Criminal Records as a Barrier to Employment

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For many workers, a criminal record can be a barrier to employment. Workers can sometimes overcome this barrier by carefully reviewing the contents of a criminal record, correcting mistakes, requesting record sealing or expungement, and using discrimination theories. Employers are increasingly conducting background checks and in some professions, such as child care or security, background checks are mandatory.

Note: For a more thorough treatment of this topic, **please see the EJC's manual on the Expungement and Sealing of Criminal Records.**

Federal & D.C. Law

Employers' Use of Criminal Records

Generally, private employers may consider an employee's criminal record under whatever circumstances and for whatever reason they deem appropriate. With few exceptions, there are no laws restricting an employer's right to consider an employee's – or *prospective* employee's – criminal background.

When Employers Must Consider Criminal Records

A person cannot be hired or can be fired from a **bank or financial institution** if s/he has been convicted of or entered a pretrial diversion program for an offense involving dishonesty, breach of trust, or money laundering. *See* 12 U.S.C. §1829(a) (1) (A).

Under 18 U.S.C. § 922(g), the following classes of persons are prohibited from possessing or using a firearm. Thus, these same groups are statutorily barred from occupations that require the use and possession of a firearm, such as that of an **armed security guard or police officer**.

- A person who has been convicted of a felony;
- A person who is a fugitive from justice;
- A person who is an unlawful user of, or addicted to any controlled substances;
- A person who has been adjudicated as mentally ill, or who has been committed to a mental institute;
- A person who is illegally or unlawfully in the United States, or has been admitted to the United States under a non-immigrant (*e.g.*, student or tourist) visa;[166]
- A person who has been discharged from the Armed Forces under dishonorable conditions;
- A person who has renounced his/her U.S. citizenship;
- A person who is subject to certain[167] domestic violence-related restraining orders;
- A person who has been convicted of a misdemeanor crime of domestic violence.

[166] See 18 U.S.C. § 922(y)(2) for exceptions for certain diplomatic personnel.
[167] See 18 U.S.C. § 922(g)(8).

Under D.C. law, background and criminal checks must be made of any non-licensed person before he or she can be employed at **certain health-care facilities.**[168] *See* D.C. Code §44-552(b). All criminal records received by a facility must be kept confidential. *See* D.C. Code §44-552(c). The following criminal convictions will bar a non-licensed person from employment in the covered health-care facilities: murder (which includes attempted or manslaughter), arson, assault, battery, assault with a dangerous weapon, mayhem or threats to do bodily harm, burglary, robbery, kidnapping, theft, fraud, extortion, forgery, blackmail, illegal use or possession of firearm, rape, child abuse or cruelty to children, sexual assault, sexual battery, sexual abuse, or unlawful distribution or possession with intent to distribute a controlled substance. *See* D.C. Code § 44-552(e).

With certain exceptions, **employees and applicants for employment (and volunteers who will be in unsupervised positions) at covered child or youth services providers** must submit to a criminal background check. *See* D.C. Code § 4-1501.03. D.C. government agencies must annually submit an updated list of positions at child or youth service providers that require criminal background checks. § 4-1501.06(b). Employees of the **Department of Corrections** must also undergo biennial criminal background checks. §24-211.41.

Treatment of Juvenile Criminal Records by Employers

Information about juvenile records may not be released when the request for information is related to an application for employment, license, bonding, or any civil right or privilege. *See* 18 U.S.C. 5038(a); D.C. Code § 16-2318. Moreover, most employment applications ask for convictions, and **there are no "convictions" in D.C.'s juvenile courts –** just consent decrees, orders of adjudication, and orders of disposition. D.C. law specifically states that these dispositions are *not* convictions of a crime and may not impose civil disability usually resulting from a conviction. *See* D.C. Code § 16-2318.

In addition, the law states that a juvenile's records must remain confidential and can only be viewed by a limited group of people, including the juvenile, the juvenile's attorney, his or her parents, the courts, treatment facilities, or a prosecutor to determine criminal charges for the same transaction or occurrence. *See* D.C. Code § 16-2331(b). The court may order release of certain information contained in the case record if the juvenile has: (1) escaped from detention and is likely to pose a danger or threat of bodily harm to another person; (2) release of the information is necessary to protect the public safety and welfare; and (3) the respondent has been charged with a crime of violence as defined by D.C. Code § 23-1331(4). D.C. Code § 16-2331(e). Confidentiality applies as long as the charge is not transferred for adult criminal prosecution; these same restrictions apply to juvenile fingerprint records. *See* D.C. Code § 16-2334.[169]

[168] Covered "facilities" include: hospitals, maternity centers, nursing homes, community residence facilities, group homes for mentally disabled persons, hospices, home health-care agencies, ambulatory surgical facilities, and renal dialysis facilities. *See* D.C. Code §§ 44-501, 44-552.

[169] The D.C. Rules Governing Juvenile Proceedings also provide for the confidentiality of juvenile records and restrict records access to certain named persons or entities. *See* D.C. SCR Juvenile Rule 55.

Upon motion, juvenile records held in D.C. will be sealed when "two years have elapsed since the final discharge of the person from legal custody or supervision, or since the entry or any other Division order not involving custody or supervision; and he has not been subsequently convicted of a crime, or adjudicated delinquent or in need of supervision prior to the filing of the motion, and no proceeding is pending seeking such conviction or adjudication." D.C. Code §16-2335(a).

Juvenile records held in federal court are also confidential, but there are no "civil disability" protections for federal juvenile offenses as there are in the D.C. Code. In addition, **federal juvenile convictions are open to other courts, law enforcement agencies with a need to know, the directors of treatment centers, the victim or relatives of a deceased victim, and an employer for whom national security is a concern**. *See* 18 U.S.C. § 5038(a) (2001).

The federal code specifically states that if an employer inquires about a juvenile record, the court is to reply in the same manner as it replies when there is no juvenile record. *Id*. Nonetheless, juvenile records must be transmitted to the FBI for certain repeat offenders and for serious crimes.[170] If a juvenile's record is submitted to the FBI, the offenses may appear as the result of an employer's criminal background check.

Licenses and Criminal Records

Another area where records are important for ex-offenders is licenses. **To get some licenses, such as those necessary in the health-care field, an individual must not have been "convicted of an offense which bears directly on the fitness of the individual to be licensed."** D.C. Code § 3-1205.03(a) (1).

