



Policy 1302

Subject	
CRIMINAL RECORDS EXPUNGEMENT	
Date Published	Page
13 September 2017	1 of 7

By Order of the Police Commissioner

POLICY

Compliance. It is the policy of the Baltimore Police Department (BPD) to comply with all applicable laws and procedures associated with the expungement of criminal arrest records and related documents.

DEFINITIONS

Central Repository — The Criminal Justice Information Systems (CJIS) Central Repository for Baltimore City.

Court Order for Expungement — A court order commanding the Department to expunge evidence of a criminal record.

Court Record — An official record of a court that the clerk of a court, or other court personnel, keeps about a criminal proceeding; or any other proceeding, except a juvenile proceeding, concerning a civil offense or infraction enacted under State or local law as a substitute for a criminal charge. A court record includes a record of a violation of the Transportation Article for which a term of imprisonment may be imposed; and an index, docket entry, charging document, pleading, memorandum, transcription of proceedings, electronic recording, order, and judgment.

Expungement of Police Records — The removal of records from public inspection by (1) obliteration; (2) removal to a separate secure area where persons who do not have a legitimate reason for access are denied access; or (3) removal of other records which refer to the expunged records or the part of it that provides access.

Petition for Expungement — A form that is intended to be submitted to the court giving the requestor the right to petition the court to get records expunged. If granted, the petition creates a Court Order for Expungement.

Release Without Charges (RWOC) — Release from the Central Booking Intake Facility (CBIF) after arrest without being charged with the commission of a crime.

Request for Expungement RWOC — A form specific to BPD completed by individuals requesting expungement of police records for RWOC offenses.

GENERAL**Expungable Records**

Records which may be expunged include all official records maintained by the BPD pertaining to the arrest and detention of a person on a criminal charge or on a suspected violation of criminal charge (e.g., Petition for Expungement, Court Order, and all other documents pertaining to the case).

Non-Expungable Records

Records which may not be expunged are:

1. Investigatory files.
2. Police work-product records used solely for police investigation purposes.
3. Records pertaining to minor traffic violations.

Eligibility for Expungement

1. A person who was arrested and RWOC after October 1, 2007 will have their records automatically expunged 60 days after their release.
2. A person who has been charged with the commission of a crime, including a violation of the Transportation Article for which a term of imprisonment may be imposed, or who has been charged with a civil offense or infraction, except a juvenile offense, as a substitute for a criminal charge may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if:
 - 2.1. The person is acquitted;
 - 2.2. The charge is otherwise dismissed;
 - 2.3. A probation before judgement is entered, unless the person is charged with a violation of Transportation Article §21-902.
3. A person arrested and charged with the commission of a crime and given a judgement of probation, without finding a verdict; or a probation on stay of entry of judgement is entered; or a nolle prosequi is entered; or the proceeding is placed on the stet docket; may file a petition requesting expungement of both the police records and the court records pertaining to the charge(s).
 - 3.1. The Petition for Expungement shall be filed in the court in which the proceeding was commenced and may not be filed earlier than three years after the date the judgement or order was entered.

Ineligible for Expungement

1. Under 10-105(4)(i)(ii) Criminal Procedure Article, Maryland Annotated Code, A person is not entitled to expungement if:
 - 1.1. The petition is based on the entry of probation before judgement, except a probation before judgement for a crime where the act on which the conviction is based is no longer a crime, and the person within 3 years of the entry of the probation before judgement has been convicted of a crime other than a minor traffic violation or a crime where the act on which the conviction is based is no longer a crime; or
 - 1.2. The person is a defendant in a pending criminal proceeding.
2. If the requestor is charged with two or more offenses arising from the same incident and is not entitled to expungement of any one charge of the unit.

Requesting an Expungement

1. Persons requesting a criminal record expungement may obtain all necessary court documents from: <http://mdcourts.gov/legalhelp/expungement.html>.
 - 1.1. District Court expungement requests shall be submitted to:

District Court of Maryland
5800 Wabash Avenue
Baltimore, MD 21215
 - 1.2. Circuit Court expungement requests shall be submitted to:

Circuit Court of Baltimore City
Expungements
100 N. Calvert Street Room 200
Baltimore, MD 21202
2. BPD expungement requests shall be submitted to:

Baltimore Police Department
Central Records Section
Attention: Expungement Unit
242 W. 29th Street
Baltimore, Maryland 21212

Records Management Section

1. On receipt of a timely filed request, the Commander, Records Management Section, shall investigate and attempt to verify the facts stated in the request.
 - 1.1. If the Commander, Records Management Section, finds that the facts are true, Records Management shall:
 - 1.1.1. Search diligently for each police record about the arrest, detention, or confinement of the person;

- 1.1.2. Expunge each police record about the arrest, detention, or confinement within 60 days after receipt of the request; and
 - 1.1.3. Send a copy of the request and the Records Management Section's verification of the facts in the request to:
 - 1.1.3.1. The Criminal Justice Information Systems (CJIS) Central Repository located at:

