

Office of the Sheriff  
Somerset County, Maryland

General Order: 01-14-07

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Chapter 10  
Section 1  
Regulations on Public Information Act Requests

Authority: State Government Article §§10-661 through 10-630, Annotated Code of Maryland

1. Scope

This chapter sets out procedures under the Public Information Act for filing and processing requests to the Office of the Sheriff of Somerset County for the inspection and copying of public records of the Office.

2. Policy

It is the policy of the Somerset County Sheriff's Office to facilitate access to the public records of the SCSO, when access is allowed by law, by minimizing costs and time delays to applicants.

3. Definitions

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- 1) "Act" means the Public Information Act, state Government article, §§10-611 through 10-630, Annotated Code of Maryland.
- 2) "Administrative Records" are correspondence and reports which relate to the internal management and general administration of the Somerset County Sheriff's Office.

- 3) "Applicant" has the meaning stated in §10-611 of the Act. A person requesting disclosure of public records.
- 4) "Custodian" has the meaning stated in §10-611 of the Act. Sheriff or his designee who can, by the very nature of their daily exposure to the types of records requested, make an appropriate determination as to which records, if any may be released.
- 5) "Investigative Records" are correspondence and reports of criminal and non-criminal investigations that includes but is not limited to:
  - a) Laboratory Records
  - b) Impounded Property Records
  - c) Records, notes and reports of the investigators findings.
- 6) "Person –in – interest" is one who is the subject of a report, or any representative designated by the person-in-interest (except one who may be under legal disability), parent or duly appointed legal representative. All other individuals are persons-not-in-interest.
- 7) "Public record" has the meaning stated in § 10-611 of the Act. The original or copy of any documentary material that is made or received by any unit of state government in connection with the transaction of public business. A public record may be in any form, including a card, computerized record, correspondence, electronic mail, drawing, microfilm, file, form map, photograph, Photostat, recording, tape or diskette.
- 8) "Requests" are written requests from citizens, the media and other government units for access to public records.
- 9) "Sheriff" means the Sheriff of Somerset County.
- 10) "Working day" means a day other than Saturday, Sunday, or a State holiday.

Unless otherwise provided by law, the Sheriff is the official custodian of the public records of the SCSO.

#### 4. Policy Authority

- A. The release of public records of state Agencies and County Agencies is governed by the Maryland Public Information Act, Annotated Code of Maryland, State Government Article, Title 10, subtitle 6.
- B. This Act is analogous to the Federal Freedom of Information Act, which governs the disclosure of federal Public Records.

5. Sheriff as Official Custodian

Unless otherwise provided by law, the Sheriff is the official custodian of the public records of the SCSO.

6. Who May Request Public Records

Any person may request to inspect or copy public records of the SCSO.

7. Necessity for Written Request

A. Inspection.

- 1) Except as otherwise provided in this chapter, the custodian shall make public records of the SCSO available for inspection by an applicant without demanding a written request.
- 2) The custodian shall require a written request if the custodian reasonably believes that:
  - a) The Act or any other law may prevent the disclosure of the public record to the applicant; or
  - b) A written request will materially assist the SCSO in responding.

B. Copies

- 1) If the applicant requests one or more copies of any public record of the SCSO, the custodian may require a written request.

8. Costs

A. Fees for records are as follows:

- 1) Fewer than 15 copies \$.50 per page.
- 2) More than 15 copies is \$.1.00 per page.

9. Contents of Written Request

A written request shall:

- A. Contain the applicant's name and address;
- B. Be signed by the applicant; and
- C. Reasonably identify, by brief description, the public record sought.

10. Addressee

A request to inspect or copy a public record of the SCSO shall be addressed to the custodian of the record. If the custodian is unknown, the request may be addressed to the Sheriff.

## 11. Response to Request

- A. If the custodian decides to grant a request for inspection, the custodian shall produce the public record for inspection:
  - 1) Immediately; or
  - 2) Within a reasonable time period, not to exceed thirty (30) days after the date of the request, if that period is needed to retrieve the public record and conduct any necessary review.
  
- B. If the custodian decided to deny a request for inspection:
  - 1) The custodian shall do so within thirty (30) days after the request; and
  - 2) Immediately notify the applicant of the denial.
  
- C. Generally, custodians permit the inspection of public records at any reasonable time, but may deny disclosure for:
  - 1) Mandatory Exceptions; or
  - 2) Permissible exceptions.
  