Many occupations require licenses, and ex-offenders should be careful that they comply fully with the regulations in order not to be accused of material misrepresentation for failure to disclose a conviction. Some licenses, such as security guard licenses, will be denied for material misrepresentation. Licensing requirements should be examined by any ex-offender applying for a specific license.

For examples of licensing requirements, *see* D.C. Mun. Reg. Title 17 – Business, Occupation and Profession.

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[170] Juvenile records must be reported to the FBI if 1) the juvenile has two convictions of felony crimes of violence, or an offense described in section 401 of the *Controlled Substances Act* or section 1001(a), 1005, or 1009 of the *Controlled Substances Import and Export Act*, or 2) the juvenile has a conviction after age 13 of an act which, if committed by an adult, would be an offense described in the second sentence of the fourth paragraph of 18 U.S.C. § 5032. 18 U.S.C. § 5038(f) (The sentence referred to is conditional to the first sentence and is regarding specific drug offenses.). The records of a juvenile may also be reported to the FBI if s/he is prosecuted as an adult. 18 U.S.C. § 5038(d).[171] On July 15, 2014, the D.C. City Council voted for the Fair Criminal Records Screening Act of 2014, also known as "Ban the Box." If signed by Mayor Vincent Gray and approved by Congress pursuant to the Home Rule Act, the legislation would prohibit private employers from considering a job applicant's arrest record during the hiring process and would also restrict employers from looking into a job applicant's prior convictions before extending a conditional offer of employment.

Discrimination Theory – Preventing Employers from Considering Criminal Records

On April 25, 2012, the Equal Employment Opportunity Commission (EEOC) issued guidance based on the consideration of criminal records in its compliance manual. In summary, the EEOC suggested that the employment policy or practice of excluding persons from employment on the basis of a criminal record, without a business necessity for the policy, would likely have an adverse impact on African-Americans and Hispanics and, as such, violates Title VII of the Civil Rights Act of 1964.

The EEOC guidance makes a distinction between employers excluding candidates based on an arrest vs. a conviction record. *See Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964*, EEOC Enforcement Guidance § (V)(B)(2). There is rarely (if ever) a business necessity for knowing whether someone was arrested, based on the understanding that individuals charged with crimes are innocent until proven guilty. *Id.* at 101. The arrest itself cannot be considered; however, the conduct underlying the arrest may be relevant for employment purposes. *Id.* at 101. Employers may make an employment decision based on the conduct underlying an arrest if the conduct makes the individual unfit for that particular position. *Id* at 105. In contrast, a conviction will usually serve as evidence of an individual engaging in specific conduct, based on the assumption that convictions are subsequent to a fair trial. *Id.* at 106. Exceptions to this include records that contain outdated or incorrect information. *Id.* at 106. In these cases, an argument for excluding evidence of a conviction can be made. *Id.* at 106.

Several courts also have found that companies that rely on arrest records that did not lead to conviction in making employment decisions can be held liable for race discrimination under Title VII. *See, e.g.*, *Gregory Litton Sys. Inc.*, 316 F. Supp. 401 (C.D. Cal. 1970), *modified on other grounds*, 472 F.2d 631 (9th Cir. 1972); *Carter v. Gallagher*, 452 F.2d 315 (8th Cir. 1971); *Dozier v. Chupka*, 395 F. Supp. 836 (S.D. Ohio 1975); *cf. Richardson v. Hotel Corp. of Am.*, 332 F. Supp. 519 (E.D. La. 1971) (no discrimination where arrest led to theft conviction and employees had access to hotel guests' valuables). If an employer's policies exclude a disproportionate number of Title VII-protected individuals from employment opportunities frequently, this is evidence of disparate impact. *See Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964*, EEOC Enforcement Guidance § (V)(A)(2) 79 (April 25, 2012). In determining disparate impact, courts will consider the employer's reputation for excluding individuals with criminal records, individual testimonies, and evidence of employer recruitment practices, among other things. *Id,* at 80.

Once the employee has successfully established a *prima facie* case of disparate impact, the burden shifts to the employer, and it must make a showing that the policy is job-related for the position and consistent with business necessity. *Id.* at 81. In considering business necessity, the EEOC looks at (1) the nature and gravity of the offense; (2) the time that has passed since the conviction and completion of the sentence; and (3) the nature of the job held or sought. *See Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964*, EEOC Enforcement Guidance § (V)(B)(1) 89-92 (April 25, 2012);

Green v. Mo. Pac. R.R. Co., 523 F.2d 1290 (8th Cir. 1975).

The nature of the offense can be assessed by the type of harm caused by the crime (such as theft causing property loss) or the legal elements of the crime (such as theft involving deception). *See Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964,* EEOC Enforcement Guidance § (V)(B)(6)(a) (April 25, 2012). Element two, the time passed since the conviction, or criminal conduct exclusions are typically addressed specifically in an employer's policies. *Id.* at 116-117. The court in *Green* did not specify a timeframe for criminal conduct exclusion; however, they noted that permanent exclusions from employment based on any or all offenses were not consistent with the business necessity standard. *Id.* at 116-117; *Green v. Mo. Pac. R.R. Co.*, 523 F.2d 1290 (8th Cir. 1975). Lastly, when identifying the nature of the job sought, the court will look at the title of the position, the nature of the job duties, essential functions of the position, and the circumstances and environment in which the job is performed. *See Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964*, EEOC Enforcement Guidance § (V)(B)(6)(c) (April 25, 2012). Linking the criminal conduct to the essential functions of the job can be beneficial for the employer when trying to demonstrate that its policy or practice is job-related and consistent with business necessity. *Id.* at 119.

If the employer is able to prove that its policy meets the business necessity standard, the plaintiff can still prevail if they can show there is an available alternative employment practice that has less disparate impact but also serves the employer's legitimate needs. 42 U.S.C. § 2000e-2(k)(1)(A)(i)(1982).

