



SAN MATEO COUNTY LAW LIBRARY

RESEARCH GUIDE #2

EXPUNGING YOUR RECORD

This resource guide only provides guidance, and does not constitute legal advice. If you need legal advice you need to speak with an attorney. To find an attorney to assist you, you may contact the San Mateo County Lawyer Referral Service at (650) 369-4149.

WHAT IS AN EXPUNGEMENT?

Expungement is a method for clearing up your criminal record. This procedure reopens your criminal case, dismisses the conviction, and re-closes the case without a conviction.

WHAT TO DO:

NOTE: These instructions are for the most common cases, if you have a unique situation, we advise you to talk with an attorney.

STEP 1: Determine if You Are Eligible for an Expungement

To be eligible to expunge your conviction, you must meet all the following conditions:

1. Your conviction must meet the guidelines described in PC § 1203.4, PC § 1203.4a, PC §1203.41, PC § 17, or PC § 1203.49.
2. At least one year must have passed since your conviction.
3. You must have completed the terms of your sentence.
4. You cannot be serving a sentence for any offense, or be charged with the commission of any other offense.
5. Your probation for the conviction you're trying to expunge must not have been revoked, and not reinstated.
6. Deferred Entry of Judgment PC § 1203.43, Petitioner performed satisfactorily during the period in which deferred entry of judgement was granted and the criminal charges were dismissed under PC § 1000.3.

STEP 2: Obtain a Copy of Your Criminal Record (or Case Summary)

You will need a copy of your criminal record or case summary for each conviction you wish to expunge. The case summary for the San Mateo County can be retrieved from the Criminal Clerk office at the 4th floor of the Hall of Justice located at 400 County Center Redwood City, CA 94063.

If you have been convicted of a felony, please contact the Private Defender Program at (650) 298 4000 for fingerprinting related questions.

STEP 3: Complete the Required Forms

First, you need to learn how to read your criminal record or case summary. [See the sample at the end of this guide.](#)

The Judicial Council forms used in this procedure are:

1. [Petition for Dismissal \(CR-180\)](#)
When filling out this form, you need to write down ONLY the cases you were convicted for. If there is more than one conviction under a different case number, you need to fill out a separate CR-180 for each one of these different case numbers. [See the sample at the end of this guide.](#)
2. [Order for Dismissal \(CR -181\)](#)
When filling out this form, just complete it with your personal information at the top of the 2 pages and leave the rest blank. The judge will review this form after reviewing your petition. [See the sample at the end of this guide.](#)
3. [Attached Declaration \(MC-31\)](#) (*IGNORE if not provided with the packet.*)
When filling out this form, you are basically attaching a declaration stating why you want the expungement and explaining your situation in life. In this declaration, you may want to discuss:
 - Your plans for the future;
 - The reasons you offended, and how your life is different today than it was when you offended;
 - How the conviction has hurt your employment chances;
 - If you have received any training or education since your conviction;
 - Any occurrence in your life that changed how you interact with your community; and
 - Any 12-step or religious affiliations you have.[See the sample at the end of this guide.](#)
4. Proof of Service [CR-106](#) or [CR-106-Info](#).
When filling out one of these forms list the forms you are attaching and the information of the party (the District Attorney) to whom you are serving this document either by mail or personally. [See the sample at the end of this guide.](#)

STEP 4: FILE YOUR FORMS

Expungement forms are filed in the county where you were convicted. For the San Mateo County, these are filed at the Hall of Justice located at 400 County Center Redwood City, CA 94063 on the 4th Floor, criminal department. As of 01/01/22 the courts are no longer charging fees for expungement per PC1203.4, per new legislation AB 177. Make 1 copy of your forms.

- *In person*: bring 2 sets of the forms to the D.A. who will apply a stamp, and then, go to the clerk and file.
- *By mail*: send 1 copy of the forms to the clerk and 1 copy to the D.A.

AND, THAT SHOULD BE IT!

For most people, no court hearing will be scheduled. Instead, the petition is automatically granted as long as you have met all the requirements. Keep in mind that the turnaround for expungement is from 30 to 90 days.

After some time, you should receive a letter in the mail letting you know that your record has been expunged. If you are denied, don't worry, there is no limit to the number of times you can apply for expungement. You might have just caught the wrong person on the wrong day.

CASE SUMMARY

CASE NO.

The People of the State of California
vs.

