



NEW MEXICO PUBLIC DEFENDER DEPARTMENT

Dear NMPDD Client:

RE: DNA Records and Sample Expungement Procedure

You are receiving this instruction letter because you may qualify for expungement of your arrest DNA record and sample from the DNA national database of criminal offenders. If you meet the criteria, it is very important that you complete the request form enclosed and send it to the New Mexico DNA Identification System administrator as soon as possible.

You qualify for expungement of your DNA record and sample if your case resolved in any of the following ways:

1. All felony charges were dismissed by motion or nolle prosequi
2. You were not found guilty of a felony offense
3. You successfully completed a diversion program
4. You successfully completed your conditional discharge period.
5. You were only convicted of a misdemeanor

If you require assistance in completing the forms, you may contact your local New Mexico Public Defender Department office.

If you have questions about the expungement process, contact the New Mexico DNA Identification System Administrator at (505) 980-4732.



New Mexico DNA Identification System

INSTRUCTIONS FOR REQUESTS FOR DNA RECORDS AND SAMPLE EXPUNGEMENT

You must provide a written request for expungement. You may utilize the attached fill-in-the blank request form or write your own request.

To be eligible for expungement you must meet one or more of the following legal requirements and provide the applicable certified documentation as is listed on the fill-in-the-blank request form:

1. the conviction that led to the inclusion of the sample has been reversed, or
2. the arrest that led to the inclusion of the sample has resulted in a felony charge that has been:
 - i. resolved by dismissal, or
 - ii. resolved by nolle prosequi, or
 - iii. resolved by successful completion of a pre-prosecution diversion program, or
 - iv. resolved by a conditional discharge, or
 - v. resolved by a misdemeanor conviction, or
 - vi. resolved by an acquittal; or
 - vii. did not result in a felony charge within one year of arrest; or
 - viii. was adjudicated as a non-qualifying juvenile offense.

Please be aware of the following:

1. The administrative center shall not expunge a person's sample and DNA records from the DNA identification system if the person has a prior felony conviction or a pending felony charge for which collection of a sample is authorized pursuant to the provisions of the DNA Identification Act.
2. You may be requested to provide additional information that is necessary to complete your expungement.
3. Before expungement of a persons sample and DNA record, an independent review of the applicable documentation shall be conducted by the attorney general's office. The attorney general shall confirm or reject the expungement request in writing within 45 days.
4. Should a request for expungement be rejected, the written notification shall include information as to the reason for rejection and that the rejection may be appealed to the DNA Identification System's - Oversight Committee.
5. Rejection of requests for expungement shall not be made without cause.
6. When a person's sample and DNA records are expunged from the DNA identification system, the head of the administrative center shall ensure that the person's sample and DNA records are expunged from CODIS within thirty (30) days after confirmation of the expungement request.
7. Written certification of expungement shall be sent to the person making the request.

If you have questions regarding the submission of a request for expungement, please contact the New Mexico DNA Identification System at (505) 980-4732.



DNA EXPUNGEMENT REQUEST LETTER

NMDIS Administrative Center
% Metropolitan Forensic Science Center
5350 2nd Street N.W.
Albuquerque, New Mexico 87107
(505) 823-4634 FAX (505) 823-4649

New Mexico DNA Identification System

Administrator
New Mexico DNA Identification System
c/o Metropolitan Forensic Science Center
5350 2nd Street, NW
Albuquerque, NM 87107

Date: _____

Dear Sir:

Pursuant to the provisions of the DNA Identification Act, I hereby request that samples collected and DNA records generated, for inclusion in the New Mexico DNA Identification System, be expunged.

The following are my grounds for requesting expungement: (Check one)

- checkbox the conviction that led to the inclusion of the sample has been reversed, or
checkbox The arrest that led to the inclusion of the sample has resulted in a felony charge that has:
checkbox been resolved by dismissal,
checkbox been resolved by nolle prosequi,
checkbox been resolved by successful completion of a pre-prosecution diversion program,
checkbox been resolved by a conditional discharge,
checkbox been resolved by a misdemeanor conviction,
checkbox been resolved by an acquittal,
checkbox not resulted in a felony charge within one year of arrest, or
checkbox the arrest was determined to be for a non-qualifying juvenile offense.

Enclosed are the required materials provided by me as documentation of my eligibility to request the expungement; (Check all that are supplied)

- checkbox a certified copy of a court order that reverses the conviction that led to the inclusion of the sample, or
checkbox For samples included pursuant to arrest:
checkbox a certified copy of the dismissal,
checkbox a certified copy of the nolle prosequi,
checkbox a certified copy of the successful completion of a pre-prosecution diversion program,
checkbox a certified copy of a conditional discharge,
checkbox a certified copy of a misdemeanor conviction,
checkbox a certified copy of an acquittal,
checkbox a sworn affidavit that no felony charges arising out of the arrest have been filed within one year,
checkbox a certified copy of an adjudication as a juvenile for an offense committed as a juvenile.

Name _____ Telephone #: _____
Address _____ Date of Birth: _____
City, State, Zip _____ SS#: _____
Date and Location of Arrest: _____
Offense(s) Arrested for: _____
Date and Location of Conviction: (if applicable) _____
Offense(s) Convicted for: (if applicable) _____
Signature: _____

Request for Expungement

