

DEALING WITH CRIMINAL RECORDS IN ALAMEDA COUNTY (ATTORNEY MANUAL)



DECRIMINALIZATION OF POVERTY PRACTICE

EAST BAY COMMUNITY LAW CENTER

3130 Shattuck Avenue, Berkeley, CA 94705 Tel: (510) 548-4040 Fax: (510) 548-2566

Rvsd. 03/30/05

Rap Sheets	5
"RAP SHEET" EXPLAINED	5
WHO CAN VIEW A RAP SHEET	7
IMPORTANCE OF REVIEWING RAP SHEETS.....	8
HOW TO OBTAIN COPIES OF CRIMINAL AND JUVENILE RAP SHEETS	8
HOW TO READ A RAP SHEET	10
WHAT TO LOOK FOR ON A RAP SHEET.....	10
JUVENILE RECORDS	11
Cleaning Up Rap Sheets.....	12
HOW TO CORRECT MISTAKES.....	12
PROCESSES FOR CLEANING UP A RAP SHEET.....	13
Expungement (set aside of the "guilty" verdict and a dismissal of the conviction)	
.....	14
WHAT CAN BE EXPUNGED THROUGH A MANDATORY OR DISCRETIONARY PETITION	14
WHO CAN SEE "EXPUNGED" CASES.....	15
HOW TO EXPUNGE RECORDS IN ALAMEDA COUNTY	16
Reducing a Felony to a Misdemeanor.....	18
Sealing.....	19
ARRESTS NOT LEADING TO CONVICTIONS	19
HOW TO SEAL RECORDS OF ARRESTS NOT LEADING TO CONVICTIONS	19
JUVENILE WARD OF THE COURT ORDERS	20
WHO CAN PETITION TO SEAL A JUVENILE RECORD.....	20
ONE CANNOT PETITION IF	20
IMPACT IF COURT GRANTS PETITION TO SEAL JUVENILE RECORDS.....	21
BENEFITS OF HAVING RECORDS SEALED	21
LIMITATION ON IMPACT OF SEALING RECORDS	21
HOW TO SEAL JUVENILE WARD OF THE COURT CASES.....	21
HOW TO SEAL JUVENILE ARREST RECORDS WHEN FACTUALLY INNOCENT AND NO JUVENILE HEARING	22
SUCCESSFULLY COMPLETED DRUG DIVERSION CASES.....	22
WHO CAN SEE "SEALED" CASES	22
Purging	24
CASES THAT CAN BE PURGED	24
WHO CAN VIEW PURGED CASES	24
HOW TO PURGE RECORDS.....	24
Expunging, Sealing, and Purging "Q and A"s.....	26
INFORMATION TO WHICH AN EMPLOYER IS (OR IS NOT) ENTITLED REGARDING EXPUNGED, SEALED, OR PURGED RECORDS	27
Certificates of Rehabilitation and Pardons.....	28
CERTIFICATES OF REHABILITATION.....	28
STATUTORY BARS TO EMPLOYMENT.....	28
WHO CAN APPLY.....	29
WHEN AND WHERE ONE CAN APPLY	29
HOW TO APPLY FOR A CERTIFICATE OF REHABILITATION.....	30

PARDONS.....	30
GROUND FOR RECEIVING A PARDON.....	31
REVIEW PROCESS.....	31
Questions and Answers Regarding Criminal Records and Public Assistance, Benefits and Student Loans	32
Q: HOW DOES THE HOUSING AUTHORITY CONSIDER CRIMINAL RECORDS IN DETERMINING ELIGIBILITY?	32
Q and A Regarding Adoptive and Foster Parents and Criminal Records	34
Voting Rights and Criminal Records.....	35
Immigration Effects of a Criminal Conviction.....	35
NON-CITIZENS SHOULD PETITION FOR EXPUNGEMENT IF:	36
CHECKLIST FOR NON-CITIZENS WITH A CRIMINAL HISTORY:.....	36
EXAMPLES OF DEPORTABLE CRIMINAL CONVICTIONS	39
Criminal Records and Employment	40
WHAT INFORMATION MUST BE DISCLOSED IF ASKED BY EMPLOYERS.....	40
PRIVATE EMPLOYERS (THAT ARE NOT HEALTH CARE FACILITIES, SCHOOLS, FINANCIAL INSTITUTIONS, AND OTHER “SPECIAL” EMPLOYERS):.....	40
“SPECIAL EMPLOYERS” – SCHOOLS, HEALTHCARE FACILITIES, ELDERCARE FACILITIES, CHILDCARE FACILITIES, FINANCIAL INSTITUTIONS, ETC.....	40
LICENSING AND CERTIFICATION BOARDS.....	41
PUBLIC/GOVERNMENT EMPLOYERS	41
HOW TO LIST CONVICTIONS.....	41
COMMON QUESTIONS ON JOB APPLICATIONS AND APPROPRIATE RESPONSES	42
Eligibility Chart	43
Chart Showing Effects of Remedies	44
Appendices	
APPENDIX A – DOJ RAP SHEET	45
APPENDIX B – ALAMEDA COUNTY RAP SHEET	55
APPENDIX C – CLAIM OF ALLEDGED INACCURATELY OR INCOMPLETENESS	60
APPENDIX D – RAP SHEET REQUEST FORM	61
APPENDIX E – RAP SHEET FEE WAIVER APPLICATION	62
APPENDIX F – 1203.4 PETITION	63
APPENDIX G – 1203.4A PETITION.....	64
APPENDIX H – SAMPLE MEMORANDUM IN SUPPORT OF 1203.4 PETITION.....	65
APPENDIX I – SAMPLE DECLARATION IN SUPPORT OF 1203.4 PETITION	67
APPENDIX J – SAMPLE LETTER OF SUPPORT.....	69
APPENDIX K – PETITION: REDUCTION OF FELONY TO MISDEMEANOR;	70
MEMORANDUM IN SUPPORT OF 17 (B) PETITION.....	71
APPENDIX L – 851.8 PETITION: SEAL AND DESTROY ARREST RECORDS	76
APPENDIX M – 851.90 ORDER TO SEAL ARREST AND COURT RECORDS.....	77
APPENDIX N – CERTIFICATE OF REHABILITATION	78
APPENDIX O – FBI REQUEST FOR IDENTIFICATION RECORDS	79

Questions to ask the client:

- ☐ **Do you have a criminal record? If so, how many convictions?**
- ☐ **Do you have a copy of your “rap sheet”?**
- ☐ **Have you ever been arrested? If so, how many times?**
- ☐ **Are currently on probation?**
- ☐ **Are you currently on parole?**
- ☐ **Did you successfully complete probation without violating terms (no new arrests)?**
- ☐ **Did you successfully complete probation without violating terms (no new arrests)?**
- ☐ **Have you paid all fines, fees, and restitution?**
- ☐ **Are you currently charged with an offense?**
- ☐ **Are you currently engaged in civil litigation arising from a criminal conviction?**
- ☐ **Were you sentenced to state prison on any convictions (even if you never served time in state prison, i.e., did you get a “paper commitment” (sentence imposed but suspended) to state prison?**
- ☐ **Have you ever been arrested but had no conviction arise from the arrest (and you are factually innocent of what you were arrested for)?**
- ☐ **Have you recently filled out a job application and been asked the question: “Have you ever been convicted of a crime?”**

Dealing with Criminal Records in Alameda County

Foreword

“Dealing with Criminal Records in Alameda County” has been assembled by staff of the Decriminalization of Poverty Practice at the East Bay Community Law Center (with invaluable assistance from the Legal Action Center).

LEGAL DISCLAIMER

The purpose of this manual is to help attorneys and service providers assist people in understanding and addressing their criminal history records. No legal advice is being given and no attorney-client relationship created. While certain federal statutes or other laws may be discussed, the laws of each state and often each municipality vary and each may have its own procedures and time limitations, which must be followed. You are not to rely on any information provided herein in assessing your legal rights in a particular situation but instead must consult your own attorney. The East Bay Community Law Center (EBCLC) shall not be liable for any information provided herein.

The information in this manual has been prepared for general informational purposes only, does not constitute legal advice, and is presented without any representation or warranty whatsoever, including as to the accuracy or completeness of the information. EBCLC is not responsible for any errors or omissions or for the results obtained from the use of such legal or other information. Users of information from this manual do so at their own risk.

No one should, or is entitled to, rely in any manner on any of the information from this manual. Parties seeking advice should consult with legal counsel familiar with their particular circumstances. EBCLC will not be liable for any direct, indirect, consequential, special, exemplary or other damages arising from any information available in or from this manual.

Rap Sheets

“Rap Sheet” Explained

If a person has ever been arrested in California and fingerprinted, that person has a California “rap sheet,” which is a record of arrest, conviction, and disposition history. The California Department of Justice (DOJ) in Sacramento maintains rap sheets. The DOJ keeps track of arrests (anytime a person is fingerprinted by law enforcement) in California only; federal arrests and arrests from other states do not appear on a California rap sheet. State and local juvenile and criminal courts also send information to the DOJ. After a case is adjudicated (decided), the court contacts the DOJ to report the outcome, or “disposition.” Some common dispositions include “NOT CONVICTED,” “DISMISSED,” “ACQUITTED,” and “CONVICTED.”¹ The Federal Bureau of Investigation (FBI) keeps a comprehensive list of a person’s nationwide arrests, both state and federal, and the DOJ record has a notation of the person’s FBI computer code number.

A **conviction** is generally a guilty plea or a court’s finding of guilt for a “crime” or an “offense.” Criminal convictions are determined by both the disposition of the case and the classification of the offense (infraction, felony, or misdemeanor). For example, if a person received a deferred entry of judgment based upon a guilty plea and successfully completed probation, the guilty plea is not considered a conviction.

A person can have a conviction even though the person never served time in jail. Court decrees of probation, fines, community service, or conditional sentences are all convictions. The disposition entry on a rap sheet contains information about the type of offense for which the person was convicted. The following types of offenses may appear:

1. **Infraction²:** A non-criminal case for which the penalty may consist of a fine but not imprisonment. Although most infractions are traffic-related, some common non-traffic infractions include a first conviction for loitering in a transit facility and a first conviction for trespass. Conviction for an infraction does not constitute a criminal conviction but rather an “offense.”
2. **Misdemeanor³:** A criminal offense that may result in a fine and a maximum of six months’ imprisonment in county jail, unless a particular statute specifies a different punishment (misdemeanors often carry imprisonment up to one year). Common misdemeanors include possession of small amounts of marijuana, disorderly conduct, and misdemeanor assault. Conviction for a misdemeanor offense is considered a criminal conviction.
3. **Felony⁴:** A serious criminal offense punishable by a sentence of imprisonment in state prison for more than six months or death. Some common felony charges are: possession with intent to sell controlled substances, burglary, robbery, arson, carjacking, felony driving under the influence with bodily injury to another person, and felony assault. Conviction for a felony is a criminal conviction.

¹ CAL. PENAL CODE § 13125 (2005).

² CAL. PENAL CODE §§ 19.6, 602.8 (2005); CAL. PUB. UTIL. CODE § 120451 (2005); *People v. Sava*, 190 Cal.App. 3d 935, 939 (1987).

³ CAL. PENAL CODE §§ 19, 647 (2005); CAL. HEALTH & SAFETY CODE § 11357 (2005).

⁴ CAL. PENAL CODE §§ 17, 241, 12021.1 (2005); CAL. HEALTH & SAFETY CODE § 11351 (2005); CAL. VEH. CODE § 23153 (2005).

4. **“Wobbler”⁵**: A criminal offense is a wobbler if the specific crime can be classified as either a misdemeanor or a felony, thus “wobbling” between the two categories. To determine this, check the code section to see if the offense can result in a state prison sentence OR a sentence of county jail/fine/probation; this is a wobbler. Common wobblers include driving under the influence, battery with serious bodily injury, petty theft (after previously serving time for anything), simple grand theft, and receiving stolen property. Conviction for a wobbler is a criminal conviction.
5. The following are other **special dispositions** that may appear on a rap sheet:
- a. **Deferred Entry of Judgment⁶**: When a person is charged with certain drug offenses and meets certain criteria, such as having no prior convictions for offenses involving controlled substances and having the charged offense not involving violence, the person may be eligible, with the agreement of the prosecutor, for a deferred entry of judgment. If the person pleads guilty and waives the right to a speedy trial, the court defers judgment and sentences the person to probation or treatment. For juveniles, a judge may grant a deferred entry of judgment if the minor admitted the act for which he/she was arrested and was placed on probation.⁷ For both juveniles and adults, upon successful completion of probation or treatment, the guilty plea/admission does not constitute a conviction.
 - b. **Vacating or Setting Aside a Guilty Plea or Verdict⁸**: The court may “set aside” or vacate a guilty plea or verdict after a successful appeal, upon fulfillment of all probation conditions, or whenever justice requires. This procedure enables the person to apply for a Certificate of Rehabilitation, pardon, and expungement. However, the guilty plea or verdict is still considered a conviction and must be disclosed on applications for public employment, public office, or occupational licensure.
 - c. **Pre-plea Drug Diversion⁹**: Criminal proceedings are adjourned while the person participates in a program involving counseling, drug testing, education, and possibly other conditions. The criminal charges are dismissed upon successful completion of the program. However, the charges will be reinstated if the court finds any one of the following:
 - unsatisfactory performance in the program;
 - lack of benefit gained from the program; or
 - continued criminal activity.

If criminal charges are reinstated, this kind of disposition may result in a conviction. However, upon successful completion of a pre-plea drug diversion program and a dismissal of charges, except regarding applications for law enforcement jobs, the person may indicate that he or she was not arrested or granted diversion.

⁵ CAL. PENAL CODE §§ 243, 489, 490, 496, 666 (2005); CAL. VEH. CODE § 23152 (2005).

⁶ CAL. PENAL CODE §§ 1000, 1000.1 (2005).

⁷ WELF. & INST. CODE § 793 (2005).

⁸ CAL. PENAL CODE § 1203.4 (2005).

⁹ CAL. PENAL CODE §§ 1000.4-1000.5 (2005).

- d. **Conditional Sentence**¹⁰: Upon satisfying certain conditions, such as attending an alcohol or drug treatment program, the person is discharged and not required to serve jail time. However, the guilty plea or verdict is considered a conviction and must be revealed on job applications and in employment interviews.

Another entry that may appear on a rap sheet is a “bench warrant.” If a person fails to appear for an assigned court date and a bench warrant is issued for the person’s arrest, the court informs the DOJ. The warrant is added to the person’s record and will appear on his or her rap sheet.

Who Can View a Rap Sheet

Five categories of people and agencies are allowed to see rap sheets:

1. **Criminal justice and law enforcement agencies** - Police departments, courts, prosecutors and defense attorneys, parole and probation departments, and corrections officials can review rap sheets, including juvenile ward of the court adjudications, “expunged” cases, and, sometimes, “sealed” information.
2. **Private and public employers** - Most employers **do not** have the right to see rap sheets. However, California law allows certain employers to obtain copies of rap sheets when making hiring decisions. Any employer who uses fingerprinting as part of the hiring process will likely send fingerprints to the DOJ to obtain rap sheets. A partial list of California employers allowed to request rap sheets includes:
 - a. Nuclear power plants and public utilities;¹¹
 - b. Certain positions with supervision over minors;¹²
 - c. Security organizations;¹³
 - d. Financial institutions, such as banks and brokerage houses;¹⁴
 - e. Child day care facilities;¹⁵ and
 - f. Private schools.¹⁶

Most public employers can request copies of rap sheets. These employers include: local, state, and federal government agencies such as police and fire departments; the California Department of Corrections; local boards of education, and the United States Postal Service.¹⁷

3. **Occupational licensing agencies** - A state or municipal license is required for hundreds of jobs (including barber, real estate broker, doctor, nurse, and taxi driver). Often, the agency that issues an occupational license requires applicants to show that they possess “good moral

¹⁰ CAL. PENAL CODE §§ 1000.4-1000.5 (2005).

¹¹ CAL. PENAL CODE §§ 11105(c)(1) and 13300(b) (2005).

¹² CAL. PENAL CODE § 11105.3 (2005).

¹³ CAL. PENAL CODE § 11105.4 (2005).

¹⁴ CAL. FIN. CODE § 777.5 (2005).

¹⁵ CAL. HEALTH & SAFETY CODE § 1596.871 (2005).

¹⁶ CAL. EDUC. CODE § 44237 (2005).

¹⁷ CAL. PENAL CODE §§ 11105, 13300 (2005); CAL. EDUC. CODE § 44332.6 (2005).

character” before a license will be granted. For a few licenses, ex-offenders are barred from even applying. Therefore, some occupational licensing agencies will check DOJ files upon application for a license.¹⁸

4. **Bail bonds agencies** – Licensed bail bonds agencies may request rap sheets of their clients, and of people for whom bail has been forfeited or bench warrants issued.¹⁹
5. **Personal** - Individuals have the right to see their own rap sheets.²⁰

Importance of Reviewing Rap Sheets

There are three good reasons for obtaining and reviewing rap sheets:

1. **Checking for mistakes** - Rap sheets are often incomplete or contain mistakes that can make it harder to get jobs. For example, if a person was adjudicated a ward of the court as a juvenile, information concerning the adjudication can often be sealed. Once sealed, the information is confidential and should not be sent to an employer. Sometimes, however, due to clerical error, the ward of the court order remains on the rap sheet after sealing, and information that should have been confidential is sent to any employer authorized to see the rap sheet. (See Appendix C for correction request, p. 60.)
2. **The individual may not remember everything** - California law permits employers to ask job applicants about some aspects of their criminal history. Untruthful or incomplete answers can lead to negative job repercussions. Because arrests and convictions may have occurred many years before, individuals may not remember all the information. Also, court proceedings can be very confusing, and a person may not have fully understood the outcome of a case. For example, a person may have pled guilty to misdemeanor charges and received a conditional sentence, meaning that he or she did not have to pay a fine or serve time in jail. Despite no penalty, this criminal conviction must be disclosed if a job application asks about criminal convictions.
3. **Job interview preparation** - Many employers and licensing agencies have legal access to rap sheets; other employers may obtain them unlawfully. Still others may ask job applicants to list criminal convictions. An individual’s review of his or her record allows for development of strategies to address concerns about convictions. For example, a person whose record reveals a conviction for a drug-related charge can prepare to talk about this issue, perhaps presenting the employer with a letter from a drug treatment program showing rehabilitation and recovery.

How to Obtain Copies of Criminal and Juvenile Rap Sheets

- **ALAMEDA COUNTY**- For Alameda County records only (if the person knows there are no arrests or convictions outside the county), he or she may obtain a copy of the rap sheet from:
 - Alameda County Sheriff’s Department - There is a twenty-five dollar (\$25) fee; a personal appearance is required; the person will be fingerprinted and identify verified. The process takes about an hour.

