

# HOW TO HANDLE YOUR EXPUNGEMENT

*ORLEANS PARISH EDITION*



## ABOUT THE JAC

The Justice and Accountability Center of Louisiana (JAC), founded in 2011, addresses pervasive problems in the post-conviction phase of the criminal justice system and creates a supportive, collaborative space for attorneys and advocates.

JAC envisions a just society where individuals have affordable access to necessary services. The lack of access to appropriate services in the post-conviction phase of the criminal justice system and the lack of support for a positive reentry for people previously incarcerated are contrary to notions of fairness and justice. To these ends, JAC has three goals for supporting a just community.

**JUSTICE:** Our first and immediate goal is to promote access to justice through legal services and related community education. JAC's legal services ensure that expungements are available on a regular basis to those who have had contact with the criminal justice system. JAC also facilitates a collaborative lawyering program in which teams of attorneys who practice in different fields come together to provide legal services holistically to individuals previously incarcerated. These services increase the likelihood of successful reentry and decrease recidivism rates. Throughout the year, JAC offers community education workshops, classes, and events for the general public, attorneys, stakeholders, policy makers, and the media on various criminal justice issues, including expungement, reentry, indigent defense funding and more.

**ACCOUNTABILITY:** Our second intermediate goal is to promote systemic change that will positively impact the lives of those previously incarcerated. JAC collects data to use for systemic reform through litigation, legislation, and policy advocacy. By tracking trends and highlighting deficiencies, we can provide the first step toward lasting change.

**THE CENTER:** Our third and long-term goal is to deconstruct the current model of legal practice by creating a space for attorneys to come together. Providing individual attorneys with the opportunity to share space and physical resources will allow them to do difficult legal work that is in great demand. Through a collaborative approach, attorneys share intellectual resources, develop best practices and strategize avenues for meaningful representation.

# ABOUT THIS GUIDE

This guide provides basic information about how to seal (expunge) a record of arrest or conviction in Louisiana's Orleans Parish. In the limited circumstances where expungement is possible, the process is relatively simple and usually can be managed without the help of a lawyer. This guide is intended to provide support to people helping themselves.

## PREFACE

The State of Louisiana arrests and incarcerates more people per capita than any other place in the world. A mere arrest creates a criminal record, regardless of whether any criminal charges were filed. These records are publicly available and widely used to deny employment, housing, education and training opportunities among others. Massive segments of our population face tremendous social and legal barriers to successful re-entry as a result of these discriminatory policies.

The Justice and Accountability Center of Louisiana responds to the legal needs of previously incarcerated populations in Louisiana who are marginalized by social stigma while changing the way lawyers provide services to those unable to afford private representation.

## CAUTION

The following information in this guide is not a substitute for legal advice nor does it give advice about a particular legal problem that you may have. This guide provides a non-specific overview of the expungement process. While an attorney is not needed to obtain an expungement, the help of a lawyer or someone who has experience guiding others through the process is recommended. Talk to a lawyer if you think you need the help.



You can also download our expungement app, *Clean Jacket App*, for FREE from Google Play or iTunes, or visit the Clean Jacket App online at [www.JACLouisiana.org](http://www.JACLouisiana.org). The app will let you know the situations in which you are unlikely to be successful in obtaining an expungement. Both the mobile and desktop Clean Jacket App will provide you with information and complete the forms necessary for you to file for an expungement.

The information in this guide is accurate as of June 2016, but laws often change. Please check our website, [www.JACLouisiana.org](http://www.JACLouisiana.org), for updates or contact a lawyer for individual legal advice.



# NAVIGATING EXPUNGEMENT

## IN ORLEANS PARISH

*The following is a general overview to the expungement process. The expungement process can be broken up into several steps. The following guide will give you an overview of how the expungement process works in Orleans Parish Criminal District Court, Municipal Court, and Traffic Court. This is informational and does not constitute legal advice. Always consult with an attorney for advice on your particular situation.*

### **STEP 1: GATHER YOUR PAPERWORK**

You should start by requesting a copy of the minutes of your case from the Clerk of Court's office in the parish where you were arrested or convicted. The minutes are a record of what happened in court in shorthand. They contain valuable information that will allow you (or your attorney) to determine eligibility.