- D. Specific questions regarding the application of mandatory and permissible denials of access to public records will be addressed by the Maryland Office of the Attorney General.
  
- E. If a request is denied, the custodian shall provide the applicant, at the time of the denial or within ten (10) working days, a written statement that gives:
  - 1) The reasons for the denial;
  - 2) The legal authority for the denial; and
  - 3) Notice of the remedies available for review of the denial.
  
- F. If a requested public record is not in the custody or control of the person to whom application is made, that person shall, within ten (10) working days after receipt of the request, notify the applicant:
  - 1) That the person does not have custody or control of the requested public record; and
  - 2) If the person knows:
    - a. The name of the custodian of the public record; and
    - b. The location or possible location of the public record.
  
- G. With the consent of the applicant, any time limit imposed by §§A-C of this regulation may be extended for an additional period of up to thirty (30) days.

## 12. Permissive Denials

- A. Permissive denials are records to which access may be denied if their inspection would be contrary to public interest.
- B. Disclosure of certain classes of records which are limited by statute includes the following.
  - 1) Investigative records, which may be withheld from persons-not-in-interest;
  - 2) Juvenile records;
  - 3) Personnel files, except that such files should be available to the person-in-interest or appropriate administrative personnel;
  - 4) Certain portions of pre-employment information contained in any employee's personnel file may be kept confidential;
  - 5) Physical and mental health records, exclusive of autopsy reports;
  - 6) All correspondence relating to matters in litigation by the SCSO;
  - 7) Police records as defined in the Criminal Procedure Article, Section 10-101(h);
  - 8) Home address or telephone number of any employee of Somerset County or any agency, whether in classified or non-classified service, except with the permission of the employee. However, if the agency which employs the person has determined that disclosure of the address or number is necessary to protect the public interest, disclosure would be allowed;
  - 9) An individual's social security number, home address, home telephone number and other personal data;
  - 10) Response procedures or plans prepared to prevent or respond to emergency situations;
  - 11) Building plans, blueprints, diagrams, manuals, or other records of airports, bridges, emergency response facilities or structures, buildings where hazardous materials are stored, or waste and water systems; and
  - 12) Records or any building owned or operated by Somerset County or the State of Maryland.
- C. Inquiries for the identification numbers of vehicles owned by Somerset County and operated by the Somerset County Sheriff's Office will not be honored since it could permit the identification of vehicles utilized in covert operations. Requests for this information will be denied and applications will be brought to the attention of legal counsel for the Somerset County Sheriff's Office at the Maryland Office of the Attorney General.
- D. Incident reports will be reviewed by the Criminal Section supervisor prior to public release.

- E. The Sheriff or his designee may deny inspection of a part of a public record if the inspection would:
  - 1) Jeopardize the security of any structure owner or operated by Somerset County or the State or Maryland.
  - 2) Endanger the life or physical safety of an individual.

### 13. Disclosure Against Public Interest

- A. Denial Pending Court Order.
  - 1) If, in the opinion of the Sheriff, disclosure of a public record of the SCSO otherwise subject to disclosure under the Act would do substantial injury to the public interest, the Sheriff may temporarily deny the request to obtain a court order allowing nondisclosure.
  - 2) The temporary denial shall be in writing.
- B. Circuit Court Review.
  - 1) Within ten (10) working days after the denial, the Sheriff shall apply to the appropriate circuit court for an order permitting continued denial or restriction of access.
  - 2) Notice of the Sheriff's complaint shall be served on the applicant in the manner provided for service of process by the Maryland Rules of Procedure.

### 14. Denying Access to Records

- A. Access to Somerset County Sheriff's Office Records will vary depending on and whether applicant are persons-in-interest or others.
- B. Requests for access to investigative records by persons-not-in-interest may be denied if disclosure is contrary to the public interest.
- C. Persons-in-interest may be denied access to records that are investigative if disclosure would:
  - 1) Interfere with valid and proper law enforcement proceedings;
  - 2) Deprive a person of a right to a fair trial or an impartial adjudication;
  - 3) Constitute an unwarranted invasion of personal privacy;
  - 4) Disclose the identity of a confidential source;
  - 5) Disclose an investigative technique or procedure;
  - 6) Prejudice an investigation; and/or
  - 7) Endanger the life or physical safety of any person.
- D. If a reason for denial exists, a determination must be made as to how much of the document needs to be denied.
- E. The sheriff or his designee will indicate by written response, the reason the request is denied and cite the law or regulation authorizing the denial.