§
§
§
§
§
§

Location: **Criminal**
Filed on: **12/26/2008**
District Attorney Number:
DMV Docket Number:

CASE INFORMATION

Offense/ Jurisdiction	Statute	Deg	Date	Case Type:
1. PC245(A)(1)-MISD-ASSAULT W/DEADLY WEAPON OTHER THAN FIREARM OR GBI FORCE Charge #: 001 Arrest: 12/24/2008	245(A)(1)	M	12/24/2008	Complaint
2. PC242-MISD-BATTERY Charge #: 002 Arrest: 12/24/2008	242	M	12/24/2008	
3. PC242-MISD-BATTERY Charge #: 003 Arrest: 12/24/2008	242	M	12/24/2008	

Arrest: 12/24/2008 SCPD - San Carlos Police Department

Arrest: 12/24/2008 SCPD - San Carlos Police Department

Arrest: 12/24/2008 SCPD - San Carlos Police Department

PC is the code and it means Penal Code

242 is the section of the code

M is the type of offense and it stands for Misdemeanor

Statistical Closures

01/09/2009 Conversion Closure (types except Other Felony Petition & HC)

DATE CASE ASSIGNMENT

Current Case Assignment

Case Number
Court Criminal
Date Assigned 12/26/2008

PARTY INFORMATION

Plaintiff The People of the State of California

Defendant

DATE EVENTS & ORDERS OF THE COURT INDEX

12/26/2008	Conversion Event FDCJR: AFFIDAVIT OF COSTS FOR CRIMINAL JUSTICE ADMINISTRATION FEE, RECEIVED.	
12/26/2008	Conversion Event SHRES: CASE SHIFTED FROM HEARING ON 12 26 2008 AT 1:30 P.M. IN DEPARTMENT 1C OF SUPERIOR COURT SOUTHERN BRANCH TO HEARING ON 12 26 2008 AT 1:30 P.M. IN DEPARTMENT 20 OF SUPERIOR COURT SOUTHERN BRANCH.	
12/26/2008	Conversion Event HHELD: HEARING HELD ON 12 26 08 AT 1:30 P.M. IN SUPERIOR COURT SOUTHERN BRANCH, D- 20. HON. JONATHAN E KARESH, JUDGE, PRESIDING. CLERK: SANDY HARRIS. REPORTER: JOAN WOODS. CLERK2: VILMA BURKHART. DEPUTY D.A. WADE. DEFENSE COUNSEL PRESENT: NONE.	
12/26/2008	Conversion Event	

CASE SUMMARY
CASE NO.

DEFENDANT MUST SURRENDER TO LOCAL LAW ENFORCEMENT OR SELL TO A LICENSED GUN DEALER ANY FIREARM OWNED OR SUBJECT TO HIS OR HER IMMEDIATE POSSESSION OR CONTROL WITHIN 24 HOURS AFTER SERVICE OF THIS ORDER AND MUST FILE A RECEIPT WITH THE COURT SHOWING COMPLIANCE WITH THIS ORDER WITHIN 48 HOURS OF RECEIVING THIS ORDER.

01/09/2009	<p>Conversion Event <i>MIORD:</i> <i>GOOD CAUSE APPEARING, THE COURT ORDERS THE ABOVE-NAMED DEFENDANT MUST NOT ATTEMPT TO OR ACTUALLY PREVENT OR DISSUADE ANY VICTIM OR WITNESS FROM ATTENDING A HEARING OR TESTIFYING OR MAKING A REPORT TO ANY LAW ENFORCEMENT AGENCY OR PERSON.</i></p>
01/09/2009	<p>Conversion Event <i>SEACP:</i> <i>DEFENDANT ACCEPTED TERMS AND CONDITIONS OF PROBATION.</i></p>
01/09/2009	<p>Conversion Event <i>MIASE:</i> <i>ALL SENTENCE ELEMENTS FOR THIS PROCEEDING ENTERED.</i></p>
01/09/2009	<p>Conversion Event <i>MIENT:</i> <i>ENTERED BY M.KING ON 01/09/2009.</i></p>
01/09/2009	<p>Disposition 1. PC245(A)(1)-MISD-ASSAULT W/DEADLY WEAPON OTHER THAN FIREARM OR GBI FORCE Dismissal: Negotiated Plea ← No need to expunge this charge because it was dismissed Charge #: 001 Allegation:</p>
01/09/2009	<p>Disposition 2. PC242-MISD-BATTERY ← This charge resulted in a conviction and need to be expunged Pled Nolo Contendere Charge #: 002 Allegation:</p>
01/09/2009	<p>Disposition 3. PC242-MISD-BATTERY ← This charge resulted in a conviction and need to be expunged Pled Nolo Contendere Charge #: 003 Allegation:</p>
01/09/2009	<p>Plea (Judicial Officer: SUPERIOR COURT JUDGE, SAN MATEO COUNTY) 2. PC242-MISD-BATTERY No Contest / Nolo Contendere Charge #: 002 Allegation:</p>
01/09/2009	<p>Plea (Judicial Officer: SUPERIOR COURT JUDGE, SAN MATEO COUNTY) 3. PC242-MISD-BATTERY No Contest / Nolo Contendere Charge #: 003 Allegation:</p>
01/13/2009	<p>Conversion Event <i>FDCII:</i> <i>CII FORWARDED TO ARRESTING AGENCY.</i></p>
01/13/2009	<p>Conversion Event <i>CJFNI:</i></p>