Returning Citizen Public Employment Inclusion Amendment Act

On Dec. 21, 2010, the District passed "ban the box" legislation, which applies to D.C. government employees. The Returning Citizen Public Employment Inclusion Amendment Act, A18-685, prohibits public employers from considering a prospective employee's criminal history for certain positions until **after** the initial screening process. D.C. Code § 1-620.42(c). In addition, the act restricts the ability of government employers from taking adverse action against a **current employee** because of his/her criminal history. Before disqualifying an applicant for certain positions or taking adverse action against a current employee, the government employer must first consider the following factors: (1) the duties and responsibilities of the position, (2) the bearing, if any, the criminal background will have on the applicant or employee's ability to fulfill those duties and responsibilities, (3) age of the crime, (4) the applicant or employee's age when the crime occurred, (5) the frequency and seriousness of the crime, (6) information about subsequent rehabilitation or good conduct, and (7) the public policy that it is generally beneficial for ex-offenders to obtain employment. D.C. Code § 1-620.43. This is an important first step toward prohibiting all employers from discriminating against current and prospective employees based on their criminal backgrounds.[171]

[171] On July 15, 2014, the D.C. City Council voted for the Fair Criminal Records Screening Act of 2014, also known as "Ban the Box." If signed by Mayor Vincent Gray and approved by Congress pursuant to the Home Rule Act, the legislation would prohibit private employers from considering a job applicant's arrest record during the hiring process

Employers Must Pay for Arrest Records

Under the D.C. Human Rights Act, it is unlawful to require the worker to pay for producing an arrest record, but not a conviction record. *See* D.C. Code § 2-1402.66; CDCR § 4-503.7. Arrest records are limited by the D.C. Human Rights Act to the last 10 years. *Id.* Criminal History Request forms at the Metropolitan Police Department have this statute written on them.

Finding Out What is in a Criminal Record

Employers use a variety of sources to check criminal records, so clients should request records from the FBI *and* from all states in which they have an arrest or conviction.

FBI Records

Workers can obtain a copy of their FBI reports for personal use. FBI records include information on all arrests and convictions in all states. First, collect the following items: (1) a current set of fingerprints, which can be obtained from any local police station – the fingerprint card must contain your name, the date, and the place of your birth; (2) a short letter with your signature and mailing address explaining that you would like your FBI report for personal use or a completed Applicant Information Form (available at https://forms.fbi.gov/ and http://wrmanual.dcejc.org/41) indicating that the report is for personal use under "Reason for Request"; (3) a signed money order for $18 made out to the U.S. Treasury. Client who cannot afford the $18 fee may submit a *notarized* letter stating that they cannot afford the fee. Send all of these to the Special Correspondence Unit:

FBI - CJIS Division Record Request
1000 Custer Hollow Road
Clarksburg, WV 26306
Phone: 304-625-3878
Main phone number for Clarksburg facility: 304-625-2000

According to the FBI's website, it may take five to six weeks to get the records.

D.C. Criminal Records from Metropolitan Police Department

Criminal records from the D.C. Metropolitan Police Department are often called a "criminal history request," "background check," or "police clearance." The record from MPD will reflect "convictions or forfeitures of collateral" for the past 10 years. The exception to this rule is when an individual has been incarcerated for any or all of the past 10 years. In that case, the record will reflect the conviction for which the person was incarcerated, even if it is more than 10 years old. The rule governing the dissemination of records by the MPD is the Duncan Ordinance, found at D.C. Mun. Reg. 1-1004.5.

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and would also restrict employers from looking into a job applicant's prior convictions before extending a conditional offer of employment.

To request a criminal record in person, visit the Criminal Records Section of the D.C. Metropolitan Police at 300 Indiana Ave. NW, Room 3055 (Judiciary Square/Red Line or National Archives/Green line Metro), Monday to Friday, 9 a.m. to 4:30 p.m. Bring a driver's license or some form of government photo identification, or a birth certificate and a Social security card. The cost is $7. Someone applying in person is supposed to be able to get a copy of his or her record within 40 minutes. There is no way to have the fee waived. **Be aware that outstanding arrest warrants appear on MPD criminal records, and individuals with outstanding warrants are often arrested as they wait in line for the results of their background checks.**

To request a clearance by mail, send 1) a notarized letter containing the full name, birth date, Social Security number, place of birth, race, and exact street address; 2) a self-addressed, stamped envelope and 3) a $7 money order or personal check payable to the D.C. Treasurer to:

Metropolitan Police Department
Arrest and Criminal History Section
Attn: Police Clearances
300 Indiana Ave. NW, Room 3055
Washington, DC 20001
Phone: 202-727-4245 and 4246.

Criminal Records from D.C. Superior Court

Criminal records from the courts are public information. They show all arrests, convictions, and dispositions that passed through that court system. The D.C. Superior Court keeps criminal records on its computers from 1978 to the present, and has paper records for earlier dates. This is important to know because the increased use of internet background searches primarily relies on courthouse records rather than police department records. Thus, at least in D.C., more information about a person's criminal history is available through the courts than through MPD. Outstanding warrants and current Civil Protection Orders appear on Superior Court records as well, but warrants are less frequently executed at the court.

To get a copy of a criminal record in person, go to the Criminal Information Center of the D.C. Superior Court, located at 500 Indiana Ave. NW, Room 4001 (Judiciary Square/Red Line or National Archives/Green Line Metro). The Criminal Information Center is open Monday through Friday from 8:30 a.m. to 5 p.m. Getting records is easy. A worker can either use the computers set up along the left-hand wall of the office, or ask the clerk to print out the document for you. There is no charge to obtain a copy of your record, but you must bring a photo ID. To get a record use the (1) full name of the person, and (2) birth date. The Police Department Identification number (PDID) of the person can also be used to find the record.

To request a D.C. Superior Court record by mail, send the case number, full name, and birthdate of the person to:

D.C. Superior Court
Moultrie Courthouse
Criminal Division
500 Indiana Ave. Rm. 4001
Washington, D.C. 20001
Phone: 202-879-1373

U.S. District Court Criminal Records

Court records from the U.S. District Court are public. The system of researching records at District Court is not as easy or systematic as the Superior Court system, so the best way to examine federal charges is by requesting an FBI record. It is possible to go in person to examine records at the District courthouse located at 333 Constitution Ave. NW. (Judiciary Square/Red Line). The clerk's office is on the first floor.

The District Court organizes its records by case name (or docket number) rather than listing an individual's federal criminal record. For example, looking up the last name "Johnson" would turn up all cases titled "Johnson v. United States." Also, cases are only computerized from mid-1991. Anything older than that can be accessed on microfiche. Once a case has been identified, the clerk can pull the case jacket for inspection. If the case has been closed for some time, it might be necessary to go to the court's Suitland, Md., storage space to access the case jacket.

Correcting Mistakes on a Criminal Record

A survey by the Legal Action Center of New York found that more than 60% of all criminal records contained at least one mistake, so checking the worker's record is important. When a worker gets a copy of his or her record, s/he should check for incomplete entries (a reported arrest without notation as to the final outcome of the arrest – like an acquittal), incorrect entries, duplicate entries, and other possible mistakes. If mistakes are identified, there are ways to correct them.