- F. The legal counsel representing the Somerset County Sheriff's Office will review requests for records that are denied to assure the denial reason complies with statutory requirements and that the proper information is imparted to the applicant.

#### 15. Non-General Requests

- A. Requests for access to public records that go beyond the scope of routine information and which may involve sensitive or controversial issues will be reported immediately to the Sheriff or his designee.
- B. The Sheriff or his designee will:
  - 1) Inform legal counsel at the Maryland Office of the Attorney General of the request, to determine the Somerset County Sheriff's Office obligations under the Public Information Act.
  - 2) After a decision has been rendered, contact the Sheriff or his designee who reported the request for access and will advise whether and under what circumstances access will be allowed to the public record will be allowed.
- C. The Sheriff or his designee will either:
  - 1) Coordinate the time and place of access with the requesting party, or,
  - 2) Advise the requesting party of a denial of access to the records. (Refer, in this section, to: Procedures for Denying Access to Records).
- D. Under no circumstances will Sheriff's Office personnel attempt to address a non-general request for public information request except upon direction of the Sheriff or his designee.

#### 16. Notice to Consideration of Views of Persons Potentially Affected by Disclosure

- A. Unless prohibited by law, the custodian may provide notice of a request for inspection or copying of any public record of the SCSO to any person who, in the judgment of the custodian, could be adversely affected by disclosure of that public record.
- B. The custodian may consider the views of the potentially affected person before deciding whether to disclose the public record to an applicant.

#### 17. Public Record Temporarily Unavailable

If a requested public record of the Department is in the custody and control of the person to whom application is made but is not immediately available for inspection or copying, the custodian shall promptly:

- 1) Notify the applicant that the public record is not immediately available; and
- 2) Schedule a date within a reasonable time for inspection or copying.

18. Public Record Destroyed or Lost

If the person to whom application is made knows that a requested public record of the Department has been destroyed or lost, that person shall promptly:

- 1) Notify the applicant that the public record is not available; and
- 2) Explain the reasons why the public record cannot be produced

19. Review of Denial

- A. If the custodian denies a request to inspect or copy a public record of the SCSO, the applicant may, within thirty (30) days after receipt of the notice of denial, request an administrative hearing.
- B. If the applicant requests a hearing:
  - 1) The hearing shall be governed by Title 10, Subtitle 2 of the State Government Article; and
  - 2) The Sheriff shall issue the final decision of the SCSO unless the Sheriff delegates final decision authority.
- C. If the hearing results in a total or partial denial of the request, the applicant may file an appropriate action in the circuit court under §10-623 of the Act.
- D. If the applicant does not request a hearing, the applicant may file an action for judicial enforcement under §10-623 of the Act without exhausting that administrative remedy.



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## Chapter 10

### Section 2

#### Public Information Act Requests Amendments/Corrections

Authority: State Government Article §10-625, Annotated Code of Maryland

#### 1. Scope

This chapter sets out procedures under which a person in interest may request the correction or amendment of public records of the SCSO.

#### 2. Who May Request

A person in interest may request that the SCSO correct or amend any public record that:

- A. The SCSO keeps; and
- B. The person in interest is authorized to inspect

#### 3. Contents of Request

- A. A person in interest shall make a request to correct or amend a public record in writing.
- B. The request shall:
  - 1) Identify the public record to be corrected or amended;
  - 2) State the precise correction or amendment requested;
  - 3) State the reason for the correction or amendment; and
  - 4) Include a statement that, to the best of the requester's belief, the public record is inaccurate or incomplete.

#### 4. Addressee

A request to correct or amend a public record shall be addressed to the custodian of the record. If the custodian is unknown, the request may be addressed to the Sheriff.

5. Return of Nonconforming Request.

- A. The SCSO shall accept a request to correct or amend a public record when it is received if it reasonably complies with COMAR 02.06.02.04 and COMAR 02.06.02.05 of this chapter.
- B. If the request does not reasonably comply with COMAR 02.06.02.04 and COMAR 02.06.02.05 of this chapter, the SCSO shall return the request to the requester with:
  - 1) An explanation of the reason for the return;
  - 2) A statement that, on receipt of a request that reasonably complies with COMAR 02.06.02.04 and COMAR 02.06.02.05 of this chapter, the request will be accepted.

