



The Department of Information and Technology Services
Research and Statistics
1001 Vandalay Drive
Frankfort, KY 40601
(502) 573-2350

GRANTED VS. DENIED EXPUNGEMENT APPLICATIONS/PETITIONS ENTERED CY 2012 – CY 2021 CALLOWAY & MARSHALL

February 2, 2022

Statistics Request Overall Description

On January 12, 2022, Research and Statistics received a request for a report on expungement data for the last 10 years (2012-2022) of Expungements GRANTED in Calloway and Marshall Counties, including the type of "charge" that was expunged.

CourtNet, which provides a summary of Kentucky court cases statewide, was queried for Calloway and Marshall counties on the specific document codes for the petitions and applications for expungement documents (PEXC, AFEX, PEXA, OAE, or PEX) which were entered within criminal cases January 1, 2012 through December 31, 2021. Those cases were then queried to check for an order granting/denying expungement documents (OFXG, OFXD, OEXG, OEXD, OG or OD) up until the date the report was generated as of February 1, 2022.

Note: Expunged records are confidential. In order to protect the identities of individuals, reporting of AOC offense categories conceal instances of fifty or fewer records. Blank data points should be considered to reflect "zero to fifty" records. Any records hidden in this manner are included in totals/subtotals, so long as these totals/subtotals include more than fifty records.

Expungement Processes:

1. Expungement for Felony Conviction

Expungement for class D felony convictions and executive pardons in KRS 431.073¹

The felony conviction expungement law (2016 HB40), which came into effect on July 15, 2016, created a process for the expungement of *class D felony convictions* and for offenses that receive executive pardons.

The felony conviction expungement process has three court documents:

- **AFEX** is used for the application for such expungements of felony convictions.
- **OFXG** is used when such expungements are granted
- **OFXD** is used when such expungements are denied

2. Expungement

Expungement of convictions for misdemeanor, violation and traffic infraction KRS 431.078²

Expungement of charges acquitted or dismissed *without prejudice* 431.076(1)(b) and

¹ See KRS 431.073 (2016 HB 40) at <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=49358>

² See KRS 431.078 at <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=45221>

GRANTED VS. DENIED EXPUNGEMENT APPLICATIONS/PETITIONS ENTERED CY 2012 – CY 2021 CALLOWAY & MARSHALL

Statistics Request Overall Description

Expungement of felony charges in District Court not resulting in indictment 431.076 (1)(c)³

The process that allows petition for the expungement of conviction for certain misdemeanors or traffic violations and infractions (including dismissed or amended charges), for the expungement of criminal offense charges acquitted or dismissed *without prejudice*, and for the expungement of felony charges in District Court not resulting in indictment.

- **PEXA** document applies to the expungement of a criminal charge that was not disposed as a conviction including felony charges in district court not resulting in indictment.
- **PEXC** pertains to expungement of a convicted misdemeanor, violation, or infraction.
- **PEX** prior code to PEXA and PEXC, may currently still be used erroneously.
- **OEXG/OEX** document is used to indicate the granting of either expungement petition.
- **OEXD** document is used to indicate the denial of either expungement petition.

3. Automatic Expungement

Automatic expungement process in KRS 431.076 (1)(a)⁴

The automatic expungement law (2020 HB 327), which came into effect on July 15, 2020, requires an automatic expungement of records upon the expiration of thirty (30) days after a court enters an order of acquittal of criminal charges against a person or enters an order dismissing *with prejudice* all criminal charges in a case against a person (not in exchange for a guilty plea to another charge), unless the person objects to the expungement. Traffic infractions not otherwise classified as a misdemeanor are not eligible for automatic expungement. A petition is not required by the person.

- **OAE** document is used when a charge is automatically expunged under KRS 431.076(1)(a).
- **DOE** document When a person objects to the automatic expungement process.