If there are errors in the criminal record, gather proof of the error and send it to the Criminal Records Section of MPD and the FBI at the addresses listed above. To prove the error, request the original criminal jacket at Superior Court or contact a public defender or attorney. Send in the correction using certified mail and call after two weeks to ensure the correction is processed.

To correct an error in a D.C. Superior Court record, notify the clerk that there is a mistake and ask to see the case jacket. If it is a clerical error and the clerk can verify this from looking at the jacket, s/he should be able to fix it then. If not, write a letter to the director of the Criminal Information Center at D.C. Superior Court.

Errors in federal court records must be addressed by filing a motion with the court to change the record. A lawyer should assist with writing the motion.

Sealing & Expunging Criminal Records

Sealing Adult Arrest Records

An individual can move to seal the record of any arrest in the District of Columbia that did not lead to a conviction.

Prior to 1979, individuals whose cases were dismissed before trial were allowed an "amplification" procedure as remedy where a notation was placed on the arrest record to explain its dismissal. *See District of Columbia v. Sophia*, 306 A.2d 652 (D.C. 1973); *Spock v. District of Columbia*, 283 A.2d 14 (D.C. 1971).

In 1979, D.C. Superior Court developed a new equitable remedy for sealing records. *See District of Columbia v. Hudson*, 404 A.2d 175 (D.C. 1979), *rev'd in part*, 449 A.2d 294 (1982). In *Hudson,* the court ordered that arrest records be sealed and that an order be entered explaining the grounds for failure to prosecute in the following cases:

- The person was arrested for a murder that was discovered to have been a suicide;
- The person was arrested for the failure to attend driving school, which the person had in fact attended; and
- The person was arrested for carrying a pistol, but law enforcement officials conceded that they arrested the wrong person.

In later years, **D.C. Superior Court Criminal Rule 118** was promulgated in response to *Hudson*. It provides as follows:

- If the case was dismissed before trial, the person must prove by clear and convincing evidence that the offense for which the movant was arrested did not occur or that the movant did not commit the offense. D.C. SCR-Crim. Rule 118(e).
- If the case is dismissed at trial, the standard is clear and convincing evidence and a showing of manifest injustice if the arrest is not sealed. An example would be an unconstitutional arrest or bad faith by the prosecutor in continuing the prosecution. *See Rezvan v. District of Columbia*, 582 A.2d 937 (D.C. 1990).
- The motion must be filed within 120 days after the charges are dismissed. However, the motion may be filed within three years of dismissal for good cause or if manifest injustice will result. After three years, the motion will only be granted if the government does not object. D.C. SCR-Crim. Rule 118(a).
- The motion must be served on the government and must include a statement of facts in support of the claim and a statement of points and authorities as well as any appropriate attachments, exhibits or affidavits. *Id.*
- If the government does not oppose the motion, it must inform the court and the movant within 30 days. The government is not otherwise obligated to respond unless ordered by the court to do so. D.C. SCR-Crim. Rule 118(b).
- The court may deny the motion, stating the reasons why it believes the movant is not

entitled to relief. If the motion is not summarily denied, the court must order the government to respond within 60 days. The court must decide whether an evidentiary hearing is needed. If the court holds a hearing, it may admit hearsay evidence. If the court denies the motion, it must state its reasons in writing and on the record. D.C. SCR-Crim. Rule 118(c).

- The court must grant the motion if it finds "clear and convincing evidence that the offense for which the movant was arrested did not occur or that the movant did not commit the offense." If the court grants the motion, it must issue a written order that all the records of the arrest be collected and sealed. It must also "summarize in the order the factual circumstances of the challenged arrest and post-arrest occurrences it deems relevant, and, if the facts support such a conclusion, shall rule as a matter of law that the movant did not commit the offense for which the movant had been arrested or that no offense had been committed." *See* D.C. SCR-Crim. Rule 118(f).
- Appeals may be noted by aggrieved parties after the court order has been entered. The standard of review is for an abuse of discretion. *See Dawkins v. United States*, 535 A.2d 1383 (D.C. 1988). Reversal will only occur if the trial court's orders were plainly wrong or unsupported by the evidence. *See Earle v. District of Columbia*, 479 A.2d 877 (D.C. 1984).
- If the applicable standard is proven, the government must collect the records and seal them. *See* D.C. SCR-Crim. Rule 118(f)(2)(B).

The Criminal Records Sealing Act of 2006 substantially changed the law in this area. *See* D.C. Code § 16-803. First, it lowered the standard for proving actual innocence from clear and convincing evidence to preponderance of the evidence, if the proceedings are begun within four years after the termination of prosecution. Second, it changed the window of time for filing a motion to seal an arrest record from 180 days (with the burden being on the government before 180 days and on the claimant after 180 days) to a waiting period of two years. If the worker has not had a disqualifying arrest or conviction during that time frame, s/he can move to seal and expunge his or her arrest that did not lead to conviction, and the prosecutor has the burden of proving by a preponderance of the evidence that it is in the interests of justice that the record not be sealed. The act goes on to define the interests of justice, taking into account all of the relevant factors regarding the offense, its alleged commission, law enforcement needs, and the needs of society at large, including the need for people to be gainfully employed.

In addition, expunging an arrest record is always appropriate where the prosecutor is unable to make any showing of probable cause for arrest. *See Washington Mobilization Comm. v Cullinane*, 566 F.2d 107 (D.C. Cir. 1977).

Expunging Adult Convictions

Expunging a conviction may be warranted in appropriate cases. For example, if the conviction was illegal, it may be expunged. *See Tarlton v. Saxbe*, 507 F.2d 1116 (D.C. Cir. 1974); *Menard v. Saxbe*, 498 F.2d 1017 (D.C. Cir. 1974).

Under the Criminal Records Sealing Act of 2006, if the worker can prove that s/he is

actually innocent of the crime, the worker can move to have his or her criminal record expunged. If the worker moves to do so within four years after the termination of the proceeding, the standard of proof will be a preponderance of the evidence.

Expunging a First-Time Drug Misdemeanor Conviction

If a person is found guilty of possession and has not previously been discharged and had the proceedings dismissed, the court may defer further proceedings and place him/her on probation upon reasonable conditions, not to exceed one year. D.C. Code § 48-904.01(e)(1). The court may also dismiss the proceedings against the person and discharge him or her from probation before the expiration of the maximum period prescribed for probation. *Id*. Once probation is successfully completed, the person can apply to the court to expunge all official records related to the arrest, indictment, trial and conviction of the first-time drug misdemeanor. D.C. Code § 48-904.01(e)(2). If the court grants the expungement, then the person is returned to the status s/he occupied before the arrest or indictment.