### **STEP 2: DETERMINE ELIGIBILITY**

This step is important because the law does not allow a refund of expungement fees if the court denies the request for an expungement. There are a number of ways you can get assistance with this. You can use the FAQ's form to try to determine eligibility, call an attorney, call JAC, attend a JAC workshop or event, or use the mobile application "CLEAN JACKET" available as a free download in Google Play and iTunes stores. The Clerk of Court's office will not be able to assist you with this step.

### **STEP 3: WAIVER OF COSTS**

Some people may be eligible for a fee waiver by the District Attorney. This waiver must be completed with a form certified by the District Attorney's office prior to filing a motion.

### **STEP 4: GET YOUR BACKGROUND CHECK**

You must also obtain a background check before you file your expungement. If you are filing an expungement in Criminal District Court, you can get your background check in Room 104 of the court. If you are filing an expungement in Municipal or Traffic Court, you must get a background check from the New Orleans Police Department. Keep in mind that this document will expire in 30 days. A valid background check must be attached to your Motion for Expungement.

### **STEP 5: FILE THE MOTION & PAY THE FEES**

You must file the motion in the court where the case was originally heard. You will need to pay the court costs (fees) to the Clerk of Court when you file for your expungement.

### **STEP 6: SERVICE & STATE OPPOSITION**

The Clerk of Court will send your Motion for Expungement to the State Police, the arresting agency, and the District Attorney. Each agency has an opportunity to object to your Motion for Expungement. The District Attorney, arresting agency (police or sheriff), and the State Police have 60 days to respond to the Motion for Expungement.



**"Expungement" means an individual's criminal record is sealed, but not destroyed.**

### **STEP 7: NOTICE TO APPEAR IN COURT**

If one of the agencies responds with an objection, you will receive a subpoena to appear in court on your Motion for Expungement. It is likely that the Sheriff will provide you with this paperwork at the address you listed on your Motion for Expungement. (Go to Step 8.) If none of the state agencies responded with an objection, you should receive a notice that your request for an expungement was granted. (Go to Step 9.)

### **STEP 9: ORDER GRANTED!**

If the order is granted, it will be sent to several State agencies. You will also receive an official copy of the Order granting your expungement. Do not lose or give this away because you will not be able to get another one. Keep it safely in a waterproof/fireproof place. You will also receive a letter from the Louisiana State Police called a Certificate of Compliance. It is proof that expungement process is complete.

### **STEP 8: ADDRESS THE ISSUES**

If one of the agencies objects to your Motion for Expungement and you received notice to appear in court, you will attend a “contradictory hearing.” At this hearing, you will learn why an agency objected to your Motion for Expungement. It may be possible to fix the errors. In the event you are representing yourself and you do not understand what is happening in court, ask the judge to explain. If you still are not sure of what is happening or feel uncomfortable, you can ask the judge to set a new date so that you can seek the assistance of an attorney.

## DID YOU KNOW?

- The poverty rate would drop by 20% but for mass incarceration.<sup>1</sup>
- Louisiana incarcerates more people, per capita, than anywhere else in the world.<sup>2</sup>
- One out of every 55 Louisiana residents is incarcerated.<sup>3</sup>
- African-American men are incarcerated with more frequency than any other racial group.<sup>4</sup>
- In 2015, 90% of arrests in Louisiana were for non-violent<sup>5</sup> crimes.<sup>6</sup>
- Nearly 92% of large employers checked for criminal histories of potential employees in 2010.<sup>7</sup>
- One in three Americans has been arrested by age 23.<sup>8</sup>
- The United States spends \$65 Billion per year on incarceration.<sup>9</sup>

1. The Sentencing Project. “Americans with Criminal Records,” November 2015.

2. Tim Morris. “Louisiana’s incarceration rate is No. 1 in nation,” Times-Picayune, March 2, 2009.

3. Id.

4. NAACP. Criminal Justice Fact Sheet. Available at: <http://goo.gl/ZQ5pXo>. Last Accessed April 2016.

5. Violent offenses in Louisiana include 46 offenses that are listed under LA. REV. STAT. ANN. §14:2, which includes murder, rape, kidnapping, robbery, and similar offenses.