6. Response to Request.

Within thirty (30) days after the SCSO receives a request for correction or amendment that reasonably complies with COMAR 02.06.02.04 and COMAR 02.06.02.05 of this chapter, the custodian shall:

- A. Make the requested correction or amendment, and inform the requester in writing of the action; or
- B. Inform the requester in writing that the SCSO will not:
  - 1) make the requested correction or amendment, and the reason for the refusal; or
  - 2) Act on the request because:
    - a. The requester is not a “person in interest”;
    - b. The requester is not authorized to inspect the record; and/or
    - c. Of any other reason authorized by law.

7. Refusal of Request.

If the SCSO refuses to make a requested correction or amendment, a person in interest may file with the SCSO a concise statement of the reasons for:

- A. The requested correction or amendment; and
- B. The person’s disagreement with the refusal of the SCSO to make the correction or amendment.

8. Requirements for Statement of Disagreement.

The statement submitted under COMAR 02.06.02.08 shall:

- A. Be on pages no larger than 8 ½ x 11 inches in size;
- B. Use only one side of each page; and
- C. Consist of no more than five (5) pages.

9. Providing Statement of Disagreement.

If a person in interest files a statement of disagreement concerning a public record under COMAR 02.06.02.08 and COMAR 02.06.02.09 of this chapter, the SCSO shall provide a copy of the statement whenever the SCSO discloses the public record to a third party.

10. Administrative Review.

- A. A person may request administrative review under this regulation if the SCSO:
  - 1) Has refused the person's request to correct or amend a public record under COMAR 02.06.02.07 of this chapter.
  - 2) Has rejected the person's statement of disagreement under COMAR 02.06.02.08 of this chapter; or
  - 3) Has not provided a statement of disagreement to a third party under COMAR 02.06.02.10 of this chapter
- B. A request for review shall be filed with the Sheriff within thirty (30) days after the requester is advised of the SCSO's action.
- C. The review proceedings shall be conducted in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

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Chapter 10  
Section 3  
Guidelines for Release of Public Information

1. Media

These guidelines do not restrict the news media in the exercise of their investigative roles and their freedom to publish or broadcast findings developed through their own initiative. The media has the duty to inform the public of crime and the administration of justice. These guidelines have been developed to ensure that freedom of press will be maintained, and, at the same time, justice served.

- A. SCSO is committed to making every reasonable effort to serve the needs of the media in informing them about crime and other police information. The media should be given all information that will not deprive persons of their rights to a fair trial or interfere with proper law enforcement proceedings, disclosure of confidential sources, disclose investigative techniques or procedures, prejudice an investigation, endanger the safety or life of an individual, or invade the privacy or safety of SCSO personnel. In such cases, the information given shall not jeopardize the above areas.
- B. The Chief Deputy or his/her designee will provide press releases to the media on a weekly basis.

2. Non-Restricted Information

- A. When, how, and by whom an incident was reported.
- B. The substance of the complaint.
- C. The SCSO response to the complaint.
- D. General information surrounding the complaint.
- E. Other public agencies involved in the complaint.

At the time of the arrest or charging of an adult, the following information may be Released:

- A. Name, age, sex, description, and address.
- B. Substance or text of the charge in complaint, warrant or indictment.
- C. The name of the investigating SCSO Deputy and length of investigation.
- D. General circumstances surrounding an arrest (e.g., location and time).
- E. Amount of bond and place of detention.

At the time of arrest or charging of a juvenile under the custody of the Department Of Juvenile Services, including one arrested for escape from custody, the following Information may be released.

- A. The juvenile's age, sex, race, physical description of clothing and City of residence.
- B. The identification of juvenile victims, not in custody of any type, can usually be made public. This includes juveniles killed in vehicle crashes, other accidents or victims of crimes, except sexual assault and/or child abuse.
- C. However, any questions concerning charges/convictions for which the arrested juvenile was in custody will be referred to the facility where the escape occurred or to the Department of Juvenile Services information office.

### 3. Suicide

- A. Generally, media will not report on a suicide unless it involves unusual circumstances or a public figure. If media inquiries are received, the name, address, age, sex and occupation of the suicide victim may be released after notification of next of kin.
- B. The method of suicide, if positively known, may also be released.
- C. The existence of a suicide note may be confirmed, but the contents of the note should not be released. The information is considered personal and confidential.

