

Cayman Islands Expungement Board 2019 Annual Report



**Office of the Deputy Governor
Cayman Islands Government**



Foreword

As the Interim Chairperson, I am pleased to introduce the second Annual Report of the Expungement Board. The report has been prepared for submission to His Excellency the Governor, and will be laid before the Legislative Assembly in accordance with the requirements set out in Section 44 of the *Criminal Records (Spent Convictions) Law (2018 Revision)* (“the Law”).

The goal of the legislation is to facilitate a convicted person's re-entry into society by erasing their record and shielding them from public scrutiny. With the introduction of the *Criminal Records (Spent Convictions) Law (2018 Revision)* in February 2018, persons are now able to have convictions removed from their criminal record once the Board has deemed the convictions spent.

The second year of operations for the Board has seen an increase in the number of applications processed. In 2018, the Board focused on putting in place the necessary arrangements for the effective implementation of the Law, which resulted in the Board successfully processing 52 applications in 2019.

Today, it is quite common for employers to carry out background checks before hiring a job applicant. This inevitably reveals the applicant's record of conviction, which may be to the applicant's detriment. When criminal records act as barriers to employment, education, and more, it serves to entrench inequities in our society. While expungement does not address all the challenges faced after conviction, it begins the process of restoration for mistakes of the past. This is an immense benefit, which cannot be quantified. Consequently, the Board will continue to inform the public regarding the eligibility criteria and raise public awareness about the expungement process.

As I conclude, I wish to extend my appreciation to the support provided to me by the community volunteers who serve as Board Members. I would also like to thank the Office of the Deputy Governor for the Secretariat Services provided to the Board, which has included both strategic and operational advice and support.



Mrs. Marilyn Brandt
Interim Chairperson of the Expungement Board

Chairman's Report

Introduction

This is the second Annual Report of the Cayman Islands Expungement Board. It covers the period February to December, 2019.

The primary object of the Criminal Records (Spent Convictions) Law is to implement a scheme to limit the effect of a person's conviction for a range of offences if the person, having served their sentence, subsequently completes a period of crime-free behaviour. A person's criminal record could only be expunged in instances where the Board has deemed the conviction as spent. Section 41 of the Law imposes a limit on the number of expungement a person is allowed. Consequently, a person shall not be eligible to obtain more than two expungements.

Section 5 of the Criminal Records (Spent Convictions) Law establishes an Expungement Board for the purpose of expunging criminal records. The functions of the Board are outlined in sections 6(1) and (2) of the Law. The Board is empowered pursuant to section 6(2) to approve, disapprove or revoke the expungement of a criminal record.

Tables 1 and 2, below, provide additional information on the applications processed by the Board in 2019, by type, and in accordance with section 44 of the Law.

Table 1: 2019 Statistics on applications in respect of convictions with sentences exceeding five years

2019 Expungement Statistics								
<u>District of Residence</u>	<u>Type of Offence</u>	<u>Approved</u>	<u>Disapproved</u>	<u>Revoked</u>	<u>Ineligible</u>	<u>Not Applicable</u>	<u>Withdrawn by Applicant</u>	<u>Number of Expungement Applications Received</u>
Bodden Town	Robbery	✓						1
West Bay	Possession Of Ganja With Intent To Supply	✓						1
Total								2

Table 2: 2019 Statistics on applications in respect of convictions with sentences NOT exceeding five years

2019 Automatic Expungement Statistics								
<u>District of Residence</u>	<u>Type of Offence</u>	<u>Approved</u>	<u>Disapproved</u>	<u>Revoked</u>	<u>Ineligible</u>	<u>Not Applicable</u>	<u>Withdrawn by Applicant</u>	<u>Number of Automatic Expungement Applications Received</u>
Overseas	Possession Of Forged Currency Notes						✓	1
West Bay	Common Assault				✓			1
West Bay	Consumption Of Cocaine				✓			1
Overseas, USA	Possession of Ganja, Consuming Cocaine	✓						1
Bodden Town	Multiple Minor Marijuana, Multiple Failing to Surrender	✓						1
East End	Multiple Failing to Surrender	✓						1