¹⁸ CAL. PENAL CODE §§ 11105, 13300 (2005).

¹⁹ CAL. PENAL CODE §11105.6 (2005).

²⁰ CAL. PENAL CODE § 11105(b)(11) (2005).

Alameda County Sheriff's Department
15001 Foothill Boulevard (at 150th Street)
San Leandro, CA 94578-1092
Phone: (510) 667-3190

Criminal records may also be obtained through:

- The parole officer (if on formal probation or parole, if recently released);
- The former defense lawyer (if conviction was within the last several years);
- The Criminal or Juvenile Court Clerk office (at the court from which the conviction arose), where one can request information about convictions or record; however, he or she cannot obtain the printed rap sheet from the court.

- **CALIFORNIA** - Individuals are entitled to obtain a copy of their California rap sheets from the California Department of Justice.²¹ When contacting the DOJ, the client should request a form called "Application to Obtain Copy of State Summary Criminal History Record," an application for fee waiver and a fingerprint card, if he or she wants to reduce the cost for ordering (otherwise the person will be sent a Livescan (digital) fingerprint form, which costs \$25-75 to process). To waive the fee, he or she will need to get ink fingerprints at a local print/passport photo shop, police station, etc.). **CALL AHEAD TO FIND OUT THE COST AND ELIGIBILITY.** The process takes up to six weeks.

Attn: Record Review Unit
California Department of Justice
P.O. Box 903417
Sacramento, CA 94203-4170
(916) 227-3835

For DOJ Application, see Appendix D, p. 61; for Fee Waiver, see Appendix E, p. 62.

- **NATIONWIDE** - To obtain a copy of federal rap sheets (federal arrests and convictions; also records from all fifty states) from the FBI, individuals must write to:

U.S. Department of Justice
Federal Bureau of Investigation
1000 Custer Hollow Road
Clarksburg, WV 26306

The letter to the FBI should state that the person is requesting his/her criminal history or "rap sheet" under the Freedom of Information Act, and must include name, address, date of birth, place of birth, and a complete set of fingerprints. If the person can pay the \$18 fee for the FBI record, he or she should enclose a certified check or money order payable to the "U.S. Treasurer," the fee will be waived if the person sends a notarized letter explaining that he or she cannot pay the fee. The process takes up to six weeks. **For FBI Application, see Appendix O, p. 79.**

WARNING: Outstanding arrest warrants should be cleared up before contacting agencies for rap sheets. Individuals who believe that there may be an outstanding warrant should be advised to contact an attorney or call the local public defender.

²¹ CAL. PENAL CODE § 11105(b)(11) (2005).

How to Read a Rap Sheet

1. The rap sheet is divided into five vertical columns.
2. The left column contains the date of arrest.
3. The second column lists the arresting agency.
4. The arrested person's name appears in the third column.
5. The fourth column contains the charge(s) on which the person was arraigned. The charges are summarized by a phrase (for example, "NARC CONT SUB FOR SALE," which means "narcotic controlled substance for sale"). This column also lists the corresponding citation in the California Penal Code (in this example, PC 220.21) and sometimes the category of the offense (felony, misdemeanor, or violation). The number of counts is included, along with the notation "ATTEMPTED" if the offense was not completed.
6. The fifth column is the most important section. It ***should*** indicate the correct outcome or disposition of the charge(s). A complete disposition entry contains the date the case was heard, the name of the court, the index or docket number under which the case is filed, and the outcome of the case (for example, guilty plea entered, convicted after a trial, or acquitted). If there was a conviction, the disposition column should also report the type of sentence or fine received. If the person was issued a Certificate of Rehabilitation, that should be indicated in this column.

See sample DOJ and Alameda County Rap Sheets, Appendices A and B, 45-59.

What to Look for on a Rap Sheet

First, review it for mistakes. Here are some things to watch out for:

- **Incomplete entries** - Rap sheets often report arrests without stating the final disposition, displaying, "no disposition reported" because no one informed the DOJ. This type of omission is especially damaging because those viewing the record might assume there is an open arrest warrant, or that the individual was found guilty of the original arrest charges, when there may have been an acquittal or lesser conviction.
- **Incorrect entries** - Simple clerical errors with penal code numbers can result in, for example, a conviction for Burglary (section 461 of the California Penal Code) instead of Assembly for the Purpose of Disturbing the Peace (section 416 of the Penal Code).
- **Double entries** - Sometimes information about one arrest will be split into two or more separate entries, thus making a criminal record look longer and more serious.
- **Purging** - Some cases that can be purged should be purged automatically. (Cases that can be expunged or sealed under California law are not altered or erased automatically.)

Juvenile Records

In California, a person less than eighteen years old is not criminally responsible for his or her conduct (except in the two situations below). Minors who engage in conduct that would otherwise result in criminal prosecution are processed in the Juvenile Court. Those who are found to have violated the law are adjudicated wards of the juvenile court.²²

Juveniles may be transferred to criminal court in two instances. First, a minor sixteen years of age or older who is found an unfit subject for the juvenile court may be transferred for adult criminal prosecution.²³ Second, individuals fourteen years of age or older who have committed murder or a violent sexual offense are required to be prosecuted as adults in criminal court.²⁴

Records from both Juvenile Court and Criminal Court are forwarded to the DOJ and will appear on a DOJ rap sheet unless the case is sealed. Juvenile ward of the court adjudications can likely be sealed, whereas criminal court convictions can only be “expunged” (conviction dismissed).

²² CAL. WELF. & INST. CODE §§ 203, 604, 731 (2005).

²³ CAL. WELF. & INST. CODE §§ 707, 707.1 (2005).

²⁴ CAL. WELF. & INST. CODE §§ 602(b) (2005).

Cleaning Up Rap Sheets

How to Correct Mistakes

The DOJ will correct most mistakes on rap sheets given satisfactory proof that the rap sheet is incorrect. Most mistakes can be fixed easily, without the help of an attorney. However, the process takes some time. Procedurally, an individual should do the following:

1. **Get an abstract of the judgment** for the case from the court where the case was heard. An abstract is an official court record of the case that contains the docket number, arrest charges, disposition (dismissal, acquittal, or conviction), and disposition date. The abstract should have the correct information. The abstract of the judgment is official **only** if it has the raised court seal.
2. **Contact the court clerk in the court where the case was heard.** The second column of the rap sheet indicates the county where the arrest occurred. Most non-traffic infractions, misdemeanors, and felonies are heard by that county's superior court. The quickest way to get the abstract is to go in person to the clerk's office. Abstracts are also available by written request to the clerk's office, but it may take several months. For a list of addresses of all the superior courts in California, go to <http://www.courtinfo.ca.gov/courts/trial/courtlist.htm>.
3. The court clerk (whether by mail or in person) will require the individual's name and the approximate date that the case was heard; in addition, any aliases, date of arrest, and the case docket number will expedite the process. The total charge is \$13 (\$7 for the abstracts and \$6 for the seal); the court may waive the fee if the individual is financially eligible.
4. **Send the original copy of the abstract and a completed "Claim of Alleged Inaccuracy or Incompleteness" form to the DOJ (see Appendix C, p. 60)** – Together with the rap sheet, the DOJ will give the individual a "Claim of Alleged Inaccuracy or Incompleteness" form, which is used to explain why the individual thinks there is a mistake on the rap sheet and to request that the DOJ correct the mistake. A letter to the DOJ is also sufficient.
 - Whether by claim form or letter, the individual should explain when and where he or she saw a copy of the criminal record. Reference to the person's "CII" or California identification number can expedite the process.
 - The individual should provide an abstract of each judgment showing each mistake. Other documentation may be required, such as a court order demonstrating that a case has been sealed. All supporting documents sent to the DOJ must be originals or certified copies. If mailing an original, the individual should photocopy it for his or her personal records before sending it to the DOJ, which will not return the original abstract.
 - The record should be corrected within sixty days. The DOJ will send a letter notification that the record has been corrected. To be certain, one should request another copy of the rap sheet from the DOJ.
 - If the DOJ's investigation reveals the information on the rap sheet as correct and refuses to change the entry, the individual must contact the original "contributing agency" that sent the information to the DOJ (i.e., local law enforcement officer, court clerk,

corrections official). If the agency notifies the DOJ of an error, DOJ staff will initiate an audit and deal directly with the contributing agency to correct the report. The time necessary to complete this process varies.

Processes for Cleaning Up A Rap Sheet

There are six processes for cleaning up a California rap sheet: expunging, sealing, purging, reducing a felony to a misdemeanor, obtaining a certificate of rehabilitation, and obtaining a governor's pardon. "Sealed" or "purged" cases can be erased from the record; however, California "expunged" cases, as well as cases that have been granted a certificate of rehabilitation and/or pardon, remain on the record.

Most of the processes are handled in the county where the arrest or conviction occurred; therefore, if a person has multiple statewide arrests or convictions, multiple petitions must be filed at each separate county court. The exceptions are applications for certificates of rehabilitation and pardons, for which petitioners apply in their county of residence. The following sections discuss each remedy in detail.

Expungement (set aside of the “guilty” verdict and a dismissal of the conviction)

Expungement is a limited remedy that does not erase a case from the record, but rather results in a notation to a rap sheet indicating that the conviction has been “dismissed [in] furtherance of justice (DISM, FURTH OF JUST)” OR “dismissed pursuant to PC 1203.4.” California law allows the courts and the DOJ to expunge most convictions of a juvenile following criminal prosecution, most adult misdemeanor convictions, and many felony convictions. Although these records cannot be sealed,²⁵ expungement allows individuals to reply “no” on most private employment applications that ask whether they have been convicted; however, a person would still have to disclose prior convictions to government employers. A dismissal conviction can also enable a person to apply for a Certificate of Rehabilitation and pardons. Expungement dismissals can also lift bars on licensing or certification for jobs and businesses; individuals should contact the specific licensing/certification board for information.

For Alameda County PC § 1203.4 and § 1203.4(a) Petitions and supporting documents, see Appendices F-J, p. 63-69

What Can Be Expunged Through a Mandatory or Discretionary Petition

MANDATORY PETITIONS – Individuals are eligible for a mandatory dismissal of the conviction (“expungement”) if:

1. The petitioner was convicted of **any sentence other than state or federal prison** (regardless of whether time was served), i.e. the petitioner was convicted for a misdemeanor or felony but was given probation, a fine, time in county jail, or no sentence;
2. The conviction was **not** for an infraction;
3. The conviction was **not** for a serious sex offense (Penal Code Sections 286, 288, 288a, 288.5, 289, or felony 261.5) (crimes against a minor or felony rape);²⁶ or failing to obey a police officer;²⁷
4. The petitioner has paid off all fines, fees, and restitution;
5. The petitioner successfully and entirely completed all terms of probation for the conviction (i.e., no new arrests during probationary period);
6. The petitioner is not on probation or parole for any offense in any county;
7. The petitioner does not have pending charges against them anywhere.

DISCRETIONARY PETITIONS – Of the requirements above, if numbers 4-7 are not met, a person can nonetheless petition for a discretionary dismissal of the conviction through Penal Code

²⁵ CAL. PENAL CODE §§ 1203.3, 1203.4, 1203.4a (2005).

²⁶ CAL. PENAL CODE § 1203.4 (2005).

²⁷ CAL. VEHICLE CODE §42001 (2005).

Sections 1203.4 and 1203.4(a). The court can grant the petition “in the interest of justice.”²⁸ However, the petitioner must demonstrate a **very compelling** reason for the court to use its discretion to grant the petition.

What does an “expungement” do?

- Depending upon the charge, one can answer “no” on job applications that ask if the applicant has any convictions
- An “expungement” can help with job licensing and certification
- An “expungement” can help with housing applications
- If the person was ineligible for federal student loans because of drug convictions, he or she would be eligible after an “expungement”

What does an “expungement” NOT do?

- If the person catches another criminal charge, the expunged record still counts as a prior and,
- If the expunged record was a “strike” it still could count as a strike
- If the person could not possess a firearm because of record, he or she still cannot
- If the person had to register as a sex offender, he or she still has to register despite an expungement
- If the person’s driver’s license was suspended, it is still suspended, despite the expungement

Who Can See “Expunged” Cases

Anyone with access to rap sheets can view expunged cases; expungement does not erase the conviction. Under California law, an individual must disclose these convictions on job applications and in interviews on the following types of applications:

- Law enforcement;²⁹
- Health care facilities where the position requires patient contact or access to medication (for certain types of convictions);³⁰
- Financial institutions;³¹
- Public employment;
- Public office; and
- Occupational licenses.³²

²⁸ CAL. PEN. CODE §1203.4, §(a) (2005).

²⁹ CAL. LAB. CODE § 432.7(b) (2005).

³⁰ CAL. LAB. CODE § 432.7(f) (2005).

³¹ CAL. FIN. CODE § 777.5 (2005).

³² CAL. PENAL CODE §1203.4 (2005).

The United States Department of Homeland Security (formerly Immigration and Naturalization Service) also has access to expunged cases.³³

How to Expunge Records in Alameda County

1. **Determine if Expungement Dismissal is Mandatory or Discretionary**³⁴

- **Mandatory Petition** - A petition for an Expungement Dismissal is mandatory for an individual with a conviction NOT resulting in a prison sentence (or other excluded offenses listed above) if he or she has:
 - a. successfully completed probation (there must be no re-arrests or failures to obey terms of probation, even if there were no resulting probation violations); OR, if probation is not a part of the individual's sentence, it has been one year from the completion of his or her sentence;
 - b. paid off fines, fees, and restitution;
 - c. no current charges pending and is not on probation or parole for another offense in any county.
- **Discretionary Petition** - A petition for a Expungement Dismissal is discretionary and can be granted "in the interest of justice" even if the individual is:
 - a. Still on probation, or is simultaneously petitioning for early termination of probation,³⁵
 - b. Not successfully and completely released from probation. Even if a person was rearrested or reconvicted during the time of probation (or the one-year period following the sentence, for those not given probation), he or she can still apply for a 1203.4 petition "in the interest of justice." However, the petition should be accompanied with supporting documentation to justify the petition being granted.

2. **Filing Mandatory Petitions**

- **Misdemeanor convictions:** Go to the Criminal Court Clerk in the court where the conviction arose (for Oakland, Berkeley, Emeryville, Albany convictions, go to Wiley W. Manuel Court – 661 Washington St., in Oakland).
- **Non-wobbler felony convictions:** Go to the Criminal Court Clerk in the court where the conviction arose (for Oakland, Berkeley, Emeryville, Albany convictions, go to Renee C. Davidson Court – 1225 Fallon St., in Oakland).
- **Wobbler felony convictions (not resulting in prison sentence):** Petitioner or attorney should go to the Criminal Court Clerk in the court where the conviction arose (for Oakland, Berkeley, Emeryville, Albany convictions, go to Renee C. Davidson Court – 1225 Fallon St., in Oakland).

³³ 8 U.S.C.A. § 1101 et seq. (2005).

³⁴ CAL. PENAL CODE §§ 1203.3, 1203.4, 1203.4a (2005).

³⁵ CAL. PENAL CODE §1203.3

- a. Ask the clerk for a 1203.4 petition (or 1203.4(a) if no probation was ordered); the clerk will check computer records for information needed for form petition (case #, date of conviction, sentence, PFN, CII, CEN, etc.).
- b. If multiple convictions or multiple counties, individuals should obtain a copy of the DOJ rap sheet to determine eligibility for various petitions and prepare them ahead of time, with legal assistance.
- c. Once the petition is filled out and signed, the court clerk will set a court date for approximately three weeks after filing.
- d. Confirm that the court clerk will serve the petition on the District Attorney prior to the court date.
- e. The petitioner or his/her attorney needs to appear at the at the court date. At the court appearance, the court must grant the petition; it will send confirmation to the petitioner within several weeks.
- f. The court will forward the information to the Department of Justice and other law enforcement agencies; the records should be corrected within several months.
- g. After 3-4 months, one should confirm with the DOJ that the records were corrected. If the records were NOT corrected, the DOJ has a process for correcting the records. (See Claim of Alleged Inaccuracy or Incompleteness Form, Appendix C, p. 60)

3. **Filing Discretionary Petitions**

- a. Go to the Criminal Court Clerk in the court where the conviction arose (for Oakland, Berkeley, Emeryville, Albany convictions, go to Wiley W. Manuel Court – 661 Washington St., in Oakland).
- b. For any discretionary petition, a petitioner should seek assistance from an attorney. Whether proceeding *in pro per* or represented, the petitioner should submit additional documentation with the petition, including:
 - A declaration (sworn statement) letting the court know how “rehabilitation” has been achieved, i.e.: what was going on at the time of the conviction(s), what has changed – treatment program, school, new family, found religion, etc.), aspirations for future, and how granting of the petition will aid in reaching this goal;
 - Letter(s) of support from pastor, rabbi, priest, employer, neighbor, sponsor, etc. to serve as a character reference and emphasize the importance of granting the motion.
 - Any certificates, degrees, or other proof of completion of training program or treatment program (or anything else of which the petitioner is proud – high GPA, etc.).
- c. Ask the clerk for a 1203.4 petition; the clerk will check computer records for information needed for form petition (case #, date of conviction, sentence, PFN, CII, CEN, etc.).

- d. Once the petition is filled out and signed, the court clerk will set a court date for approximately three weeks after filing.
- e. Confirm that the court clerk will serve the petition on the District Attorney prior to the court date.
- f. The petitioner or his/her attorney needs to appear at the at the court date. At the court appearance, if the court grants the petition, it will send confirmation to the petitioner within several weeks.
- g. The court will forward the information to the Department of Justice and other law enforcement agencies; the records should be corrected within several months.
- h. After 3-4 months, one should confirm with the DOJ that the records were corrected. If the records were NOT corrected, the DOJ has a process for correcting the records. **(See Appendix I for Sample Declaration, pp. 67-68.)**

Reducing a Felony to a Misdemeanor

A criminal offense is a wobbler if the specific crime can be classified as either a misdemeanor or a felony, thus “wobbling” between the two categories. To determine this, check the code section to see if the offense can result in a state prison sentence OR a sentence of county jail/fine/probation; this is a wobbler. Common wobblers include driving under the influence, battery with serious bodily injury, petty theft (after previously serving time for anything), simple grand theft, and receiving stolen property. Conviction for a wobbler is a criminal conviction.