### 4. Prohibited Information

The following shall not be made public:

- A. Information that could lead to the identity or specific address of a juvenile.
- B. Statements concerning prior criminal arrests, character or reputation of an accused person.
- C. Existence or contents of any confession, admission or statement given by the accused or refusal to make a statement.
- D. Results of tests, including DWI/DUI blood or breath, scientific examinations, investigative procedures (e.g., VSA, fingerprinting), etc.
- E. Identity, credibility, character statements or expected content of testimony of any witness or prospective witness.
- F. Statements, character or credibility information about any victim.
- G. Possibility of plea to the offense charged or to a lesser offense or other disposition.
- H. Other statements relating to merit, evidence, arguments, opinions or theories of the case.
- I. Opinion or speculation as to fault or civil liability.
- J. Report, transcripts or summaries of proceedings from which the press and the public have been excluded by judicial order.

- K. Any information known to a suspect, such as caliber of weapon, number of stab wounds or amount of stolen money.
  - L. Any information concerning ongoing criminal or administrative investigations without approval from the appropriate authority.
  - M. Information including name and address of a victim of a sex crime.
  - N. Information that could lead to identify a victim of child abuse.
5. Photographing and Interviewing by the Media
- A. The deliberate posing of a person in police custody by a member of SCSO for photographing and televising is prohibited. The media does not have a right to photograph a person in police custody as long as it is not a staged picture. Police personnel should not attempt to interfere with media personnel photographing an ongoing event. However, if security or other valid reasons exist, media access may be restricted.
  - B. Media members are prohibited from accompanying SCSO personnel on the execution of a search and seizure warrant, and may not be permitted access to any premises being searched.
  - C. When media members ride with Deputies on patrol, Deputies will be aware of private property rights and privacy issues. A police presence within private property does not give police authority to invite media onto or into that private property.
  - D. A person may not participate in a media interview while in police custody.
  - E. SCSO Deputies who are involved in duty as undercover officers will not be interviewed by media in a format that may compromise their covert status.
6. In-Car Camera Video
- A. All tapes generated by audio/video recording equipment are the property of and under the control of the SCSO unless a court dictates otherwise.
  - B. Requests for copies of videotapes from media, other agencies or individuals will be directed to the SCSO.
  - C. A fee of \$50.00 will be charged for copies of tapes produced in response to a written request under the Maryland Public Information Act.
  - D. Under no circumstances will the original copy of a video camera tape be released
7. Public Review of Records
- A. The Maryland Public Information Act, Md. Code Ann., State Gov't Art. § 6-601, et seq., provides wide access for members of the public to review and copy public records, subject to certain exceptions. Any requests made to the SCSO pursuant to the MPIA will be reviewed and responded to by the Chief Deputy, in consultation with legal counsel and in accordance with procedures outlined in Appendix A.

Office of the Sheriff

Somerset County, Maryland

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Chapter 10

Section 4

Criminal History Record Information (CHRI)

1. Policy

Criminal History Record Information may be used by Criminal Justice Agencies for official purposes in conjunction with the administration of criminal justice.

2. Criminal History Restrictions

- A. Criminal history inquiries may be conducted for investigations business only.
- B. Deputies requesting a CHRI History query must provide the Terminal Operator with a Somerset County Sheriff's Office Incident Report Number for accountability.
- C. A CHRI may not be kept in the Incident Report case file.
- D. Terminal Operators will not share Log-On identification numbers.
- E. All CHRI records will be shredded once no longer needed.

3. CHRI Queries for Other Agencies

- A. The Somerset County Sheriff's Office has CHRI Exchange Agreements with allied agencies.
- B. If a CHRI Query is requested by an allied agency, the following procedure will be followed:
  - 1) The ORI number for the requesting agency will be used.
  - 2) The name of the person requesting the query will be indicated on the log.
- C. A case number if available, and reason why inquiry is being made.

4. CHRI Inquiries

A. CHRI Inquiries are appropriate in the following situations:

- 1) Person(s) under criminal investigation
- 2) Applicant(s) applying for criminal justice positions
- 3) Maintenance workers who will have access to sensitive areas within the Somerset County Sheriff's Office.
- 4) Respondents/Petitioners in regards to Protective Orders and Peace Orders; and
- 5) Before warrant entries/service

5. CHRI Inquiry Logs

Criminal history inquiry logs will be maintained for a minimum of 2 Years and then destroyed.