Note: The person cannot be guilty of perjury or otherwise giving a false statement by failing to acknowledge the arrest, indictment or trial. *Id.*

Rule 32(f) of the D.C. Rules of Criminal Procedure spells out the process by which first-time drug misdemeanors may be expunged. D.C. SCR-Crim. Rule 32(f). Rule 32(f) only applies to misdemeanors for simple possession as defined in D.C. Code § 48-904.01(e)(2). *Id*. Thirty days before the expiration of probation, the Social Services Division of the court is supposed to notify the court that the probation is about to end. D.C. SCR – Criminal Rule 32(f)(1). A person who has been discharged from probation and against whom all charges have been dismissed may file with the court and prosecutor a *motion for expungement of records*. D.C. SCR-Crim. Rule 32(f)(2). The prosecutor may file an opposition within 10 days. *Id*. If the court finds that the person was discharged from probation and that the proceedings were dismissed under D.C. Code § 48-904.01(e)(1), then the court *must* order expungement of all official records. *Id*.[172]

Note: In cases involving codefendants, the records will first be sanitized and then expunged.

Juvenile Criminal Records

<u>Sealing Juvenile Arrest Records</u>

D.C. Rule of Juvenile Procedure 118(a) discusses the procedures used for sealing juvenile arrest records. D.C. SCR-Juvenile Rule 118. If a juvenile is arrested, but no petition for delinquency is filed (*i.e.*, the prosecutor has "dropped the charges"), the juvenile can file a motion to seal the records within 120 days after the charges have been dismissed. *Id*. at 118(a)(1). Motions can be made within three years of the arrest for good cause and to prevent

[172] In addition to expungement for first-time drug offenses, parental kidnapping may be an expungeable offense under certain limited circumstances. Also, pursuant to the Criminal Records Sealing Act of 2006, the offense of "failure to appear" is expungeable after a 10-year waiting period.

manifest injustice, or can be filed at any time after the arrest if the government does not object. The Attorney General (who prosecutes juvenile crimes) must inform the court within 30 days if it does not intend to oppose the motion. The court can grant or deny the motion, or set an evidentiary hearing. *Id*. at 118(a)(2).

The standard of proof for the motion and/or the hearing is a showing by clear and convincing evidence that the offense did not occur or that the juvenile is not guilty. D.C. SCR-Juvenile Rule 118(a)(5). Hearsay evidence is admissible. *Id*. If the court orders the arrest record sealed, it should be purged from the computers; however, the Attorney General and the police may maintain a record of the arrest so long as it does not identify the juvenile. D.C. SCR-Juvenile Rule 118(a)(6)(B)(i). If the motion to seal the arrest record is denied, it can be appealed from a final order under Rule 4(b) of the General Rules of the D.C. Court of Appeals. *Id*. at 118(a)(9).

Sealing Juvenile Convictions

Juvenile court convictions **must** be sealed if 1) it has been at least two years since the final discharge from legal custody and 2) the child has no subsequent convictions. *See* D.C. Code § 16-2335(a). The client must petition the court to seal the records. *Id*. This is done by filing a Motion to Seal Records with the Family Division. *Id*.

Note: A sample motion can be found as Form 8 following the Rules Governing Juvenile Proceedings in the D.C. Superior Court Rules. After the motion is filed with the clerk's office, the clerk must deliver copies to Attorney General, the D.C. authority which granted the juvenile's original discharge (usually Court Social Services), the Metropolitan Police Department, and the juvenile's parents or guardians. Each has 45 days to contest the sealing of the records. If no opposition is heard, the court will instruct the clerk to seal all criminal records concerning the child. Otherwise, a hearing will be scheduled, governed according to Superior Court Gen. Fam. Rule P (f).

Youth Rehabilitation Act

The Youth Rehabilitation Act (YRA) was passed to provide young adults younger than 22 the opportunity to be sentenced so that they might have a fresh start after they complete their sentences. The YRA applies to young people convicted of misdemeanor offenses under D.C. law. Instead of receiving a regular criminal sentence, these young adults serve their sentence at facilities designed for their "treatment, care, education, vocational training, and rehabilitation." *See* D.C. Code §§ 24-902, 24-903. Therefore, if someone was convicted of an offense and sentenced under the YRA, s/he may have his criminal conviction "set aside" upon a petition to the court. *Id.* at §§ 24-901- 907.

Before it was repealed on Oct. 12, 1984, federal records could be set aside (*i.e.*, expunged from public view, but not from the courts or law enforcement) under the Federal Youth Corrections Act, 18 U.S.C. § 5005 to 5020. Under this law, persons with records that should have been expunged but were not have a right to have them expunged even if the method for

appeal has been closed. *See generally Barnett v. D.C. Department of Employment Services*, 491 A.2d 1156 (D.C. 1985). The District's Youth Rehabilitation Act was passed to fill the void left by Congress's repeal of both the FYCA and a similar district law.

When a youth is unconditionally discharged from confinement before the end of the maximum sentence, the Board of Parole *must* set aside the conviction and issue a certificate to that effect (which should be closely safeguarded). *See* D.C. Code § 24-906(a). If the youth is discharged after the maximum sentence has run, the Parole Commission *may* set aside the conviction. *Id.* at § 24-906(b). Youth with sentences shorter than one year or with back-to-back one-year sentences are eligible to have their convictions set aside under this provision. *See Lattimore v. United States*, 597 A.2d 362, 366 at n.9 (D.C. Circ. 1991). If the court cuts short the probation period, then the "conviction" must also be set aside and a certificate issued to that effect. *See* D.C. Code § 24--906(d). A conviction that has been set aside based on an unconditional discharge is intended to remove the "legal disabilities created by conviction"; however, even if the conviction has been set aside, it can still be used in court or by law enforcement for "legitimate purposes." *See Lindsay v. United States*, 520 A.2d 1059, 1063 (D.C. 1987).

