

Expungements

UTAH CODE

UCA 77-40-102 (8)

"Expunge" means to seal or otherwise restrict access to the petitioner's record held by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

UTAH CODE

UCA 77-40-(104-105)

What can be expunged?

- Any **Utah adult** criminal offence that meets the criteria established in Utah Criminal and Traffic Code Annotated

EXPUNGEMENT APPLICATION

- The application fee is \$50.00 and is non-refundable
- Only need one application per applicant
- Review of entire criminal history
- Fingerprints are required with application
- Cannot apply over the phone or via email
- May include a Third Party Release Form

EXPUNGEMENT APPLICATION

- Every applicant will receive a mailed notification regarding their eligibility
- The time frame between applying and receiving the decision letter may vary depending on the number of applications at the time
- The current time frame is between 13-15 weeks out

EXPUNGEMENT APPLICATION

*BCI Expungements only issues one response letter. If a Third Party Release Form is submitted with the application only the third party will be notified of the eligibility decision.

EXPUNGEMENT APPLICATION

- BCI averages between 300-400 expungement applications a month
- Over 4,065 cases were expunged last year (2016)

RESEARCH

RESEARCH

Files used to research eligibility

UCH

SWW

NCIC

Police Records

NLETS/III

Court Records

Corrections
Information

Previous
Expungements

IMPORTANT

BCI checks many files and sometimes research may be delayed due to:

- No fingerprints on file = not on UCH
- Missing dispositions
- Unclear ending date or case status

COURT ACTION 1 of 2:

AGENCY: GRAND COUNTY SHERIFF (UT0100000)

CASE NUMBER: CONVERSION

CHARGES DISPOSED OF:

OFFENSE LITERAL: OPEN CONTAINER

STATUTE: UNKNOWN

JURISDICTION: UNKNOWN

NCIC CODE: 5499 - TRAFFIC OFFENSE

PRE-CONVERSION NCIC LITERAL: OPEN CONTAINER

SEVERITY: UNKNOWN

DISPOSITION: UNKNOWN DISP

COURT ACTION DATE: 5/10/1980

DISPOSITION COMMENTS:

GUN CHECK COMMENTS:

PENDING EXPUNGEMENT

No record

- Obtain a copy of disposition or arrest

BCI unable to obtain disposition

- Individual must obtain a copy of the court disposition

UNABLE TO PROCESS



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of Public Safety

KEITH D. SQUIRES
Commissioner

July 11, 2017

Submission Number: 2017047288

Dear

We are unable to proceed on your request for an expungement at this time. We are not showing any arrest(s) on our records. If you are aware of an arrest and can provide us with court documents within the next 30 days, we could ascertain eligibility at that time. In order to expunge the records from the arresting agency or any other agency involved, you would still need to go through the expungement process.

If you have any questions, please contact our office at (801) 281-5198.

Sincerely,

Expungement Section



DENIALS



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of Public Safety

KEITH D. SQUIRES
Commissioner

July 11, 2017

Submission Number: 2017046283

Dear

After conducting a thorough review of our records, it has been determined that you do not meet the criteria for the issuance of a certificate of eligibility for expungement as required by Utah Code Ann. Title 77, Chapter 40. Consequently, you are hereby notified that your application has been denied due to the following reason(s):

- Time period from end of probation or parole has not been met
- 5 years in the case of any class A misdemeanor or a felony drug possession offense -
U.C.A. 77-40-105(3)(c)(iii)
- CASE # 145712697 WITH WEST VALLEY CITY JUSTICE COURT IS STILL OPEN.

Determination of eligibility is defined by Title 77 Chapter 40 of the Utah Code. To view the criteria go to www.leg.utah.gov. Select the link for Utah Code/Constitution, then Title/Chapter/Section to search by title.

If you wish to appeal the denial of your application for a certificate of eligibility for expungement, you must submit a written request for review within 30 days of the date on this letter. Along with your request please submit any supporting documentation to:

Expungement Section
Bureau of Criminal Identification
Box 148280
Salt Lake City, Utah 84114-8280

Upon receiving your written request for appeal, the matter will be reviewed and you will be notified by mail of the bureau's decision. Please do not telephone the bureau because the staff is unable to discuss any criminal records over the phone.