6. Validations

Monthly validations will be conducted on a monthly basis. Validations will be placed in the missing persons, stolen property, Protective Order and Peace Order and Warrant case file, as applicable validations will be accompanied by a supplemental report detailing all pertinent information.

7. Expungement

A. Expungements are governed by Md. Code Ann., Criminal Procedure Art. § 10-101, et seq.

B. "Criminal History Record Information" means data that are developed or collected by a criminal justice unit about a person and that pertain to a reportable event.

C. "Expungement" with respect to court and police records, means the effective removal of criminal records from public inspection:

- 1) by obliteration; or
- 2) by removal to a separate secure area to which the public and other persons having no legitimate reason for being there are denied access; and
- 3) If effective access to a record can be obtained only by reference to other records, by the expungement of the other records, or the part of them providing the access.
- 4) Requirements – Expungement requires removal of information relating to arrest, detention, or prosecution. The name of the arrested individual does not need to be removed; only the fact that the individual was arrested, charged, or prosecuted. For paper records the information may be removed by blackening out the relevant data with a felt tip marking pen. This will be done prior to dissemination of a record associated with



an order of expungement. However, for records that contain the names of more than one individual, all personal information, *e.g.*, name, address, Social Security #, vehicle tag #, etc. of the individual(s) for whom an Order of Expungement was granted will be blackened out prior to any copies being released for any reason.

- D. "Police Records" means an official record that a law enforcement unit, booking facility, or Central Repository maintains about the arrest and detention of, or further proceeding against, a person for:
- 1) a criminal charge;
  - 2) a suspected violation of criminal law;
  - 3) a violation of the Transportation Article for which a term of imprisonment may be imposed; or
  - 4) a civil offense or infraction, except a juvenile offense, enacted under State or local law as a substitute for a criminal charge.
  - 5) "Police Records" DO NOT include:
    - a. investigatory files;
    - b. police work-product records used solely for police investigation purposes;
    - c. records pertaining to violations of the vehicle laws of the State; or of any other
    - d. Or of traffic law, ordinance, or regulation, and offenses which do not involve incarceration as a penalty.

8. Eligibility for Expungement

- A. Person was arrested and released without charges.
- B. Person was acquitted and either:
  - 1) three (3) years have passed since disposition; or
  - 2) A General Waiver and Release is executed and provided; or
- C. The charge was dismissed and either:
  - 1) three (3) years have passed since disposition; or
  - 2) A General Waiver and Release is attached.
- D. A judgment of probation before judgment was entered on a charge that is not a violation of Transportation Article §21-902 or Criminal Article, §2-209 or §3-211 and either:
  - 1) at least three (3) years has passed since disposition; or
  - 2) Petitioner has been discharged from probation, whichever is later, and

- 3) Since the date of disposition, petitioner has not been convicted of any crime, other than violations of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment; and are not now a defendant in any pending criminal action other than for violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.

E. Types of Expungements

- 1) Released Without Charges (RWOC): Arrested but released without being charged:
  - a. RWOC before October 1, 2007; and  
Expungement Request for RWOC that occurred before October 1, 2007
    1. File and retain records same as for all expungements, retain 42 months, and then destroy.
    2. Right to Appeal Denial of Expungement
      - a) If a petitioner wishes to appeal an Agency decision for an expungement, or if the agency fails to notify the petitioner within 60 days of any action taken, the petitioner may file an Application for Expungement of Police Records in the District Court of Maryland for Somerset County.
      - b) The Court will issue a Notice of Hearing to the SCSO. If the SCSO opposes the Application, the local State's Attorney's Office must, within 30 days after receipt of the Notice of Hearing, serve on the petitioner or the petitioner's attorney and the Court the reason for the objection.
  3. Disapproval for Expungement:
    - a) When the SCSO determines that a petitioner is not entitled to an expungement, personnel will consult with the local State's Attorney's Office which will determine the course of action and so inform the SCSO.
    - b) The SCSO is not responsible for verifying eligibility.

b. RWOC on or after October 1, 2007.

