), 626, 707(b), 730.5, 730.6, 781, 781.1, 786, 787, 790, 793(c), 826, 827, 828, 831, and 903.3  
 Health and Safety Code (H&S) §§ 11361.5
- RESCINDS:** Procedure Manual Item 1-5-305, dated 09/28/15 (Major Revision)
- FORMS:** None
- PURPOSE:** To outline the procedure for the retention or destruction of case files no longer required by the Probation Department.

### I. PROCEDURE

#### A. Retention of Records

1. **ADULT CRIMINAL FILES:** Will be retained for ten (10) years after termination of probation jurisdiction and then destroyed. There are two exceptions to list which are listed as follows:
  - a. Records relating to a person convicted of an offense for which registration is required pursuant to Section 290 of the Penal Code shall be retained for a period of 75 years after disposition of the case.
  - b. When a warrant is issued and Probation is revoked, the file shall be retained until age 70 or at which time automated records indicate that the warrant is no longer active.
2. **JUVENILE FILES:** Depending upon the type of juvenile case, juvenile files will be retained and destroyed according to the following guidelines.
  - a. **Court Ordered Sealed Cases:** 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, ( [REDACTED] ) 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 [REDACTED]. Once litigation is complete, PSD will make an [REDACTED] entry as to such and will notify the [REDACTED] Clerical Services Unit Office Supervisor that the records are clear for destruction.

b. Cases with No Order to Seal: 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) 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.

## B. Destruction of Case Files

1. Authorization by the Director of the Administrative and Fiscal Division (A&FD) is required before any case file is destroyed. Destruction of case files shall follow the retention program outlined above under "A".
2. File destruction of contents in locked shredding bins is conducted onsite by a contracted shredding services vendor and is witnessed by a department employee.
3. Duplicates of original records retained in case files may be destroyed at any time.

- a. All duplicate case file material that contains client identifier information must be destroyed so that client identification is not recognizable. Any staff member may dispose of duplicate records by tearing them apart and placing contents in a locked shredding bin (refer to per B.2 above). In the case of voluminous records, staff should forward to the supervisor of the Records Unit for disposal.
- b. Duplicates of original documents retained in case files may be destroyed at any time. Destruction should be accomplished as described above.

**REFERENCES:**

Procedures:	1-1-110	Release of Juvenile Record Information
	2-5-009	Sealing/Release/Destruction of Juvenile Court Records Pursuant to Welfare and Institutions Code 781
	2-5-010	Sealing/Release/Destruction of Juvenile Records Pursuant to Welfare and Institutions Code 786 and 786.5
	2-5-012	Deferred Entry of Judgment
	2-6-008	Destruction or Redaction of Juvenile Records Pursuant to Health and Safety Code 11361.5
Policies:	F-11	Sealing of Juvenile Court Records

C. Ronald

**APPROVED BY:**