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NO. FOR COURT USE ONLY

NAME: **Your name and address**

FIRM NAME: **Your name and address**

STREET ADDRESS: **Your name and address**

CITY: STATE: ZIP CODE:

TELEPHONE NO.: FAX NO.:

E-MAIL ADDRESS: **In Pro Per (representing yourself)**

ATTORNEY FOR (name of client):

PEOPLE OF THE STATE OF CALIFORNIA

DEFENDANT: **Your name** DATE OF BIRTH: **Your birthdate**

PETITION FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, 1203.49)

DATE: **Your case number**

TIME: **Your case number**

DEPARTMENT: **Your case number**

1. On (date): **Date of conviction**, the petitioner (the defendant in the above-entitled criminal action) was convicted of a violation of the following offenses or was granted deferred entry of judgment for the following offenses:

Code	Section	Type of offense (felony, misdemeanor, or infraction):	Eligible for reduction to misdemeanor under Penal Code, § 17(b) (yes or no)	Eligible for reduction to infraction under Penal Code, § 17(d)(2) (yes or no)
PC	594	Misdemeanor	Yes (if could have been charged as misdemeanor)	
PC	459	Felony		

Code, Section & Type you were convicted on

If additional space is needed for listing offenses, use Attachment to Judicial Council Form (form MC-025).

2. Felony or misdemeanor with probation granted (Pen. Code, § 1203.4)
 Probation was granted on the terms and conditions stated in the docket of the above-entitled court; the petitioner is not serving a sentence for any offense, nor on probation for any offense, nor under charge of commission of any crime, and the petitioner (check all that apply)

a. has fulfilled the conditions of probation for the entire period thereof.

b. has been discharged from probation prior to the termination of the period thereof.

c. should be granted relief in the interests of justice. (Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below, or by attaching a letter or other relevant documents. If you need more space for your writing, you can use the Attached Declaration (form MC-031) and attach it to this petition.)

Check box a, b, or c depending on which best describes your situation.

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:

CASE NUMBER:

Your name here

Your case number

3. Misdemeanor or infraction with sentence other than probation (Pen. Code, § 1203.4a)

Probation was not granted; more than one year has elapsed since the date of pronouncement of judgment. Petitioner has complied with the sentence of the court and is not serving a sentence for any offense or under charge of commission of any crime; and the petitioner (check one):

has lived an honest and upright life since pronouncement of judgment and conformed to and obeyed the laws of the land; or

b. should be granted relief in the interests of justice. (Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use the Attached Declaration (form MC-031) and attach it to this petition.)

4. Misdemeanor conviction under Penal Code section 647(b) (Pen. Code, § 1203.49)

Petitioner has completed a term of probation for a conviction under Penal Code section 647(b) and should be granted relief because the petitioner can establish by clear and convincing evidence that the conviction was the result of his or her status as a victim of human trafficking.

(Please note: You may provide evidence that the conviction was the result of your status as a victim of human trafficking. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use the Attached Declaration (form MC-031) and attach it to this petition.)

For the most common cases, nothing needs to be selected here, only n. 2 on page 1.