Expungement Request for RWOC that occurred on or after October 1, 2007:

4. Within 60 days of a person being arrested but not charged, the SCSO is responsible for automatically expunging the records even when only a Detention Log is on file.
  - a) The SCSO submits the CJIS Released without Charges Form to CJIS.
  - b) CJIS processes the request, notifies the FBI, the SCSO, and the person arrested but not charged, that the expungement was completed.
  - c) SCSO will and retain records same as for all expungements; retain 42 months, and then destroy

9. Time Line for Expungement Request if Arrested and Charged

- A. A petitioner files a Petition for Expungement with the court.
- B. Upon receipt, the District Court sends a Notice of the Petition of Expungement to the local State's Attorney's Office. The local State's Attorney's Office has 30 days to object to the request for expungement. During these 30 days, the SCSO keeps the Petition for Expungement on file and takes no action.
- C. If not denied or objected to by the local State's Attorney's Office, the District Court on or after the thirtieth (30<sup>th</sup>) day the petition was filed, sends the Order of Expungement to:
  - 1) local State's Attorney's Office;
  - 2) the SCSO;
  - 3) CJIS;
  - 4) petitioner's attorney;
  - 5) petitioner; and
  - 6) The SCSO must within 60 days, an Order of Expungement is issued complete the expungement.

Note: Some District Courts forward the Order of Expungement to the Department of Parole & Probation.

- D. The SCSO initiates a Certificate of Compliance (letter) after the expungement process has been completed and mails it to the petitioner, the court and the petitioner's attorney, if applicable.

## 10. Procedures

A. If the SCSO receives an Order of Expungement and a Certificate of Compliance from the District Courts that that has been made by the SCSO, the SCSO will utilize the Expungement Check-Off List Form 236, and compile and place in a file all records pertaining to the charges listed on the Petition for Expungement, which is the first document received from the courts, including:

- 1) all copies of the arrest documentation, e.g., IR, DWI/DUI, AR, etc.;
- 2) identification photographs;
- 3) criminal summons, warrants, etc.; and
- 4) any information card issued by the Department of Parole and Probation (DP&P) identifying an individual as being placed on probation for the charge cited in the Order of Expungement, which may have been included in the SCSO case file.
- 5) Personnel must determine if DP&P received a copy of the Order of Expungement.
  - a) If DP&P did not receive a copy of the Order of Expungement, the SCSO will access the CJIS system to check the OBSCI II P&P database to determine if the person has a case number and was/is on parole or probation.
  - b) If DP&P did not receive a copy, the SCSO will send a letter to DP&P notifying it to expunge the DP&P records and to send the records to the SCSO where they will be stored with the SCSO records for 42 months, then destroyed. (SCSO Warrant Clerks can access the CJIS system.)

Note: FBI RAP sheets should not be in the IR files but if one is located in the file it will be destroyed.

- 6) When only one person's record is being expunged, all associated records will be stored separately in a file folder and marked on the outside front "EXPUNGED," the date expunged, and the date to be destroyed which is 42 months (3 years & 6 months) after the date of expungment.
- 7) If more than one name is on an IR, and one of them has an Order of Expungement, it is not necessary to black out or delete the name of the expunged person, but it is required to black out or delete any reference to the expunged person having been arrested, charged, or prosecuted. When multiple persons are on an IR and one is expunged, that IR can be made public for the persons not expunged; therefore, it is vital that references to the expunged person be treated as required. For all copies of such an IR any reference to an expunged person who obtained an expungement having been arrested or charged must be deleted.

11. Expunged Records in IR system and IR Copies

- A. The SCSO will generate a supplemental report in the IR system indicating the name of the individual for whom compliance with an Order of Expungement has been met;
- B. Expunged records will not be deleted from the IR system.
- C. DO NOT print the expunged IR from the IR system. A copy of the IR may only be obtained by photocopying what is in the case file.
- D. Expunged records in IR case files will be marked "Expunged." The SCSO expungement coordinator will review every expunged record before releasing it to be photocopied to ensure all pertinent text is obliterated (blackened out).

12. Expungement Ledger

The name of each person for whom the expungement requirements have been met will be entered into the Expungement Ledger maintained at the SCSO.

13. Chapter Revisions

- A. General Order 01-10-08 "Guidelines for Release of Public Information" has been revised.
- B. Effective September 1, 2014, General Order 01-14-07 supersedes General Order 01-10-08.

Robert N. Jones

Sheriff  
Somerset County