If you choose not to appeal this denial, you may contact the Utah Board of Pardons & Parole at (801) 261-6464 for further information regarding pardoned expungements for Utah criminal records.

AUTOMATIC DENIAL

Capital Felonies	Felony DUI's <ul style="list-style-type: none">• 41-6a-501(2)
1 st Degree Felonies	Sexual Offenses <ul style="list-style-type: none">• 77-27-21.5(1)
Violent Felonies <ul style="list-style-type: none">• 76-3-203.5(1)	Pending Investigations
Automobile Homicides	Pending Fees*

DENIAL CRITERIA

*Pending fees may include any unpaid fines, restitution, supervising fees, or interest

DENIAL CRITERIA

Time frame

- Does not begin until ALL confinement &/or probation has been completed

More than 4 convictions (Not stemming from the same arrest)

Current situations

- On probation
- On parole
- Incarcerated

CONVICTIONS

- Allowed up to **four convictions** except cannot have:
 - Two felonies
 - Two misdemeanor A's + one
 - Three misdemeanor B's + one
 - Four misdemeanor C's + one
- There is no limit on infraction convictions in and of themselves

CONVICTIONS

- Drug conviction exceptions: in addition to criteria for expungement, the petitioner is allowed up to **four drug possession** offenses

CONVICTIONS

- Three or more felony convictions for drug possession each contained in separate episodes.
- Any combination of five or more convictions for drug possession offenses.
- If charged with a drug possession and a higher charge with a longer wait period, you would have to wait the longer time frame.

CONVICTIONS

Qualifying example:

- Petitioner has the following on their record:
 - MB Retail theft conviction
 - MC Disorderly Conduct conviction
 - MB Simple Assault conviction
 - MC Intoxication conviction
 - MB Possession of Drug Paraphernalia conviction

Denial Example:

- Petitioner has the following on their record:
 - MB Retail theft conviction
 - MC Disorderly Conduct conviction
 - MB Simple Assault conviction
 - MC Intoxication conviction
 - MA Distribute/Offer/Arrange to Dist. C/S

CONVICTIONS

What if they were convicted of both a misdemeanor B for assault and a misdemeanor B for possession on the same case?

The case will be counted as a NON drug conviction as defined in U.C.A. 77-40-105(5)(6)

**2017 LEGISLATIVE
CHANGE WITH
CONVICTIONS**

UCA 77-40-105(8)

If at least 10 years have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions, then each eligibility limit defined in Subsection (5) shall be increased by one.

TIME FRAME

- When determining time frames, it is important to note that the time period does not begin until all confinement and probation have been completed. If a fine or restitution were a part of the probation, the payment of those fines will also affect the time period.
- When unclear, the Expungement section may call the courts to verify when probation on a case ended.
- BCI cannot look up customers' cases to tell them when they closed.

TIME FRAME

Dismissals

- 30 days from date of arrest (if *with* prejudice or completed a Plea in Abeyance or Diversion agreement)

Any alcohol or drug-related traffic incident

- 10 years

Eligible felony

- 7 years

TIME FRAME

Class A misdemeanor

- 5 years

Class B misdemeanor

- 4 years

Class C

misdemeanor/infractions

- 3 years

APPROVAL

APPROVAL

Two types of
approval:
complete/partial



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of Public Safety

KEITH D. SQUIRES
Commissioner

July 11, 2017

Submission Number: 2017046651

Dear

The Utah Department of Public Safety, Bureau of Criminal Identification (BCI) has reviewed your application for a Certificate of Eligibility for Expungement. Based on our review, it appears that you meet the criteria for the issuance of 2 Certificate(s) of Eligibility for Expungement. Total cost for the certificate(s) is \$56.00.

BCI must receive full payment for these certificates before you will receive them. Please complete the following Method of Payment section and return the pages of listed offenses with your payment to BCI. **Do not send cash through the mail.** Once BCI has received your payment for these certificates, BCI will mail the certificates to you at the address listed on the application or as you have indicated in the Third Party Release Form.

