



# 2017 EXPUNCTIONS REPORT

G.S. 15A-160

PREPARED BY  
NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS  
SEPTEMBER 1, 2017



**About the North Carolina Judicial Branch**

The mission of the North Carolina Judicial Branch is to protect and preserve the rights and liberties of all the people as guaranteed by the Constitutions and laws of the United States and North Carolina by providing a fair, independent and accessible forum for the just, timely and economical resolution of their legal affairs.

**About the North Carolina Administrative Office of the Courts**

The mission of the North Carolina Administrative Office of the Courts is to provide services to help North Carolina's unified court system operate more efficiently and effectively, taking into account each courthouse's diverse needs, caseloads, and available resources.

## Introduction

The Department of Public Safety (DPS), in conjunction with the Department of Justice (DOJ) and the North Carolina Administrative Office of the Courts (NCAOC) are required to report annually to the General Assembly on the number and types of expunctions granted and the use of funds appropriated to support the processing of expunctions. Specifically, N.C.G.S. 15A-160, provides as follows:

### **§ 15A-160. Reporting requirement.**

The Department of Public Safety, in conjunction with the Department of Justice and the Administrative Office of the Courts, shall report jointly to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety Oversight by September 1 of each year regarding expunctions. The report shall include all of the following information:

- (1) The number and types of expunctions granted during the fiscal year in which the report is made.
- (2) The number and type of expunctions granted each fiscal year for the five fiscal years preceding the date of the report.
- (3) A full accounting of how the agencies have spent the receipts generated by the expunction fees received during the fiscal year in which the report is made and for the five preceding fiscal years."

After the SBI was transferred to DPS, the DOJ distribution was transferred to DPS as well. Therefore, this report represents a joint effort by DPS and NCAOC to meet the statutory requirement.

## Analysis

### Overview of the Expunction Process

A person seeking an expunction must file a petition for expunction under the relevant statute. As custodian of the record, the clerk receives petitions for filing, collects any necessary fees, schedules the petitions for hearing when required, and then files and carries out any order entered by the court.

Certain expunction provisions require both a criminal record check by the SBI and an NCAOC search of the confidential index of prior expunctions prior to a hearing on the petition. When a petition must be sent to the State Bureau of Investigation ("SBI") and NCAOC for the criminal record check, a judge initiates the process by signing a request for the record searches. After a judge has signed the request, the petition is sent first to the SBI for the criminal record check, and the SBI then sends the petition to NCAOC for a search of the confidential index of prior expunctions.

Almost all expunctions require a court hearing. For expunction petitions sent to the SBI and NCAOC for record checks, the clerk does not schedule the hearing until the petition has been returned by NCAOC and the petitioner requests a hearing. For expunctions that do not require record checks, the clerk schedules the hearing upon filing of the petition and collection of any required fees.



When a petition for expunction is granted, the clerk must expunge all record of the case from the court's records, including both paper and electronic records. This requires NCAOC to delete all images stored electronically and on microfilm, both in the court databases and at State Archives. The clerk also must notify State and local agencies of the expunction by certified copy of the order, and provide a certified copy of the order to the petitioner and the NCAOC.

### Number and Type of Expunctions

For FY 2016-17, North Carolina state courts issued 12,438 expunction orders. Table 1 below details the number of expunctions for FY 2016-17 and the preceding five fiscal years, categorized by the statute under which the expunction was granted.

**Table 1: Expunction Orders for Fiscal Years 2011-12 through 2016-17**

Statute	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	Total
7B-3200	3	0	2	2	0	0	7
15A-145	6	17	8	7	2	2	42
15A-145(a)	144	146	175	128	145	209	947
15A-145(d1)	15	16	7	0	0	0	38
15A-145.1	1	1	1	0	0	0	3
15A-145.2	0	0	8	4	4	3	19
15A-145.2(a)	23	34	47	33	32	57	226
15A-145.2(b)	13	14	22	11	27	77	164
15A-145.2(c)	26	30	42	22	37	54	211
15A-145.3	0	0	1	2	1	2	6
15A-145.3(a)	0	0	3	1	1	0	5
15A-145.3(b)	6	7	4	5	12	45	79
15A-145.3(c)	1	0	1	2	2	1	7
15A-145.4	4	15	21	13	16	17	86
15A-145.5	0	6	311	292	411	500	1,520
15A-145.6	0	0	0	1	1	3	5
15A-146	8,990	10,006	12,886	7,407	9,929	10,457	59,675
15A-147	69	66	60	42	412	1,010	1,659
15A-149	0	0	2	0	0	1	3
90-96(b)	0	1	1	0	0	0	2
90-96(d)	0	0	1	0	0	0	1
90-96(e)	0	0	0	0	0	0	0
90-113.14(e)	0	0	0	0	0	0	0
<b>Total</b>	<b>9,301</b>	<b>10,359</b>	<b>13,603</b>	<b>7,972</b>	<b>11,032</b>	<b>12,438</b>	<b>64,705</b>

### Receipts Generated from Expunction Fees

Section 18B.16 of S.L 2013-360 amended the expunction statutes (G.S. 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, 15A-145.4, and 15A-146) to impose a \$175.00 fee on persons who file a



petition for expunction of a criminal record on or after September 1, 2013.<sup>1</sup> The \$175.00 fee is deposited in the General Fund, with \$122.50 of the fee remitted to DPS for the costs of criminal record checks performed in connection with processing petitions for expunctions and \$52.50 retained by NCAOC to pay the costs of processing petitions for expunctions. The section authorized DOJ to use up to \$1.4 million to create and support up to five new staff positions to help process petitions for expunction and conduct criminal record checks required for those petitions. After the SBI was transferred to DPS, the DOJ distribution was transferred to DPS as well.

From July 1, 2016 through June 30, 2017, NCAOC collected and disbursed a total of \$1,596,591.99 from expunction fees applied toward the General Fund. Of that amount, NCAOC retained \$158,062 and remitted \$369,863 to DPS pursuant to G.S. 7A-321(d).

Of the funds remitted to DPS during FY 2016-17, the SBI spent \$239,779 on expunction payroll and operational expenses and reverted \$210,597 to the General Fund. During the fiscal year, the SBI filled two receipt-supported positions to complement two existing receipt-supported positions. The remaining receipt-supported position is in the process of being filled. Since the addition of the receipt-supported positions to the SBI expunction operation and the completion of a unit reorganization, the SBI has reduced its expunction turnaround time from approximately eight months to a month and half.

Of the funds remitted to NCAOC during FY 2016-17, NCAOC spent \$135,781.77 on expunction payroll and administrative support expenses. Pursuant to G.S. 143C-1-2(b), the remaining balance of \$44,196.00 was approved as a legislative carryforward to FY 2017-18.

## Summary

NCAOC, the SBI and DPS will continue to take appropriate steps to expedite the processing of expunctions. Both NCAOC and DPS anticipate maximizing the use of future funds to expedite the processing of expunctions.

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<sup>1</sup> G.S. 15A-146 imposes the fee only for offenses dismissed pursuant to compliance with a deferred prosecution agreement or the terms of a conditional discharge.



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