Expungement Process	Petition/Application Document Codes	Grant/Deny/Objection Document Codes
Expungement for Felony Convictions KRS 431.073	(AFEX) Application to Vacate and Expunge Felony Conviction	(OFXG) Order Felony Expungement Granted (OFXD) Order Felony Expungement Denied
Expungement for Convictions for misdemeanor, violation and traffic infraction KRS 431.078, charges acquitted or dismissed <i>without prejudice</i> KRS 431.076 (1)(b), and felony charges in District Court not resulting in indictment KRS 431.076(1)(c)	(PEXA) Petition to Expunge Acquittal (applies to charges acquitted, dismissed without prejudice, and felony charges in District Court not resulting in indictment).	(OEX) Order for Expungement (OEXG) Order Granting Expungement (OEXD) Order Denying Expungement
	(PEXC) Petition for Expungement of Conviction (Misdemeanor, Violation, or Traffic Infraction).	
	(PEX) Petition for Expungement prior code to PEXA and PEXC, may currently still be used erroneously.	

³ See KRS 431.076 (1)(b) & (c) <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=50191>

⁴ See KRS 431.076 (1)(a) (2020 HB 327) at <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=50191>

GRANTED VS. DENIED EXPUNGEMENT APPLICATIONS/PETITIONS ENTERED CY 2012 – CY 2021 CALLOWAY & MARSHALL

Statistics Request Overall Description

Automatic Expungement KRS 431.076(1)(a) (applies to cases with all charges acquitted or dismissed with prejudice.)	No petition/application needs to be filed. Note: This process began in CY 2020 and will not appear in the count of petition documents for prior calendar years.	(OAE) Order Granting of Automatic Expungement (DOE) Order of Defendant’s Objection to Expungement
--	--	--

Statistical Table (22_RS3002)

The statistical report provides a count of distinct cases per expungement process type based on the application/petition entered during each calendar year 2012 – 2021 in Marshall and Calloway counties. The cases are then checked for an order granting/denying occurring after the application/petition date. The order may occur within the same year or a different calendar year than the application/petition date up until the date the report was generated as of February 1, 2022.

Table 1: Provides distinct court case counts per jurisdiction, by application/petition type and whether the case has an order to “grant or deny” the expungement. The application/petition type is based on the last entered application/petition document code entered within the case as of the report generation date. The order granting/denying is pulled by looking for the first order document occurring after the date of the last application/petition date. Currently there is no link between the application/petition document to the order granting/denying. The last column contains cases with no application/petition document. Without knowing the application/petition type, these cases cannot be sorted by expungement process type (see Table 3).

Table 2: Provides statewide distinct case of automatic expungements counts sorted by jurisdiction and case category; no petition/application needs to be filed. Note: This process began in CY 2020 (effective 7/15/2020) and will not have cases for prior calendar years.

Table 3: provides those cases from the last column (**Table 1**) further sorted by jurisdiction, case category and by the last document type code for the order granting/denying within the case.

- A large portion of these cases may be part of diversion agreements which may not have required a petition.
- A single expungement order of a felony conviction may apply to both a Circuit Criminal case and a District Felony case pertaining to the same defendant and incident.

Table 4: Provides the charges within “granted” circuit criminal cases expunged which had an application/petition, categorized by CSP Category. Excludes the Automatic Expungements. CSP category is

Table 5: Provides the charges within “granted” district criminal cases per case number type, which had an application/petition. The charges are categorized by CSP Category. Excludes the Automatic Expungements.

Table 6: Provides the charges within criminal cases expunged by the Automatic Expungement Process (OAE) by jurisdiction (circuit/district). The charges are categorized by CSP Category.