5. Felony county jail sentence under Penal Code section 1170(h)(5) (Pen. Code, § 1203.41)

Petitioner is not under supervision under Penal Code section 1170(h)(5)(B); is not serving a sentence for, on probation for, or charged with the commission of any offense; and should be granted relief in the interests of justice, and (check one)

a. more than one year has elapsed since petitioner completed the felony county jail sentence with a period of mandatory supervision imposed under Penal Code section 1170(h)(5)(B); or

b. more than two years have elapsed since petitioner completed the felony county jail sentence without a period of mandatory supervision imposed under Penal Code section 1170(h)(5)(A).

(Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use the Attached Declaration (form MC-031) and attach it to this petition.)

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:

CASE NUMBER:

Your name here

Your case number

- 8. Felony prison sentence that would have been eligible for a felony county jail sentence after 2011 under Penal Code section 1170(h)(5) (Pen. Code, § 1203.42)

Petitioner is not under supervision and is not serving a sentence for, on probation for, or charged with the commission of any offense; more than two years have elapsed since petitioner completed the felony prison sentence; and petitioner should be granted relief in the interests of justice.

Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use the Attached Declaration (form MIC-031) and attach it to this petition.

For the most common cases, nothing needs to be selected here, only n.2 on page1.

- 7. Deferred entry of judgment (Pen. Code, § 1203.43)

Petitioner performed satisfactorily during the period in which deferred entry of judgment was granted. The criminal charge(s) were dismissed under former Penal Code section 1000.3 on (date): _____ . Furthermore (check one),

- a. court records are available showing the case resolution; or
- b. petitioner declares under penalty of perjury that the charges were dismissed after he or she completed the requirements for deferred entry of judgment. Petitioner (check one)
 - (1) has
 - (2) has not
 attached a copy of his or her state summary criminal history information.

- 8. Petitioner requests that the eligible felony offenses listed above be reduced to misdemeanors under Penal Code section 17(b) and eligible misdemeanor offenses be reduced to infractions under Penal Code section 17(d)(2).
- 9. Petitioner requests that he or she be permitted to withdraw the plea of guilty, or that the verdict or finding of guilt be set aside and a plea of not guilty be entered and the court dismiss this action under the Penal Code section(s) noted above.

Date, sign, and your address

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(SIGNATURE OF PETITIONER OR ATTORNEY)

(ADDRESS OF PETITIONER)

(CITY)

(STATE)

(ZIP CODE)

CR-181

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: Paul Sample FIRM NAME: STREET ADDRESS: 1234 Main Street CITY: Sacramento TELEPHONE NO.: 916-555-1423 E-MAIL ADDRESS: ATTORNEY FOR (name): In Pro</p>	<p style="text-align: center;">FOR COURT USE ONLY</p>
<p>STATE: CA ZIP CODE: 95814 FAX NO.:</p>	
<p>PEOPLE OF THE STATE OF DEFENDANT: Paul Sample</p>	<p>DATE OF BIRTH: 05/10/1975 CASE NUMBER: 05M012345</p>
<p>ORDER FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.43, 1203.49)</p>	

Your name, address, and phone number. "In Pro Per" means you are representing yourself.

Your name and birthdate

Case number for the conviction you're trying to expunge

The court finds from the records on file in this case, and from the foregoing petition, that the petitioner (the defendant in the above-entitled criminal action) is eligible for the following requested relief:

LEAVE THE REST OF THIS FORM BLANK!
The judge will complete this form after reviewing your petition.

- only the following convictions in the above-entitled action (specify charges and date of conviction):
2. The court **DENIES** the petition for reduction of a felony to a misdemeanor under Penal Code section 17(b) and/or for reduction of a misdemeanor to an infraction under Penal Code section 17(d)(2) for (check one)
- ALL FELONY CONVICTIONS in the above-entitled action.
 ALL MISDEMEANOR CONVICTIONS in the above-entitled action.
 Only the following convictions in the above-entitled action (specify charges and date of conviction):
3. The court **GRANTS** the petition for dismissal regarding the following convictions under Penal Code § 1203.4 § 1203.4a § 1203.41 § 1203.43 § 1203.49 and it is ordered that the pleas of guilty or nolo contendere, or verdicts or findings of guilt be set aside and vacated and a plea of not guilty be entered and that the complaint or information be, and is hereby, dismissed for (check one)
- ALL CONVICTIONS OR PLEAS FOR DEFERRED ENTRY OF JUDGMENT in the above-entitled action.
 only the following convictions or pleas for deferred entry of judgment in the above-entitled action (specify charges and date of conviction or plea for deferred entry of judgment):
4. The court **DENIES** the petition for dismissal under Penal Code § 1203.4 § 1203.4a § 1203.41 § 1203.43 § 1203.49 for (check one)
- ALL CONVICTIONS in the above-entitled action.
 only the following convictions or pleas for deferred entry judgment in the above-entitled action (specify charges and date of conviction or plea for deferred entry of judgment):