Certificates are only valid for 90 days from the date of issuance (date on this letter) and must be submitted to the court within this time period. You must allow time for mailing. Your failure to complete this process and submit the certificates to the court within the allotted time will require that you begin the process again (including any applicable fees).

Sincerely,

Expungement Section

Page 1

Submission Number: 2017051819

The list below contains all of the charges found on your Utah Criminal History and/or the District and Justice Court files.

Certificates are \$56.00 each. The total due is listed on page 1 of this letter.

	DATE OF ARREST	OFFENSE(S)	DISPOSITION	PURCHASE CERTIFICATE
1	08/09/1997	CRIMINAL HOMICIDE	DECLINED TO PROSECUTE	
2		FELONY FLEEING	DECLINED TO PROSECUTE	
3	09/15/1999	DRIVE WITH MEASURABLE CONTROLLED SUBSTANCE	CONVICTED \$56	
4		ILLEGAL POSS/USE OF CONTROLLED SUBSTANCE	DISMISSED WITHOUT PREJUDICE	
5		USE OR POSSESSION OF DRUG PARAPHERNALIA	DISMISSED WITHOUT PREJUDICE	
6		DRIVE ON DENIED LICENSE	CONVICTED	
7		TURN/STOP/CHANGE LANES W/O SIGNAL	DISMISSED WITHOUT PREJUDICE	

Submission Number: 2017051819

	DATE OF ARREST	OFFENSE(S)	DISPOSITION	PURCHASE CERTIFICATE
8		VEHICLE IN UNSAFE CONDITION	DISMISSED WITHOUT PREJUDICE	
9		SEAT BELT VIOLATION	DISMISSED WITHOUT PREJUDICE	
10	05/16/2001	USE OR POSSESSION OF DRUG PARAPHERNALIA	CONVICTED \$56	
11	11/05/2001	ILLEGAL POSS/USE OF CONTROLLED SUBSTANCE	CONVICTED \$56	
12	02/14/2002	AGGRAVATED ROBBERY	DISMISSED WITHOUT PREJUDICE	
13	06/27/2002	AGGRAVATED ASSAULT	CONVICTED \$56	
14		CRIMINAL MISCHIEF	CONVICTED	
15	01/14/2003	FALSE PERSONAL INFORMATION TO PO	DISMISSED WITHOUT PREJUDICE	
16		ILLEGAL POSS/USE OF CONTROLLED SUBSTANCE	DISMISSED WITHOUT PREJUDICE	

Submission Number: 2017051819

	DATE OF ARREST	OFFENSE(S)	DISPOSITION	PURCHASE CERTIFICATE
17	03/01/2005	DRIVE W/OUT REGISTRATION OR W/ EXPIRED R	BAIL FORFEITURE \$56	
18	06/03/2008	SPEEDING	DISMISSED WITHOUT PREJUDICE	
19		DRIVE W/OUT REGISTRATION OR W/ EXPIRED R	BAIL FORFEITURE \$56	

Please mark the row for each certificate you want to purchase.
There is no fee to expunge an offense that has been declined or acquitted

METHOD OF PAYMENT (Check appropriate box for payment)			
Cashier's Check or Money Order (Payable to "Utah Bureau of Criminal Identification") NO CASH!!			
VISA		MASTERCARD	
Card Number		3-digit Control #	Expiration Date
			M M / Y Y
PRINT Name as it appears on the card:			Zip code:
Cardholder signature:			Date:

APPROVAL

Two types of
approval:
complete/partial



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of Public Safety

KEITH D. SQUIRES
Commissioner

July 11, 2017

Submission Number: 2017046612

Dear

The Utah Department of Public Safety, Bureau of Criminal Identification (BCI) has reviewed your application for a Certificate of Eligibility for Expungement. Based on our review, it appears that you meet the criteria for the issuance of 8 Certificate(s) of Eligibility for Expungement. Total cost for the certificate(s) is \$392.00.

BCI must receive full payment for these certificates before you will receive them. Please complete the following Method of Payment section and return the pages of listed offenses with your payment to BCI. **Do not send cash through the mail.** Once BCI has received your payment for these certificates, BCI will mail the certificates to you at the address listed on the application or as you have indicated in the Third Party Release Form.