6. Federal Bureau of Investigation, Unified Crime Reporting Index by State in 2014. Available at: <https://goo.gl/2ODIRP>. Last Accessed April 2016.

7. Society for Human Resources Management, Background Checking: Conducting Criminal Background Checks (Jan. 22, 2010), at 3.

8. The Wall Street Journal. “How Many Americans Have a Police Record? Probably More Than You Think.” August 7, 2015.

9. The Sentencing Project. “Americans with Criminal Records,” November 2015.



# GATHERING YOUR PAPERWORK

*The following is a checklist for getting the required paperwork together before filing for an expungement. Multiple agencies have the paperwork that you will need to include in your request for an expungement. This is informational and does not constitute legal advice. Always consult with an attorney for advice on your particular situation.*

## Step 1: Get Certification from the District Attorney's Office

- You will need to have the following information before completing the forms:
  1. Your case number
  2. The statute number(s) of the offense(s) for which you were arrested or convicted
  3. Your social security number and contact information
- Go to the District Attorney's Office located at 619 South White Street (next to the courthouse) and request the certification paperwork from the front desk. Complete the forms and turn them in to the front desk. The District Attorney's Office will call you when your paperwork is ready to be picked up.

## Step 2: Get Records from the Clerk of Court

### Orleans Criminal District Court ONLY:

Go to Room 210 of the Orleans Parish Criminal District Court and request a "Record Request Form". The form will require that you know your case number and section of court. If you do not know, you can ask the clerk. Complete the form and turn it in to the clerk. The clerk will call you when your paperwork is ready to be picked up in Room 114.

### Orleans Municipal and Traffic Courts ONLY:

Go to Room 107 in the Municipal Court Building (first door on your left after the metal detectors). Request a copy of the minutes from your case.

### For all Orleans Parish Courts:

Review the minutes to determine whether you will need to file a Motion to Set Aside first. If you are unable to determine which forms you will need, seek the advice of an attorney. You may also attend a monthly workshop with JAC to ask questions about the paperwork you will need to complete. See [JACLouisiana.org](http://JACLouisiana.org) for dates and locations.

## Step 3: Background Check

You **MUST** file your expungement within thirty (30) days from the date that you received your background check. JAC strongly recommends having filing fees available **BEFORE** getting a background check.

# GATHERING YOUR PAPERWORK



## Orleans Criminal District Court ONLY:

Go to Room 104 of the Criminal Court. You will request a background check. Your first request for a background check for an expungement will be free. Additional requests will require a fee. Depending on how many people are ahead of you, you may need to return the next day to pick up your background check.

## Orleans Municipal and Traffic Courts ONLY:

Get a background check from the NOPD. Go to the New Orleans Police Department Headquarters located at 715 South Broad Street (on the same square as Municipal Court). The Criminal Records Office is open Monday, Wednesday, and Friday from 8am - 3pm ONLY. At the reception desk, ask for a background check. The person at the desk will direct you to your right. A background check will cost \$5, unless otherwise posted.

## **Step 4: Complete Expungement Paperwork**

If you are unable to determine which forms you will need, seek the advice of an attorney. Additionally, you must be certain that you do not need to file a Motion to Set Aside BEFORE filing your expungement. If you are unsure, seek the advice of an attorney. The Clerks in any court CANNOT answer any questions or assist you with completing your forms. You may

attend a monthly workshop with JAC where your forms will be completed for you for free. See JACLouisiana.org for dates and locations. You can also download the Clean Jacket mobile app or visit JACLouisiana.org for the desktop application.

## Orleans Criminal District Court ONLY:

Room 210 of the Criminal Court has the expungement paperwork that you will need to fill out. Pick up a copy from that office. The packet has multiple forms in it. YOU WILL NOT NEED TO COMPLETE ALL THE FORMS PROVIDED. Determine which forms apply to your situation. Attach the certification from the District Attorney's Office, the record from the clerk, and your background check to the back of your completed motions.

## Orleans Municipal and Traffic Courts ONLY:

Request the expungement form from the Clerk of Court. Complete the form. Attach the certification from the District Attorney's Office, the record from the clerk, and your background check to the back of your completed motions.

