

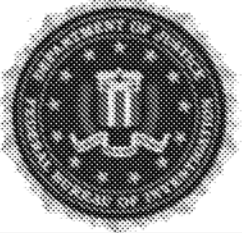
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FEDERAL BUREAU OF INVESTIGATION
POLICY DIRECTIVE

1014D

1. Policy Directive Title.	Expungement of Federal Bureau of Investigation Records From Investigative Case Files
2. Publication Date.	2018-04-27
3. Effective Date.	2018-04-27
4. Review Date.	2021-04-27
5. Last Updated.	N/A

6. Authorities:

- 6.1. Title 18 United States Code (U.S.C.) Section (§) 3607 [Federal First Offender Act]
 6.2. 21 U.S.C. § 844 [Controlled Substances Act (CSA)]
 6.3. 44 U.S.C. Chapter 31, "Records Management by Federal Agencies"
 6.4. 44 U.S.C. Chapter 33, "Disposal of Records"
 6.5. *United States Attorneys' Manual* (USAM) Title 9-22.000, "Pretrial Diversion Program"

7. Purpose:

The purpose of this policy directive (PD) is to establish responsibilities and processes for expunging records from Federal Bureau of Investigation (FBI) investigative case files.

8. Policy Statement:

- 8.1. The Criminal Justice Information Services (CJIS) Division receives and processes notices requiring the modification or deletion of information contained within responsive criminal history arrest records. These notices generally do not require the expungement of records contained within the FBI's underlying investigative case files. The exception to this general rule are notices issued pursuant to specific federal laws and accompanied by certified federal court orders.
- 8.2. When notices are issued pursuant to the CSA, pretrial diversion, or other federal laws and are accompanied by certified federal court orders requiring the expungement of records, the Records Management Division (RMD) must search for responsive records and expunge them in accordance with guidance provided by the Office of the General Counsel's (OGC) Investigative and Administrative Law Branch (IALB) for criminal-related matters or by the National Security and Cyber Law Branch (NSCLB) for national security- or cyber-related matters.

9. Scope:

This policy applies to all FBI Headquarters (FBIHQ) divisions, field offices (FO), and legal attaché (Legat) offices.

10. Proponent:

Records Management Division (RMD)

11. Roles and Responsibilities:

- 11.1. The Biometric Support Unit (BSU), Biometric Services Section (BSS), CJIS must forward copies of redacted criminal history arrest records and certified court orders requiring the expungement of records

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pursuant to the CSA, pretrial diversion, or other federal laws (these documents together make up an expungement notice) to RMD via electronic mail (e-mail) at [REDACTED]

11.2. The Records and Information Management Section (RIMS), RMD must:

11.2.1. Search the Bureau's central records system indices, and provide the search results to OGC within 14 days of receipt of an expungement notice from CJIS.

11.2.2. Review OGC guidance per subsection 11.3.2. of this PD and alert the case manager of the investigative case file of the proposed redactions to the investigative case file. Any concerns or objections raised by the case manager should be coordinated with OGC.

11.2.3. Expunge records in accordance with the leads set by IALB for criminal-related matters or by NSCLB for national security- or cyber-related matters, as described in subsection 11.3.2. of this PD.

11.2.4. Track the receipt of, and response to, each expungement notice.

11.3. The deputy general counsel (DGC) of IALB or NSCLB (or designee), as appropriate, must:

11.3.1. Review RMD search results that identify investigative case files containing records related to the subjects of expungement notices, and determine whether information contained within those investigative case files must be expunged.

11.3.2. Provide specific guidance as to what information must be expunged via leads set in Sentinel to DK-RIMS from the investigative case files. The leads must comply with PD 0861D, *Permanent Charge Out (Deletion) of Records From All Electronic Recordkeeping Systems*.

11.3.3. Consult and coordinate with OGC's Privacy and Civil Liberties Unit (PCLU) or other legal units, as needed.

12. Exemptions:

12.1. This policy does not apply to CJIS's expungement of information maintained within criminal history arrest records.

12.2. This policy does not apply to information gathered in violation of the Privacy Act (5 U.S.C. § 552 (a)); that subject is covered in PD 0356D, *Handling of Information Gathered in Violation of the Privacy Act*.