Certificates are only valid for 90 days from the date of issuance (date on this letter) and must be submitted to the court within this time period. You must allow time for mailing. Your failure to complete this process and submit the certificates to the court within the allotted time will require that you begin the process again (including any applicable fees).

If you wish to appeal the denial of your application for a certificate of eligibility for expungement, you must submit a written request for review within 30 days of the date on this letter. Along with your request please submit any supporting documentation to:

Expungement Section
Bureau of Criminal Identification
Box 148280
Salt Lake City, Utah 84114-8280

Upon receiving your written request for appeal, the matter will be reviewed and you will be notified by mail of the bureau's decision. Please do not telephone the bureau because the staff is unable to discuss any criminal records over the phone. For any charges that were not approved, you may contact the Board of Pardons at (801) 261-6464.

Sincerely,

Expungement Section

Page 1

APPROVAL

Approval letter sent with payment notification

- Mail in payment w/payment part of letter
- Pay in person at BCI

Certificates will be mailed after payment is received

No fee

- Certificate will be mailed with original approval notification

ELIGIBILITY FEES

No charge:

- Dismissal
- Declined to prosecute
- Fail to file

Fee will be assessed:

- Plea in abeyance
- Diversion agreements

ELIGIBILITY FEES

Conviction certificate

- \$56 each
- If charges on arrest resulted in a conviction, fee is required

One certificate per arrest, not per charge

APPEAL

30 days to file an appeal

Must include:

- Signature of applicant
- Grounds for review
- The relief requested
- Date appeal was mailed

BCI upholds denial decision

- Petitioner may appeal to district court

CERTIFICATE OF ELIGIBILITY

States the criminal record which is the subject of petition for expungement is eligible, but **does not guarantee** expungement of that case

- Certificate is valid only for the case listed on the certificate of eligibility
- Issued by BCI



State of Utah
 Department of Public Safety
 Bureau of Criminal Identification
 CERTIFICATE OF
 EXPUNGEMENT ELIGIBILITY

12345

NAME Bear, Yogi DOB 1/10/1979
 PREVIOUSLY USED NAMES:

SID # 321323 FBI # 123123

DATE OF ARREST _____ DATE OF VIOLATION / OFFENSE 07/28/2012

BOOKING / ARRESTING AGENCY WEBER COUNTY SHERIFF

LAW ENFORCEMENT AGENCY WEBER COUNTY SHERIFF

CHARGE(S):
 PURCHASE, POSSESS, CONSUME BY MINOR - MEASURABLE AMOUNTS

COURT NAME ROY/WEBER CO JUSTICE COURT COURT CASE # 112987654

CONVICTED DISMISSED CLASS MC

COMMENTS:

Each Expungement Order must contain the above information.

This document was researched and prepared by the undersigned representative of the Utah Bureau of Criminal Identification in accordance with Title 77 Chapter 40 of the Utah Code. The information contained herein reflects all of the information regarding this incident that the bureau has been able to confirm.

NOT VALID WITHOUT EMBOSSED SEAL

Authorized Signature _____

Subscribed and sworn to before me this

_____ day of _____, 20_____

Notary Public for the State of Utah



This certificate is valid for 90 days and must be received by the court within this time period.

SPECIAL CERTIFICATES

BCI issues a special certificate

- After reasonable research
- Disposition is unobtainable

Gives discretion of eligibility to the court



State of Utah
 Department of Public Safety
 Bureau of Criminal Identification
 CRIMINAL RECORD
 SPECIAL EXPUNGEMENT CERTIFICATE

12346

NAME Bear, Yogi DOB 01-10-1979
 PREVIOUSLY USED NAMES:

SID # 321323 FBI # _____
 DATE OF ARREST _____ DATE OF VIOLATION / OFFENSE _____
 BOOKING / ARRESTING AGENCY WOODS CROSS PD
 LAW ENFORCEMENT AGENCY WOODS CROSS PD

CHARGE(S):
 OPEN CONTAINER IN VEHICLE, DRIVING UNDER INFLUENCE LIQUOR

COURT NAME WOODS CROSS JUSTICE COURT COURT CASE # _____
 CONVICTED DISMISSED CLASS U
 COMMENTS _____

Each Expungement Order must contain the above information.