**You are now ready to file!**



# FILING YOUR EXPUNGEMENT

*The following is a checklist for each stage of filing an expungement. This is informational and does not constitute legal advice. Always consult with an attorney for advice on your particular situation.*

## How to File a Motion to Set Aside Conviction

- File the Motion to Set Aside in the Clerk's office of the court where your case was heard.
- You should receive notice to appear in court. The notice will come from the Sheriff and be hand-delivered to you by a Deputy.
- Appear in court on the date that the notice requires you to appear. When your name or case number is called, walk up to the podium and tell the judge that you are trying to get an expungement. If the judge grants your motion, proceed with filing an expungement. If the judge does not grant the motion, you may hire an attorney or attend JAC's next Expungement Hour held monthly at the Orleans Public Defenders' office to discuss your options. See JACLouisiana.org for details.

## How to File a Motion for Expungement that does NOT Require Payment to the Court

- File the Motion for Expungement in the Clerk's office of the court where your case was heard. Be sure you have attached your background check, DA certification, and the minutes from your case to your completed Motion for Expungement. It is best to take the original and one copy with you when you file. The Clerk will stamp your copy of the motion with a time and date and return it to you. The Clerk will keep the original for the record.
- You must wait approximately sixty (60) days from the date that you file. If you do not get a response for your motion, take your copy of the motion to court and request an update on your expungement.



# FILING YOUR EXPUNGEMENT



## How to File a Motion for Expungement that Requires a Payment to the Court

- File the Motion for Expungement in the Clerk's office of the court where your case was heard. Be sure you have attached your background check, DA certification, and the minutes from your case to your completed Motion for Expungement. In Criminal District Court, you will pay the Clerk \$550 in room 104 and the Clerk will stamp your Motion "Paid." If you are in Municipal or Traffic Court, the Clerk will accept your payment in the same room that you file your expungement, Room 107.
- In Criminal District Court, you must take your motion that has been stamped "Paid" along with your background check upstairs to Room 210 of the Criminal Court. If you have an extra copy of your motion, the Clerk will stamp your copy of the motion with a time and date and return your copy to you. The Clerk will keep the original for the record.
- You must wait approximately sixty (60) days from the date that you file. If you do not get a response for your motion, take your copy of the motion to court and request an update on your expungement.

## EXPUNGEMENT GRANTED!

Congratulations! You successfully represented yourself in court proceedings! Here are a few tips as you continue to move beyond the bars.

### **Get a Certified Copy**

Once the court has granted your expungement, ask for a certified copy. The Judge may direct you to the Clerk's Office to get it or tell you that a Deputy will deliver it to the address listed on your motion. When you receive it, be sure it is certified with an embossed stamp by the Clerk. It will be the best way for you to prove you had the arrest or conviction expunged while you wait for certification of the expungement from the State Police.

### **Be sure you get a Certificate of Compliance from the Louisiana State Police**

After your expungement is granted, the Clerk will send a copy of the order to the local law enforcement, the local District Attorney, the Parish Sheriff, and the Louisiana State Police. That is how the court directs each agency to seal your record from public view. After the State Police does what the judge has ordered them to do, they will send you a letter. The letter is a "Certificate of Compliance." It verifies that your record has been sealed.

# RESOURCES

## LEGAL ASSISTANCE

---

### **Justice and Accountability Center of Louisiana**

4035 Washington Avenue, Suite 203  
New Orleans, Louisiana 70125  
(504) 322-4050 | [jaclouisiana.org](http://jaclouisiana.org)  
Hours: M-F, 9am - 5pm

### **New Orleans Bar Association**

650 Poydras Street, #1505  
New Orleans, LA 70130  
(504) 525-7453 | [neworleansbar.org](http://neworleansbar.org)  
Hours: M-F, 9am - 5pm

### **The ProBono Project**

615 Baronne Street  
New Orleans, LA 70113  
(504) 581-4043 | [probono-no.org](http://probono-no.org)  
Hours: M-F, 8:30am - 4:30pm

### **Southeast Louisiana Legal Services**

1010 Common Street  
Annex Building, Suite 1400A  
New Orleans, LA 70112  
[slls.org](http://slls.org) | Hours: M-F, 8:30am - 5pm