6776 Reisterstown Rd.
Baltimore, MD 21215
 - 1.1.3.2. Each booking facility or law enforcement unit that the Records Management Section believes may have a police record about the arrest, detention, or confinement; and
 - 1.1.3.3. The person requesting expungement.
 2. Within 60 days after receipt of the request, the Central Repository, booking facility, and any other law enforcement unit shall search diligently for and expunge police records about the arrest, detention, or confinement.
 3. If the Records Management Section finds that the person is not entitled to an expungement of the police record, notify the requestor within 60 days after the request (in writing), of:
 - 3.1. The denial of the request for expungement; and
 - 3.2. The reason for the denial.
 4. If a request by the person for expungement of a police record is denied under #3 of this section, the person may apply for a Court Order of Expungement in the District Court that has proper venue over BPD's Records Management Section.
 - 4.1. The person shall file the application within 30 days after the written notice of the denial is mailed or delivered to the person.
 - 4.2. After notice to the Records Management Section, the court shall hold a hearing.
 - 4.3. If the court finds that the requestor is entitled to expungement, the court shall order the Records Management Section to expunge the police record.
 - 4.4. If the court finds that the requestor is not entitled to expungement of the police record, the court shall deny the application.
 - 4.5. The Records Management Section is a party to the proceeding. Each party to the proceeding is entitled to appellate review on the record, as provided in the Courts Article in civil cases from the District Court.
 5. A person who is entitled to expungement may not be required to pay any fee or costs in connection with the expungement.

Petitions for Expungement**Records Management Section**

1. Review all petitions for expungement of police records received from the court of jurisdiction in accordance with Criminal Procedure Article, Maryland Annotated Code.
2. Ensure, when necessary, that any General Waiver and Release Form is provided by the court of jurisdiction.
3. When additional information is necessary or when the record being petitioned was never distributed to the BPD, forward a letter of notification (Petition for Expungement of Records – Search Results Form) to the court of jurisdiction within 30 days from the date the petition is received.
4. When recommending denial of a petition for expungement, file the recommendation (Petition for Expungement of Records – Denial Recommendation Form) with the Office of the State's Attorney within 30 days from the date the petition is received. (If no recommendation for denial is made, a Court Order for Expungement will be issued automatically) (See Court Orders for Expungement section)
5. Maintain a chronological record of the events pertaining to procedures for request from the date of receipt to the date of completion.

Court Orders for Expungement**Records Management Section**

1. Review all Court Orders for Expungement of police records.
2. Forward all Court Orders for Expungement that do not meet the requirements of Title 10, Subtitle 1, of the Criminal Procedure Article, Maryland Annotated Code, to Legal Affairs.
3. When recommending denial of a Court Order for Expungement, request the Office of the State's Attorney cease the process, pending an appeal.
4. When complying with a Court Order for Expungement:
 - 4.1. Under 10-103(c)(2) Criminal Procedure Article, Maryland Annotated Code, forward a letter (Notice of Expungement of Police Record Form) advising compliance with the Court Order for Expungement to the State of Maryland.
 - 4.2. Under 10-105(f) Criminal Procedure Article, Maryland Annotated Code, forward a letter (Certificate of Compliance Form) advising compliance with the Court Order for Expungement to the person requesting expungement, as well as the respective court.
 - 4.3. In all cases, complete the expungement of police records within 60 days of receipt of the Court Order for Expungement.

5. Ensure that all expunged records are maintained in a secure area within the Records Management Section, accessible only by the Commander and/or his/her designee.
6. Maintain a chronological record of events pertaining to procedures for expungement of records for each request from the date of receipt to the date of completion.
7. Ensure the removal of all records subject to expungement for all files.
8. Forward a Notice of Expungement of Arrest Records Form to any other law enforcement agency which may have records concerning arrest, detention or confinement that have been ordered expunged for any court orders issued under Title 10, Subtitle 1, of the Criminal Procedure Article, Maryland Annotated Code.

APPENDIX

- A. Application for Expungement When No Charges Filed, Form 421

RESCISSION

Remove and destroy/recycle General Order M-2, *Criminal Records Expungement*, dated 1 July 1986.

COMMUNICATION OF POLICY

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.

APPENDIX A

Application for Expungement When No Charges Filed, Form 421



APPLICATION FOR EXPUNGEMENT WHEN NO CHARGES FILED



Name
Race Sex Date of Birth
Address
City State Zip Code

FOR OFFICIAL USE ONLY
Arrest Number
BPI Number
FBI Number

- 1. On or about (date), I was arrested, detained or confined by an officer of the Baltimore Police Department as a result of the following incident (charge), (central complaint #).
2. I was released from detention or confinement on or about (date) without being charged with a crime.
3. I request the State of Maryland and the Baltimore Police Department expunge all records of my arrest, detention or confinement because three years or more have passed since the date of my arrest, detention or confinement; or if less than three years have passed since my arrest, detention or confinement I agree to the below Waiver and Release.

WAIVER AND RELEASE

(Only complete this section if less than 3 yrs. have passed since your arrest, detention or confinement)

I, (name), hereby release and forever discharge the Baltimore Police Department, all of its officers, agents and employees and any and all other persons from any and all claims which I may have for wrongful conduct by reason of my arrest, detention or confinement. This general waiver and release is conditioned on the expungement of the record of my arrest, detention or confinement and compliance with the Annotated Code of Maryland, Criminal Procedure, Section 10-103(c), and should be void if these conditions are not met.

WITNESS my hand and seal this day of (date).

TESTE: (witness signature) (applicant signature)

Signature

Date

Printed Name

Telephone Number

Mail to: Baltimore Police Department
Central Records Division, Attention: Expungement Unit
242 West 29th Street
Baltimore, Maryland 21211