

Supporting Statement for Paperwork Reduction Act Submissions
Revision of a currently approved collection
FBI Expungement Form (FD-1114)
OMB Control # 1110-0064

Part A. Justification

1. Necessity of Information:

Title 28, United States Code, Section 534, allows the FBI to acquire, collect, classify, and preserve identification, criminal identification, crime, and other records. The FBI permits such exchange of records and information with, and for the official use of, authorized officials of the Federal Government, including the United States Sentencing Commission; the States and cities; and penal and other institutions.

Title 28 CFR 0.85(j) sets forth the Attorney General's delegation to the FBI to implement the exchange of identity history information for noncriminal justice purposes. Additionally, 28 CFR 20.33 (a)(3) and 50.12 both further explain the dissemination of identity history information for noncriminal justice purposes.

It is essential the FBI Expungement Form (FD-1114) be utilized in order for the Criminal Justice Information Services (CJIS) Division, to assure identity history information is collected, stored, removed and thus, disseminated in a manner to ensure accuracy, completeness, currency, integrity, and security of such information in an effort to protect individual privacy and provide maximum service to all law enforcement and governmental agencies. All of which is imposed on the FBI, CJIS Division, by Title 28, Code of Federal Regulations (CFR), Part 20.1.

2. Needs and Uses:

The CJIS Division serves the nation as a repository for fingerprints and identity history information. The Privacy Act of 1974 requires each agency that maintains a system of records to maintain the records with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual. Case law stipulates that the CJIS Division has a duty to take reasonable measures to maintain accurate records.

Currently, authorized agencies can submit civil fingerprints of employment applicants, licensees, and other individuals in positions of public trust on a periodic basis to determine if individuals have engaged in criminal conduct that would prohibit the holding of such positions or licenses. With the Next Generation Identification (NGI) system, authorized agencies may choose to submit the civil fingerprints for retention and subscription into the Rap Back Service. This will result in an ongoing review of the criminal history status of each individual as long as the individual remains in a position of trust. The Rap Back Service provides for a continuous vetting of the person's suitability for his/her position of trust by providing timely notification to the authorized agency should the individual be arrested or if there is relevant activity associated with that identity record in the NGI system.

The NGI system also provides timely notifications to authorized criminal justice agencies regarding individuals under the supervision of a criminal justice agency or under authorized law enforcement investigation. Law enforcement agencies, probation and parole officers, and other criminal justice entities may use the Rap Back Service to be advised of subsequent criminal activity of persons under their supervision, such as probationers, parolees, sex offenders, persons under direct court supervision, and other officially supervised persons, as well as persons under investigation.

Use of the FD-1114 ensures the FBI receives the necessary information needed to remove and seal criminal history data within the NGI. The establishment of this standard submission form streamlines the flow of information and ensures more timely transactions. Today, there are numerous document request forms submitted to the CJIS Division for processing, all in a variety of formats and oftentimes submitted without complete information. It is expected the use of the FD-1114 will promote timely processing by CJIS Staff, minimize delays and/or rejects to the submitting agency. The FD-1114 will provide for efficient updating of identity histories.

3. Use of Technology:

Currently, there are no plans to automate the FD-1114 form, as there are a variety of automated methods for which an agency may submit an expungement to the CJIS Division for removal of criminal data from an individual's identity history. This form is being made available to the submitter for their convenience.

4. Efforts to Identify Duplication:

The FBI is the only federal repository for the data from this information collection.

5. Methods to Minimize Burden on Small Businesses:

This information will have no significant impact on small entities. Small businesses will not be affected by this collection.

6. Consequences of Less Frequent Collection:

If the collection is not conducted or conducted less frequently, an individual's identity history could include criminal history data which should not exist.

7. Special Circumstances Influencing Collection:

The FD-1114 submissions are collected and processed from participating agencies, as necessary. All stored identity history summary information is inclusive of only that information which has been provided.

8. Public Comments and Consultations:

The FBI sponsors and participates in training seminars, industry meetings, and conferences with the user community. These meetings are held regularly and provide an open forum to discuss matters of mutual concern, including reporting procedures. The FBI consults with users on an individual basis as needed. Additionally, the 30 and 60-day Notices of Information Collection will be published in the Federal Register.

9. Payment of Gift to Claimants:

The FBI does not provide any payment or gift to respondents.

10. Assurance of Confidentiality:

Information requested in this collection may be considered confidential business information. Its release is governed by law, regulations, and agency procedures.

11. Justification for Sensitive Questions:

This collection does not include questions of a sensitive nature.

12. Estimate of Hour Burden:

Number of respondents	105
Frequency of response	as needed
Total annual responses	318,598
Minutes per response	3.5 minutes
Annual hour burden	18,585 hours

The *Number of Respondents* is based on the total number of states that go through a State/Territory Identification Bureau (SIB). It is a requirement for State Expungements to be submitted through the SIB. The number of respondents also includes the total number of federal agencies that submit criminal history to the FBI. All submitters of criminal history record information are responsible for the subsequent maintenance of those records. The FD-1114 provides a means for state and federal agencies to request expungements and seals to their records, when an electronic means is not available. Note: The last collection did not include federal agencies. Federal users also use the FD-1114 Form to initiate expungement requests as well as sealing requests.

The *Total annual responses* was retrieved from internal tracking of incoming receipts for the prior year.

The *Minutes per response* was an estimate based on the average time it took to process each form last year (60 minutes divided by hourly average).

The *Annual hour burden* was determined by dividing the total annual responses (318,598) multiplied by the (3.5 minutes) per response and divided by 60. The total equals 18,585 hours.

13. Estimate of Cost Burden:

Respondents will not incur any costs other than their time to respond. Respondents will not incur any capital, start up, or system maintenance costs associated with this information collection.

14. Estimated Annualized Costs to Federal Government:

Personnel Salaries:	\$ 843,121.24
Analysis of incoming information:	\$ 0
Conversion to electronic format:	\$ 0
Total Cost:	\$ 843,121.24

The expungement/sealing process is performed in average by 13 GS 7 employees. The 2021 OPM GS Salary Table (for the locality pay area of rest of US) indicates a GS 7 Step 5 employee makes \$49,508 per year. As a standard when calculating cost, thirty-one percent is added for benefits. This brings the annual cost per employee to \$64,855.48. Thirteen employees at this rate would total \$843,121.24 in salaries.

15. Reasons for Change in Burden:

The *Number of Respondents* has changed to include federal agencies. Federal agencies are major contributors of criminal history information and use the FD-1114 to make expungement/seal updates to their records. This was not included in the last collection.

The *Total annual responses* increased as part of normal yearly receipts. This total can fluctuate with each collection period.

Minutes per response decreased to reflect a more accurate processing time per form.

The *Annual hour burden* decreased as a result of the reduction in *Minutes per response*.

Personnel Salaries had a large increase due to staffing dedicated to the Expungement/Sealing functions. The previous collection reported eight employees that processed expungements/seals in addition to other duties. This collection reports thirteen employees that are processing expungements/seals full time.

The *Analysis of incoming information* had a change to zero. The previous collection included a process that used five Inventory Control employees to gather forms, scan, and assign to employees for processing. This process has changed for this collection and the additional steps are no longer necessary.

16. Plans for Publication:

There are no plans to publish the information collected.

17. Expiration Date Approval:

The Expiration Date has been updated to reflect 12/31/2021

18. Exceptions to the Certification Statement:

There are no exceptions to the certification statement.

Part B. Statistical Methods

The FBI does not employ statistical methods in this information collection.