



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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FILE NO. S-1385

CRIMINAL LAW:
Expunction of Arrest Records

Honorable Charles V. Romani, Jr.
State's Attorney
Bond County
Greenville, Illinois 62246

Dear Mr. Romani:

This responds to your letter wherein you ask whether section 5 of "AN ACT in relation to criminal identification and investigation" (Ill. Rev. Stat. 1977, ch. 38, par. 206-5) requires the clerk of the circuit court to expunge records under his control. It is my opinion that the expunction procedure in section 5 is not applicable to the records of the clerk of the circuit court.

Section 5 provides in pertinent part:

Honorable Charles V. Romani, Jr. - 2.

" * * * Whenever a person, not having previously been convicted of any criminal offense or municipal ordinance violation, charged with a violation of a municipal ordinance or a felony or misdemeanor, is acquitted or released without being convicted, the Chief Judge of the circuit wherein the charge was brought, or any judge of that circuit designated by the Chief Judge, may upon verified petition of the defendant order the record of arrest expunged from the official records of the arresting authority. * * *" (Emphasis added.)

Section 5 applies only to the "official records of the arresting authority." An expunction order issued under section 5 requires the arresting authority to expunge an arrest record from its official records. The order does not require the clerk of the circuit court to expunge information from the records under his control.

Very truly yours,

A T T O R N E Y G E N E R A L