Your name

CR-181

PEOPLE OF THE STATE OF CALIFORNIA v DEFENDANT:
Paul Sample

CASE NUMBER:
05M012345

5. In granting this order under the provisions of Penal Code section 1203.49, the court finds that the defendant committed the crime of human trafficking when he or she committed the crime. The court orders (*check one*)

Your case number

- a. the relief described in section 1203.4.
- b. the relief described in section 1203.4., with the following exceptions (*specify*):

LEAVE THE REST OF THIS FORM BLANK!
The judge will complete this form after reviewing your petition.

Commission; and

- b. Dismissal of the conviction does not *automatically* relieve petitioner from the requirement to register as a sex offender. (See, e.g., Pen. Code, § 290.5.)

7. If the order is granted under the provisions of Penal Code section 1203.49, the Department of Justice is hereby notified that petitioner was a victim of human trafficking when he or she committed the crime, and of the relief ordered.

8. If the order is granted under the provisions of either Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.49, the petitioner is released from all penalties and disabilities resulting from the offense except as provided in Penal Code sections 29800 and 29900 (formerly sections 12021 and 12021.1) and Vehicle Code section 13555. In any subsequent prosecution of the petitioner for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The dismissal does not permit a person to own, possess, or have in his or her control a firearm if prevented by Penal Code sections 29800 or 29900 (formerly sections 12021 and 12021.1). Dismissal of a conviction does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

9. In addition, as required by Penal Code section 299(f), relief under Penal Code sections 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, or 1203.49 does *not* release petitioner from the separate administrative duty to provide specimens, samples, or print impressions under the DNA and Forensic Identification Database and Data Bank Act (Pen. Code, § 295 et seq.) if petitioner was found guilty by a trier of fact, not guilty by reason of insanity, or pled no contest to a qualifying offense as defined in Penal Code section 296(a).

FOR COURT USE ONLY

10. The basis for an order of dismissal granted under the provisions of Penal Code section 1203.43 is the invalidity of defendant's prior plea due to misinformation in Penal Code section 1000.4 regarding the actual consequences of making a plea and successful completion of a deferred entry of judgment program.

Date:

(JUDICIAL OFFICER)

OPTIONAL

MC-031

PLAINTIFF/PETITIONER: People of the State of California	CASE NUMBER: 05M012345
DEFENDANT/RESPONDENT: Paul Sample	

DECLARATION

Parties in the original case

to be attached to another form or court paper before

Case number for the conviction you're trying to expunge

At the time of my conviction in 2005, I was only 19 years old, I had dropped out of school and was not working. I had too much time on my hands and was hanging out with people who were a bad influence. This led me to getting in trouble.

After the birth of my daughter in 2007, I realized that I needed to get my life back on track, so that I could support her. With the help of my parents, I got my GED, and enrolled at UniTech to study Automotive Technology. I worked part time at an auto parts store while going to school part time, so I could support my daughter and help my parents with bills, since they were letting me stay with them. I finished my schooling in January 2011. Since then, I've been trying to find full time work as an Automotive Technician or Smog Technician, but am having a hard time. There are not a lot of jobs available right now, and having a conviction on my record puts me at a disadvantage against other applicants.

In your own words, tell the court why you want to expunge your conviction. Consider including information like:

- Your plans for the future;
- The reasons you offended, and how your life is different today than it was when you offended;
- How the conviction has hurt your employment chances;
- If you have received any training or education since your conviction;
- Any occurrence in your life that changed how you interact with your community; and
- Any 12-step or religious affiliations you have.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 6/22/2011

Print name, Sign and Date

Check "Defendant"

Paul Sample

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

- Attorney for Plaintiff Petitioner Defendant
 Respondent Other (Specify):

Form Approved for Optional Use
Judicial Council of California
MC-031 [Rev. July 1, 2005]

ATTACHED DECLARATION

Page 1 of 1

CR-106 Proof of Service-Criminal Record Clearing

Instructions

- Before using this form, read *Information on How to File a Proof of Service in Criminal Record Clearing Requests* (form CR-106-INFO).
- This form is only for providing proof that a document or form was served (delivered) in a case requesting that a court review a criminal record for dismissal, vacatur, resentencing, reduction, sealing, or other **record clearing remedy**.
- The person who serves (delivers) a document or form in this case and who fills out this form must be at least 18 years old.
- This form is for proof of service by mail or personal delivery. For proof of electronic service, use *Proof of Electronic Service* (form POS-050/EFS-050).
- A completed form should be filed with the court. Keep a copy of this form for your records.