This document was researched and prepared by the undersigned representative of the Utah Bureau of Criminal Identification in accordance with Title 77 Chapter 40 of the Utah Code. The bureau is unable to determine the eligibility status of the petitioner due to the lack of information for the items listed above. This certificate is being forwarded to the court to make its own finding concerning the petitioner's eligibility for expungement pursuant to Utah Code Ann. § 77-40-106(1)(d).

NOT VALID WITHOUT EMBOSSED SEAL

 Authorized Signature

 Date



This certificate is valid for 90 days and must be received by the court within this time period.

NOT CERTIFICATES

The following forms are not certificates of expungement eligibility:

Individual's RAP sheet attached

No record found



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of Public Safety

KEITH D. SQUIRES
Commissioner

Criminal History Report

This is an official Utah Computerized Criminal History Report for the following person:

Name	Bear, Yogi
Date	
Other Names Used	Other Dates of Birth Used
BEAR , BOO-BOO	3/1/1955
BLACKBEAR , YOGI	

CRIMINAL RECORD VERIFIED

This report reflects the criminal history as of: **02/05/2003**

Attached to this report is a copy of the arrests found in our database. This report is not complete without the attachment. This report is based on a search of the Utah Computerized Criminal History file only. It does not preclude the existence of juvenile arrests in other states or arrests not reported to BCI.

The criminal history information was verified by fingerprint comparison.

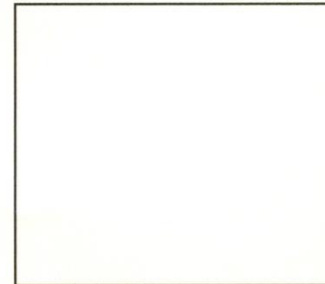
The complete criminal history starts with the individual's personal information and ends with the words "END OF REPORT". Each page of the report will be numbered (1 of 5, 2 of 5, etc.) and printed on official BCI watermark paper. Any alteration of this report invalidates the information.

This report is only good for thirty days from the date printed.

This report is not valid without the official seal of the State of Utah embossed in the box to the right.



Signature of B.C.I. official





State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of Public Safety

KEITH D. SQUIRES
Commissioner

Criminal History Report

This is an official Utah Computerized Criminal History Report for the following person:

Name: Bear, Yogi	
Date of Birth: 2/11/1959	
Other Names Used N/A	Other Dates of Birth Used N/A

NO CRIMINAL RECORD FOUND

This report reflects the criminal history as of: **02/05/2003**

The Bureau of Criminal Identification did not find a match for this individual in the Utah Computerized Criminal History database.

The database was searched by name only. If there had been a record it would have been verified by fingerprint comparison.

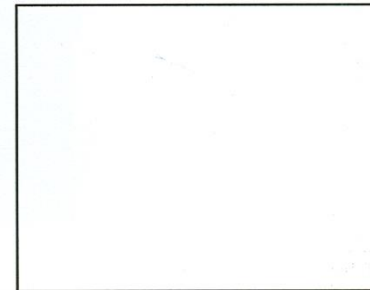
This is a report of search results from the Utah Computerized Criminal History file only. It does not preclude the existence of juvenile arrests, arrests in other states, or arrests not reported to the Bureau of Criminal Identification.

Any alteration of this report invalidates the information.
This report is only good for thirty days from the date printed.

This report is not valid without the official seal of the State of Utah embossed in the box to the right.



Signature of B.C.I. official



EXPUNGEMENT CERTIFICATES

Petitioner has **90 days** from date of issue to petition court.

Court must accept petition and certificate before it may be filed with the prosecutor.

Petitioning the Court

Court procedures and fees are set by the Administrative Office of the Courts (AOC)

- UCA 78A-2-301
- Must petition court of judgement
 - Only judge can approve

Utah Code

~~44-40-~~(101-113)

“A court may not expunge a conviction of an offense for which a certificate of eligibility may not be or should not have been issued under section ~~77-40-104~~ or ~~77-40-105~~.”