For wobblers, the petitioner should file both a petition to reduce the offense to a misdemeanor (PC §17(b)) and to dismiss the conviction (PC §1203.4). The petition to reduce a felony to a misdemeanor is discretionary and should be accompanied by both a declaration from the petitioner and a memorandum of points and authorities regarding the law, unless there is a plea agreement (or plea transcript) in the court file reflecting a prior agreement between the prosecutor and defense attorney stating that a 17(b) motion would subsequently be granted, i.e., after successful completion of probation. In those cases, the proof of a plea agreement, along with the petition, will suffice. **(For Alameda County PC § 1203.4 and § 1203.4(a) Petitions and supporting documents, see Appendices F-J, p. 63-69; for 17(b) Petition and Memorandum in Support, see Appendix K, pp. 70-75.)**

Sealing

There are three types of cases that can be sealed: (1) arrests that did not lead to conviction,³⁶ (2) juvenile ward of the court orders,³⁷ and (3) upon successful completion of drug diversion.³⁸

Having a case sealed means that criminal history record information is removed from the version of the rap sheet that is sent to employers and others. However, although sealed records are physically destroyed in most circumstances, the records remain in a confidential file in the DOJ computer and can be released in limited circumstances.

Arrests Not Leading to Convictions

Arrests not leading to convictions (on any charges relating to the incident) can be sealed if the following are true:

- **Factual Innocence** – The person has proof of factual innocence of the charges for which he or she was arrested. While this standard seems impossibly high, it is entirely dependent on circumstances. A person's sworn testimony of innocence is proof. Therefore, if the client seems reliable and would provide good testimony of innocence (through a declaration and court testimony), the petition may prevail. Moreover, information in police reports and court records provides critical information for determining the strength of a case.
- **No Probable Cause For Arrest** – Again, this is a high burden. However, it can be overcome through client testimony and/or weaknesses and defects in police reports and court records.
- **Less Than Two Years Has Passed Since the Arrest,**
 - OR the petitioner has a valid reason for not requesting to seal the arrest record earlier AND the prosecutor is not prejudiced by the delay (i.e., the files have not yet been destroyed).

Sealing is not available for arrests leading to infractions or for arrests leading to enrollment in drug diversion programs.

See Appendix L for 851.8 Petition, p. 76.

How to Seal Records of Arrests Not Leading to Convictions

1. Prepare PC §851.8 Form Petition, available from Criminal Court clerk
2. Prepare any supporting documents – declaration of innocence, letters of support, and any other relevant documents (i.e., importance of petition being granted for job, licensing, etc.)

³⁶ CAL. PENAL CODE § 851.8 (2005)

³⁷ CAL. WELF. & INST. CODE § 781 (2005)

³⁸ CAL. PENAL CODE § 851.9 (2005)

3. The petition must first be served on the relevant law enforcement agency—the police or sheriff's department that made the arrest. If the agency grants the petition, there is no need to file with the court. The record of arrest will be sealed and later (after three years) destroyed; the law enforcement agency will correct the record to reflect NO record of arrest.
4. If the petition is NOT granted by the law enforcement agency (or it does not respond within a reasonable time), then it must be submitted to the court. If there was a denial, this should be submitted to the court, as well as any supporting documents.
5. The District Attorney must be served with the petition and any additional documents (at least ten days prior to the scheduled hearing).

Juvenile Ward of the Court Orders

Without an application to seal records, juvenile court files are destroyed five years after sealing if the juvenile committed a “status” offense (offense due to the individual's age, i.e., curfew violation or truancy) and are destroyed on the individual's 38th birthday if for certain other offenses; records for certain violent or sex offenses will not be destroyed.

Who Can Petition to Seal a Juvenile Record

- A person with a juvenile ward of the court record who has reached the age of 18 years and/or;
- Any person for whom five years or more has passed since the termination of juvenile probation, last arrest, or last case was closed;
- A probation officer may petition on behalf of a qualifying youth.

One Cannot Petition If...

- Convicted of certain violent or sex offenses (707(b) offenses) when 14 or older;³⁹
- The conviction was for traffic violations or offenses, to which insurance companies have access for the purpose of setting rates;
- The case was transferred from juvenile court and resulted in an adult criminal conviction;⁴⁰
- The conviction was for a felony or misdemeanor of moral turpitude (crimes that violate “accepted moral standards”) after a release from probation;⁴¹
- The individual has an open civil suit regarding the actions that caused the juvenile record;

³⁹ Offenses listed in Welfare and Institutions Code 707 (b) are: murder, arson, robbery, rape with force or violence, sodomy by force or violence, lewd or lascivious acts, oral copulation by force or violence, kidnapping for ransom or robbery or with bodily harm, attempted murder, assault with a firearm or destructive device or by any means of force likely to produce great bodily injury, discharge of a firearm into an inhabited or occupied building, physical crimes against the elderly, felony weapons charges, interference with justice, synthetic drug manufacture or sale, escape by force or violence from juvenile incarceration where great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape, torture, aggravated mayhem, armed carjacking, allowing a passenger to carry a firearm in a car, and voluntary manslaughter.

⁴⁰ CAL. WELF. & INST. CODE § 707.1 (2005).

⁴¹ CAL. WELF. & INST. CODE § 781 (2005).

- The individual is currently on probation;
- The individual has an adult record;
- The individual has a suspended/revoked driver's license (Alameda County).

Impact if Court Grants Petition to Seal Juvenile Records

If a juvenile record-sealing petition is granted, records are sealed at all state and local agencies. By law, a petitioner can legally answer in the negative all questions (i.e. on job applications) about incidents that were sealed. It is as if the incident did not happen

Benefits of Having Records Sealed

- Individual has driving privileges and rights restored.
- Individual's employment opportunities improve. Because juvenile ward of the court orders are NOT convictions, a person can already answer "no" on private employment applications; however, once a record is sealed, the person can also answer "no" to questions from public employers (unless the employer has access to FBI records).
- Individual regains access to many professional licenses.
- Possible immigration benefits for non-citizens.
- Police cannot use priors to enhance any future charge.
- Individual no longer has to register as an offender.

Limitation on Impact of Sealing Records

- For purposes of law enforcement jobs or any other position in which a federal background check is required, youth will need to acknowledge juvenile offenses.
- FBI background records are not sealed

How to Seal Juvenile Ward of the Court Cases

One may petition to have these juvenile records sealed five years after the disposition of the case, or upon reaching age eighteen (whichever comes first).

1. **Call the juvenile court clerk, juvenile probation department, or juvenile public defender, and request a "Petition to Seal Juvenile Records."** Ask what the procedure is for getting juvenile records sealed in that court.
2. **Prepare a petition to "seal juvenile records"** for each case desired to be sealed.
3. **Return the original completed form to the court clerk's office.** An application fee ranging from \$75 to \$120 must be submitted, unless the county allows fee waivers. In Alameda County, the application is free unless the youth needs to seal non-felony traffic violations, which require a \$50 fee. If the youth is eligible, the probation office will prepare a petition and conduct an

investigation, which sometimes involves interviewing the youth; it will then submit the petition to the court. A hearing date will be set after the form is processed; Alameda takes about six weeks). A court appearance is not required in most cases. However, the petitioner may want to attend the hearing and be ready to explain why the record should be sealed in case the probation department objects to the petition. Usually the hearing is a formality and does not require representation by a lawyer. If the sealing petition is approved, the court will send an order to the DOJ to remove the records from the petitioner's rap sheet. Most records will be destroyed five years after being sealed. However, a copy of sealed records remains indefinitely in the DOJ computer.

4. **Phone Numbers:** Alameda County Probation Department Record Sealing Unit, (510) 667-4480 or 618-1918; Alameda County Juvenile Court Clerk's Office, (510) 667-4910; Alameda County Public Defender's Office, (510) 268-7474 (Oakland), (510) 670-5086 (Hayward).

How to Seal Juvenile Arrest Records When Factually Innocent and No Juvenile Hearing⁴²

- Request in writing that the records be destroyed.
- The police department, probation office, and District Attorney will then determine whether the youth is "factually innocent"; they have sixty days to do so.
- If the request is approved, the records are sealed for three years and then destroyed. The individual is also entitled to a written declaration of factual innocence of the charges. The individual has a right to request a hearing if denied.

Successfully Completed Drug Diversion Cases

Under a recent change in the California Penal Code,⁴³ a person can now petition to have a record of successful completion of drug diversion sealed (not merely dismissed). A simple sealing can take up to six months to complete. A successful petition means that a person does not have to disclose the information to any employers (with the exception of law enforcement jobs). Moreover, the record can only be unsealed except for law enforcement purposes (it could be disclosed to the DA, etc. if the person were to re-offend). **(For 851.90 Order, see Appendix M, p. 77.)**

To qualify, the following must be true:

- The petitioner was convicted of a misdemeanor or felony nonviolent drug offense and sentenced under Proposition 36 or Deferred Entry of Judgment; AND
- She or he successfully completed the drug program sentenced by the court and paid any fines, fees, and restitution.

Who Can See "Sealed" Cases

Sealed information for arrests that did not lead to conviction or juvenile ward of the court orders remains available in three situations:

⁴² WELF. & INST. § 781.5 (2005).

⁴³ CAL. PEN. CODE § 851.90 (2005).

- **Certain employers**, such as law enforcement and health care facilities (if the position requires access to patients or medication) may inquire about sealed information.⁴⁴
- The **Department of Motor Vehicles** has access to sealed juvenile records to determine insurance rates.⁴⁵
- Other agencies may inquire about sealed juvenile records under the “**three strikes**” law if the individual was adjudicated a ward of the juvenile court when he or she was sixteen years of age or older for a felony or other serious offense and was later charged with a felony.⁴⁶

⁴⁴ CAL. LAB. CODE § 432.7 (2005).

⁴⁵ CAL. WELF. & INST. CODE § 781(c)(1) (2005).

⁴⁶ CAL. PENAL CODE § 667(d)(3) (2005).

Purging

Cases that can be purged are limited to certain marijuana arrests and convictions.⁴⁷ A record that is purged cannot be released under any circumstance. Since July 2000, the DOJ purges only certain marijuana arrest and conviction records.⁴⁸ When a case is purged, all criminal history information is removed from the version of the rap sheet that is sent to employers and others. All records (fingerprints, photographs, court records, etc.) are permanently destroyed.

Cases that Can Be Purged

Certain minor marijuana offenses can be purged. If one was arrested for or convicted of the following offenses after January 1, 1976, the records are automatically purged two years after the arrest or conviction.⁴⁹

- Possession of “not more than 28.5 grams of marijuana”,⁵⁰ or
- Unauthorized transportation, sale, or giving away (including attempt) of “not more than 28.5 grams of marijuana.”⁵¹

If one was arrested for or convicted of the offenses listed below **before** January 1, 1976, one must apply to have the records purged because they will not be purged automatically:

- Possession of “not more than 28.5 grams of marijuana”,⁵²
- Unlawful possession of marijuana paraphernalia,⁵³
- Unlawful presence in a place where marijuana is being used;⁵⁴ or
- Unlawfully being under the influence of marijuana.⁵⁵

Who Can View Purged Cases

No one can see a purged case. Once a case is purged, all references to the purged information are removed from the petitioner’s rap sheet, and all records are destroyed.

How to Purge Records

To have pre-1976 marijuana records purged:

⁴⁷ CAL. HEALTH & SAFETY CODE § 11361.5 (2005).

⁴⁸ Before July 2000, one could petition to purge an entire DOJ record if one had only misdemeanor convictions and at least 10 years had passed since the last conviction.

⁴⁹ Juvenile records, however, are retained until the individual reaches age eighteen.

⁵⁰ CAL. HEALTH & SAFETY CODE §§ 11357, 11361.5 (2005).

⁵¹ CAL. HEALTH & SAFETY CODE §§ 11360-11361.5 (2005).

⁵² CAL. HEALTH & SAFETY CODE §§ 11357, 11361.5 (2005).

⁵³ CAL. HEALTH & SAFETY CODE §§ 11361.5, 11364 (2005).

⁵⁴ CAL. HEALTH & SAFETY CODE §§ 11361.5, 11365 (2005).

⁵⁵ CAL. HEALTH & SAFETY CODE §§ 11361.5, 11550 (2005).

- **Complete an “Application to Destroy Arrest/Conviction Records” form (see Appendix L, p. 76).**
- **Submit the completed form and \$37.50 fee to the DOJ** (see address below). Money orders, certified checks, and cashier’s checks made payable to the “Department of Justice” will be accepted.

California Department of Justice
Bureau of Criminal Identification and Information
P.O. Box 903417
Sacramento, CA 94203-4170

- **The petitioner may be required to submit a fingerprint** if the DOJ cannot identify the petitioner based upon the information in the application. To enable processing of your application, the DOJ gives the option of voluntarily submitting a fingerprint

Expunging, Sealing, and Purging “Q and A”s

Q: What is the Procedure for Incarcerated Person Who Cannot Appear in Court?

A: Courts that require petitioners to appear in person to present expungement or sealing petitions will usually waive that requirement if the petitioner is incarcerated. The petitioner can mail the petition to the court clerk and enclose a letter of explanation. The petitioner should also tell the clerk that a copy of the petition forms has been mailed to the district attorney. Petition papers should be sent by certified mail, return receipt requested. This same explanatory cover letter may be used for an expungement petition or application to purge records.

Q: What are the Timelines for Expungement, Sealing, and Purging Records?

A: It can take up to four months to expunge or seal records. The DOJ generally processes within two months a request to have a marijuana record purged.

Q: How Does One Confirm That the Expungement, Sealing, or Purging is Reflected in the Record?

A: The easiest way to check whether records have been expunged, sealed, or purged by the DOJ is to request a second copy of one's rap sheet. A case has been officially expunged if the notation "DISM, FURTH OF JUST" appears in the fourth column under conviction information. Successfully sealed or purged cases will no longer appear on the rap sheet.

Q: What is the Procedure if Expunged, Sealed, or Purged Cases Remain Unchanged on the Rap Sheet?

A: If the case was expunged or sealed, one should contact the court clerk's office and ask the clerk to send a second sealing order to the DOJ; wait four months, then request another copy of the record and look for either the "DISM, FURTH OF JUST" notation (if the case was expunged), or the deletion of the record (if the case was sealed). If the case was purged, contact the DOJ and advise it that the purged record(s) still appears on the rap sheet. Wait at least two months for the record to be corrected before requesting another copy to review for deletion of the purged record.

See Appendix C for Claim of Alleged Inaccuracy or Incompleteness, p. 60.

Q: What is the Procedure for Sealing Cases on FBI Rap Sheets?

A: When the DOJ seals an arrest record, it notifies the FBI that the arrest should be purged from the FBI file. The only way to ensure that the FBI record is cleaned up is to send for another copy of it. If a case that is sealed on a DOJ rap sheet appears on an FBI rap sheet, or if there is another error, the petitioner should contact the DOJ and ask to speak to the DOJ/FBI liaison.

Q: Can a Federal Arrest or Conviction Record Be Expunged, Sealed or Purged?

A: The bad news: Generally, there is NO EXPUNGEMENT PROCESS FOR FEDERAL CRIMINAL CONVICTIONS. There is one exception, expungement is available for one very-limited

circumstance: a simple drug possession case where the defendant has no prior convictions for drug possession, was given probation only, and successfully completed probation.⁵⁶ There is some authority that courts retain the equitable power to order an expungement, but only in extreme circumstances, such as with respect to an illegal conviction, a conviction under a statute later deemed unconstitutional, or a conviction that was obtained by way of governmental misconduct.

Information to which an Employer Is (or Is Not) Entitled Regarding Expunged, Sealed, or Purged Records

One does not have to disclose information about expunged, sealed, or purged records to most employers. However, one must reveal one's entire criminal history in applications for law enforcement employment. Health care facilities may also ask about certain expunged and sealed records; for example, if the position requires access to patients, the facility may inquire regarding certain sex crimes; if the position requires access to medication, the facility may inquire regarding certain drug offenses.⁵⁷ Expunged records must also be revealed in applications for public office, public employment, and occupational licenses.⁵⁸

However, "expunged" records are not sealed or destroyed; therefore, even private employers or private investigators may access court and arrest records. Therefore, it is up to the individual to decide how to address the issue: whether to disclose the prior "expunged" conviction and explain that it has been dismissed, or to exercise his or her right not to disclose to private employers.

⁵⁶ 18 USC § 3607 (2005).

⁵⁷ CAL. LAB CODE § 432.7 (2005).

⁵⁸ CAL. PENAL CODE § 1203.4 (2005).

Certificates of Rehabilitation and Pardons

Certificates of Rehabilitation

For convictions that resulted in a state prison sentence, the only remedy available is a Certificate of Rehabilitation⁵⁹ (and/or Pardon). A Certificate of Rehabilitation certifies that the court believes that an individual has been rehabilitated. Employers can learn about an individual's misdemeanor and felony convictions; however, one can lessen the impact of these convictions.

This certificate can help a person who is looking for work or applying for an occupational license. A certificate, however, does not completely protect an individual from being denied a job or license because of a criminal record. It does not erase the record of the conviction. If asked, one must list convictions on job applications; these records will show up in a background check. If granted, a Certificate of Rehabilitation serves as an application for a Governor's Pardon (one of the two ways to apply for a pardon, described below).

Statutory Bars to Employment

Individuals with convictions are prohibited from holding certain jobs in California. However, with a Certificate of Rehabilitation, instead of being automatically disqualified for a particular job or license because of a conviction, one must be considered for the position.⁶⁰ Some bars will apply unless the petitioner obtains **both** a certificate and a pardon.

Some occupations with statutory bars are law enforcement jobs (police and court officers), notary public positions, and public officers. Statutory bars usually apply to convictions for sex or drug offenses, or serious or violent felonies; people with certain misdemeanor convictions are also barred. Private elementary and high schools are prohibited from hiring unlicensed individuals with a serious or violent felony conviction for positions having contact with students.⁶¹ In addition, California law prohibits individuals with specific convictions from holding certain licenses for:

- Temporary and permanent public school teaching credentials;⁶²
- Home health care;⁶³
- Intermediate health care;⁶⁴ and
- Nursing for the developmentally disabled.⁶⁵

The state will also deny licensure to specific entities if the entities hire individuals convicted of certain crimes, unless the entity is granted an exemption, as is the case with:

- Pharmacies;⁶⁶
- Residential elderly care facilities;⁶⁷ and

⁵⁹ CAL. PENAL CODE §§ 4852.01 et seq. (2005).

⁶⁰ CAL. LABOR CODE § 26 (2005).

⁶¹ CAL. EDUC. CODE § 44237 (2005).

⁶² CAL. EDUC. CODE §§ 44332.6, 44346 (2005).

⁶³ CAL. HEALTH & SAFETY CODE § 1736.5 (2005).

⁶⁴ CAL. HEALTH & SAFETY CODE § 1265.5 (2005).