Clerk stamps date here when form is filed.

San Mateo
400 County Center
Redwood City, CA 94063
Southern Branch

Fill in court name and street address:

Superior Court of California, County of

CASE NUMBER HERE

Fill in criminal case number and case name:

Case Number:

Case Name:
People of the State of California
v.

1 At the time I served the document or form listed below, I was at least 18 years old.

YOUR ADDRESS HERE

2 My home business address is:

Street City State Zip

3 I mailed or personally delivered the following document or form (fill in the name of the document you are serving and complete 4 or 5):

PETITION FOR DISMISSAL
ORDER FOR DISMISSAL

YOUR NAME HERE

4 Service by mail

IF SERVED BY MAIL COMPLETE HERE

(a) I put one copy of the document or form in an envelope addressed to each agency (and person, if applicable) listed below, sealed the envelope, and put first-class postage on the envelope.

(b) The envelope or envelopes were addressed as follows:

(1) Name of agency served (and person, if applicable): DISTRICT ATTORNEY
Address on envelope: 400 COUNTY CENTER REDWOOD CITY CA 94063

Street City State Zip

(2) Name of agency served (and person, if applicable):
Address on envelope:

Street City State Zip

Check here if you mailed copies of the document or form to more people or agencies. Attach a separate page listing the names and addresses on each additional envelope you mailed. Write "CR-106, Item 4" on the top of the page.

PUT DATE, CITY, AND STATE HERE

(c) I mailed the envelope or envelopes on (date): from (city): (state):

- (1) With the U.S. Postal Service.
- (2) At an office or business mail drop where I know the mail is picked up every day and deposited with the U.S. Postal Service.

CHECK WHICH ONE APPLIES: 1 OR 2

IF SERVED IN PERSON COMPLETE HERE

Case Number: _____

5 Service by Personal Delivery



YOUR CASE NUMBER HERE

I personally gave one copy of the document or form to each of the following:

(a) Name of person and agency served: **DISTRICT ATTORNEY**

(1) Address where you gave the document or form to this person:

400 COUNTY CENTER REDWOOD CITY CA 94063
Street City State Zip

(2) Date when you gave the document or form to this person: **PUT DATE OF SERVICE HERE**

(3) Time when you gave the document or form to this person: **PUT TIME OF SERVICE HERE**

(b) Name of person and agency served:

(1) Address where you gave the document or form to this person:

Street City State Zip

(2) Date when you gave the document or form to this person:

(3) Time when you gave the document or form to this person:

Check here if you gave copies of the document or form to more people. Attach a separate page listing the names of each of these people, the address where you gave each of them the document or form, and the date and time you gave them the document or form. Write "CR-106, Item 5" on the top of the page.

6 I declare under penalty of perjury under California state law that the information above is true and correct.

PUT DATE HERE

Date: _____

PRINT YOUR NAME HERE

Type or print server's name

SIGN HERE

Server signs here after serving

CR-106-INFO Information on How to File a Proof of Service in Criminal Record Clearing Requests

1 What does this information sheet cover?

This information sheet tells you how to use and fill out *Proof of Service—Criminal Record Clearing* form CR-106. This information sheet does not need to be copied, served (delivered), or filed.

2 What is proof of service?

- A “proof of service” is a form used in legal cases.
- If you want a judge to look at your case, you or someone who is helping you has to file certain documents in court.
- You also have to give or mail copies of those documents to the other party in the case, usually the prosecutor.
- The proof of service has spaces for you or someone who is helping you to write in when, where, and how the other party got the documents.
- Once the proof of service is filled out and filed with the court, it shows the court that the other party got the documents.

3 What is record clearing?

- Record clearing is a process that allows you to ask a court to improve your criminal record.
- For example, a court may be able to change some convictions from felonies to misdemeanors.
- You can start the process of record clearing by filing certain documents or forms called “applications,” “petitions,” or “motions.”