## CITY AND STATE OFFICES

---

### **Louisiana State Police**

#### **Bureau of Criminal Identification & Information**

(statewide background checks)  
P.O. Box 66614, #A-6  
Baton Rouge, LA 70896-6614  
(225) 925-6095 | [lsp.org](http://lsp.org)  
Hours: M-F, 9am - 5pm

### **New Orleans Municipal Court**

727 S. Broad Avenue, Room 105  
New Orleans, LA 70119  
(504) 658-9700 | [nola.gov/municipal-court](http://nola.gov/municipal-court)  
Hours: M-F, 8am - 5pm

### **New Orleans Police Department**

#### **Records and Identification Division**

(Background checks for Municipal Court only)  
715 S. Broad Avenue, 1st Floor  
New Orleans, LA 70119  
(504) 658-5455 | [nola.gov/nopd](http://nola.gov/nopd)  
Hours: M-F, 8:30am - 3:30pm

### **New Orleans Traffic Court**

727 S. Broad Ave  
New Orleans, LA 70119  
(504) 658-8500 | [nola.gov/traffic-court](http://nola.gov/traffic-court)  
Hours: M-F, 8am - 5pm

### **Orleans Parish Criminal District Court**

(Background checks done in Room 104)  
2700 Tulane Avenue  
New Orleans, LA 70119  
(504) 658-9100 | [criminalcourt.org](http://criminalcourt.org)  
Hours: M-F, 8am - 3pm

### **Orleans Parish District Attorney**

619 S. White Street  
New Orleans, LA 70119  
(504) 822-2414 | [orleansda.com](http://orleansda.com)  
Hours: M-F, 9am - 5pm

### **Orleans Parish Sheriff's Office**

819 S. Broad Avenue  
New Orleans, LA 70119-7418  
(504) 822-8000 | [opcsa.org](http://opcsa.org)  
Hours: M-F, 9am - 5pm



# FREQUENTLY ASKED QUESTIONS

- What is an Expungement?**  
“Expungement” means removal of a record from public access but does not mean destruction of the record. An expunged record is confidential, but remains available for use by law enforcement agencies, criminal justice agencies, and other state agencies as stated under Louisiana law.
- Am I eligible to have my record expunged?**  
JAC strongly recommends that you contact an attorney, download our free mobile app for assistance or attend a workshop or event to review the potential in having your record expunged.
- Can Federal arrest records be expunged?**  
An arrest for simple drug possession when under 21 years old may be expunged. Other arrests on Federal charges are not possible to expunge—unless the case ended with an acquittal or exoneration.
- I received a first offender pardon. Does that automatically expunge my record?**  
No. There are two kinds of pardons, both of which restore certain rights differently. An automatic pardon is given to first time offenders in Louisiana (some crimes are excluded from eligibility). An automatic first offender pardon does not prevent the State from using your record against you in the future, nor is your record sealed from public view. However, a full governor’s pardon prevents your record from being used against you at a later time for subsequent convictions and returns you to the state you were in prior to arrest.
- If I was never prosecuted, how long do I have to wait to apply for an expungement?**  
Applications may be filed immediately following an acquittal or successful motion to quash. If the District Attorney dismissed or refused prosecution and the time limit for prosecution has run out, then an expungement may be possible. Generally, the DA has a specific amount of time after the date of the offense within which he or she must institute charges. They are as follows:
- No limit: Crimes punishable by death or life imprisonment
  - 10 years: Some sex crimes
  - 6 years: Felonies punishable by imprisonment and hard labor
  - 4 years: Felonies not necessarily punishable by imprisonment or hard labor
  - 2 years: Misdemeanors punishable by fine or imprisonment
  - 6 months: Misdemeanors punishable by fine