Most young people charged with crimes committed before they turned 18 (and in some cases before age 21) have their cases adjudicated in a special court called juvenile court. Records of these proceedings are generally sealed. Disclosure of juvenile records to employers is prohibited by law, but these records can show up in some computer systems. *See* D.C. Code § 16-2331, 16-2332; D.C. Mun. Reg 1-1000 (The Duncan Ordinance) (Juvenile offenses can occasionally be taken into account when an adult is sentenced.). Sealing juvenile records is one way to minimize the risk of disclosure. Be aware that young people are increasingly tried as adults. Children charged as adults in the regular criminal justice system do not have the protection of confidentiality that juvenile courts give. (Note that the Youth Rehabilitation Act described above offers some degree of protection to some youthful offenders.)

Immigrants' Criminal Records

An immigrant who has not yet become a U.S. citizen is usually required by U.S. Citizenship and Immigration Services (USCIS, formerly INS) to supply court records verifying the outcome of any arrest or criminal proceeding when the immigrant applies for naturalization or any other immigration benefits. USCIS fingerprints all applicants and checks for arrest records in the FBI's National Crime Information Center database. If sealing or expunging a record will restrict an immigrant worker's future ability to get a certified copy of the record from the court when the immigrant is applying for immigration or naturalization benefits, he/she should consider this and talk to an immigration attorney. Also, an immigrant worker should be aware that he/she will still be required to disclose certain facts relating to any arrest or detention on immigration applications even if the record is sealed or expunged; similarly, expunged or sealed records may still count as convictions for immigration purposes.

Maryland and Virginia

Note: The EJC Workers' Rights Clinic does not currently provide assistance to individuals seeking to seal or expunge their criminal records in jurisdictions outside of the District of Columbia. However, the following section provides some basic guidance regarding criminal records in Maryland and Virginia.

Treatment of Criminal Records by Employers

Maryland

In Maryland, employers are prohibited from inquiring about arrests and convictions that have been expunged. *See* Md. Criminal Procedure Code Ann. § 10-109(a)(1)(i). Employers are also prohibited from inquiring about arrests that did not lead to conviction, and applicants and employees do not have to disclose arrests that did not lead to conviction. *Id.* at § 10-109(a)(2)(i). Employers cannot refuse to hire someone or fire someone because the worker refuses to answer questions about arrests that did not lead to conviction or expunged records. *Id.* at § 10-109(a)(3)(i).

When applying for licenses, licensing agencies are prohibited from inquiring about arrests and convictions that have been expunged Md. Criminal Procedure Code Ann. § 10-109(a)(1)(ii). Workers are not required to answer questions about arrests that did not lead to convictions when applying for licenses. *Id.* at § 10-109(a)(2)(i). Applications for licenses cannot be denied for an applicant's refusal to answer questions relating to expunged charges or arrests that did not lead to conviction. *Id.* at § 10-109(a)(3)(ii).

The penalty for violating these rules is a misdemeanor charge, and the employer is subject to a fine of not more than $1,000 or imprisonment for not more than one year, or both, for each violation. Md. Criminal Procedure Code Ann. § 10-109(b)(1). If the person is an official or employee of the state or any subdivision of the state, he or she shall, in addition to these penalties, be subject to removal or dismissal from public service on grounds of misconduct in office. *Id.* at § 10-109(b)(2).

Virginia

It is illegal for an employer to pursue inquiries about a worker's expunged arrest or conviction, or an arrest or criminal charge that did not result in conviction. *See* Va. Code Ann. § 19.2-392.4A. Any government agency or other licensing body may not inquire or expect an applicant to respond to questions about arrests or charges that have been expunged. *Id. at* § 19.2-392.4B. A violation of this rule can result in a class one misdemeanor charge. *Id. at* § 19.2-392.4C. The only exception is if the records are needed for employment in law enforcement or for a pending criminal investigation and that the investigation will be jeopardized or that life or property will be endangered without immediate access to the record. *See* Va. Code Ann. §19.2-392.3B. In that case, the law enforcement party that needs access to the information can move

the court to *view but not copy* the records without the individual's knowledge or consent. *Id*.

Providers of In-home Care

Va. Code Ann. § 19.2-392.02. allows businesses and organizations to conduct a national criminal background checks regarding employees or volunteers providing care to children, the elderly, and disabled. "Home-based services" are defined as services that include homemaker, companion, or chore services that will allow individuals to attain or maintain self-care and are likely to prevent or reduce dependency. Va. Code Ann. § 63.2-1600.

The statute outlines the procedure:

Each local board shall obtain, in accordance with regulations adopted by the board, criminal history record information from the Central Criminal Records Exchange of any individual the local board is considering approving as a provider of home-based services pursuant to § 63.2-1600 or adult foster care pursuant to § 63.2-1601. The local board may also obtain such a criminal records search on all adult household members residing in the home of the individual with whom the adult is to be placed. The local board shall not hire for compensated employment any persons who have been convicted of an offense as defined in § 63.2-1719. Va. Code Ann. § 63.2-1601.1 (A).

In emergency circumstances, each local board may obtain from a criminal justice agency the criminal history record information from the Central Criminal Records Exchange for the criminal records search authorized by this section. The provision of home-based services shall be immediately terminated or the adult shall be removed from the home immediately, if any adult resident has been convicted of a barrier crime. Va. Code Ann. § 63.2-1601.1(B).[173]

Barrier crimes include convictions of murder, malicious wounding by mob, abduction, abduction for immoral purposes, assault and bodily wounding, robbery, car jacking, extortion by threat, felony stalking violation, sexual assault, arson, burglary, felony violation relating to possession or distribution of drugs, drive-by shooting, use of a machine gun in a crime of

[173]The petition with a copy of the warrant or indictment if reasonably available shall be filed in the circuit court of the county or city in which the case was disposed of by acquittal or being otherwise dismissed and shall contain, except where not reasonably available, the date of arrest and the name of the arresting agency. Where this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state the specific criminal charge to be expunged, the date of final disposition of the charge as set forth in the petition, the petitioner's date of birth, and the full name used by the petitioner at the time of arrest. Va. Code Ann. § 19.2-392.2(C).