⁶⁵ CAL. HEALTH & SAFETY CODE § 1265.5 (2005).

⁶⁶ CAL. HEALTH & SAFETY CODE § 11106 (2005).

⁶⁷ CAL. HEALTH & SAFETY CODE § 1569.17 (2005).

- Child day care centers.⁶⁸

To investigate whether a particular job has a statutory bar, one can contact the licensing agency directly or the Attorney General at:

State of California
Office of the Attorney General
Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550

Who Can Apply

One may apply for a Certificate of Rehabilitation if the person has been:

1. Convicted of a felony; or
2. Convicted of a misdemeanor sex offense under Section 290 of the California Penal Code.

AND:

1. The conviction/incarceration occurred in California;
2. Any convictions that can be expunged have been expunged;
3. The individual has lived in California for five years.
4. The individual has not been incarcerated for any reason since the release or expungement of his/her conviction.
5. The individual was not convicted of certain sex offenses.⁶⁹

When and Where One Can Apply

One must have five years of California residence and go through an additional waiting period, which varies based upon the type of conviction (generally two years for most convictions). This mandatory period begins to run after release from incarceration, so long as there has been no subsequent contact with law enforcement. Conviction of an offense that does not carry a life sentence mandates an additional waiting period of two years (for a total of seven). Conviction of any offense that carries a life sentence mandates an additional waiting period of four years (for a total of nine).

In addition, if a hearing is held to determine whether a certificate should be granted, the court may designate a further waiting period. In Alameda County, the District Attorney assigns an investigator to thoroughly investigate the applicant, calling or visiting neighbors, employers, family members, etc. One may apply while on probation or parole, as long as the term was not specified as “mandatory life parole.”

⁶⁸ CAL. HEALTH & SAFETY CODE § 1596.871 (2005).

⁶⁹ CAL. PENAL CODE §§ 4852.01 et seq. (2005)

Certificates of Rehabilitation, unlike Dismissals of the Conviction (“expungement”), are filed in the county of residence, not the county of conviction.

How to Apply for a Certificate of Rehabilitation

1. **Call (or write) the Superior Court Clerk** of the county of current residence and request an application for a Certificate of Rehabilitation and Pardon (**see Appendix N**, p. 78). In some counties, the required forms must be obtained from the public defender’s office.
2. **Prepare an application for Certificate of Rehabilitation and Pardon.** If seeking a certificate for employment purposes, include that information in the petition. Take the original petition and supporting documents, with five copies, to the Criminal Court clerk in the petitioner’s county of residence; one goes to the court clerk, one copy is for the district attorney in the county of residence, one copy is for the district attorney in the county where the conviction occurred, one copy is for the Governor, and one copy is for the individual’s records.
3. **Confirm that the Court Clerk will serve the office of the district attorney (DA).** The law requires the court to wait until the DA has had at least thirty days’ notice of the request for a certificate, in case the DA would like to object. Give the DA’s office both the copy intended for it and the original. Ask the DA’s office to stamp or otherwise mark the original “Received,” so the court clerk will know that the DA received a copy.
4. **Take the original copy of the petition papers to the court clerk.** After the petition is filed in Alameda County, the DA will investigate the petitioner and then provide a report to the judge. This extensive investigation includes contacting neighbors, employers, and family members. This can be a very invasive process and the person should consider whether the end result would be worth it. A hearing is required to determine whether the petitioner is rehabilitated. Usually, the court appearance is a formality, and does not require legal representation. If the petition is granted, the court will send a certified copy of the Certificate of Rehabilitation to the Governor; that will automatically serve as an application for a pardon.

Pardons

A pardon (also known as executive clemency) restores the rights that are lost upon a criminal conviction, such as the right to vote (if still on parole or in state prison), serve on a jury, or run for public office. In California, pardons are rarely granted and are issued only after a rigorous investigation. One must ordinarily wait to apply until at least ten years after release from incarceration, probation, or parole, and have engaged in no criminal activity during that time. Three common reasons for seeking a pardon are:

1. For out-of-state individuals to bypass the residency requirement for a Certificate of Rehabilitation;
2. For individuals who are otherwise ineligible to apply for a certificate because of the nature of their conviction (for example, a misdemeanor or certain sex offenses); or
3. To lift a specific statutory bar to employment that requires both a certificate and a pardon.

If the petitioner falls into any of the above categories or has unusually good grounds, the petitioner may apply for executive clemency directly by writing to the Governor at:

Governor's Office
State Capitol
Attention: Legal Affairs Secretary
Sacramento, CA 95814

Grounds for Receiving a Pardon

The petitioner must show that since his/her release, the petitioner has lived “an honest and upright life...with sobriety and industry,” exhibited “a good moral character[,]” and “conform[ed] to and obey[ed] the laws of the land.”⁷⁰ One should include information such as: participation in community organizations, volunteer work, childcare, elder parent care, and membership in religious organizations.

Review Process

The Legal Affairs staff will review the applicant's letter, and, if deemed allowed to continue, will send forms to the petitioner to complete the application process. After the petitioner returns the completed forms, the Board of Prison Terms will conduct an investigation. The Executive Board will then determine whether the case should progress to the Governor. If the petitioner has been convicted of more than one felony in separate trials, the California Supreme Court must also approve the application. (Board of Prison Terms: How to Apply for a Pardon (September 14, 2004), available at http://www.bpt.ca.gov/apply_for_pardon.pdf)

NOTE: Obtaining a pardon is a long, seldom successful process. If eligible for a certificate, one should focus first on obtaining a Certificate of Rehabilitation, and then a pardon, rather than attempting to obtain a pardon only.

⁷⁰CAL. PENAL CODE § 4852.05 (2005).

Questions and Answers Regarding Criminal Records and Public Assistance, Benefits and Student Loans

Q: Are people with drug-felony convictions dated after 1996 eligible to receive TANF (CalWORKS) benefits?

A: No, California has adopted the federal drug felon ban.⁷¹

Q: Are people with drug-felony convictions dated after 1996 eligible to receive food stamps?

A: Yes. Although California adopted the federal drug felon ban, the state recently lifted the restriction regarding food stamps.

Q: How does the Housing Authority consider criminal records in determining eligibility?

A: In determining eligibility for public housing, including Section 8 and other forms of federally assisted housing, federal laws require local housing agencies to permanently bar individuals convicted of certain sex offenses and methamphetamine production on public housing premises. The federal laws also give local public housing agencies discretion to deny eligibility to virtually anyone with a criminal background.⁷²

If a person has received a termination of their Section 8 or other housing benefit because of “criminal activity” or “criminal record,” he or she should seek the legal assistance (e.g., The East Bay Community Law Center, if Alameda County resident). She or he has a right to appeal the decision through an administrative process.

Q: Does a criminal record have an impact on your ability to receive Federal financial aid for education?

A: The Higher Education Act of 1998 makes students convicted of drug-related offenses ineligible for any grant, loan or work assistance.⁷³ This federal legal barrier cannot be altered by the states. No other class of offense, including violent offenses, sex offenses, repeat offenses, or alcohol-related offenses, results in the automatic denial of federal financial aid eligibility.

Financial aid is suspended on the date of conviction for varying lengths of time, depending on the type of offense and whether it is a repeat offense. For first-time convictions of possession of a controlled substance, ineligibility lasts one year. Second offenses for drug possession result in two years of ineligibility and third offenses lead to indefinite ineligibility. First-time convictions for sale of a controlled substance lead to two years of ineligibility. The period of ineligibility is indefinite for subsequent offenses involving drug sale. These restrictions apply even if the person is not receiving financial assistance at the time of conviction. A person convicted of a drug-related offense who is in

⁷¹ CAL. WELF. & INST. CODE §§ 11251.3 and 18901.7 (2005).

⁷² Federal laws give local public housing agencies discretion to deny eligibility to virtually anyone with a criminal background including: (i) people who have been evicted from public, federally assisted, or Section 8 housing because of drug-related criminal activity for three years, and (ii) anyone who is currently engaged in or has engaged in during a reasonable time before the admission decision any drug-related criminal activity, any violent criminal activity, and other criminal activity that would adversely affect the health, safety, right to peaceful enjoyment of the premises. 24 C.F.R. § 882.518. For purposes of these laws and regulations, “criminal activity” is not explicitly defined to require an actual conviction or finding of guilt.

⁷³ 20 U.S.C. § 1091(r)(1) (2005).

school may become eligible for a student loan before the end of the suspension period if he or she completes substance abuse treatment approved by the Secretary of Education and passes two unannounced drug tests. Eligibility for financial aid may also be reinstated if the conviction is reversed, set aside, or otherwise struck down.⁷⁴

⁷⁴ 20 U.S.C. § 1091(r)(2) (2005).

Q and A Regarding Adoptive and Foster Parents and Criminal Records

Q: Does the state consider other criminal history records beyond the federal list of convictions barring people from becoming foster and/or adoptive parents?

A: Yes. Foster care license applicants may be barred by arrest for any sexual offense requiring registration, or convictions for any crime other than a minor traffic violation.⁷⁵

Regarding adoptive parents, criminal history is assessed for its affect on an applicant's ability to provide "adequate and proper care and guidance to the child." If an applicant for either an agency or independent adoption has been convicted of any crime other than a minor traffic offense, the court will consider the criminal record in determining whether the applicant can provide appropriate care and guidance to a child.⁷⁶

Q: Does the state restrict people from becoming foster and/or adoptive parents for longer than required by federal law?

A: Yes, for foster parents. Because the statute is silent on the length of the bars for foster care, they appear to operate as lifetime bars unless the state exercises its discretion. No automatic bars exist for prospective adoptive parents.⁷⁷

Q: May applicants be barred by the convictions of other household members?

A: Yes, for foster care. Applicants for foster parent licensure may be barred if other household members have any of the convictions that would disqualify the applicant if s/he were the one convicted. No, for adoption.⁷⁸

Q: Does the state make individual determinations about an applicant's eligibility based on the criminal record?

A: Yes, for foster care. Upon substantial and convincing evidence to support a reasonable belief that the applicant is of such good character as to justify issuance of the license, the director may grant exemptions for arrests or convictions for any crime other than a minor traffic violation, including arrests involving sexual offenses requiring registration, assault with a deadly weapon, willful infliction of corporal injury, child endangerment, or any prior criminal arrests or convictions for any crime against a child, spouse, or cohabitant. Exemptions for foster care may also be granted for certain violent offenses with the district attorney's recommendation and demonstration of at least ten years of good moral character or a Certificate of Rehabilitation.⁷⁹

Individualized determinations are made for adoption.⁸⁰

⁷⁵ CAL. HEALTH & SAFETY CODE §§ 1522(a)(1), (a)(4)(A), (b), (d)(1)-(4), and (g)(1) (2005).

⁷⁶ CAL. FAM. CODE §§ 222.40 and 8811 (2005).

⁷⁷ CAL. HEALTH & SAFETY CODE §§ 1522(a)(1), (a)(4)(A), (b), (d)(1)-(4), and (g)(1) (2005).

⁷⁸ CAL. FAM. CODE §§ 222.40 and 8811 (2005); CAL. HEALTH & SAFETY CODE §§ 1522(b)(1)(B) and (d)(4)(A) (2005).

⁷⁹ CAL. HEALTH & SAFETY CODE § 1522(g) (2005).

⁸⁰ CAL. FAM. CODE § 222.40 (2005).

Voting Rights and Criminal Records

People who have completed their sentences or who are on probation have the right to vote. However, people who are incarcerated in state prison or on parole following felony convictions are ineligible to vote.⁸¹

Immigration Effects of a Criminal Conviction

A criminal conviction is often grounds for deportation or removal of a person in the country without permission. The Immigration Service also considers criminal history if an individual applies for any discretionary immigration benefit (a work visa, permanent residence or citizenship).

While expunging California misdemeanor records assists individuals in job and housing searches, the immigration effects of most convictions remain intact. For immigration purposes, expungements work only for a first conviction of certain minor drug offenses. Therefore, only in rare cases is it worthwhile to seek to expunge criminal records. This is important to relay to people because we do not want people wrongly thinking their convictions have been erased and applying to renew their green card or get citizenship -- and thereby turning themselves in for deportation! On the other hand, eliminating a first drug conviction is profoundly valuable, since drug convictions have such bad immigration consequences.

In 1996, Congress enacted the IIRIRA which included a very broad definition of conviction and defines many crimes, including some misdemeanors, as “aggravated felonies” that are mandatory grounds for deportation. In general, crimes that are considered “aggravated felonies,”⁸² “crimes of moral turpitude,”⁸³ “crimes of violence,” and most domestic violence and drug crimes are mandatory grounds for deportation of a non-citizen who is in the US legally.⁸⁴

One who entered without inspection is generally “inadmissible” on criminal grounds, and may be “inadmissible” (i.e. removed) for an arrest or admitting facts amounting to the essential elements of a crime of moral turpitude whether or not there was a conviction. Conviction of an aggravated felony is not grounds for inadmissibility (but entry without inspection imposes a 3 or 10 yr bar to admission). Note that arrests cannot be expunged unless an individual can prove factual innocence.

In short, expungement is largely ineffective for immigration purposes. Within the 9th Circuit, however, there is a narrow exception to this rule. If an immigrant is convicted of simple possession of a controlled substance (i.e., possession for personal use, without intent to sell, and without transportation), a state dismissal of that conviction will erase that conviction as grounds for

⁸¹ A person entitled to register to vote shall be a United States citizen, a resident of California, *not in prison or on parole for the conviction of a felony*, and at least 18 years of age at the time of the next election. CAL. CONST. ART. 2, § 4; *Flood v. Riggs*, 80 Cal.App.3d 138, 155 (1978). CAL. ELECTIONS CODE § 2101 (2005).

⁸² The 1996 immigration statute, IIRIRA, expanded the grounds for deportation to include conviction for any “aggravated felony” as it is defined in the Immigration Code, as opposed to the Penal Code. Certain misdemeanors may be “aggravated felonies” for immigration purposes. A sentence of 1 year or more (whether or not suspended) and conviction of an offense involving loss to the victim over \$10k will transform crimes such as theft, forgery, burglary, domestic violence, obstruction of justice, fraud or deceit, perjury, money laundering, tax evasion, and others into aggravated felonies.

⁸³ Including drug abuse, fraud, domestic violence, etc. Aggravated driving under the influence is not a crime of moral turpitude where the offense does not require “intent.” *Matter of Torres-Varela*, 23 I. & N. Dec. 78 (BIA 2001).

⁸⁴ One who overstays a visa or becomes removable on the basis of a criminal conviction is “deportable,” rather than “inadmissible.”

deportation.⁸⁵ It may still factor in to the BCIS's considerations of any discretionary immigration benefit.

Non-citizens Should Petition for Expungement if:

- Convicted of simple drug possession with no other convictions (including expunged convictions). Failure to expunge will result in mandatory deportation. OR
- Convicted of a lesser offense that is similarly analogous to one eligible for dismissal under the First Offender Act – this would include possession of drug paraphernalia and being present in a place where drugs are used or sold. OR
- Convicted for a non-deportable offense (i.e. a misdemeanor that is not a violent crime or a crime of moral turpitude). But note: the individual must disclose criminal history to the Immigration Service, which will consider it in any moral character determination.

Note: Any non-citizen should get copies of his or her rap sheet *plus* all papers related to a plea or conviction, as well as FBI criminal records and DMV criminal records. The BCIS can and will ask about criminal history.

Resources: The ILRC charts out each California code section, whether it's an aggravated felony or other deportable crime and summarizes advice at www.ilrc.org/Cal_DIP>Chart_by_section.pdf

Norton Tooby, *California Expungement Manual: Expunging California Criminal Convictions for Immigration Purposes*.

Lory Diana Rosenberg, *Understanding the Immigration Consequences of Convictions; An Essential Practice Guide and Training Manual for Defense Counsel*.

Checklist for Non-citizens with a Criminal History:

1. What is the individual's immigration status?

- An undocumented person (who entered without inspection) may be rendered inadmissible and subject to expedited removal. A non-citizen with papers may be deportable on criminal grounds. The grounds of inadmissibility are not identical to the grounds of deportability. I.e., a person can be inadmissible who simply admits committing acts that constitute the essential elements of a crime of moral turpitude. Conviction is not necessary. INA § 212(a)(2)(A)(i).

2. Was the crime a “deportable offense”?

- Conviction of an *Aggravated Felony*. Generally, a crime can be an aggravated felony if it is a felony under federal or state law, and IIRIRA makes some misdemeanors Ag Felonies also.

⁸⁵ Simple possession of a controlled substances, whether felony or misdemeanor. *Lujan-Armendariz v. INS*, 222 F.3d 728 (9th Cir. 2000). An offense “less serious” than this with no federal analog, such as possession of drug paraphernalia or being under the influence of a controlled substance. *Cardenas-Urriarte v. INS*, 227 F.3d 1132 (9th Cir. 2000). A conviction for giving away a small amount of marijuana. *See* 21 USC §841(b)(4) (2005).

- Conviction of a *Crime of Moral Turpitude* (mostly if >1 yr sentence, inc. some domestic violence, fraud, theft, some drug offenses). Exception for petty theft (of less than \$50).
- Conviction regarding a *Controlled Substance* (most drug offenses). Except for possession of <28.5 grams of marijuana.
- Certain other violent crimes (>1yr sentence), domestic violence (including stalking, violations of protection orders, and crimes against children (including abandonment) if convicted after September 30, 1996), drug abuse, and visa or document fraud, crimes affecting the security and safety of the US, etc.
- Exceptions: Petty offenses, Alien smuggling of one family member, Juvenile offenses 5 yrs earlier.

3. Would it otherwise affect a discretionary immigration decision?

- Lesser and even expunged offenses may still factor into a “moral character” determination which is required for citizenship, permanent residence, cancellation of removal, and other discretionary immigration benefits. Infractions, which cannot be expunged, will also be considered.

4. What are the immigration consequences of a criminal conviction?

- Mandatory Removal (deportation), if convicted of an aggravated felony after admission to the US. Non-citizens face a presumption of deportability for convictions prior to admission.
- Once in custody, non-citizens will have a “hold,” meaning they will be detained by the immigration services and deported upon completion of their sentence. Removal proceedings are usually completed prior to release from custody. The district court may also order removal at the time of sentencing. Removal proceedings may also begin if s/he violates parole or probation, or applies for an immigration benefit or registers with the Immigration Service.
- After sentencing is complete, it is rare that a non-citizen will be released unless serving as a witness cooperating in a criminal prosecution and able to prove he or she is not a threat to people or property.
- In most cases, there is no access to judicial review.
- Aggravated felons are ineligible for asylum and are generally ineligible for cancellation of removal, suspension of deportation, and registry, which are discretionary benefits that require a showing of “good moral character.” This is true even if removal will cause extreme hardship to US citizens.
- Aggravated felons are barred from receiving voluntary departure (i.e., they must be “removed”).
- Removal on criminal grounds results in an automatic 5-year bar to reentry (twenty year bar for a second removal).
- The individual must receive advance permission to return the US. A waiver may be available for an aggravated felon who receives a full and unconditional pardon.

