



Memorandum

Date: July 3, 2024
From: Roger Trca, Inspector General
To: Amy Borman Esq.,
Chief Legal Officer & Chief Operating Officer of Courts
Subject: Sealing and Expungement of Cases

Background:

The Clerk of the Circuit Court & Comptroller (“Clerk’s office”) Division of Inspector General (“Clerk’s IG”) performed a risk-assessed audit of the South County Branch (“Branch”). The Clerk’s IG published the results of the audit in a separate report with observations specifically related to the Branch’s operations, which included the sealing and expungement of cases. During the audit, we noted observations related to the sealing and expungement of cases in other Clerk’s locations, which are reported in this separate memorandum.

The Clerk’s office duties related to sealing and expungement of court cases include:

- Serving copies of the sealing petition to the state attorney and arresting agency,
- Certifying and distributing the court’s sealing / expunging order to the entities,
- Ensuring other agencies that received the criminal history information are notified.
- Certify a copy of the order to any other agency that received the criminal history record from the court.

Relevant Laws, Regulations and Clerk’s office Procedures:

In Florida, the process to seal or expunge cases involves several key steps and eligibility criteria, governed by statutes and administrative codes. Specifically, court-ordered sealing of criminal history records is governed by Section 943.059, Florida Statute, while the expungement of court-ordered criminal records is governed by Section 943.0585, Florida Statute.

For a case to be eligible for sealing or expungement, the individual must not have been adjudicated guilty of a crime, among other criteria. Florida law permits only one court ordered sealing or expungement in a lifetime, except under certain conditions such as lawful self-defense. The process requires obtaining a Certificate of Eligibility from the Florida Department of Law Enforcement (“FDLE”) as a first step. The Clerk’s office staff is instructed to only expunge or seal part or an entire case with a court order.

1. Results of Review of Expunged Cases:

1.1. Cases that were not expunged in ShowCase but included the expungement docket code (EXPUN).

Cases that are court-ordered for expungement are labeled with the “EXPUN” docket code. The objective of the review was to determine whether court-ordered expungements were executed in ShowCase. We obtained a list of expungement orders (EXPUN docket code) from October 1, 2022 to September 30, 2023 for all Clerk’s office locations from the Clerk’s Information Technology (“Clerk’s IT”). The Clerk’s IT report disclosed five cases that had been ordered for expungement by the court (included the EXPUN docket code), but had not been processed in ShowCase. Upon further review, we confirmed:

- These five cases were not expunged in ShowCase, though they were court ordered for expungement. Upon audit discovery, we submitted the cases to the respective locations (Main and North), where it was confirmed that expungement had not been executed correctly. Following the audit, expungements were completed.

1.2. Cases that were expunged in ShowCase but did not include the expungement docket code (EXPUN).

As noted in 1.1, cases that are court-ordered for expungement should be labeled with the EXPUN docket code. The objective of this review was to identify whether the cases executed as expunged actually included court orders for expungements. As such, we obtained a list of expunged cases that did not include the EXPUN docket codes from October 1, 2022 to September 30, 2023 for all locations. The report disclosed five cases that were expunged without the EXPUN docket code. We noted the following:

- All five cases were appropriately expunged under court orders. Of these, three cases (Main and North) were labeled with a different docket code (e.g., ORD instead of EXPUN). Management confirmed that the EXPUN docket code should have been applied in these instances. The other two cases were consolidated into other cases with proper notations.

Results of Review of Sealed Cases:

We obtained a list of all sealed cases without a related docket code (e.g., ORSL) from October 1, 2022 to September 30, 2023 for all Clerk’s office locations from IT. The ORSL docket code indicates whether an entire case should have been sealed per court order. The Clerk’s IT report identified six cases that had been sealed, potentially without a court order. Upon further review, we noted:

- All six cases were appropriately sealed or marked confidential. However, one case (Main Branch) was sealed without the ORSL docket code, although there was an order to seal the case. Management confirmed the ORSL docket code should have been used and corrected the error following the audit.

The errors were attributed to the lack of verification to determine that cases marked for expungement (EXPUN) were executed accordingly in ShowCase, and an oversight in

properly applying the right docket code to the sealed case. Mismanagement of court records can lead to non-compliance with regulations and may result in legal and reputational risks to the Clerk's office.

Recommendation:

- A. Implement a secondary review process to monitor and ensure accurate and timely handling of cases for which court orders have been received to seal or expunge the entire case or specific docket codes.

Management Response:

- A. A secondary review process was created on March 22, 2024. The process involves the QA Team reviewing a report that identifies the following:
 - The report identifies cases that include a docket code of EXPUNG (case expunged by court) but was not expunged in Showcase.
 - The report identifies cases that include a docket code of ORSL (Order sealing) but was not sealed in Showcase.
 - The report identifies cases that include a docket code of SEAL (Seal). This docket code is used when a document has been sealed but not the entire case.

In addition, we requested a report that identifies cases that are flagged as Sealed or Expunged in the case security, but there is not an EXPUNG or ORSL on the docket. This helps us identify cases that were inadvertently sealed or expunged when no court order was entered.

These reports are reviewed by the QA Team to ensure proper processing. Errors are tracked by the QA Team and shared with the appropriate department manager.
Target Completion Date: Completed

Audit performed by: Monica Alvarenga, Assistant Inspector General

cc: Honorable Joseph Abruzzo, Clerk of the Circuit Court & Comptroller
Shannon R. Chessman, Chief of Staff & Chief Deputy Clerk
Louis Tomeo, Director – Branch Court Services
Andrea Rocha, Director – Criminal Court Services