12.3. This policy does not apply to the routine records disposition actions authorized by the FBI's Records Retention Plan.

12.4. This policy does not apply to the addressing, routing, dialing, signaling, or content information of wire or electronic communications acquired pursuant to consent or a state or federal court order, which may or may not be certified, that is otherwise valid on its face and issued in a matter unrelated to the expungement proceeding, unless the certified federal court order expressly references the expungement of such information.

13. Supersession:

PD 0169D, *Expungement of FBI Records*

14. References, Links, and Forms:

14.1. References

14.1.1. [Records Management Policy Guide \(0769PG\)](#)

14.1.2. [PD 0356D, Handling of Information Gathered in Violation of the Privacy Act](#)

14.1.3. [PD 0768D, Records Management Requirements for the Creation, Maintenance, and Decommissioning of SharePoint Sites](#)

14.1.4. [PD 0861D, Permanent Charge Out \(Deletion\) of Records From All Electronic Recordkeeping Systems](#)

14.1.5. Department of Justice (DOJ) Order 2710.10A, *Federal Court Orders for the Disposition of Official Records Other Than Under the Controlled Substances Act*

14.1.6. FBI records retention plan and disposition schedules for preuniversal case file numbers (NC1-65-82-04)

14.1.7. FBI records retention plan and disposition schedules for universal case file numbers (N1-065-04-4)

15. Definitions and Acronyms:

15.1. Definitions

15.1.1. Criminal history arrest record: a listing of information, often referred to as an identity history summary or a "rap sheet," taken from fingerprint submissions retained by the FBI in connection with arrests. For a criminal offense, an identification record includes the date of the arrest or the date an individual was received by the agency submitting the fingerprints, the arrest charge(s), and the arrest disposition(s), if known. CJIS is not the source of the arrest data reflected on an identification record. All arrest information included in an identification record is obtained from fingerprint submissions, disposition reports, and other reports submitted voluntarily by agencies with criminal justice responsibilities.

15.1.2. Expungement: the physical removal and destruction of a record or a portion of a record or, depending on a certified federal court order and a governing statute or program, the removal, sealing, and secure storage of records.

15.1.3. Federal Bureau of Investigation investigative case file: a repository of investigative records in criminal and national security law investigations.

15.1.4. Record: "all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the United States Government [USG] or because of the informational value of data in them; and does not include library and museum material made or acquired and preserved solely for reference or exhibition purposes; or duplicate copies of records preserved only for convenience . . . The term 'recorded information' includes all traditional forms of records, regardless of physical form or characteristics, including information created, manipulated, communicated, or stored in digital or electronic form." (Source: 44 U.S.C. § 3301)

15.1.5. Records retention plan: a document providing mandatory instructions for what to do with records (and nonrecord materials) no longer needed for current business. The plan provides authority for the disposal of temporary records and the transfer of permanent records to the National Archives and Records Administration (NARA).

15.2. Acronyms

15.2.1. BSS: Biometric Services Section

15.2.2. BSU: Biometric Support Unit

15.2.3. CJIS: Criminal Justice Information Services Division

15.2.4. CSA: Controlled Substances Act

15.2.5. DGC: deputy general counsel

15.2.6. DOJ: Department of Justice

15.2.7. FBI: Federal Bureau of Investigation

15.2.8. FBIHQ: Federal Bureau of Investigation Headquarters

15.2.9. FO: field office

15.2.10. IALB: Investigative and Administrative Law Branch

15.2.11. Legat: legal attaché [office]

15.2.12. NARA: National Archives and Records Administration

15.2.13. NSCLB: National Security and Cyber Law Branch

15.2.14. OGC: Office of the General Counsel

- 15.2.15. PCLU: Privacy and Civil Liberties Unit
 15.2.16. PD: policy directive
 15.2.17. RIMS: Records and Information Management Section
 15.2.18. RMD: Records Management Division
 15.2.19. U.S.C.: United States Code
 15.2.20. USAM: *United States Attorneys' Manual*
 15.2.21. USG: United States government

16. Appendices and Attachments:

None

Sponsoring Executive Approval

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Final Approval

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Title: Associate Deputy Director

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