A copy of the petition shall be served on the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition within 21 days after it is served on him or her. The petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's fingerprints and shall provide that agency with a copy of the petition for expungement. The law enforcement agency shall submit the set of fingerprints to the Central Criminal Records Exchange (CCRE) with a copy of the petition for expungement attached. The CCRE shall forward under seal to the court a copy of the petitioner's criminal history, a copy of the source documents that resulted in the CCRE entry that the petitioner wishes to expunge, and the set of fingerprints. Upon completion of the hearing, the court shall return the fingerprint card to the petitioner. Va. Code Ann. § 63.2-1601.1(D).

violence, aggressive use of a machine gun, use of a sawed-off shotgun in a crime of violence, pandering, crimes against nature involving children, incest, taking indecent liberties with children, abuse and neglect of children, failure to secure medical attention for an injured child, obscenity offenses, possession of child pornography, electronic facilitation of pornography, abuse and neglect of incapacitated adults, employing or permitting a minor to assist in an act constituting an offense, delivery of drugs to prisoners, escape from jail, felonies by prisoners, or an equivalent offense in another state; (ii) convicted of any other felony in the five years prior to the application date for employment; or (iii) the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. A conviction shall include prior adult convictions and juvenile convictions and adjudications of delinquency based on an offense that would have been at the time of conviction a felony conviction if committed by an adult within or outside the Commonwealth. *See* Va. Code Ann § 63.2-1719.

Expungement and Sealing – Maryland

Criminal Records – FBI & Maryland Records

Maryland criminal records may be obtained through the following process: 1) go to any Maryland police station for fingerprints rolled on Form 015 (this costs $5, check or money order; 2) mail the form to CJIS - Central Repository, P.O. Box 32708, Pikesville, MD 21282-2708 or overnight to CJIS, 6776 Reisterstown Road, Suite 102, Baltimore, MD 21215. Include a check or money order for $18 as well. It will take two to three weeks to get records by mail. Fees cannot be waived for inability to pay.

Note: Even if a Maryland charge is expunged from an FBI report, it can remain on a Maryland record.

Expungement of Police Records When no Charge is Filed

A person who was arrested or confined by a law enforcement unit prior to Oct. 1, 2007, for the suspected commission of a crime and then released without being charged with the commission of a crime **may request** the expungement of the police record. Md. Criminal Procedure Code § 10-103. A person who is arrested or confined by a law enforcement unit before or after October 1, 2007 for the suspected commission of a crime and then released without being charged with the commission of a crime **is entitled to** the expungement of the police record. Md. Criminal Procedure Code § 10-103.1.

Pre-Oct. 1, 2007, requests for expungement can be filed with the law enforcement unit that arrested or confined and released the person. A petition for expungement must be filed within eight years of the arrest. Md. Criminal Procedure Code § 10-103.

The current code provision contains no similar time limit; law enforcement units are required to automatically expunge persons with eligible records within 60 days after release. Md. Criminal Procedure Code § 10-103.1 If a law enforcement unit, booking facility or central

repository fails to expunge the record, the person is entitled to seek redress by means of any appropriate legal remedy and to recover court costs. *Id.*

If a pre-2007 request is granted, the agency must expunge all records, Md. Criminal Procedure Code § 10-103, and if it is denied, the petitioner has 30 days to appeal. *Id.* If the law enforcement unit to which the person has sent a request finds that the person is not entitled to an expungement of the police record, the law enforcement unit, within 60 days after receipt of the request, shall advise the person in writing of: (1) the denial of the request for expungement; and (2) the reasons for the denial. Md. Criminal Procedure Code Ann. § 10-103(e).

If a request by the person for expungement of a police record is denied under subsection (e) of the MD Code of Criminal Procedure § 10-103, the person may apply for an order of expungement in the District Court that has proper venue against the law enforcement unit. Md. Criminal Procedure Code Ann. § 10-103(f)(1)(i). The person shall file the application within 30 days after the written notice of the denial is mailed or delivered to the person. Md. Criminal Procedure Code Ann. § 10-103(f)(1)(ii). A person who is entitled to expungement under this section may not be required to pay any fee or costs in connection with the expungement. Md. Criminal Procedure Code Ann. § 10-103(g).

Also, unless the state objects and shows cause why a record should not be expunged, if the state enters a *nolle prosequi* as to all charges in a criminal case within the jurisdiction of the District Court with which a defendant has not been served, the District Court may order expungement of each court record, police record, or other record that the state or a political subdivision of the state keeps as to the charges. *See*, Md. Criminal Procedure Code Ann. § 10-104(a).

A person may also seek expungement of a police record, court record, or other record maintained by the state or a political subdivision of the state in the following scenarios: (1) the person is acquitted; (2) the charge is otherwise dismissed; (3) a probation before judgment is entered, unless the person is charged with a violation of § 21-902 of the Transportation Article or Title 2, Subtitle 5 or § 3-211 of the Criminal Law Article; (4) a *nolle prosequi* or *nolle prosequi* with the requirement of drug or alcohol treatment is entered; (5) the court indefinitely postpones trial of a criminal charge by marking the criminal charge "stet" or stet with the requirement of drug or alcohol abuse treatment on the docket; (6) the case is compromised under § 3-207 of the Criminal Law Article; (7) the charge was transferred to the juvenile court under § 4-202 of this article;(8) the person: (i) is convicted of only one criminal act, and that act is not a crime of violence; and (ii) is granted a full and unconditional pardon by the Governor; or (9) the person was convicted of a crime under any state or local law that prohibits: (i) urination or defecation in a public place; (ii) panhandling or soliciting money; (iii) drinking an alcoholic beverage in a public place; (iv) obstructing the free passage of another in a public place or a public conveyance; (v) sleeping on or in park structures, such as benches or doorways; (vi) loitering; (vii) vagrancy; (viii) riding a transit vehicle without paying the applicable fare or exhibiting proof of payment; or (ix) except for carrying or possessing an explosive, acid, concealed weapon, or other dangerous article as provided in § 7-705(b)(6) of the Transportation Article,

any of the acts specified in § 7-705 of the Transportation Article. Md. Criminal Procedure Code Ann. § 10-105(a).

Expunging Court Records

Convictions generally cannot be expunged unless the Governor of Maryland personally orders it by a pardon.

Criminal charges that resulted in acquittal (*i.e.*, found not guilty) or dismissal may be expunged. In most cases, three years must have passed since the sentence ordered has been fully served before a petition will be heard, and the worker's record must be clear of any other convictions during that time.

The following other types of actions in criminal matters may also be expunged:

- Probation before judgment; the defendant pleads guilty or is found guilty, and is given probation but the judgment of guilt is not entered if the probationer successfully completes the term;
- *Nolle prosequi* charges – the voluntary withdrawal of the prosecuting attorney to present proceedings on a criminal charge;
- A case placed on "stet docket" and three years have passed since disposition; a case in which the petitioner was given a Governor's pardon at least five years earlier; or
- A case transferred to juvenile court.

