

RULE 320. EXPUNGEMENT UPON SUCCESSFUL COMPLETION OF ARD PROGRAM.

(A) When the judge orders the dismissal of the charges against the defendant, the judge **also** shall **[also]** order the expungement of the defendant's arrest record, subject to the provisions of paragraph (B). **The expungement order shall contain the same information that is required in Rule 490(C) in summary cases and Rule 790(C) in court cases.**

(B) If the attorney for the Commonwealth objects to the automatic expungement, the objections shall be filed with the judge, together with the objections to dismissal, if any, within 30 days after service of a motion for dismissal under Rule 319, and copies of the objections shall be served on the defendant or the defendant's attorney.

(C) If the objections are filed, the judge shall hold a hearing on the objections, affording all parties an opportunity to be heard.

COMMENT: The cases have held that a defendant's arrest record shall be expunged upon successful completion of an ARD program, unless the Commonwealth presents compelling reasons why the arrest record should be retained. See, e.g., *Commonwealth v. Armstrong*, **495 Pa. 506**, 434 A.2d 1205 ([Pa.] 1981). Cf., *Commonwealth v. Wexler*, **494 Pa. 325**, 431 A.2d 877 ([Pa.] 1981). For processes and limitations with regard to expungement generally, see Section 9122 of the Criminal History Record Information Act, 18 Pa.C.S. § 9122 [(1983)]. See also, Vehicle Code, §§ **[1543] 1534(b)** and **[3731(e)(2)] 3807**, added by 75 Pa.C.S. §§ 1534(b) and **[3731(e)(2)] 3807**.

NOTE: Rule 186 adopted April 10, 1989, effective July 1, 1989; renumbered Rule 320 and amended March 1, 2000, effective April 1, 2001 **[.] ; amended March 14, 2011, effective April 1, 2011.**

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COMMITTEE EXPLANATORY REPORTS:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the March 14, 2011 amendments to paragraph (A) adding the cross reference to Rules 490 and 790 published with the Court's Order at 41 Pa.B. (, 2011).