4 Who do I need to serve when I ask a court to clear my criminal record?

Most record clearing laws say you have to let the prosecuting agency (usually the district attorney) know about the record clearing request. Sometimes you also have to let law enforcement (like the police or sheriff) or other parties know about your request. You can do so by “serving” (delivering) a copy of the papers you filed with the court on the prosecuting agency or other parties. Read the record clearing law you are basing your request on carefully to see who needs to know about your record clearing request. Those are the parties who must be served.

5 Why do I need to file a proof of service?

Filing a proof of service shows the court that you have let the other parties know about the record clearing request by giving them a copy of the document or form you are using to make a record clearing request to the court.

6 When can I use *Proof of Service—Criminal Record Clearing* (form CR-106)?

Proof of Service—Criminal Record Clearing (form CR-106) is intended to be widely used with **any** record clearing request that requires notification or service of the request to the prosecuting agency and other parties, such as the following optional Judicial Council forms for record clearing:

- *Petition for Dismissal* (form CR-180), dismissals under Penal Code sections 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, and 1203.49, and reductions under Penal Code sections 17(b) and 17(d)(2)
- *Petition for Dismissal (Military Personnel)* (form CR-183), dismissals under Penal Code section 1170.9(h), and reductions under Penal Code section 17(b)
- *Motion to Vacate Conviction or Sentence* (form CR-187), vacating convictions under Penal Code sections 1016.5 and 1473.7
- *Petition/Application (Health and Safety Code, § 11361.8)* (form CR-400), relief under Proposition 64 for specified marijuana-related convictions
- *Petition/Application for Resentencing and Dismissal* (form CR-404), resentencing and dismissal under Penal Code section 1170.22
- *Petition to Seal Arrest and Related Records* (form CR-409), sealing under Penal Code section 851.91
- *Petition for Resentencing Based on Health Conditions From Military Service Listed in Penal Code Section 1170.91(b)* (form CR-412/MIL-412)
- *Petition for Writ of Habeas Corpus* (form HC-001)



7 Who can serve the petition or motion?

- In most cases, the law allows you (the person who is filing the record clearing request) to serve the document or form.
- You can also ask someone else to serve the document or form.
- The person who serves a document or form for record clearing and fills out the *Proof of Service-Criminal Record Clearing* (form CR-106) must be at least 18 years old.
- Read the record clearing law you are basing your request on carefully to see if it sets any other requirements for who can serve the request.

8 When are the other parties served, and when do I file a proof of service?

- **Ask the court clerk if any local filing rules apply.**
- In most cases, the other parties should be served *after* the original document or form is filed with the court. That way, the court may add helpful information to the document or form, such as a hearing date.
- Some courts require that the document or form is first served on the other parties, and then the original document or form is filed with the court, along with a completed and signed proof of service.
- When you file the document or form with the court, take the original plus at least two copies of your documents.
 - The court will keep the original.
 - The clerk will stamp your copies “Filed” and return them to you. Keep one copy for your records.
 - The other parties can be served with a copy of your court-stamped document or form, and then you should file the proof of service with the court after the parties are served.

9 How should the petition or motion be served?

There are three main ways to serve documents: by **mail**, **personal delivery**, or **electronic service**. *Proof of Service—Criminal Record Clearing* (form CR-106) can be used to prove service by mail or personal delivery.

If serving electronically:

- Do not use *Proof of Service-Criminal Record Clearing* (form CR-106).
- Carefully read and follow the requirements in California Rules of Court, [rule 2.251](#), and use *Proof of Electronic Service* (form POS-050/EFS-050).

If someone else is serving documents on your behalf, make sure to provide them with the name of the agency that must be served (for example, San Francisco County District Attorney), the agency's address, and a copy of the document or form.

If serving by mail:

- The server should put one copy of the document or form in an envelope addressed to the agency, seal the envelope, and place first-class postage on the envelope; and
- The server should mail the document or form by depositing the envelope at a post office or mailbox or by depositing the envelope at an office or business mail drop where the server knows mail is picked up every day by the postal service.

If serving by personal delivery:

- The server should give the document or form to a person with the agency and note the name of the person, as well as the address, date, and time of the service.

Once the document or form has been served on the other parties by mail or personal delivery, the server should fill out and sign the proof of service form.

10 What do I do with *Proof of Service—Criminal Record Clearing* (form CR-106) once it is filled out?

You should file a completed proof of service with the court where you filed your document or form. Ask the court clerk if any local filing rules apply.