Appendix: UOR Descriptions per AOC Offense Group & Categories

GRANTED VS. DENIED EXPUNGEMENT APPLICATIONS/PETITIONS ENTERED CY 2012 – CY 2021 CALLOWAY & MARSHALL

Statistical Table (22_RS3002)

Statistical Analysis Considerations:

- The statistics presented in the attached tables are a snapshot in time, as of February 1, 2022.
- Order denying (OD) and Order Granting (OG) document codes may currently still be used erroneously.
- Some instances of cases have a petition/application to expunge but do not have an order granting or denying. If the case appears as an “EX” case type, then the case is counted in the orders “granted” category. Cases which show no indication of being expunged are included in the “denied” category.
- Expunged records are confidential. In order to protect the identities of individuals, reporting of AOC offense categories conceal instances of fifty or fewer records. Blank data points should be considered to reflect “zero to fifty” records. Any records hidden in this manner are included in totals/subtotals, so long as these totals/subtotals include more than fifty records.

Data Variables Requested

Database	Data Variable	Description
CourtNet	Calendar Year (CY)	The calendar year (January 1 through December 31) in which each document was entered. This report is for petitions/applications for expungements during the timeframe of 1/1/2012 through 12/31/2021.
	Jurisdiction	The jurisdiction in which the case associated with a given document was entered (Circuit or District Court).
	Document Type	The type of document counted, indicated by code (see document type code descriptions above).
	Expungement Process	Distinguishes documents related to the various expungement processes available in Kentucky: <ol style="list-style-type: none"> 1. <u>Expungement for Felony Conviction</u> <ul style="list-style-type: none"> • Expungement for class D felony convictions and executive pardons in KRS 431.073 2. <u>Expungement</u> <ul style="list-style-type: none"> • Expungement of convictions for misdemeanor, violation and traffic infraction KRS 431.078 • Expungement of charges acquitted or dismissed <i>without prejudice</i> 431.076(1)(b) and • Expungement of felony charges in District Court not resulting in indictment 431.076 (1)(c) 3. <u>Automatic Expungement</u> <ul style="list-style-type: none"> • Automatic expungement process in KRS 431.076 (1)(a)
	Full Case Expungement	Cases in which all charges within the case have been granted expungement, indicated by the case type code (EX).

**GRANTED VS. DENIED EXPUNGEMENT APPLICATIONS/PETITIONS
ENTERED CY 2012 – CY 2021 CALLOWAY & MARSHALL**

Data Variables Requested		
Partial Case Expungement	Cases in which only specific charge(s) within the case have been granted expungement. The UOR code 9902400 - NO RECORD EXISTS, is used to overwrite the expunged offense(s).	
Document Group	Distinguishes petition documents (AFEX, PEXA, PEXC, PEX), documents of expungement order granted (OFXG, OEXG, OAE, OEX), documents of expungement order denied (OFXD, OEXD) and objection to automatic expungement process (DOE).	
Cases	The total number of distinct cases referenced in any of these documents.	
County	The requested geographic area is based on the county in which each expungement was filed. This report only includes Calloway & Marshall counties.	
Category	An indication of the type of criminal case, derived from the case number type: <ul style="list-style-type: none"> • CR: Circuit Criminal • F: Felony (District Court) • M: Misdemeanor • T: Traffic (may include felony or misdemeanor offenses such as DUI) NS: Non-Support (A case number type used briefly in Jefferson County to indicate criminal non-support charges filed in the Family Court jurisdiction, now deprecated).	
UOR Code	A numeric label for a specific statute, based on a charge used in a Uniform Offense Report. The first six digits of a UOR Code are unique to each statutory offense. The seventh digit ranges from 0 through 6. A final "0" indicates that only the underlying statutory offense is charged. "1" indicates that an attempt has been charged. "2" shows that a solicitation has been charged. "3" shows a conspiracy charge. "4" shows a facilitation charge. "5" shows a complicity charge. "6" shows that the underlying charge has been enhanced.	
UOR Description	A brief verbal summary of the statutory offense which is the basis for the type of criminal offense with which the defendant has been charged. For Example, UOR Code "0008050" represents the underlying statutory offense of KRS 508.080(1)(B) or, in brief English, "BOMB THREATS". In a related example, UOR Code "0008051" represents the related ASCF code or Inchoate offense of "ATTEMPTED BOMB THREATS".	
AOC Offense Group	A broad defined set of offenses into categories. See appendix of Group Codes attached below.	
AOC Offense Group	A set of defined offenses into sub-categories. See appendix of Group Codes attached below.	