5. What options remain?

- Expungement of records of non-deportable offenses and 1st conviction of simple possession, lesser offenses.
- Conviction does not necessarily make a person permanently ineligible for citizenship.
- Relief might be available if a non-citizen's life or freedom would be threatened because of his or her race, religion, nationality, membership in a particular social group, or because of his or her political opinion.
- Ask whether the person was ever advised of the immigration consequences of a plea/conviction, (as required by state law). If not, one could argue that ineffective assistance of counsel renders the conviction legally defective for immigration purposes.

Examples of Deportable Criminal Convictions

Cal Code	Offense	Aggravated Felony?	Moral Turp?	Grounds for Deportation or Inadmissibility?	Advice
H&S § 11357	Marijuana, Possession	Cal Misdemeanor is not AF; Felony (possession of hash) is AF.	No	Deportable; Inadmissible for controlled substance conviction.	1st conviction expungeable (or withdrawal of plea per DEJ, Prop 36, PC 1203.4).
H&S §11360 (a)	Marijuana – sale, give, transport, offer to	Offering is not AF, sale is. Transport for own use is not AF	Yes (trafficking) exc. transp. for own use)	Deportable; Inadmissible for substance conviction (incl. transp. for personal use); Offering “may” not be deportable offense	
H&S § 11351	Possession for Sale	Yes (also for trafficking)	Yes (trafficking)	Trafficking Controlled Substance	If less than a year sentence possible to avoid AF.
H&S §11364 or H&S § 11365	Possession of Drug Paraphernalia or Being present where drugs used	No	No	Deportable, Inadmissible for controlled substance conviction	B/c “less serious than simple possession”, 1st conviction can be eliminated by DEJ, Prop 36, PC 1203.4.
H&S § 11550	Under the Influence of Ctrlld Subst	Not AF. Felony conviction if w/ gun and >1 yr sentence	No	Deportable, Inadmissible	
PC §32	Accessory after the Fact	Only if 1 yr sentence imposed	Maybe	Does not take on character of principle offense. Pos. deportable if “related to” trafficking.	
PC §240, 241(a) or §243	Assault, simple; Battery, simple	Not AF (Crime of violence with 1 yr sentence is AF	No	Crime of violence is DV offense if against DV victim, but see record.	
PC § 270	Failure to Provide for a Child	No	No	May be deportable under DV ground for child neglect	
PC §273.5	Spousal Injury	Yes (if >1 Yr sentence)	Yes	Deportable as DV offense regardless of sentence	

Complete chart available at [www.ilrc.org/Cal_DIP>Chart by section.pdf](http://www.ilrc.org/Cal_DIP>Chart_by_section.pdf)

Criminal Records and Employment

What Information Must Be Disclosed if Asked by Employers

Private Employers (that are not health care facilities, schools, financial institutions, and other “special” employers):

Most private employers do not have the right to request your summary criminal history or have direct access to your DOJ records. In fact, unauthorized use of your private information is a crime.⁸⁶ In particular, most private employers do not have a right to the following information and cannot use them in hiring decisions:

- Arrests that did not lead to conviction or for which a pretrial diversion program was successfully completed. If an employer somehow learns of an arrest record, the Labor Code prohibits him or her from considering any arrest that did not lead to a conviction, or any arrest that led to a diversion program, in making decisions regarding hiring, firing or promotion.⁸⁷
- Sealed, expunged, or purged conviction records.⁸⁸

However, because criminal arrests, prosecutions, convictions are public records, private employers sometimes hire private investigation firms to conduct background checks on all applicants and/or all employees. These background checks can uncover all public records, including “expunged” and/or dismissed convictions. Therefore, when advising people how to address this issue with potential or current employers, discuss the following:

- **The LAW regarding criminal records and private employers:** A person has the right to NOT disclose juvenile records, “expunged” records, otherwise dismissed records (i.e., dismissed upon successful completion of diversion program), or records of arrests not leading to convictions. If his or her conviction has been dismissed/“expunged,” a person has a right to answer “NO” to the question; “do you have any criminal convictions,” and to not list them on an application form.
- **The REALITY regarding criminal records and private employers:** Employers can access records, even of “expunged”/dismissed convictions, diversion cases, and arrests not resulting in convictions, through background checks (in courts, through the police, or on the many websites offering background check services). Therefore, an individual has to make a decision based on his or her circumstances how to address prior records—whether to NOT disclose or whether to disclose and explain (through a prepared letter or speech).

“Special Employers” – Schools, Healthcare Facilities, Eldercare Facilities, Childcare Facilities, Financial Institutions, etc.

The law allows for certain types of employers to have access to DOJ or FBI records to determine employment. Generally, these employers serve people who are considered vulnerable (i.e., children,

⁸⁶ CAL. LAB. CODE § 432.7 (2005).

⁸⁷ CAL. LAB. CODE § 432.7 (2005).

⁸⁸ CAL. LAB. CODE § 432.7 (2005); CAL. CODE REGS. tit. 2 § 7287.4(d)(1)(B) (2005).

sick, elderly) or they handle sensitive matters (i.e., financial institutions, public utilities, nuclear facilities, pharmacies, etc.). To have access under this exception, the law requires that: (1) the employer must have explicit statutory authorization to see summary criminal history information, (2) disclosure relates to specific criminal conduct (i.e., specific crimes, not just any convictions), and (3) that employers act on the existence of such information. For example, the law might require the exclusion of job applicants with certain convictions, like child molestation, from certain jobs, such as teaching. Here are a few specific examples:

- **Financial institutions** are authorized to ask about arrests or convictions for any crime involving dishonesty, breach of trust, or money laundering, regardless of whether the individual participated in a pretrial diversion program.⁸⁹
- **Health care facilities** may inquire about any arrest or conviction for sex offenses which require registration for positions with patient contact, or any arrest or conviction for certain drug offenses for positions with access to medication.⁹⁰

Licensing and Certification Boards

Hundreds of jobs (including barber, real estate broker, doctor, nurse, attorney, and taxi driver) require a state or municipal license. Most occupational licensing agencies have access to and will check DOJ and FBI records when one applies for a license. To get information regarding how licensing/certification boards address criminal records, check with each board directly (information is usually available on the internet).

Public/Government Employers

Government employers, like those offering a job with the city, state or federal government, may see summary criminal histories (“rap sheets”) in considering an application for a job if authorized by law or regulation.⁹¹ For example, city street sweepers, county bus drivers, U.S. postal workers, etc., all have government jobs, for which a background check (usually a LIVESCAN digital fingerprint) is required.⁹² How the government agency considers a criminal conviction depends on the agency, department, or particular job. Therefore, a person should determine ahead of time how criminal records are considered.

- **Law enforcement jobs** - one must list all arrests, including those that did not result in a conviction, as well as traffic summonses.

How to List Convictions

If the application allows the individual to eliminate some cases, such as those that resulted in a traffic infraction, or the employer is interested in knowing only about convictions within the past five or seven years, then disclose only the information requested. Most employers are entitled to know the disposition of cases that resulted in a felony conviction; one should provide basic information such as the arrest date, disposition date, crime or offense, and sentence.

⁸⁹ CAL. FIN CODE § 777.5 (2005).

⁹⁰ CAL. LAB. CODE § 432.7(f) (2005).

⁹¹ CAL LAB. CODE § 432.7 (2005).

⁹² CAL PENAL CODE § 11105 (2005).

Common Questions on Job Applications and Appropriate Responses

Here are some questions one may see on an employment application, and appropriate responses:

Q: “Have you ever been arrested? If so, explain.”

A: If a person has any arrests that resulted in a conviction, s/he should answer “yes.” (Remember, a guilty plea to any offense and/or crime is a conviction.) The person should list all misdemeanor convictions that have not been expunged or purged, all felony convictions that have not been expunged, and all infraction convictions. S/he should not list juvenile arrests or convictions.

If one has arrests, but none resulted in a conviction or the person successfully completed pretrial diversion, answer “no.” This is because it is illegal for most employers to ask about arrests that did not result in a conviction or for which pretrial diversion was successfully completed. By California law, one can answer “no” to an illegal question in this situation.

REMINDER: Even though one is not required to disclose expunged records for most private jobs, they are not erased from the record. One should, therefore, consider revealing them to any employer with access to rap sheets (see “Who Can See ‘Expunged’ Cases” on p.15 for more information). Also, one is required to list expunged or dismissed records in applications for public employment, public office or occupational licensure.

Q: “Have you ever been convicted of a crime, offense, or violation of the law? If so, explain.”

A: If one has any convictions, answer “yes.” List all misdemeanor convictions that have not been expunged or purged, and all felony convictions that have not been expunged. In addition, list all infraction convictions.

Q: “Have you ever pled guilty or have been found guilty of a crime or an offense? If so, explain.”

A: If one has any convictions, answer “yes.” List all misdemeanor convictions that have not been expunged or purged, and all felony convictions that have not been expunged. In addition, list all infraction convictions.

Q: “Have you been convicted of a crime in the past 7 years? If so, explain.”

A: If one has any criminal convictions within this period, answer “yes.” List all misdemeanor convictions that have not been expunged or purged, and all felony convictions that have not been expunged, that occurred during the past seven years. (Remember, traffic infractions are “offenses,” not crimes.) Keep in mind that one may have to explain cases in detail at an interview, so one will need to understand the charges for which one has been convicted. This means one should review the record and be able to **briefly** explain the circumstances underlying convictions, so that one can highlight all successes and accomplishments since then. Most important, one should provide evidence of rehabilitation that addresses the nature of the convictions. For example, if convictions were drug-related, one should provide reference letters from a treatment provider or counselor who can confirm successful recovery, and from a clergy, community, or family member who can say how the individual has changed.

Eligibility Chart

Relief desired	Completion of petition process can take as long as...	Currently charged with crime?	On probation or parole?	Sentenced to state prison for this particular case?	Convicted of infraction for this particular case?	Convicted of serious sex offense? (286, 288, 288a, 288.5, 289, or felony 261.5)	Unpaid fines, fees, restitution?	Arrests during probationary period?	Law enforcement contact during rehab or diversion program?
Pen C §1203.4 (mandatory dismissal set aside)	4 months	Ineligible	Ineligible	Ineligible	Ineligible	Ineligible	Ineligible	Ineligible	Ineligible
Pen C §1203.4 (discretionary dismissal set aside)	4 months	Ineligible (practically)	Eligible, but must be compelling	Ineligible	Ineligible	Ineligible	Eligible, but must be compelling	Eligible, but must be compelling	Eligible, but must be compelling
Pen C §1203.3 (end probation)	3 months	Ineligible	Eligible	Ineligible	Ineligible	Probably ineligible	Probably ineligible	Ineligible	Ineligible
Pen C §4853 (direct pardon)	12 months	Ineligible	Eligible	Eligible	Eligible	Eligible	N/A	N/A	N/A
Pen C §§4852.01 et seq. (certificate of rehabilitation)	6 months	Ineligible	Eligible	Eligible	Ineligible	Ineligible	Probably ineligible	Ineligible	N/A
Pen C §851.8 (factual innocence; seal and destroy)	4 months	Ineligible	Eligible	Ineligible	Ineligible	Ineligible	N/A	N/A	N/A
Pen C §851.9 (seal drug diversion record)	4 months	Ineligible	Ineligible	Ineligible	N/A	N/A	Ineligible	Ineligible	Ineligible
Pen C §17(B) (reduce felony to misdemeanor)	4 months	Ineligible	Ineligible	Eligible only if “wobbler”	N/A	Eligible only if “wobbler”	Ineligible	Ineligible	Ineligible

Chart Showing Effects of Remedies

Relief granted	Applying for Public Office	Duty to Register	Professional License	Use as Prior	Serve as Juror	Duty to Inform Employer	Right to Possess Concealed Weapon
Pen C §1203.4 (dismissal set aside post-probation)	Must disclose conviction	Not relieved	Must disclose conviction	Yes	Yes, can serve	Yes, if for public office or state licensure	Not restored
Pen C §1203.4a (dismissal set aside no probation given)	Not stated	Not relieved	Unknown	Yes	Yes, can serve	Probably not	No, if original conviction for crime listed in Pen C §1203.4
Pen C §4853 (direct pardon)	Unknown	Possibly not relieved	No automatic right to reinstatement of issuance	Yes	Yes, can serve	Not stated	Governor must specifically grant
Pen C §§4852.01 et seq. (certificate of rehabilitation)	Unknown	Misdemeanant can be relieved of duty	No automatic right to reinstatement of issuance	Yes	Yes, can serve	Yes	Yes, unless conviction was felony involving dangerous weapon
Welf & I C §781 (sealing of juvenile records)	Case deemed to have never occurred	Relieved	No specific mention in statute; juvenile proceedings deemed to have never occurred	Yes	Not disqualified	No	N/A
Pen C §851.8 (factual innocence)	Fully eligible	Not applicable	No specific mention in statute; person considered “exonerated”	No	Not disqualified	No	Presumably restored
Pen C §§1000, 1000.5, 1001.9, 1001.31, 1001.55 (diversion)	Unknown	No	In general, no.	Probably not	Not disqualified	Yes, if for public office, state licensure, or peace officer	Probably not
Welf & I C §3200 (narcotic addicts)	Not disqualified	Relieved of duty	Must disclose	Yes	Yes, can serve	Yes, if for public office, state licensure, or peace officer	Not restored
Health & S C §11361.5 (petty marijuana offenders)	Restored	No duty	No public agency can deny or revoke license	No	Yes, can serve	No	N/A
Welf & I C §1772 (YA parolees)	Restored, with exceptions	Requires relief under Welf & I C §781	Not disqualified; limited peace officer exception	Yes	Not disqualified	Unclear	Not restored

APPENDIX A - DOJ RAP SHEET

STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
BUREAU OF CRIMINAL
IDENTIFICATION

REQUESTED FOR: CADJSACRAMENTO
ATTN: RECORD REVIEW G231
REQUESTED BY: [REDACTED] MNEMONIC: CKUE
DATE: 20040713 TIME: 12:06:58 PAGE: 001

CRIMINAL HISTORY TRANSCRIPT FOR OFFICIAL USE ONLY
UNAUTHORIZED USE IS A CRIMINAL OFFENSE

***III CALIFORNIA ONLY SOURCE RECORD

CII NUMBER	DOB	SEX	RACE	HGT	WGT	EYE	HAIR	POB
[REDACTED]	[REDACTED]	F	BLACK	506	275	BRO	BRO	CA

NAMES

01 [REDACTED]	02 [REDACTED]
03 [REDACTED]	04 [REDACTED]
05 [REDACTED]	06 [REDACTED]

MISCELLANEOUS NUMBERS

FBI- [REDACTED]

CDL- [REDACTED]

SOC- [REDACTED]

RELEASED FOR
PERSONAL USE ONLY

SCARS/MARKS/TATTOOS
DISC L LEG

NOT TO BE USED FOR
EMPLOYMENT, LICENSING,
OR CERTIFICATION PURPOSES

OCCUPATIONS
STUDENT

LABORER

DATE	AGENCY/FILE NUMBER	NAME	COUNT	ACTION
ARREST/DETAINED/CITED 19950910 CAIDALAMEDA CO ABC123	DOB: [REDACTED]	01	01	484(A) PC-PETTY THEFT ARRESTED BY: CAPD BERKELEY
COURT ACTION 19950914 CAMCBERKELEY 123456	DOB: [REDACTED]	01	01	490.1 PC-PETTY THEFT UNDER \$50 WITHOUT PRIOR -CONVICTED INFRACTION SEN: WORK PROGRAM
ARREST/DETAINED/CITED 19951019 CAIDALAMEDA CO [REDACTED]	DOB: [REDACTED]	04	01	-WARRANT 602(L) PC-TRESPASS: OCCUPY PROPERTY W/O CONSENT

(CONTINUED PAGE 000)

DATE: 20040713 TIME: 12:06:58 PAGE: 002
CII NUMBER: [REDACTED] NAME: [REDACTED]

CRIMINAL HISTORY TRANSCRIPT
UNAUTHORIZED USE IS A CRIMINAL OFFENSE

FOR OFFICIAL USE ONLY

DATE AGENCY/FILE NUMBER NAME COUNT ACTION

ARRESTED BY:
CAPDBERKELEY

COURT ACTION
19951031 CAMCALAMEDA

04 01 602(L) PC-TRESPASS: OCCUPY
PROPERTY W/O CONSENT
-CONVICTED-PROB/JAIL
MISDEMEANOR ✓

SEN:
003 YEARS PROBATION; 001 DAYS
JAIL, FINE

ARREST/DETAINED/CITED
19951115 CAIDALAMEDA CO

DOB: [REDACTED]

03 01 484(A) PC-PETTY THEFT

ARRESTED BY:
CASOAKLAND

02 496.1 PC-RECEIVE/ETC KNOWN
STOLEN PROPERTY

ARREST/DETAINED/CITED
19960124 CAIDALAMEDA CO

DOB: [REDACTED]

05 01 484(A) PC-PETTY THEFT

ARRESTED BY:
CAPDOAKLAND

02 242 PC-BATTERY

COURT ACTION
19960228 CAMCOAKLAND

05 01 242 PC-BATTERY

-DISMISSED/FOJ/PLEA TO
OTHER CHARGE

02 484(A) PC-THEFT
-CONVICTED-PROB/JAIL
MISDEMEANOR ✓

SEN:
024 MONTHS PROBATION, 010 DAYS
JAIL

(CONTINUED PAGE 003)

00678

DATE:20040713 TIME:12:06:58 PAGE:003

CII NUMBER: [REDACTED] NAME: [REDACTED]

