



EXPUNGEMENT OF INTERNAL AFFAIRS RECORDS

FC No.: 309
Date: 01-28-03

Contents:

- I. Scope of the Law
- II. Department Policy
- III. Officers Not Covered by LEOBR**
- IV. Proponent Unit
- V. Cancellation

I. Scope of the Law (LEOBR)

Article 27, Section 728(b)(12)(ii) of the Annotated Code of Maryland states, "A law enforcement officer, upon written request, may have any record of a formal complaint made against him expunged from any file if:

1. The law enforcement agency investigating the complaint has exonerated the officer of all charges in the complaint, or determined that the charges were unsustainable or unfounded, or an administrative hearing board acquits, dismisses, or makes a finding of not guilty; and
2. 3 years have passed since the findings by the law enforcement agency or administrative hearing board."

II. Department Policy (CALEA 26.1.8)

- A. *After three years have passed since the findings*, the IAD case file will automatically be expunged if the results of the investigation were one of the following:
1. Exonerated
 2. Insufficient Evidence (Unsustained)
 3. Unfounded
 4. Policy Failure
 5. Administrative *hearing board acquits, dismisses, or makes a finding of not guilty*
 6. Sustained case where the department mandated counseling or other non-disciplinary action to resolve the issue
 7. Sustained case where a settlement agreement was reached between the department and the Fraternal Order of Police and either:
 - a. *No action was taken or*
 - b. Non-disciplinary action was imposed in conjunction with the terms of the agreement.

B. Pending Litigation

Where litigation is pending in a court of competent jurisdiction and a formal discovery request for that file has been made, expungement of a case file will occur once the request has been resolved by a court.

- C. IAD will send an MCP 301, "Internal Affairs Record Expungement Notification," to employees after the three year limit. The MCP 301 will advise the

employee of the record expungement or the reason why a record was not expunged.
(Note: The MCP 301 is no longer used to request expungement.)

- D. *If, at the end of three years, the officer does not receive an MCP 301 from IAD, the officer may contact IAD and request expungement. This statement does not relieve IAD from their responsibility in section II.A.*
- E. The method of expungement will be destruction (shredding) except in the following circumstances:
1. The file contains names of two or more *subject* officers and charges against one or more of the officers were sustained. The entire file will then be placed in limited access. Any reference to those officers who were exonerated, or who had charges placed that were unfounded or not sustained, will be obliterated (marked over).
 2. Entries in the IAD log will be obliterated.
 3. *The expungement of information from the electronic database shall consist of the electronic obliteration of the officer's name and identification number.*
- F. Inquiry investigations will automatically be expunged one year from the date of completion. The method of destruction will be shredding.

III. Officers Not Covered by LEOBR

The following wording can be found in the FOP Agreement, Article 51, Section G.

- A. *In cases involving complaints where the charges were deemed unsustainable or unfounded, the files shall be expunged at the latter of three years after the date the findings were made or any applicable statute of limitations or when litigation is pending.*
- B. *Files involving complaints where a charge was sustained shall be eligible for expungement at the latter of five years or any applicable statute of limitations or when litigation is pending.*
- C. *The expungement method shall be the shredding of the physical file. In cases where more than one officer is involved and one or more officers is not*

FC No.: 309

Date: 01-28-03

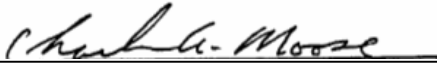
entitled to expungement, the name of the officer who is eligible for expungement will be redacted from those documents that refer to the multiple officers. Those documents that refer only to the officer who is eligible for expungement shall be destroyed.

D. *The expungement of information from the electronic database shall consist of the electronic obliteration of the officer's name and identification number.*

IV. Proponent Unit: Internal Affairs Division

V. Cancellation

This directive cancels Function Code 309, dated 10-06-00.



Charles A. Moose
Chief of Police