PETITIONING THE PROSECUTION

Petitioner must deliver to prosecution:

- Copy of petition
- Certificate

Prosecutor:

- Notify victim at last known address by first class mail

Prosecutor and/or victim have 30 days to file any objections or recommendations

NOTICE TO VICTIM

Notice to the victim should include:

Copy of petition

Certificate of eligibility

Statutes and files that apply

Right to object

Procedures to register an objection

OTHER AGENCIES

The court **may** request a written response from AP&P

- Should include reasons probation was terminated
- Certify all requirements of sentence were met

A copy should also be sent to prosecutor

EXUNGEMENT CERTIFICATES

If no objections received by court within 60 days, expungements may be granted

Must ensure that prosecutor and victim have been notified

Court may re-check background before issuing order

- New offenses may have occurred

FINALIZING THE EXPUNGEMENT

ORDERS OF EXPUNGEMENT

- Defendant's name and date of birth
- Date of arrest
- Charges and class
- Court name
- Court disposition and date
- Court case number
- Judge's signature **and** seal

BCI will only accept an original, certified copy of the order of expungement

ORDERS OF EXPUNGEMENT

Distribute to:

Arresting agency

BCI

- Only need one copy, we will forward it on to the FBI

Prosecutor's office

Booking agency (Jail)*

Department of Corrections*

Keep one for personal records

*If they were involved

Remember:

***Black out name if multiple individuals on arrest record**

***Agencies must maintain their own record at their own site- BCI doesn't maintain these**

COMPLETED

Offense deleted off UCH

BCI

- Sends copy of order to
FBI
- Seals record
- Confirmation letter sent



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of Public Safety

KEITH D. SQUIRES
Commissioner

September 6, 2017

TAYLORSVILLE, UT 84129

Submission Number: 2017013442

Dear

This letter is to notify you that the Bureau of Criminal Identification has expunged the following charge(s) from your record on the Utah Criminal History system. A copy of your expungement order has been forwarded to the FBI.

•DISORDERLY CONDUCT

If you have any questions, you may contact our office at (801) 965-4445, option 5.

Sincerely,

Expungement Section

Confirmation Letter

COMPLETED

UCA 77-40-108(2)

- Once a record is expunged, the applicant may respond to any inquiry as though the arrest or conviction did not occur

COMPLETED

Only BCI may access expunged record information

- Per UCA 77-40-109

The following organizations may receive expunged records:

Board of Pardons and Parole

Peace Officer Standards and Training (POST)

Federal Authorities

- Unless prohibited by Federal Law

Department of Commerce

Department of Insurance

State Board of Education

OPEN EXPUNGED RECORDS

Reasons

- 77-40-109(4)(5)
- Civil Action 77-40-110

OTHER TYPES OF EXPUNGEMENTS

2017 Legislative changes

TRAFFIC EXPUNGEMENT



EXPUNGEMENT OF TRAFFIC OFFENSES

Senate Bill 201

This bill allows most traffic offenses to be expunged without limit. Provides that traffic offense are not included in determining if a person is eligible for expungement*.

Petitioner can only expunge traffic charges from court records; expungement will not affect driving record.

UCA 77-40-105(4)

“The bureau may not count infractions, traffic offenses, or minor regulatory offenses when determining expungement eligibility.”

NAME REMOVAL FROM SEX OFFENDER REGISTRY

Offender Registry Review

The fee to apply is \$168.00

If eligible, the certificate fee is \$25.00

HB 13

This bill allows a person on the Sex Offender and Kidnap Offender Registry to petition the court for removal after five years for certain offenses:

- *Unlawful sexual conduct with a 16-17 year old

- *Unlawful sexual activity with a minor

HB 18

This bill provides a judicial process offender 76-5-301 regarding kidnapping or 76-5-301 unlawful detention may petition court for removal from registry

PARDONS

Must apply for Board of Pardon Expungement and pay \$50 application fee

- Provide pardon documentation with application

DOES NOT count against limit of expungements

- All pardoned crimes will be expunged
- No longer maintain a record of pardons

ANY QUESTIONS?

CONTACT INFORMATION

(801) 965-4445 Option 5

publicsafety.utah.gov

bciexpungements@utah.gov