

Know Your Rights

Clearing Fingerprint-Based Arrest Records

The Current Practice of Taking Juvenile Fingerprints After Arrest Circumvents Massachusetts' Criminal Record Confidentiality Protections

Over the past two decades, Massachusetts has regulated and strengthened the confidentiality of court record access to reduce the barriers that criminal records impose on employment, housing and other important opportunities. Massachusetts' law also prevents [private background check](#) companies from indiscriminately disseminating and profiting off the records of people's court involvement. The law imposes stricter [confidentiality protections](#) for juvenile court records and prohibits arrests of juveniles from appearing on public police arrest logs.

However, if any person, whether a child or an adult, is fingerprinted because of an arrest, in or outside Massachusetts, the fingerprint-based record is automatically transmitted to the FBI and will appear on certain background checks. The level of access an employer has is governed by the state of the requesting employer. In other words, the confidentiality protections afforded under Massachusetts law would not apply if the requesting agency is outside of Massachusetts, and vice versa. Not only are these arrest records public to employers through the FBI when they wouldn't be under Massachusetts law, FBI fingerprint-based records often DO NOT include the disposition of the case, meaning that information about arrest remains on a person's FBI "rap sheet" without listing the final outcome of the case even if the case ended favorably which has harmful consequences.

CFJJ and other groups are trying to pass legislation to stop the sending of children's fingerprints to the FBI.

Who can access my fingerprint-based arrest record?

The FBI receives and disseminates fingerprint-based arrest records from all states and territories. Any employer, regardless of the state, where federal and state law permits an FBI background check will receive those records, including arrests in [Massachusetts](#). Both federal and state laws and regulations require FBI background checks for military, financial, childcare, education, and transportation professions as well as for certain occupational and public safety related licensing, such as for gun ownership or for a TSA (Transportation Safety Administration) pre-check.

Why would I want to clear my fingerprint-based arrest record?

According to the [National Employment Law Project](#), "nearly half of FBI rap sheets failed to include information on the outcome of a case after an arrest—for example, whether a charge was dismissed or otherwise disposed of without a conviction, or if a record was expunged ... routine omissions [which] seriously prejudice the employment prospects of an estimated **600,000 workers every year.**"

Decades old arrest records have presented barriers to people seeking employment in the financial sector, private contracting with public schools and maintaining their childcare employment.

How can I change my FBI arrest record?

You can request a change to your permanent FBI arrest record to add the disposition, or final outcome, of your case or to transmit decisions by the court to seal or expunge your record. Examples of when you can update your FBI arrest record are:

- When the clerk magistrate finds a lack of probable cause in your case, resulting in a dismissal;
- When the prosecutor declines to prosecute your case, resulting in a dismissal;
- After completion of a diversion program referred to by the prosecutor or, in juvenile court, by the judge and you were not prosecuted;
- Any dismissal or nolle prosequ (prosecutor dropped the case) before arraignment;
- When you were arraigned on a case, but were found not guilty or adjudicated not delinquent or as a youthful offender after trial;
- When a judge approves your petition to seal or expunge your court record. ([M.G.L. c. 276 § 100T](#)).

How do I update and supplement my FBI arrest record?

The Massachusetts State Police is responsible for receiving arrest records from municipal and college police departments and submitting those records as well as any [application](#) to update the records to the FBI. You do NOT need to go to the police department where you were fingerprinted after arrest. If there are any issues with the process, you can call the Massachusetts State Police at 508-358-3170.

To do this:

- Request a **certified copy of the docket sheet** of the case associated with the arrest. You do this by going to the clerk's office at the [court](#) where the charges were brought.
- Complete the fillable portions in the "Requestor Information" section of [the form](#) (the "Massachusetts State Police Disposition Update Request" form), print and sign it.
- Mail or email both the "Massachusetts State Police Disposition Update Request" form AND the certified court docket sheet to:

Email:
sis_dispose@massmail.state.ma.us

Mail: ATTN: DISPO UPDATE
Massachusetts State Police
State Identification Section
59 Horse Pond Road
Sudbury, MA 01776

What if I was arraigned? What other records should I worry about?

If you are arraigned after an arrest in the Juvenile, District or Superior Court, you will also have a juvenile record if you are under the age of 18 at the time of the offense, and a criminal record if you are age 18 or older. The level of access to court records varies depending on which type of court held the arraignment. You can learn more about the types and levels of confidentiality and access [here](#).

After your case formally closes, including after dismissal, sentencing, court supervision and probation, you can seek to [seal](#) or expunge your record, unless your charges are ineligible for sealing or expungement.

- Any juvenile court record is eligible for sealing 3 years after the case closed.
- Any adult record that ended in a not guilty finding must be automatically sealed immediately without [requiring the filing of a petition](#).
- Any adult record that did NOT result in a conviction also may be sealed immediately by a judge after a hearing.
- Adult misdemeanor convictions, with some exceptions, can be sealed 3 years after the conviction.
- Adult felony convictions with some exceptions are eligible for sealing 7 years after the conviction or release from incarceration, whichever is later.
- Any adult misdemeanor offense that was dismissed after a continuance without a finding (CWOFF) can be sealed 3 years after the date of the CWOFF even though it was dismissed later, and other adult misdemeanor offenses may be sealed 3 years after the date of the dismissal, nolle prosequi, or other favorable outcome.

What if I was arrested outside of Massachusetts?

Contact the criminal history repository agency of the state in which the arrest occurred. You can find their contact information [here](#). Sometimes websites for courts outside of Massachusetts have information about how to seal juvenile or adult records.

Download an electronic version of this fact sheet at expungema.org/fingerprint-records

Disclaimer: This fact sheet is strictly intended to provide information about options to clear your arrest or court records. **CfJJ does not provide legal advice or representation.** Please contact an attorney if you are in need of legal advice with respect to your own case.