# FREQUENTLY ASKED QUESTIONS



- ?** **Can I have my juvenile arrest record expunged?**  
JAC recommends speaking with a Juvenile Advocate, such as the Louisiana Center for Children's Rights. Phone: 504-658-6860. Address: 1100-B Milton St. New Orleans, LA 70122.
- ?** **How do I apply for an expungement?**  
An expungement requires the Court's approval. There are uniform forms that all courts must use. Fill out the required forms and submit them to the Court with a background check that was acquired within thirty (30) days of the filing date. For example, if you are filing your expungement on January 30, 2015, then your background check must be issued on or after January 1, 2015.
- ?** **How much does an expungement cost?**  
The cost of expungement is \$550. This amount must be paid in full at the time of filing. Several agencies will receive a portion of this cost. They are as follows: \$250 goes to the Louisiana State Police, \$200 goes to the Criminal District Court Clerk, \$50 goes to the Parish District Attorney, and \$50 goes to the Parish Sheriff.
- ?** **What do I say at a hearing?**  
Listen to the Judge and the State. If you do not understand what is going on, ALWAYS ask the Judge to explain to you what is happening. If you think you need a lawyer's help at the hearing, ask the Judge if you can have some time to get a lawyer. If the Judge permits this, you will get another date to appear in court with an attorney.
- ?** **I am indigent. Can I have the costs waived?**  
No. The only circumstance that allows for a fee waiver is if all of the following applies:
- The individual has no prior felony convictions anywhere in the country
  - The individual has no pending felonies
  - The offense for which the individual was prosecuted ended in an acquittal, motion to quash, or it has been dismissed/refused and the time limit for prosecution has expired
  - The offense was not dismissed after successful completion of diversion
- ?** **How long does the whole expungement process take?**  
It will take sixty (60) days from the date of filing for all the agencies to respond to your request for an expungement. It may then take additional time for the Louisiana State Police to mail you a Certificate of Compliance.





# FREQUENTLY ASKED QUESTIONS

- ?** **Once my record is expunged has it been removed from all potential viewers forever?**  
No, some government agencies may still be able to view an arrest record even after it has been expunged. They are as follows: The Office of Financial Institutions, the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of Psychologists, the Louisiana Board of Pharmacy, the Louisiana State Board of Social Work Examiners, the Emergency Medical Services Certification Commission, Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, the Louisiana Supreme Court Committee on Bar Admissions, the Louisiana Department of Insurance, the Louisiana Licensed Professional Counselors Board of Examiners, or any person or entity requesting a record of all criminal arrests and convictions pursuant to R.S. 15:587.1, or as otherwise provided by law.
- ?** **If I apply for a job after my record is expunged how do I answer questions about my record on a job application?**  
There is no clear answer under the law. Seek the advice of an attorney regarding your particular situation.
- ?** **Can I be denied employment because of my criminal record?**  
Private employers can deny you employment for any reason. However, public employers and licensing authorities should only deny you employment if your arrest/conviction is reasonably related to the job for which you have applied. Request the assistance of an attorney if you believe you have been wrongfully denied employment.
- ?** **What does JAC's Clean Jacket app do?**  
The app provides individuals with an informational review of their opportunity for expungement. Some convictions are not eligible for expungement under any circumstance, such as convictions that require registration as a sex offender. The app informs individuals that it is unlikely that the court would grant an expungement under the expressly prohibited circumstances. Similarly, there are some areas of expungement law that require direct review of the arrest or conviction by an attorney. It provides these users with a geographic location of attorneys nearby who may be able to provide assistance.
- If you decide to pursue an expungement without an attorney, the app and the desktop version will help you complete the necessary paperwork for filing. Please note that you will need the minutes from your case to complete the questions in the app or online.

# FREQUENTLY ASKED QUESTIONS



-  **Where can I get the Clean Jacket app to see if I am eligible for expungement?**  
The Clean Jacket app is a FREE download available on iTunes and Google Play. You can also visit [JACLouisiana.org](http://JACLouisiana.org) and use the app on our website.
-  **How does the app work?**  
Using the law, JAC devised a process through which individuals can be educated on the general likelihood of an expungement occurring. Without a direct review of an individual's particular arrest or conviction, however, the app cannot advise individuals on the success of filing a Motion of Expungement in any Louisiana court. Instead, the app provides a list of private and/or pro bono attorneys who can provide expungement services according to the user's geo-location or zip code.





# HOW TO HANDLE YOUR EXPUNGEMENT

*ORLEANS PARISH EDITION*

[jaclouisiana.org](http://jaclouisiana.org)



**Justice & Accountability Center of Louisiana**  
4035 Washington Avenue, Suite 203  
New Orleans, Louisiana 70125  
(504) 322-4050 | [jaclouisiana.org](http://jaclouisiana.org)