<u>District of Residence</u>	<u>Type of Offence</u>	<u>Approved</u>	<u>Disapproved</u>	<u>Revoked</u>	<u>Ineligible</u>	<u>Not Applicable</u>	<u>Withdrawn by Applicant</u>	<u>Number of Automatic Expungement Applications Received</u>
Bodden Town	Assault causing Actual Bodily Harm				✓			1
West Bay	Common Assault	✓						1
Bodden Town	Multiple Minor Marijuana	✓						1
George Town	Theft				✓			1
George Town	Wounding					✓		1
Bodden Town	Taking conch above the prescribed daily limit	✓						1
George Town	Burglary				✓			1
George Town	Multiple Offences				✓			1
Overseas, Trinidad	Multiple Offences					✓		1
West Bay	Multiple Offences					✓		1
West Bay	Carrying an offensive weapon, Disorderly Conduct	✓						1
Bodden Town	Minor Marijuana	✓						1
Bodden Town	Failing to comply with an enforcement notice	✓						1
George Town	Evading Customs Duties				✓			1
George Town	Theft	✓						1
West Bay	Failing to Surrender				✓			1
North Side	Failing to surrender, Consumption of Ganja	✓						1
Bodden Town	False Accounting, Theft	✓						1
George Town	Multiple Failing to Surrender	✓						1
George Town	Damage to Property				✓			1
Bodden Town	Disorderly Conduct at a Police Station, Failing to Surrender				✓			1

<u>District of Residence</u>	<u>Type of Offence</u>	<u>Approved</u>	<u>Disapproved</u>	<u>Revoked</u>	<u>Ineligible</u>	<u>Not Applicable</u>	<u>Withdrawn by Applicant</u>	<u>Number of Automatic Expungement Applications Received</u>
George Town	Selling intoxicating liquor without a licence	✓						1
Bodden Town	Giving false name and address to a Police Officer	✓						1
George Town	Compounding of Offences				✓			1
Overseas, Jamaica	Importation of Cocaine				✓			1
Bodden Town	Robbery	✓						1
Bodden Town	Smuggling Contraband				✓			1
West Bay	Theft				✓			1
West Bay	Theft				✓			1
West Bay	Theft	✓						1
George Town	Possession of Ganja				✓			1
West Bay	Possession of Cocaine with intent to supply				✓			1
Bodden Town	Disorderly Conduct, Resisting arrest	✓						1
Bodden Town	Failing to surrender	✓						1
West Bay	Being concerned in the possession of cocaine with intent to supply	✓						1
Bodden Town	Multiple Offences				✓			1
North Side	Multiple Offences				✓			1
West Bay	Multiple Minor Marijuana, Failing to Surrender	✓						1
George Town	Possession of Cocaine	✓						1
George Town	Common Assault	✓						1
George Town	Disorderly Conduct	✓						1
West Bay	Taking a conveyance without authority	✓						1
West Bay	Making a false representation	✓						1

George Town	False Accounting, Obtaining Property by deception	✓						1
Total								50

Discussion

The Board received and processed a total of fifty-two (52) applications for Expungement. Twenty-nine (29) applicants was deemed “eligible” and the applications were therefore approved by the Board. Nineteen (19) applications did not meet the eligibility requirements set out in the Law to be considered, and were therefore deemed “ineligible” by the Board. Three (3) applications were considered “not applicable” for expungement, as the applicants convictions had already been spent under the previous Law, and one (1) application was withdrawn by the applicant.

Two (2) of the applications which were received were submitted for consideration in accordance with the provisions of section 15A(1) of the Law, in respect of convictions with sentences exceeding five years. The fifty (50) remaining applications fell within the category of section 15 of the Law, in respect of convictions with sentences not exceeding five years.

The Board

As prescribed in the Law, the membership of the Board may include individuals selected from the following categories:-

- Attorneys-at-law of at least five years' standing;
- Judges or retired judges;
- Magistrates;
- Persons interested in the rehabilitation of persons convicted of criminal offences
- Psychiatrists or psychologists;
- Social workers
- Members of the public, including justices of the peace, ministers of religion, etc.

The Governor appoints no more than five Members to the Board. The appointment of Members shall be for a period not exceeding three years and each member is eligible for reappointment. The Chairperson shall be an Attorney-at-law, a Judge or a Magistrate.

The Membership of the Expungement Board in the year under review is as follows:-

Mrs. Marilyn Brandt, Interim Chairperson

Pastor Alson Ebanks, Member

Ms. Kayleigh Wright, Member

Mr. Hugh Lockwood, Member



(Left to Right- Pastor Alson Ebanks, Mrs. Marilyn Brandt, Mrs. Kayleigh Wright and Mr. Hugh Lockwood)