CRIMINAL HISTORY TRANSCRIPT FOR OFFICIAL USE ONLY
UNAUTHORIZED USE IS A CRIMINAL OFFENSE

DATE	AGENCY/FILE NUMBER	NAME	COUNT	ACTION
ARREST/DETAINED/CITED				
19960223	CAIDALAMEDA CO [REDACTED]	DOB: [REDACTED] 01	01	-WARRANT 484(A) PC-THEFT ARRESTED BY: CAPDBERKELEY
			02	-WARRANT 242 PC-BATTERY WARRANT # [REDACTED]
ARREST/DETAINED/CITED				
19960301	CAIDALAMEDA CO [REDACTED]	DOB: [REDACTED] 01	01	-WARRANT 484(A) PC-THEFT WARRANT # [REDACTED] ARRESTED BY: CAPDBERKELEY
COURT ACTION				
19960319	CAMCBERKELEY [REDACTED]	01	01	484(A) PC-THEFT -CONVICTED-PROB/JAIL MISDEMEANOR ✓ SEN: 002 YEARS PROBATION, 180 DAYS JAIL, 150 DAYS JAIL SS
ARREST/DETAINED/CITED				
19960316	CAIDALAMEDA CO [REDACTED]	DOB: [REDACTED] 01	01	245(A) (1) PC-FORCE/ADW NOT FIREARM:GBI LIKELY ARRESTED BY: CAPDBERKELEY
COURT ACTION				
19960319	CAMCBERKELEY [REDACTED]	01	01	245(A) (1) PC-FORCE/ADW-NOT FIREARM:GBI LIKELY -DISMISSED/FOJ/PLEA TO OTHER CHARGE DCN: [REDACTED]

DATE:20040713 TIME:12:06:58 PAGE:004
CII NUMBER: [REDACTED] NAME: [REDACTED]

CRIMINAL HISTORY TRANSCRIPT FOR OFFICIAL USE ONLY
UNAUTHORIZED USE IS A CRIMINAL OFFENSE

DATE	AGENCY/FILE NUMBER	NAME	COUNT	ACTION
ARREST/DETAINED/CITED 19960809	CAIDALAMEDA CO [REDACTED]	DOB: [REDACTED]	01	01 484(A)/666 PC-THEFT/PETTY THEFT W/PRIOR ARRESTED BY: CAPDBERKELEY
COURT ACTION 19960821	CAMCBERKELEY [REDACTED]		01	01 484(A)/666 PC-PETTY THEFT/ THEFT WITH PRIOR -CONVICTED-PROB/JAIL MISDEMEANOR SEN: 002 YEARS PROBATION, 030 DAYS JAIL
ARREST/DETAINED/CITED 19960902	CAIDALAMEDA CO [REDACTED]	DOB: [REDACTED]	06	01 484/666 PC-THEFT/PETTY THEFT W/PRIOR ARRESTED BY: CAUVPD BERKELEY
COURT ACTION 19960905	CAMCBERKELEY [REDACTED]		06	01 484(A)/666 PC-THEFT/PETTY THEFT W/PRIOR -CONVICTED-PROB/JAIL MISDEMEANOR SEN: 002 YEARS PROBATION, 030 DAYS JAIL
				19980620 -PROBATION MODIFIED COM: ADDITL 2 YRS PROB
ARREST/DETAINED/CITED 19961211	CAIDALAMEDA CO [REDACTED]	DOB: [REDACTED]	01	01 11351.5 HS-POSS/PURCHASE COCAINE BASE F/SALE ARRESTED BY: CAPDBERKELEY

(CONTINUED PAGE 005)

00680

DATE:20040713 TIME:12:06:58 PAGE:005
CII NUMBER: NAME:

CRIMINAL HISTORY TRANSCRIPT FOR OFFICIAL USE ONLY
UNAUTHORIZED USE IS A CRIMINAL OFFENSE

DATE	AGENCY/FILE NUMBER	NAME	COUNT	ACTION
COURT ACTION				
19970227	CASCOAKLAND	01	01	11350(A) HS-POSSESS NARC CONTROL SUBSTANCE -PROCEEDINGS SUSPENDED/ DIVERSION
COURT ACTION				
19980217	CASCOAKLAND	01	01	11350(A) HS-POSSESS NARC CONTROL SUBSTANCE -DIVERSION DISMISSED

ARREST/DETAINED/CITED	DOB:			
19980526 CASCOAKLAND	01	01	11364 HS-POSSESS CONTROL SUBSTANCE PARAPHERNA ARR AGY #9820304	
	19980527		-1203.2 PC-PROB REV IN LIEU OF FILING ARRESTED BY: CAPDBERKELEY	

SCN:

ARREST/DETAINED/CITED	DOB:			
19980624 CAPDSAN FRANCISCO	01	01	666 PC-PETTY THEFT W/PR JAIL:SPEC OFFENSES	
COURT ACTION				
19980915 CAMCSAN FRANCISCO	01	01	666 PC-PETTY THEFT W/PR JAIL:SPEC OFFENSES -DISMISSED/FURTHERANCE OF JUSTICE	
		02	459 PC-BURGLARY -DISMISSED/FURTHERANCE OF JUSTICE	

DCN:

(CONTINUED PAGE 006)

00681

DATE:20040713 TIME:12:06:58 PAGE:006
CII NUMBER: NAME:

CRIMINAL HISTORY TRANSCRIPT FOR OFFICIAL USE ONLY
UNAUTHORIZED USE IS A CRIMINAL OFFENSE

DATE	AGENCY/FILE NUMBER	NAME	COUNT	ACTION
ARREST/DETAINED/CITED 19980715	CAPDSAN FRANCISCO	DOB: 05	01	666 PC-PETTY THEFT W/PR JAIL:SPEC OFFENSES CRT CASE #
			02	666 PC-PETTY THEFT W/PR JAIL:SPEC OFFENSES
COURT ACTION 19980915	CAMCSAN FRANCISCO	05	01	666 PC-PETTY THEFT W/PR JAIL:SPEC OFFENSES -CONVICTED-PROB/JAIL MISDEMEANOR SEN: IMP SEN SS 36 MO PROB, 30 DS JL, DCN:
ARREST/DETAINED/CITED 19980930	CAPDSAN FRANCISCO	DOB: 05	01	-BENCH WARRANT 666 PC-PETTY THEFT W/PR JAIL:SPEC OFFENSES WARRANT # SCN:
ARREST/DETAINED/CITED 19981123	CAPDSAN FRANCISCO	DOB: 01	01	-BENCH WARRANT 666 PC-PETTY THEFT W/PR JAIL:SPEC OFFENSES WARRANT # COM: CNT01 NUM- W155229 SCN:

(CONTINUED PAGE 007)

00682

DATE:20040713 TIME:14:06:58 PAGE:007
CII NUMBER: NAME:

CRIMINAL HISTORY TRANSCRIPT FOR OFFICIAL USE ONLY
UNAUTHORIZED USE IS A CRIMINAL OFFENSE

DATE	AGENCY/FILE NUMBER	NAME	COUNT	ACTION
ARREST/DETAINED/CITED 19981127	CASCFAIRFIELD	DOB: 06	01	422 PC-THREATEN CRIME W/ INTENT TO TERRORIZE
			02	MISCELLANEOUS OFFENSE
		COM:	17	PC FELONY TO Misd
			03	242 PC-BATTERY ON PERSON
ARREST/DETAINED/CITED 19990414	CASOOAKLAND	DOB: 01	01	-BENCH WARRANT 484(A) PC-THEFT OF PERSONAL PROPERTY WARRANT # ARRESTED BY: CAPDOAKLAND
		COM:		CNT01 NUM- C01420
		SCN:		
ARREST/DETAINED/CITED 20010413	CAPDSAN FRANCISCO	DOB: 05	01	496 PC-RECEIVE/ETC KNOWN STOLEN PROPERTY
		COM:	3	ADD CNTS OF 496 PC
			02	475 PC-POSS/ETC FORGED NOTES/ETC
		SCN:		
ARREST/DETAINED/CITED 20010511	CAPDSAN FRANCISCO	DOB: 03	01	666 PC-PETTY THEFT W/PR JAIL:SPEC OFFENSES

(CONTINUED PAGE 008)

00683

DATE:20040713 TIME:14:06:58 PAGE:008
CII NUMBER: NAME:

CRIMINAL HISTORY TRANSCRIPT FOR OFFICIAL USE ONLY
UNAUTHORIZED USE IS A CRIMINAL OFFENSE

DATE	AGENCY/FILE NUMBER	NAME	COUNT	ACTION
SCN:				
COURT ACTION				
20020625	CASCSAN FRANCISCO CO	03	01	666 PC-PETTY THEFT W/PR JAIL:SPEC OFFENSES -DISMISSED/FURTHERANCE OF JUSTICE

DCN:

ARREST/DETAINED/CITED	DOB:			
20020916	CAPDSAN FRANCISCO	05	01	475(C) PC-PASS COMPLETED CHECKS/ETG:DEFRAUD
			02	496 PC-RECEIVE/ETC KNOWN STOLEN PROPERTY
			03	148(A) (1) PC-OBSTRUCT/ETC PUBLIC OFFICER/ETC

SCN:

COURT ACTION				
20021107	CASCSAN FRANCISCO CO	05	01	475(C) PC-PASS COMPLETED CHECKS/ETC:DEFRAUD -DISCHARGED/CASE COMPROMISED
			02	459 PC-BURGLARY -DISCHARGED/CASE COMPROMISED
			03	SEE COMMENT FOR CHARGE -DISCHARGED/CASE COMPROMISED

COM:
CNT 03 CHRG-148(A) 1 PC

(CONTINUED PAGE 009)

00684

DATE:20040713 TIME-12:06:58 PAGE:009
CII NUMBER: NAME:

CRIMINAL HISTORY TRANSCRIPT FOR OFFICIAL USE ONLY
UNAUTHORIZED USE IS A CRIMINAL OFFENSE

DATE AGENCY/FILE NUMBER NAME COUNT ACTION

DCN:

ARREST/DETAINED/CITED

20030319 CAPDSAN FRANCISCO

DOB:

05

01

666 PC-PETTY THEFT W/PR
JAIL:SPEC OFFENSES

02 488 PC-PETTY THEFT

20030320 -PROS REJ-OTHER

SCN:

COURT ACTION

20030718 CASC SAN FRANCISCO CO

05

01

602(L) PC-TRESPASS:OCCUPY
PROPERTY W/O CONSENT
-CONVICTED-PROB/JAIL
MISDEMEANOR

SEN:

018 MONTHS PROBATION, 003 DAYS
JAIL, IMP SEN SS

ARREST/DETAINED/CITED

20030331 CAPDSAN FRANCISCO

DOB:19770612

05

01

245(A) (1) PC-FORCE/ADW NOT
FIREARM:GBI LIKELY
20030401 -PROS REL-DET ONLY-LACK
OF SUFF EVID

ADR:

033103 ()
SAN FRANCISCO, CA,,)

SCN:

DCN:

(CONTINUED PAGE 010)

00685

DATE:20040713 TIME:12:06:58 PAGE:010

CII NUMBER: NAME:

CRIMINAL HISTORY TRANSCRIPT FOR OFFICIAL USE ONLY
UNAUTHORIZED USE IS A CRIMINAL OFFENSE

DATE	AGENCY/FILE NUMBER	NAME	COUNT	ACTION
ARREST/DETAINED/CITED		DOB:		
20030910	CASOOAKLAND		01	01 11550 (A) HS-USE/UNDER INFL CONTRLD SUBSTANCE ARRESTED BY: CAPDOAKLAND
			02	11350 (A) HS-POSSESS NARC CONTROL SUBSTANCE
			03	LOCAL ORDINANCE VIOLATION
		ADR:		
		091003 (OAKLAND, CA,)
		SCN:		
COURT ACTION				
20030916	CAMCOAKLAND		01	01 11350 (A) HS-POSSESS NARC CONTROL SUBSTANCE -PROCEEDINGS SUSPENDED/ DIVERSION
			02	11550 (A) HS-USE/UNDER INFL CONTRLD SUBSTANCE -DISMISSED/FOJ/PLEA TO OTHER CHARGE

California Penal Code Section 11125 states:
"No person or agency shall require or request another
person to furnish a copy of a record or notification
that a record exists or does not exist, as provided in
Section 11124. A violation of this section is a
misdemeanor."

Dated: W 3 2 JUL 2 1 2004

* * * *

"PROBATION FLAGS AND/OR DEPARTMENT OF MENTAL HEALTH FLAGS ON THIS RECORD
MAY NOT BE BASED ON FINGERPRINT IDENTIFICATION"

* * * *

APPENDIX B - ALAMEDA COUNTY RAP SHEET

ALAMEDA COUNTY CORPUS EVENTS AS OF 03/04/05 1151 TERM MSF4 PAGE 1

REQUESTED FOR: [REDACTED] CRIM HIST FRT CTR INFO

NAME: [REDACTED] PFN: [REDACTED]

SEX RACE DOB POB HGT WGT HAIR EYES YRCA YRCA YADR CITIZEN CII: [REDACTED]
M B 11/22/55 MS 511 185 BK BR 61 61 93 YES

CHARACTERISTICS OCCUPATION EMPLOYER - SINCE FBI: [REDACTED]
GINS CAR LFTBICEP CEMENT FIN WILLIE SELF DLN: [REDACTED]
SSN: [REDACTED]

ADDRESS [REDACTED] CITY OAKLAND STATE ZIP PHONE CA [REDACTED]

ALIASES: [REDACTED]

PERSON STATUS: FORMAL PROBATION ACTIVITY CLOSED
NOT IN CUSTODY

----- I N A C T I V E -----
EVENT 08/16/93 0840 OAKLAND PD CEN: [REDACTED]
BOOKING 08/16/93 1356 OAKLAND PD RPT NO.: [REDACTED]
CUSTODY STATUS: OWN RECOGNIZANCE
1) PC 12021(A) F CRT DOCKET: [REDACTED] 12/13/93 CERTIFIED GUILTY PLEA
2) PC 12021(A) & 2 PRS F CRT DOCKET: [REDACTED] 12/13/93 DISM-VIEW OF PLEA

DKT NAME: DCCO:
COMP FILED 08/05/93 WILEY W. MANUEL COURTHOUSE, OAKLAND DOCKET: [REDACTED]
LAST CRT 12/13/93 PX DEPT: 16 PRS STRICKEN-SENT ONLY, M/DISM A CHARGE-G
CHANGE OF PLEA TIME WAIVED/SENTENCE
CERT/SUP CT-SENTENCING, SENTENCING DATE SET
BAIL STATUS: OWN RECOGNIZANCE BAIL:
DFNS ATTY: PD-HIGGINS - CPLE
1) PC 12021(A) F ENTERED AT BOOKING 12/13/93 CERTIFIED GUILTY PLEA
2) PC 12021(A) & 2 PRS F ENTERED AT BOOKING 12/13/93 DISM-VIEW OF PLEA

DKT NAME: DCCO:
COMP FILED 10/01/93 R C DAVIDSON ALAMEDA COUNTY CTHOUSE-OAKLAND DOCKET: [REDACTED]
LAST CRT 11/17/93 R&S DEPT: 07 PLEA WITHDRAWN REMANDED TO LOWER CRT
BAIL STATUS: BAIL:
DFNS ATTY: PD-CERT ATTNY - CPLE
1) PC 12021(A) F FROM MUNI-COURT 11/17/93 REMANDED LOWER COURT

DKT NAME: DCCO:
COMP FILED 12/15/93 R C DAVIDSON ALAMEDA COUNTY CTHOUSE-OAKLAND DOCKET: [REDACTED]
LAST CRT 01/24/94 R&S DEPT: 07 FORMAL PROBATION GRNT JAIL-COND OF PROBATION
CREDIT FOR TIME SERVED
BAIL STATUS: BAIL:
DFNS ATTY: PD-CERT ATTNY - ACPT
1) PC 12021(A) F ENTERED AT SUPERIOR 01/24/94 CONV MUNI-SENT SUP CRT
SENTENCE: NO FIREARMS
SENTENCE: 2 DAYS JAIL COND OF PROB.
SENTENCE: 3 YEARS FORMAL PROBATION

----- I N A C T I V E -----
EVENT NAME: [REDACTED]
MORE EVENTS FOR [REDACTED]

** FOR OFFICIAL USE ONLY **
CONFIDENTIAL INFORMATION
UNAUTHORIZED USE IS A CRIMINAL OFFENSE

ALAMEDA COUNTY SHERIFF'S OFFICE
EDEN TOWNSHIP SUBSTATION
15001 FOOTHILL BLVD.
SAN FRANCISCO, CA 94576

ALAMEDA COUNTY CORPUS EVENTS AS OF 03/04/05 1151
REQUESTED FOR: [REDACTED] CRIM HIST FRT CTR INFO
EVENT 10/26/82 1300 SHERIFFS OFFICE
BOOKING 10/26/82 1620 SHERIFFS OFFICE

TERM MSF4 PAGE 2

CEN: [REDACTED]
RPT NO.: [REDACTED]
CUSTODY STATUS: OWN RECOGNIZANCE
CRT DOCKET: [REDACTED] 02/25/83 AMEND-LESS INCL OFFENSE

1) VC 14601.1A M

DKT NAME: [REDACTED]
DCCO: [REDACTED]
COMP FILED 10/08/81 WILEY W. MANUEL COURTHOUSE, OAKLAND
LAST CRT 10/04/83 HG DEPT: 08 M/MODIFY PROBATION-G
M/TERM PROBATION-G

DOCKET: [REDACTED]
FINE IN LIEU OF WORK

BAIL STATUS:
DENS ATTY: PD - CPLE

BAIL: [REDACTED]

1) VC 14601.1A M ENTERED AT BOOKING 02/25/83 AMEND-LESS INCL OFFENSE
2) VC 12500 M ENTERED AT MUNI-CRT 02/25/83 CONVICTED-GUILTY PLEA
SENTENCE: \$52 FINE
SENTENCE: 2 MONTHS COND SENTENCE (CRT PRB) TERM

EVENT 09/01/82 0800 SHERIFFS OFFICE
BOOKING 09/01/82 0907 SHERIFFS OFFICE
CUSTODY STATUS: BAIL

CEN: [REDACTED]
RPT NO.: [REDACTED]

1) CA T14-700FTA M CRT DOCKET: [REDACTED] 09/03/82 TRANSFER FOR PROSECUTN

DKT NAME: [REDACTED]
DCCO: [REDACTED]
COMP FILED / / GALE/SCHENONE HALL OF JUSTICE, PLEASANTON
BAIL STATUS: [REDACTED]
DENS ATTY: [REDACTED]

DOCKET: [REDACTED]
BAIL: [REDACTED]

1) CA T14-700FTA M ENTERED AT BOOKING 09/03/82 TRANSFER FOR PROSECUTN
IN A C T I V E

EVENT 08/29/82 2000 OAKLAND PD
BOOKING 08/30/82 0036 OAKLAND PD
CUSTODY STATUS: BAIL

CEN: [REDACTED]
RPT NO.: [REDACTED]

1) PC 487.1 & 2 PRS F BOOKING NOT FILED 08/31/82 NOT FLD-NO REASON PROV
2) PC 496 F BOOKING NOT FILED 08/31/82 NOT FLD-NO REASON PROV