**GRANTED VS. DENIED EXPUNGEMENT APPLICATIONS/PETITIONS
ENTERED CY 2012 – CY 2021 CALLOWAY & MARSHALL**

Disclaimer Associated with KCOJ/AOC Database(s) and Element(s)

RESEARCH AND STATISTICS DISCLAIMER

Information received from KYCourts/CourtNet is subject to change(s), reprogramming, modification(s) of format and availability at the direction of the Administrative Office of the Courts (AOC), and may not at any particular moment reflect the true status of court cases due to ordinary limitation(s), delay(s) or error(s) in the system's operation. The KYCourts/CourtNet database is not a real-time system. All datasets are a snapshot of case data at the time a query is run. Case counts are not counts of individuals as some persons may have multiple cases.

The AOC disclaims any warranties as to the validity of the information obtained from KYCourts/CourtNet. The recipient is solely responsible for verifying information received from KYCourts/CourtNet through the cross-referencing of official court records. The AOC shall not be liable to the recipient, or to any third party using the system or information obtained therefrom, for any damages whatsoever arising out of the use of KYCourts/CourtNet.

RESEARCH AND STATISTICS UOR CODE DISCLAIMER

The Kentucky State Police (KSP) assigns the Kentucky Uniform Crime Reporting Codes (UOR Codes) to criminal offenses in the Commonwealth of Kentucky. The KSP official list of UOR Codes by KRS number and descriptor can be obtained at the KSP's website at www.kentuckystatepolice.org.

The AOC assigns and maintains codes that are used within the Court of Justice Case Management System for statistical and reporting purposes. These codes are used to identify local and city ordinances, as well as codes for general administrative purposes. The AOC official list of UOR Codes with KRS number and descriptor can be obtained at the Court of Justice Website at courts.ky.gov/aoc/statisticalreports. The AOC UOR Code Listing is for informational purposes only and the information is subject to change, reprogramming, modifications of format, and availability at the direction of the Administrative Office of the Courts (AOC).

A query for data based on specified charges will include each UOR code specified and possible supplemental codes. Supplemental codes (or "ASCF" codes) to any UOR code include: 1) attempt, 2) solicitation, 3) conspiracy, 4) facilitation, 5) complicity, and 6) enhancement. In total, UOR codes contain seven digits. The first six digits are specific to that charge. The seventh digit indicates if there is a supplemental code. A "0" as the seventh digit means that is the primary UOR code and it does not have a supplemental code. If there are supplemental codes, the "0" will change to a 1, 2, 3, 4, 5, or 6 (the numbering corresponds to the list above). An enhancement does not exist on all UOR codes. When a supplemental code does not appear within a dataset, charge(s) did not occur during this period. The presence of "*obs" within the description of a UOR code indicates an obsolete UOR code. However, the code is still present within the KYCourts/CourtNet database and may still be utilized. Not every UOR code included in the query will have charges associated with it in each calendar year examined. Some cases may contain multiple charges; therefore, charge counts may exceed case counts. The number of cases cannot be inferred as the number of individuals as multiple cases may have the same defendant.

The AOC disclaims and makes no warranty, express or implied, nor assumes any legal liability or responsibility, for the validity, accuracy, correctness, or completeness of any information that is available and/or obtained through this listing. The recipient is solely responsible for verifying the

**GRANTED VS. DENIED EXPUNGEMENT APPLICATIONS/PETITIONS
ENTERED CY 2012 – CY 2021 CALLOWAY & MARSHALL**

accuracy of the information received from the official owner of the UOR Codes, the KSP. Furthermore, the AOC shall not be liable to the recipient, the recipient's heirs and assigns, next of kin or to any third party, for any and all claims, demands, losses or damages arising from the usage of this list and/or information contained therein.