How to Petition for Expungement

If the worker was acquitted or had probation before judgment, or if the worker's charges in the criminal case were dismissed or *nolle prossed*, then the worker should wait three years from the termination of the proceeding or probation and then file a petition to expunge the record. Md. Criminal Procedure Code. Ann. 10-105(c). A form petition (Form DC/CR 72) can be retrieved at any District Court location in Maryland. The worker will need to know the date of his or her arrest, citation, or summons; the law enforcement agency that took the action; the offense; and the date the case was disposed of by the agency or court. It also helps if the worker knows the case number. The process generally takes 90 days, unless the government objects, in which case a hearing will be held on the petition.

Treatment of Juvenile "Convictions"

An adjudication of a child is not a criminal conviction for any purpose and does not impose any of the civil disabilities ordinarily imposed by criminal conviction. *See* Md. Code Ann., Cts. & Jud. Proc. § 3-824(a) (1998). Such adjudication or disposition of a child shall not disqualify the child with respect to employment in the civil service of the state or in any subdivision of the state. *Id.* at 3-824(d).

Confidentiality of Juvenile Records

Police records concerning children are confidential and their contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as provided in §7-303 of the Education Article. *See* Md. Code Ann., Cts. & Jud. Proc. §3-8A-27(a)(1). In addition to being confidential, police records concerning children are kept separate from those of adults. *Id*. at §3-8A-27(b). Court records are also confidential and may not be disclosed. *Id*.

Sealing Juvenile Records

The court, on its own motion or on petition, and for good cause shown, may order the court records of a child sealed, and, upon petition or on its own motion, shall order them sealed after the child has reached 21 years of age. If sealed, the court records of a child may not be opened, for any purpose, except by order of the court upon good cause. *See* Md. Code Ann., Cts. and Jud. Proc. § 3-8A-27(c).

Expunging Criminal Charges Transferred to the Juvenile Court

A petition for expungement of records may be filed under Md. Code Ann. § 10-106(b) when a criminal case is transferred to the juvenile court for adjudication. Proceedings for expungement are filed with the juvenile court pursuant to Md. Rule 11-601(a). Rule 11-601(b) gives the format for an expungement petition.

Virginia

Expunging Adult Records

As for adult records, any individual charged with a crime and (a) acquitted; (b) granted a *nolle prosequi* (the prosecutor dismissed the charges before trial or the individual had his or her charge otherwise dismissed); or (c) granted an absolute pardon, may have his or her record expunged. Va. Code Ann § 19.2-392.2(A).

To expunge a record, the worker must file a petition "setting forth the relevant facts and requesting the police records and the court records relating to the charge." Va. Code Ann. §19.2-392.2. The petition must be filed in the court that disposed of the charge, with a copy of the arrest warrant or indictment if possible. Include the date of arrest, date of disposition, the specific charge(s) to be expunged, the name of the arresting agency, and the petitioner's full name and date of birth. The petitioner must also submit a set of rolled fingerprints to the agency (court or law enforcement agency).

A copy must be provided to the Commonwealth's Attorney for that county or city. The Commonwealth's Attorney has 21 days to respond. The court will then conduct a hearing on the matter. Va. Code Ann. §19.2-392.2(F).

Expunging Juvenile Records

A juvenile record may be expunged 1) when an individual reaches the age of 19, and 2) five years have elapsed since the date of the last hearing in any case of the juvenile. Va. Code Ann. § 16.1-306(A). On Jan. 2 of each year, the Court destroys its files, papers, and records in connection with juveniles whose records have been previously found to be expungeable. *Id.* However, if any of those crimes would have been a felony if committed by an adult, the entire record will be preserved indefinitely. *Id.* Serious traffic violations are preserved until the Jan. 2 following the individual's 29th birthday. *Id.*

Juvenile Dispositions are not "Convictions"

Most employment applications ask about convictions. Virginia law specifically states that juvenile dispositions, including those relating to delinquency, are not convictions, and may not impose any civil disability usually associated with criminal convictions. *See* Va. Code Ann. §16.1-308. In addition, no juvenile dispositions may be used to disqualify someone for employment by a state or local agency. *Id.*

Confidentiality of Records

Juvenile records are confidential and may not be released to an employer. *See* Va. Code Ann. §16.1-301, 305 (A)(2001). These same restrictions apply to juvenile fingerprint records. *Id.* at §16.1-299 (2001).

There are two employment related exceptions to this rule. First, if a juvenile is charged with delinquency in connection with an offense that would be a felony if committed by an adult, all records of the proceedings, regardless of the outcome, are public. Va. Code Ann. §16.1-301, 305.6(B)(1). Second, employers providing care to children, the elderly, and the disabled may obtain juvenile records relating to an extensive list of serious offenses laid out in Va. Code Ann. §19.2-392.02, regardless of outcome.

Contact Numbers for D.C., Maryland, and Virginia

- FBI:
  - Washington, D.C., Field Office: 202-278-2000
  - Baltimore, Md., Field Office: 410-265-8080
  - Richmond, Va., Field Office: 804-261-1044
  - Norfolk, Va., Field Office: 757-455-0100
- U.S. Pardon Attorney: 202-616-6070
- Metropolitan Police Department Records Division: 202-727-4245
- D.C. Superior Court, Criminal Division: 202-879-1373
- District Court for D.C. Clerk's office: 202-354-3120
- D.C. Public Defender Service: 202-628-1200

- D.C. Public Defender Service Community Re-entry Program, 202-824-2835; 1-800-341-2582, Ext. 2835; reentry@pdsdc.org (April Frazier, Coordinator)
- Montgomery County, Md., Circuit Court, Clerk's Office: 240-777-9400
- Montgomery County, Md., District Court Criminal Division: 301-279-1563
- Montgomery County, Md., Public Defender: 240-773-9601
- Prince George's County, Md., Circuit Court Records Management: 301-952-5214
- Prince George's County, Md., Circuit Court, Criminal Division 301-952-3344
- Prince George's County, Md., District Court Information line: 301-952-4080
- Prince George's County, Md., Public Defender: 301-952-2100
- Arlington County, Circuit Court, Criminal Division: 703-228-4399
- Arlington County, General District Court: 703-228-7900
- Arlington County Public Defender: 703-875-1111
- Fairfax County, Circuit Court Services, Criminal Division: 703-691-7320 (press 3, then 2)
- Fairfax County Public Defender: 703-934-5600
- City of Alexandria, Circuit Court: 703-838-4044
- City of Alexandria, General District Court, Criminal Division: 703-838-4030
- City of Alexandria Public Defender: 703-838-4477