DKT NAME: [REDACTED]
DCCO: [REDACTED]
COMP FILED 08/31/82 WILEY W. MANUEL COURTHOUSE, OAKLAND
LAST CRT 12/17/82 JT DEPT: 09 MOTION WITHDRAWN
BAIL EXONERATED

DOCKET: [REDACTED]
M/DISMISS CASE-G

BAIL STATUS:
DENS ATTY: PD-KAHN - CELE

BAIL: [REDACTED]

1) PC 487.1 & 2 PRS F ENTERED AT BOOKING 08/31/82 NOT FLD-NO REASON PROV
2) PC 496 F ENTERED AT BOOKING 08/31/82 NOT FLD-NO REASON PROV
3) PC 487 M MUNI-CRT COMPLAINT 12/17/82 DISM-INSUF EVIDENCE OTH

IN A C T I V E

EVENT 06/02/80 1900 OAKLAND PD
BOOKING 06/02/80 2010 OAKLAND PD

CEN: [REDACTED]
RPT NO.: [REDACTED]

CUSTODY STATUS: PROBATION (FORMAL)
1) PC 245(A) F CRT DOCKET: [REDACTED] 10/16/79 HELD TO ANSWER

DKT NAME: [REDACTED]
DCCO: [REDACTED]
COMP FILED 09/11/79 WILEY W. MANUEL COURTHOUSE, OAKLAND
LAST CRT 10/16/79 MSUPX DEPT: 07 MOTION GRANTED
SUP CRT ARRGN DATE SET

DOCKET: [REDACTED]
HELD TO ANSWER

BAIL STATUS: BAIL BOND
DENS ATTY: PD-LOMHOF - ACPT

BAIL: \$5000.00

1) PC 245(A) F ENTERED AT BOOKING 10/16/79 HELD TO ANSWER

MORE EVENTS FOR [REDACTED]

*** FOR OFFICIAL USE ONLY ***
CONFIDENTIAL INFORMATION
UNAUTHORIZED USE IS A CRIMINAL OFFENSE

ALAMEDA COUNTY SHERIFFS
EDEN TOWNSHIP SUBSTAT
15001 FOOTHILL BLVD.
SAN FRANCISCO CA 94671

ALAMEDA COUNTY CORPUS EVENTS AS OF 03/04/05 1151
REQUESTED FOR: [REDACTED] CRIM HIST FRT CTR INFO

TERM MSF4 PAGE 3

DKT NAME: [REDACTED] DCCO:
COMP FILED 10/29/79 R C DAVIDSON ALAMEDA COUNTY CTHOUSE-OAKLANDDOCKET: [REDACTED]
LAST CRT 04/27/87 PTRED DEPT: 41 PETITION DENIED M/DISMISS 1203.4PC-G
BAIL STATUS:
DENS ATTY: PD - CPLE BAIL:

- 1) PC 245A USE F FROM MUNI-COURT 09/23/80 ENHANCEMENTS DISMISSED
2) PC 245A USE & 1 PRS F SUPERIOR INDICTMENT 09/23/80 DISM-VIEW OF PLEA
3) PC 245A F ENTERED AT SUPERIOR 04/27/87 CONV/DISM 1203.4 PC
SENTENCE: SENTENCE SUSPENDED
SENTENCE: 3 YEARS PRISON
SENTENCE: 42 MONTHS FORMAL PROBATION

***** A C T I V E *****
EVENT 06/02/80 190C OAKLAND PD CEN: [REDACTED]
BOOKING 06/02/80 2003 OAKLAND PD RPT NO.: [REDACTED]
CUSTODY STATUS: WORK TIME SERVED

- 1) VC 23102(A) M CRT DOCKET: [REDACTED] 11/13/78 CONVICTED
SENTENCE: REFER TO HARD COPY DOCKET
SENTENCE: 10 DAYS JAIL-CONSECT
SENTENCE: 3 MONTHS ADD COND SENTENCE (CRT PROB)
2) VC 12951 M BOOKING NOT FILED 11/08/78 NOT FLD-NO REASON PROV
3) VC 22107 M BOOKING NOT FILED 11/08/78 NOT FLD-NO REASON PROV

DKT NAME: [REDACTED] DCCO:
COMP FILED 11/08/78 WILEY W. MANUEL COURTHOUSE, OAKLAND DOCKET: [REDACTED]
LAST CRT 06/03/80 ARR DEPT: 08 COMMITTED FOR FINE-NP M/REINST PROBATION-G
M/TERM PROBATION-G

BAIL STATUS: BAIL:
DENS ATTY: PRO PER

- 1) VC 23102(A) M ENTERED AT BOOKING 11/13/78 CONVICTED;
SENTENCE: REFER TO HARD COPY DOCKET
SENTENCE: 10 DAYS JAIL-CONSECT
SENTENCE: 3 MONTHS ADD COND SENTENCE (CRT PROB)
2) VC 12951 M ENTERED AT BOOKING 11/08/78 NOT FLD-NO REASON PROV
3) VC 22107 M ENTERED AT BOOKING 11/08/78 NOT FLD-NO REASON PROV
4) PC 166.4 T ENTERED AT MUNI-CRT 06/03/80 CONTEMPT CHARGE DISM

***** I N A C T I V E *****
EVENT NAME: [REDACTED]
EVENT 06/02/80 1900 OAKLAND PD CEN: [REDACTED]
BOOKING 12/30/80 1140 SHERIFFS OFFICE RPT NO.: [REDACTED]
CUSTODY STATUS: WORK TIME SERVED
1) PC 211 F CRT DOCKET: [REDACTED] 10/27/77 HELD TO ANSWER

DKT NAME: [REDACTED] DCCO:
COMP FILED 10/17/77 WILEY W. MANUEL COURTHOUSE, OAKLAND DOCKET: [REDACTED]
LAST CRT 10/27/77 MSUPX DEPT: 07 M/EXCLUDE WITNESS-G M/REDUCE BAIL-GRANTED
HELD TO ANSWER
BAIL STATUS: BAIL BOND BAIL: \$5000.00
DENS ATTY: PD - ACPT

- 1) PC 211 F ENTERED AT BOOKING 10/27/77 HELD TO ANSWER

DKT NAME: [REDACTED] DCCO:
COMP FILED 11/09/77 R C DAVIDSON ALAMEDA COUNTY CTHOUSE-OAKLANDDOCKET: [REDACTED]
LAST CRT 04/27/87 PTRED DEPT: 41 PETITION DENIED M/DISMISS 1203.4PC-G
BAIL STATUS: BAIL:
DENS ATTY: PD - CPLE

- 1) PC 211 F FROM MUNI-COURT 04/27/87 CONV/DISM 1203.4 PC

MORE EVENTS FOR [REDACTED]

FOR OFFICIAL USE ONLY
CONFIDENTIAL INFORMATION
UNAUTHORIZED USE IS A CRIMINAL OFFENSE

ALAMEDA COUNTY SHERIFFS OFFICE
EDEN TOWNSHIP SUBSTATION
15001 FOOTHILL BLVD
FARMERSBURG CA 94529

ALAMEDA COUNTY CORPUS EVENTS AS OF 03/04/05 1151
REQUESTED FOR: [REDACTED] CRIM HIST FRT CTR INFO
SENTENCE: 1 YEARS ADD JAIL
SENTENCE: 3 YEARS FORMAL PROBATION

TERM MSF4 PAGE 4

----- I N A C T I V E -----
EVENT 05/02/77 0145 OAKLAND PD CEN: [REDACTED]
BOOKING 05/02/77 0252 OAKLAND PD RPT NO.:
CUSTODY STATUS: BAIL
1) VC 23103 M CRT DOCKET: [REDACTED] 05/23/77 CONVICTED
SENTENCE: REFER TO HARD COPY DOCKET
SENTENCE: \$130 FINE
2) VC 22350 M BOOKING NOT FILED 05/03/77 NOT FLD-NO REASON PROV
3) VC 21453A M BOOKING NOT FILED 05/03/77 NOT FLD-NO REASON PROV
4) VC 40303I M BOOKING NOT FILED 05/03/77 NOT FLD-NO REASON PROV

DKT NAME: DCCO:
COMP FILED 05/03/77 WILEY W. MANUEL COURTHOUSE, OAKLAND DOCKET: [REDACTED]
LAST CRT 07/06/77 PF DEPT: 08 FINE PAID BENCH WARRANT WITHDRWN
BAIL STATUS: BAIL:
DFNS ATTY:

1) VC 23103 M ENTERED AT BOOKING 05/23/77 CONVICTED
SENTENCE: REFER TO HARD COPY DOCKET
SENTENCE: \$130 FINE
2) VC 22350 M ENTERED AT BOOKING 05/03/77 NOT FLD-NO REASON PROV
3) VC 21453A M ENTERED AT BOOKING 05/03/77 NOT FLD-NO REASON PROV
4) VC 40303I M ENTERED AT BOOKING 05/03/77 NOT FLD-NO REASON PROV
5) PC 166.4 M ENTERED AT MUNI-CRT 07/06/77 CONTEMPT CHARGE DISM

----- I N A C T I V E -----
EVENT NAME: [REDACTED]
EVENT 04/16/77 1130 OAKLAND PD CEN: [REDACTED]
BOOKING 04/16/77 1245 OAKLAND PD RPT NO.:
CUSTODY STATUS: RELEASED (UNCODED REASON)
1) PC 459(RES) F BOOKING NOT FILED 04/18/77 NOT FLD-NO REASON PROV

DKT NAME: DCCO:
COMP FILED 04/18/77 WILEY W. MANUEL COURTHOUSE, OAKLAND DOCKET: [REDACTED]
LAST CRT 08/10/77 R&S DEPT: 09 PROBATION DENIED REF/WORK FURLOUGH
COMMITTED DROPPED FROM CALENDAR
BAIL STATUS: BAIL:
DFNS ATTY: KLEINMON I
1) PC 459(RES) F ENTERED AT BOOKING 04/18/77 NOT FLD-NO REASON PROV
2) PC 459 M MUNI-CRT COMPLAINT 06/15/77 CONVICTED

----- I N A C T I V E -----
EVENT 08/19/75 0145 OAKLAND PD CEN: [REDACTED]
BOOKING 08/19/75 0423 OAKLAND PD RPT NO.:
CUSTODY STATUS: RELEASED (UNCODED REASON)
1) VC 10851 F CRT DOCKET: [REDACTED] 09/05/75 AMENDED PER 17B PC

DKT NAME: DCCO:
COMP FILED 08/19/75 WILEY W. MANUEL COURTHOUSE, OAKLAND DOCKET: [REDACTED]
LAST CRT 10/03/75 R&S DEPT: 07 SENTENCED DEF REMANDED TO CUSTDY
CREDIT FOR TIME SERVED, FORMAL PROBATION GRNT
BAIL STATUS: BAIL SET BY COURT BAIL: NO BAIL
DFNS ATTY: PD -
1) VC 10851 F ENTERED AT BOOKING 09/05/75 AMENDED PER 17B PC
2) PC 487 F MUNI-CRT COMPLAINT 09/05/75 DISM-VIEW OF PLEA
3) VC 10851 M ENTERED AT MUNI-CRT 10/03/75 CONVICTED
SENTENCE: IMPOSITION OF SENTENCE SUSPENDED

MORE EVENTS FOR [REDACTED]

*** FOR OFFICIAL USE ONLY ***
CONFIDENTIAL INFORMATION
UNAUTHORIZED DISCLOSURE IS A CRIMINAL OFFENSE

ALAMEDA COUNTY SHERIFF'S OFFICE
EDEN TOWNSHIP SUBSTATION
15001 FOOTHILL BLVD.
SAN LEANDRO, CA 94577

ALAMEDA COUNTY CORPUS EVENTS AS OF 03/04/05 1151
REQUESTED FOR: [REDACTED] CRIM HIST FRT CTR INFO
SENTENCE: 12 DAYS JAIL
SENTENCE: 36 MONTHS FORMAL PROBATION

TERM MSF4 PAGE 5

----- I N A C T I V E -----
EVENT 01/31/75 1030 OAKLAND PD CEN: [REDACTED]
BOOKING 01/31/75 1130 OAKLAND PD RPT NO.:
CUSTODY STATUS: CITATION IN JAIL AFTER BOOKING
1) PC 484 M CRT DOCKET: 72544 04/09/75 ACQUITTED-NOT GUILTY
2) PC 459 M CRT DOCKET: 72544 04/09/75 ACQUITTED-NOT GUILTY
3) PC 272 M CRT DOCKET: 72544 04/09/75 ACQUITTED-NOT GUILTY

DKT NAME: DCCO:
COMP FILED 01/17/75 WILEY W. MANUEL COURTHOUSE, OAKLAND DOCKET: [REDACTED]
LAST CRT 04/09/75 JT DEPT: 03 FOUND NOT GUILTY
BAIL STATUS: CITED BAIL:
DFNS ATTY: PD -
1) PC 484 M ENTERED AT BOOKING 04/09/75 ACQUITTED-NOT GUILTY
2) PC 459 M ENTERED AT BOOKING 04/09/75 ACQUITTED-NOT GUILTY
3) PC 272 M ENTERED AT BOOKING 04/09/75 ACQUITTED-NOT GUILTY

DKT NAME: DCCO:
COMP FILED 01/31/75 WILEY W. MANUEL COURTHOUSE, OAKLAND DOCKET: [REDACTED]
LAST CRT 02/07/75 ARR DEPT: 05
BAIL STATUS: BAIL:
DFNS ATTY:

----- I N A C T I V E -----
EVENT 09/13/74 2330 OAKLAND PD CEN: [REDACTED]
BOOKING 09/14/74 0210 OAKLAND PD RPT NO.:
CUSTODY STATUS: OWN RECOGNIZANCE

DKT NAME: DCCO:
COMP FILED 09/14/74 WILEY W. MANUEL COURTHOUSE, OAKLAND DOCKET: [REDACTED]
LAST CRT 09/05/75 DISP DEPT: 11 M/DISMISS CASE-G
BAIL STATUS: OWN RECOGNIZANCE BAIL:
DFNS ATTY: PD -
1) PC 499B M MUNI-CRT COMPLAINT 09/05/75 DISM-VIEW OF PLEA
2) PC 1319.6 M ENTERED AT MUNI-CRT 09/05/75 DISM-VIEW OF PLEA

END OF EVENTS FOR [REDACTED]

** FOR OFFICIAL USE ONLY **
CONFIDENTIAL INFORMATION
UNAUTHORIZED DISCLOSURE IS A CRIMINAL OFFENSE

ALAMEDA COUNTY SHERIFF'S OFFICE
EDEN TOWNSHIP SUBSTATION
15001 FOOTHILL BLVD.
SAN LEANDRO, CA 94576

APPENDIX C – CLAIM OF ALLEGED INACCURACY OR INCOMPLETENESS

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE



BUREAU OF CRIMINAL IDENTIFICATION
AND INFORMATION
P.O. BOX 903417
SACRAMENTO, CA 94203-4170

CLAIM OF ALLEGED INACCURACY OR INCOMPLETENESS

I have examined a copy of my California State Summary Criminal History Record as contained in the files of the Department of Justice, Bureau of Criminal Identification and Information, and wish to take ~~exception to its accuracy and/or completeness.~~

NAME: _____
LAST NAME FIRST NAME MIDDLE NAME

CHI NUMBER: _____ DATE: _____

Complete a statement for each error or inaccuracy claimed. Use additional paper if necessary. Attach copies of any proof or corroboration available.

SIGNATURE

Return this form to the attention of the Record Review Unit at the California Department of Justice, Bureau of Criminal Identification and Information, P.O. Box 903417, Sacramento, CA 94203-4170

BCII 8706 (Rev. 4/99)

APPENDIX E - RAP SHEET FEE WAIVER APPLICATION

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE



BUREAU OF CRIMINAL IDENTIFICATION
AND INFORMATION
P.O. BOX 903417
SACRAMENTO, CA 94203-4170

APPLICATION AND DECLARATION FOR WAIVER OF FEE FOR OBTAINING CRIMINAL HISTORY RECORD

I, the undersigned, declare that I am unable to pay the fee to obtain a copy of my criminal history record without impairing my obligation to meet the common necessities of life.

I declare under the penalty of perjury that the foregoing is true and correct and was signed at _____, California, on _____, 20____.

Attached is verification of proof of indigence as required by Penal Code Section 11123.

DECLARANT

BCIT 8690 (Rev. 5/00)

APPENDIX F – 1203.4 PETITION

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

<input type="checkbox"/> Berkeley Courthouse, 2120 Martin Luther King, Jr. Way, Berkeley, CA. 94704	<input type="checkbox"/> Hayward Hall of Justice 24405 Amador Street, Hayward, CA. 94544	<input type="checkbox"/> Wiley W. Manuel Courthouse 661 Washington Street, Oakland, CA. 94607
<input type="checkbox"/> Fremont Hall of Justice 39439 Paseo Padre Parkway, Fremont, CA. 94538	<input type="checkbox"/> Gale/Schenone Hall of Justice 5672 Stoneridge Drive, Pleasanton, CA. 94588	<input type="checkbox"/> George E. McDonald Hall of Justice 2230 Shoreline Drive, Alameda, CA. 94501
<input type="checkbox"/> Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA. 94612	<input type="checkbox"/> Allen E. Broussard Justice Center, 600 Washington Street, Oakland, CA 94607	

THE PEOPLE OF THE STATE OF CALIFORNIA

vs

Case No. _____

DOB _____

PFN No. _____

CEN No. _____

CII No. _____

Petitioner

Address of Petitioner

City

State

Zip

Phone # area code

PETITION FOR RELEASE FROM PENALTIES AND DISMISSAL UNDER P.C. 1203.4 (on probation)

I am the defendant in the above-entitled action, I was convicted and **placed on probation** for violating Section(s) _____ of the _____ Code, on _____. I have fulfilled the terms and conditions of said probation, except as will be testified by me at the hearing of this petition. I am not serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense. I understand that I must disclose the conviction in response to any direct question in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery if this petition is granted.

WHEREFORE, I request permission to withdraw my plea of guilty/no contest or that the verdict or finding of guilt be set aside and that a plea of not guilty be entered and the Court dismiss this action pursuant to Section 1203.4 of the Penal Code.

