



2024 STUDIES: RECOMMENDATION AND POLICY OPTIONS

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Overview

- ▶ **Mary Jane Burton Case Review**
 - 1 recommendation

- ▶ **Automatic License Plate Recognition**
 - 1 policy option

- ▶ **Sealing of Criminal Records**
 - 1 policy option



Mary Jane Burton Case Review

- ▶ **Recommendation:** Enact budget language that creates a panel to review cases (~250) where MJB was the forensic examiner for:
 - Incarcerated individuals;
 - Executed individuals;
 - Exonerated individuals; and,
 - Any case where MJB testified.



Mary Jane Burton Case Review

- ▶ Panel members could include a Commonwealth's Attorney, Public Defender, Retired Circuit Court Judge, the Mid-Atlantic Innocence Project, and an Independent Serologist.
- ▶ The purpose of the panel would be to determine, if possible, whether MJB engaged in a pattern of misconduct.
- ▶ The findings of the panel would not be binding in any post-conviction proceedings.



Mary Jane Burton Case Review

- ▶ Crime Commission staff could assist in collecting information and facilitating panel meetings.
 - Collected information could be provided to attorneys who are representing or considering representing impacted individuals.
- ▶ Resources would be needed to support the work of the panel and test DNA evidence.



Automatic License Plate Recognition

- ▶ **Policy Option:** Enact legislation to regulate law enforcement use of ALPR that could include:
 1. Permissible uses by law enforcement;
 2. Data retention period;
 3. Prohibition on sale and restrictions on data sharing;
 4. Agency policy governing ALPR use;
 5. Report on ALPR use by agencies and VSP;
 6. Public posting of ALPR policies and reports;
 7. Generation of an audit trail;



Automatic License Plate Recognition

7. Routine updates to comparison databases (hot list);
8. Verification of an ALPR alert;
9. Criminal penalty, civil cause of action, or exclusion of evidence for misuse;
10. Prohibition on interfering with lawful activities or protected speech;
11. Vendor approval process;
12. Exemptions for non-criminal justice uses; and,
13. Permitting process to install ALPR devices on state highway right-of-ways.



Sealing of Criminal Records

- ▶ **Policy Option:** Enact legislation to address various issues related to sealing:
 1. Seal all possession of marijuana offenses;
 2. Prohibit the petition sealing of sex crimes, domestic partner crimes, stalking, violent felonies, and DUI maiming;
 3. Authorize the sealing of ancillary matters (suspended sentence and probation violations, failure to appear, bond appeals);



Sealing of Criminal Records

4. Begin the 7- and 10- year good behavior periods after the last founded probation or suspended sentence violation;
5. Limit sealing to VSP, courts, law enforcement, and DMV; and any other entities based on DCJS regulations;
6. Allow agencies to access sealed records for government functions, but prohibit public dissemination;
7. Require VSP to build a portal for agencies to check on sealing status before responding to FOIA requests;
8. Limit the VSP review of records for automatic sealing to an “electronic” review from October 1, 1975, forward;



Sealing of Criminal Records

9. Allow VSP to share sealed records for background checks on firearm purchases;
10. Direct VSP to provide a person's national criminal history record to consider for sealing petitions;
11. Create a new petition process for offenses eligible for automatic sealing that were not automatically sealed;
12. Move underage possession of alcohol and marijuana drug paraphernalia offenses into the new petition process;
13. Allow substantially similar offenses under Title 18.1 to be sealed under the current and new petition processes;



Sealing of Criminal Records

14. Create a program to provide pro bono counsel for sealing petitioners in lieu of court-appointed counsel, with the program to be funded in part by sealing filing fees;
15. Move the eligibility factors to file a sealing petition into the considerations as to whether to grant the petition;
16. Clarify that rulings on sealing petitions are to be appealed to the Court of Appeals;
17. Exempt the Library of Virginia from sealing or expunging records, but require a copy of the order to be retained;



Sealing of Criminal Records

18. Clarify that sealing does not restore civil or firearm rights;
19. Permit OES to share sealed records for administrative purposes (audits, collections, payment of counsel);
20. Require VSP, OES, and Clerks to provide sealing data to the Crime Commission;
21. Provide a plan to educate the public, practitioners, and stakeholders on sealing; and,
22. Notify business screening services of expunged records.



DISCUSSION