

**PORTSMOUTH, NH POLICE DEPARTMENT  
STANDARD OPERATING PROCEDURE****S-302****CRIMINAL RECORD ANNULMENT****EFFECTIVE DATE: 07-01-98****REMARKS:****REVISIONS: 06-11-98; 08-27-04; 11-09-04; 10-04-16; 09-06-17****I. PURPOSE**

To establish policies and procedures for the annulment or expungement of criminal records maintained by the Portsmouth Police Department.

**II. POLICY**

It is the policy of the Portsmouth Police Department to comply with New Hampshire State law as it pertains to annulments. This policy is intended to protect the confidentiality of these criminal records while providing a mechanism for the sharing of this information with other law enforcement officers for legitimate investigative purposes.

An annulment is a process by which the Court expunges or removes a record of conviction from a person's criminal history. RSA 651:5 mandates that any person whose criminal record is annulled shall be treated in all respect as having never been arrested, convicted or sentenced, subject to certain exceptions listed at Section III, D.2 of this Standard Operation Procedure.

**III. PROCEDURES****A. APPLICATION FOR ANNULMENT**

1. Record Annulment Notices: The Court is required to provide the prosecutor with a Record Annulment Notice when an annulment request is filed to afford the state the opportunity to oppose such an action. Requests for annulments of felony charges are sent to the County Attorney. Requests for annulment of Misdemeanor charges are sent to the Court Office.
2. Department Review of Annulment Notices: Record Annulment Notices will be forwarded to the Office Manager-Records Unit, who prints the appropriate case(s) and IMC Checks for the proposed annulment. The

“Pending Annulment Notification Checklist” form is completed and attached to this printout. The packet is forwarded to the Prosecutor.

3. Review Procedure: The prosecutor will review criminal charges and make a determination to either contest or not contest to the request for annulment. The prosecutor will bring the annulment notifications to Case Review each week to ensure that there are no recommendations from the Investigative Division to contest the request for annulment. If there is a bona fide reason to contest the request, the prosecutor will file a motion with the court to object. If there is not a bona fide reason to contest the request, the prosecutor will return the request(s) to the court secretary, who in turn, gives it to the Office Manager in the Records Unit.

Notice of Annulment (Court Order): The Court Office Secretary forwards this document to the Office Manager-Records Unit for processing.

B. RESPONSIBILITIES:

1. Office Manager-Records Unit Responsibility:  
It is the responsibility of the Office Manager to:
  - a. Maintain and release information for all annulled records.
  - b. Retrieve file, examine contents and remove all documents relative to the charge(s) to be annulled.
  - c. Change the disposition in IMC Court Tab (details in section C).
  - d. If it's a file prior to AFIS, pull the old mugshots for annulled charge(s) from the IDMO file in the Investigative Division.
  - e. Create Treeno entry for Annulled Arrest.
  - f. Scan file into Treeno. Reattach mugshot photo, if any, and redline across fingerprint card and file in fingerprint card file.
  - g. Scanned items are shredded with the exception of the fingerprint card and mugshot.
  - h. If file has already been scanned to Treeno, create an entry for Annulled Arrest and move all the documents for the annulled charges from the Arrest to Annulled arrest file
  - i. Send an email to IT personnel to delete the empty Arrest file, and follow up to ensure it was done.
  - j. Annulled mugshots in IMC are marked “ANNULLED” across the face of mugshots. Details in section C.

The Office Manager-Records Unit shall be responsible for the release of information for all annulled records as outlined in this policy.

3. All Other Department Personnel: No employee other than Ranking Officers or the Office Manager-Records Unit shall communicate information regarding an annulled record to anyone outside this

Department. No unauthorized person shall unseal an annulled record.  
Note to Ranking Officers: see Section III D 2 for “Criteria for Releasing Annulled Criminal Records.”

C. RECORDING AND SEALING OF ANNULLED RECORDS

1. Court Ordered Annulments: Court ordered Record of Annulment Notices will be forwarded to the Office Manager-Records Unit. The Office Manager-Records Unit will ensure that the order is dated and signed by a Justice.
2. Fingerprints & Photographs: The Office Manager-Records Unit will pull any old mugshots corresponding to the annulled charge(s) in the IDMO file in the Investigative Division and continue with the annulment procedure as outlined. The Office Manager-Records Unit will ensure that an annulled arrest photograph in IMC is marked as “ANNULLED”. This is to prevent the photograph in IMC from being used in a photo array.
3. Arrest File Review: The Office Manager-Records Unit will retrieve the Defendant's Arrest File, examine its contents and remove all documents relative to the charge(s) to be annulled.
4. Record the Annulment/IMC: The Office Manager-Records Unit will change the Arrest record in the computer:
  - a. The “disposition” box under the court tab will be changed to “annulled”;
  - b. The date of disposition will be typed in the “sentence” box;
  - c. The date of annulment will be entered in the “date” box.

D. RELEASE OF AN ANNULLED RECORD

1. No employee other than Ranking Officers or the Office Manager-Records Unit shall communicate information regarding an annulled record to anyone outside this Department. No unauthorized person shall access an annulled record.
2. Criteria for Releasing Annulled Criminal Records:  
 Annulled records will be revealed only under the following circumstances;
  - a. To communicate information regarding the annulled record of arrest or conviction to other law enforcement officers for legitimate investigative purposes.
  - b. In defense of any civil suit arising out of the facts of the arrest.
  - c. To the Police Standards & Training Council solely for the purpose of assisting the Council in determining the fitness of an individual to serve as a law enforcement officer.

- d. Pursuant to a notarized Request for Release signed by the person whose record has been annulled.
3. Decision to Release: If the request conforms to Section III D 2 of this policy, and the Office Manager-Records Unit releases the information, the Office Manager-Records Unit must record the date released on the written request and scan the written request into the IMC attachment tab of the arrest report and associated incident report, if one exists.
4. Confidentiality: The Office Manager-Records Unit will inform the requesting party that this information shall not be disclosed to any other person except as stated above. Material released in printed form shall be watermarked “annulled file, confidential – do not redistribute” and/or stamped with “confidential” stamp”, if watermark not available.

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Robert M. Merner, Chief of Police

RMM/dps

Attachment: Pending Annulment Notification Checklist

**PENDING ANNULMENT NOTIFICATION CHECKLIST***Date* \_\_\_\_\_*Name of Individual Seeking Annulment* \_\_\_\_\_*Charge(s) to be Annulled* \_\_\_\_\_***ROUTING CHECKLIST:***

<u><i>Date</i></u>	<u><i>To</i></u>	<u><i>Initials</i></u>
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_____	<i>Received by Court Office from District Court</i>	_____
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_____	<i>Received from Court Secretary by Prosecutor</i>	_____
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_____	<i>Reviewed with Case Review Committee</i>	_____
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_____	<i>Received by Office Manager-Records</i>	_____
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***NOTES FOR FILE***