

PITFALLS AND DELAYS ASSOCIATED WITH EXPUNGEMENTS

1. **ARD CASES-** Any charge(s) dismissed at mdj level will not be expunged.
2. **PROCESSING BY STATE POLICE AND FBI-** Upon receipt of an order granting expungement, it can take in excess of 6 months until the criminal history is removed from either repository.
3. **PROCESSING AT COMMON PLEAS LEVEL-** Until CPCMS receives confirmation that disbursements have been received and cleared, no action can be taken on an expungement— case will be pending until payment/disbursements issues are cleared within the system-COC cannot override the system. This can take up to 4 months.
4. **30 DAY APPEAL PERIOD-** Regardless of whether the Commonwealth files an appeal or not, the system will not process an expungement until after 30 days of the order granting expungement has been signed.
5. **PARDON V. EXPUNGEMENT-** Read the rules. Not every case is eligible for an expungement. In such circumstances, a pardon is recommended.
6. **CRIMINAL HISTORY-** A State Police criminal history MUST BE attached to the petition. Failure to submit one will result in court administration entering a non-entertaining motion. You will need to re-file and submit another \$ filing fee (Please consult fee schedule). The report must be dated within the 60 days preceding the filing of the petition. PSP is backlogged with requests for criminal history, as such, it can take upwards of 30 days to receive such a report.
7. **CONTENT OF PETITION-** Petition must contain all information contained within the rules and the order must also contain all of the pertinent information. Failure to conform to the rule will result in the petition being returned from Court Administration or the AOPC and delay the processing of the expungement.
8. **RESPONSE TIME OF COMMONWEALTH-** After filing, the Commonwealth has 30 days to respond for Summary Cases and 60 days to respond for Criminal Cases. Even if the Commonwealth consents prior to the expiration of the 30 days, the system will not allow an override to the system. Even if an override could be effectuated, if payments have not cleared, the case will not be permitted to proceed. AOPC advised this office that the DA can always withdraw its consent and, as such, even if the DA consents prior to the 30 days, it will still not release the 30 day hold requirement.
9. **JUDGE'S RULING-** Judge has 14 days to respond to the petition.
10. **MAINTAIN RECORDS OF SIGNED AND SEALED EXPUNGEMENT ORDERS-** Sometimes, even though a case was expunged, it still shows up somewhere. In order to establish that the case was in fact expunged, you will need to present a sealed order. The clerk of courts office destroys the entire file after the order is granted; this includes destroying the order for expungement. As such, you will need to keep a copy of the order with a raised seal to verify the expungement indefinitely.
11. **BALANCE-** If any money is owed on the docket, that money must be paid in full before the AOPC will allow a case to be expunged. This includes fees, fines, costs and restitution. See Item 3.
12. **LOCAL RULES-** Although additional information shall not be required by local rule or practice, there are still some counties that require additional information outside of what is required by statute. To date, unsure how these counties will treat petitions that comply with new rule but

fail to comply with local rules. Most likely, failure to comply with a local rule will result in a non-entertaining motion or a hearing on the petition.

13. **Rule 490 v. Rule 790-** Matters resolved at the mdj level are to proceed under 490; however, matters involving a summary offense filed with a misdemeanor, felony, or murder of the first, second, or third degree is a court case and the petition for expungement would proceed under Rule 790.
14. **CHECK THE ORDER-** Not all of the judges are using the AOPC generated Orders available on CPCMS; therefore, there is a possibility that the order you receive from the judge does not conform to the requirements of the rules. As such, it is imperative that you check the order. Any order which fails to meet the requirements of the rules will be rejected by the AOPC. This will further delay the expungement process for your client. For example, order must state that fees, fines, costs, and restitution were paid in full. Even if the charges were withdrawn and no costs were incurred, still need to have it in the order that there is a zero balance. The AOPC will not check attachments to the order.
15. **AFTER EXPUNGEMENT FINALIZED, CONDUCT A BACKGROUND CHECK-** 6 months after you receive an order, it is advisable that you run a background check to make sure that the case has been removed from all levels. AOPC removes the record from different systems at different times. This means that you may not find your client's record at our office but it may still be in the system at the mdj, PSP, etc. See #'s 2 and 10.

FOR THE ABOVE REASONS, IT CAN TAKE IN EXCESS OF 13 ½ MONTHS UNTIL A CRIMINAL HISTORY IS EXPUNGED AT ALL LEVELS. THIS DOES NOT INCLUDE THE TIME IT TAKES TO OBTAIN A CRIMINAL HISTORY FROM PSP PRIOR TO THE FILING OF THE PETITION.