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

Date

Signature of Defendant

Petition set for hearing on _____ at _____ M. in Department No. _____

District Attorney and Probation Office served endorsed copy of petition. _____

Date

Clerk

Distribution of Signed Order: Original to Court file. 1 conv to Petitioner. District Attorney and Probation Office

APPENDIX G – 1203.4a PETITION

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

<input type="checkbox"/> Berkeley Courthouse 2120 Martin Luther King, Jr. Way, Berkeley, CA. 94704	<input type="checkbox"/> Hayward Hall of Justice 24405 Amador Street, Hayward, CA. 94544	<input type="checkbox"/> Wiley W. Manuel Courthouse 661 Washington Street, Oakland, CA. 94607
<input type="checkbox"/> Fremont Hall of Justice 39439 Paseo Padre Parkway, Fremont, CA. 94538	<input type="checkbox"/> Gale/Schenone Hall of Justice 5672 Stoneridge Dr., Pleasanton, CA. 94588	<input type="checkbox"/> George E. McDonald Hall of Justice 2230 Shoreline Drive, Alameda, CA. 94501
<input type="checkbox"/> Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA. 94612	<input type="checkbox"/> Allen E. Broussard Justice Center 600 Washington Street, Oakland, CA 94607	

THE PEOPLE OF THE STATE OF CALIFORNIA

vs

Petitioner

Case No. _____

DOB _____

PFN No. _____

CEN No. _____

CII No. _____

Address of Petitioner

City

State

Zip

Phone # with area code

PETITION FOR RELEASE FROM PENALTIES AND DISMISSAL UNDER P.C. 1203.4a (not on probation)

I, the undersigned petitioner, say that I am the defendant in the above-entitled action, I was convicted for violating Section(s) _____ of the _____ Code, on _____; that **no probation was granted**. I am not serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, nor am I under charge of commission of any crime, and have since said pronouncement of judgment lived an honest and upright life, and have conformed to and obeyed the laws of the land.

WHEREFORE, I request permission to withdraw my plea of guilty/no contest or that the verdict or finding of guilt be set aside and that a plea of not guilty be entered and the Court dismiss this action pursuant to Section 1203.4a of the Penal Code.

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

Date: _____

Signature of Defendant

Petition set for hearing on _____ at _____ M. in Department No. _____

District Attorney and Probation Office served endorsed copy of Petition _____

Date

Clerk

Distribution of Signed Order: Original to Court file. 1 conv to Petitioner. District Attorney. and Probation Office

APPENDIX H - SAMPLE MEMORANDUM IN SUPPORT OF 1203.4 PETITION

MEMORANDUM OF POINTS AND AUTHORITIES

_____ is a citizen of Mexico. He has resided in the United States for over 27 years and has been a Lawful Permanent Resident for more than 12 years. The misdemeanor conviction is threatening _____ with deportation and preventing him from remaining here with his family. (Exhibit A, Declaration of Norton Tooby.)

Defendant _____ respectfully requests this court to find it in the interests of justice to grant an expungement of his conviction in this matter pursuant to Penal Code § 1203.4(a), which permits an expungement after successful completion of probation or in any "other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section" (Ibid.)

In the present case, defendant is eligible to receive an expungement of this conviction since he is not now serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense.

The police reports reflect that the offense he seeks to expunge arose from a January 2, 1992, arrest at Safeway after he took two bottles of alcoholic beverages from the store without attempting to pay for them. He was completely cooperative with the security officers and the police.

During the probationary period, he picked up a new petty theft, but his probation was not formally violated. This arrest does not disqualify him from receiving an expungement in this case if the court finds, under all the circumstances, that

granting the expungement is in the interests of justice.

(People v. Butler (1980) 105 Cal.App.3d 585, 164 Cal.Rptr. 475, 477.)

He completed his probation without further incident on May 1, 1994.

_____ therefore applies to this court for a grant of expungement on the grounds he and his family will otherwise suffer drastic immigration consequences as a result of this misdemeanor conviction that really amounted to little more than petty theft of less than \$25.00 of alcoholic beverages from Safeway. In this case, the terribly drastic and permanent consequence of deportation and banishment from home, friends, and job is too great a punishment.

_____ has already paid his debt to society. The prosecution will suffer no prejudice from granting this motion to expunge the conviction. He is addressing his alcohol problem through residential treatment at this time.

This court is thus free, in its discretion, to grant the motion to expunge this conviction, and is urged, in the interests of justice, to do so.

Dated: May ____, 1996.

Respectfully submitted,

NORTON TOOBY
Attorney for Defendant

APPENDIX I – SAMPLE DECLARATION IN SUPPORT OF 1203.4 PETITION

NAME

ADDRESS

SUPERIOR COURT OF CALIFORNIA

COUNTY OF _____

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff

Case No.:
DECLARATION IN SUPPORT OF

VS.

PETITION UNDER P.C. 1203.4

NAME

Defendant

I, NAME, declare:

I believe the following facts justify my petition for expungement:

1. I was convicted of violating California Penal Code, (describe offense), committed on DATE. (Briefly describe circumstances of cases)
2. (Describe life circumstances at time of conviction, e.g.: In 1997, after this conviction for possession of methamphetamines, I was literally “scared straight.” I realized that I needed to change my life entirely; I decided to get clean. Although it was difficult, I stopped doing drugs on my own.)
3. (Describe life circumstances since incident/conviction, e.g.: I have not had

alcohol for over 10 years. I have not done any drugs for five years. Over the past year, I have participated in Alcoholics Anonymous to get support for staying “clean and sober,” and in order to get my drivers license back to help with finding and retaining a job. I am in the process of joining a labor union of cement masons in order to find work. I am living at a shelter until I can find employment.)

4. (Describe/explain any other contacts with law enforcement since the incident/conviction, e.g. since the 1997 convictions, I have had one contact with law enforcement. I was cited and released for driving on a suspended license. Currently, I am working with the DMV and the courts to get my drivers license back and clear this violation from my record.)
5. (Describe why you need an expungement, e.g., my prior conviction is greatly limiting my job opportunities and an expungement would allow me to work and achieve my goal of self- sufficiency and continued sobriety. I respectfully request that the court use its discretion to expunge my misdemeanor conviction and grant me a second chance to work and support myself.

I declare under penalty of perjury of the laws of the State of California that the above is true and correct to the best of my knowledge.

Executed on DATE, at CITY, California

APPENDIX J – SAMPLE LETTER OF SUPPORT

Date

To Whom It May Concern:

Name has been a wonderful position or volunteer with name of organization or company since date. (Include a description of the organization or company and the work they do).

Name volunteers/works an average of # hours per week with varied duties. (Describe nature of work performed, e.g. filing and light clerical, coaching a boys' basketball team, or assisting with youth programming. Also include ways that the petitioner excels and other commentary on the petitioner's commitment to volunteering or working).

Name genuinely enjoys helping people, and she/he has actively sought out ways to get more involved with the work of name of organization or company. (Include any examples of ways the petitioner has gone the extra mile, e.g. available in a pinch, covers for others, represented the organization at an event).

(Closing remarks to reinforce the quality of the work/volunteer efforts of the petitioner, e.g., it has been a delight having X volunteer at our office; his/her assistance is truly appreciated.).

Sincerely,

Your name

Title

APPENDIX K – PETITION: REDUCTION OF FELONY TO MISDEMEANOR;

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

<input type="checkbox"/> Berkeley Courthouse 2120 Martin Luther King, Jr. Way, Berkeley, CA. 94704	<input type="checkbox"/> Hayward Hall of Justice 24405 Amador Street, Hayward, CA. 94544	<input type="checkbox"/> Wiley W. Manuel Courthouse 661 Washington Street, Oakland, CA. 94607
<input type="checkbox"/> Fremont Hall of Justice 39439 Paseo Padre Parkway, Fremont, CA. 94538	<input type="checkbox"/> Gale/Schenone Hall of Justice 5672 Stoneridge Dr., Pleasanton, CA. 94588	<input type="checkbox"/> George E. McDonald Hall of Justice 2230 Shoreline Drive, Alameda, CA. 94501
<input type="checkbox"/> Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA. 94612	<input type="checkbox"/> Allen E. Broussard Justice Center 600 Washington Street, Oakland, CA 94607	

THE PEOPLE OF THE STATE OF CALIFORNIA

vs

Petitioner

Case No. _____

DOB _____

PFN No. _____

CEN No. _____

CII No. _____

Address of Petitioner City State Zip Phone # with area code

PETITION FOR REDUCTION OF FELONY TO MISDEMEANOR PURSUANT TO THE PROVISIONS OF PENAL CODE SECTION 17

I, the undersigned petitioner, am the defendant in the above-entitled action. I was convicted for violating Section(s) _____ of the _____ Code, on _____. The Court placed me on probation on the terms and conditions set forth in the docket of the above-named Court. I have fulfilled the terms and conditions of probation, except as may be testified by myself upon the hearing of this petition. Probation was granted for a period of _____ years and _____ months.

WHEREFORE, I request that the felony be reduced to a misdemeanor.

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

Date

Signature of Petitioner

Petition set for hearing on _____ at _____ M. in Department No. _____

District Attorney and/or Probation Office served endorsed copy of Petition _____

Date Clerk

Distribution: Original to Court file, 1 copy to Petitioner, 1 copy to District Attorney, and/or 1 copy to Probation Office
Revised 4/7/04

MEMORANDUM IN SUPPORT OF 17 (b) PETITION

§39.6

California Criminal Law Forms Manual • 580

§39.6 Defense Motion to Reduce Felony to Misdemeanor After Probation Granted (Pen C §17(b)(3))

__ [Name of defense attorney; State Bar number] __
__ [Address] __
__ [City, State] __
__ [Telephone number] __
__ [Fax number (optional)] __
__ [E-mail address (optional)] __
__ [Attorney for] __ [name of defendant] __

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF _____

PEOPLE OF THE STATE OF CALIFORNIA,	Dept. __ [number] __
Plaintiff,	No. __ [case number] __
vs.	NOTICE OF MOTION TO DECLARE
Defendant.	OFFENSE TO BE MISDEMEANOR
_____ /	(Pen C §17(b)(3)) __ [If desired, identify
	other attached papers] __

TO THE ABOVE-ENTITLED COURT, AND TO THE DISTRICT ATTORNEY AND THE PROBATION OFFICER OF _____ COUNTY, STATE OF CALIFORNIA:

PLEASE TAKE NOTICE, that on __ [date] __, in Department __ [number] __, at __ [time] __, or as soon thereafter as the matter may be heard, the defendant will move the Court to declare the offense in this case to be a misdemeanor.

The ground for this motion is that declaring this offense to be a misdemeanor is in the interest of justice.

This motion is based on the attached declaration of defendant, all papers filed and records in this action, evidence taken at the hearing on this motion, and argument at that hearing.

WHEREFORE, the defendant respectfully requests this Court to grant this motion, and to notify the California Department of Justice, under Penal Code section 13151.

Date: _____

Respectfully submitted,

__ [Signature of attorney] __
__ [Typed name] __
__ [Title if in public defender office] __
Attorney for __ [name of defendant] __

[Memorandums of points and authorities may start on a new page. No caption is needed if attached to papers with caption; see §24.2.]

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION
TO DECLARE THIS OFFENSE TO BE A MISDEMEANOR**

AUTHORITY TO DECLARE AN OFFENSE TO BE A MISDEMEANOR

Penal Code section 17(b) provides:

When a crime is punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail, it is a misdemeanor for all purposes under the following circumstances:...

(3) When the court grants probation to a defendant without imposition of sentence and ... on application of the defendant or probation officer thereafter, the court declares the offense to be a misdemeanor.

The offense in this case, violation of [code section] , is an alternate felony/misdemeanor, so it fits within the ambit of Penal Code section 17(b).

In *People v Superior Court (Alvarez)* (1997) 14 C4th 968, 978, 60 CR2d 93, the California Supreme Court addressed the criteria to be applied in exercising discretion to grant a misdemeanor reduction under Penal Code section 17(b). Among relevant factors are the nature and circumstances of the offense, the defendant's appreciation of and attitude toward the offense, or his or her character traits as evidenced by trial behavior and demeanor. When it is appropriate, the court should consider general sentencing objectives, such as those set forth in Cal Rules of Ct 4.410.

The supreme court indicated that the trial court must focus on the individual defendant as well as the public interest:

(1) "[A] determination made outside the perimeters drawn by individualized consideration of the offense, the offender, and the public interest 'exceeds the bounds of reason.'" 14 C4th at 978.

(2) The court should weigh "the various sentencing considerations commensurate with the individual circumstances." 14 C4th at 979.

(3) "The record should reflect a thoughtful and conscientious assessment of all relevant factors including the defendant's criminal history." 14 C4th at 979.

(4) The sentencing court must focus "on considerations that are pertinent to the specific defendant being sentenced." 14 C4th at 980.

__ [Tell what facts concerning defendant's case fit within the above Standards, and argue in favor of reducing the offense to a misdemeanor.] __

THE DEPARTMENT OF JUSTICE MUST BE NOTIFIED IF THIS MOTION IS GRANTED

Penal Code section 13151 states that, when the Court orders any action subsequent to the initial disposition of a case, the Court shall report this to the California Department of Justice. The report is necessary to ensure that defendant obtains full benefit if the Court grants this motion.

CONCLUSION

For the above reasons, defendant asks this Court to reduce __ [describe offense] __ from a felony to a misdemeanor.

Date: _____

Respectfully submitted,

__ [Signature of attorney] __

__ [Typed name] __

__ [Title if in public defender office] __

Attorney for __ [name of defendant] __

[Declarations usually start on a new page. No caption is needed if attached to papers with caption; see §24.3.]

**DECLARATION OF DEFENDANT IN SUPPORT OF MOTION
TO DECLARE THIS OFFENSE TO BE A MISDEMEANOR**

*[This declaration assumes defendant is seeking
reduction under Pen C §17(b)(3).]*

I, [name] , declare:

1. I am the defendant in this action.

2. On [date] , I was convicted [by a plea of guilty or no contest/by a jury
or court verdict after trial] of violation of [specify code section and offense] .

3. On [date] the Court suspended imposition of sentence and granted probation.

4. Probation expired on [date] . I have successfully completed all of the terms of probation. I am not now serving a sentence for, and am not on probation for, and am not charged with the commission of any other offense.

 5. If there are any particularly compelling reasons why this relief should be granted, they can be listed here. For example, if defendant wishes to join the military, or enroll in professional school, or was young and immature at the time of the offense, or has led a particularly upstanding life since conviction.]

[Add if appropriate]

I am not a party to any civil lawsuit, or facing deportation proceedings, or currently applying for any license. I am not making this motion to gain unfair advantage in any matter.

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

Date:

 [Signature of declarant]

 [Typed name]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF _____

PEOPLE OF THE STATE OF CALIFORNIA, Dept. __[number]__
Plaintiff, No. __[case number]__
vs. ORDER DECLARING OFFENSE TO BE A
Defendant. MISDEMEANOR

Date: _____

_____[Signature of Judge]_____
_____[Typed name]_____
Judge of the Superior Court

- Notice of motion, notice of motion and motion, or motion (see §24.1)
- Memorandum of points and authorities (see §24.2)
- Declaration of defendant (see §24.3)
- Proof of service

APPENDIX L – 851.8 PETITION: SEAL AND DESTROY ARREST RECORDS

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

<input type="checkbox"/> Berkeley Courthouse, 2120 Martin Luther King Way, Berkeley, CA 94704	<input type="checkbox"/> Hayward Hall of Justice, 24405 Amador Street, Hayward, CA 94544	<input type="checkbox"/> Wiley W. Manuel Courthouse, 661 Washington St., Oakland, CA 94607
<input type="checkbox"/> Fremont Hall of Justice, 39439 Paseo Padre Parkway, Fremont, CA 94538	<input type="checkbox"/> Gale/Schenone Hall of Justice, 5672 Stoneridge Drive, Pleasanton, CA 94588	<input type="checkbox"/> George E. McDonald Hall of Justice, 2233 Shoreline Dr., Alameda, CA 94501
<input type="checkbox"/> Rene C. Davidson Courthouse, 1225 Fallon Street, Oakland, CA 94612	<input type="checkbox"/> Allen E. Broussard Justice Center, 600 Washington St., Oakland, CA 94612	

THE PEOPLE OF THE STATE OF CALIFORNIA

vs.

Action No.: _____

PFN: _____

CEN: _____

**PETITION TO SEAL AND DESTROY
ARREST RECORDS (PC Sec. 851.8)**

Defendant

I, the undersigned petitioner, hereby petition the Court for a declaration of factual innocence pursuant to Penal Code Section 851.8 of the State of California, and, subsequently, for the arrest record(s) to be sealed for three years from the date of the arrest(s) and thereafter destroyed.

Attached hereto and by reference made a part of this petition, is an original petition made to the _____ under Penal Code Section 851.8 and subsequently denied by said law enforcement agency.

WHEREFORE, petitioner prays the Court grant such relief as set forth in Penal Code Section 851.8 of the State of California.

Executed on _____ at _____, California.
(date) (city)

Petitioner

(Original: File stamp, to court file)
(Copy: Alameda County District Attorney)

Petition set for hearing in Department _____, at _____, on _____.
(time) (date)

S-8518~11.dot (9/99)

APPENDIX M – 851.90 ORDER TO SEAL ARREST AND COURT RECORDS

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

<input type="checkbox"/> Allen E. Broussard Justice Center 600 Washington Street, Oakland, CA 94607	<input type="checkbox"/> Berkeley Courthouse 2000 Center Street, Berkeley, CA 94704	<input type="checkbox"/> Berkeley Courthouse 2120 Martin Luther King, Jr. Way, Berkeley 94704
<input type="checkbox"/> Fremont Hall of Justice 39439 Paseo Padre Parkway, Fremont, CA 94538	<input type="checkbox"/> Gale/Schenone Hall of Justice 5672 Stoneridge Drive, Pleasanton, CA 94588	<input type="checkbox"/> George E. McDonald Hall of Justice 2233 Shoreline Drive, Alameda, CA 94501
<input type="checkbox"/> Hayward Hall of Justice 24405 Amador Street, Hayward, CA 94544	<input type="checkbox"/> René C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	<input type="checkbox"/> Wiley W. Manuel Courthouse 661 Washington Street, Oakland, CA 94607

THE PEOPLE OF THE STATE OF CALIFORNIA

Plaintiff

vs.

Case No.: _____

PFN.: _____

CEN: _____

Defendant

ORDER TO SEAL ARREST AND COURT RECORDS Pursuant to Penal Code Section 851.90

The Court having found that the above-named defendant has successfully completed a drug diversion or deferred entry of judgment program pursuant to Penal Code Sections 1000 or 1000.5 and the diverted charge(s) having been dismissed, hereby orders the following:

All records of the arresting agency and the court including all files, indexes, register of actions or any other similar records regarding this matter are sealed.

Dated: _____

JUDGE OF THE SUPERIOR COURT



(Original: Court File; 3 copies: Defendant, Arresting Agency & Sheriff - CIB)
CRM _____
FORM - Order to Seal pursuant to PC 851.90

APPENDIX N – CERTIFICATE OF REHABILITATION

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

In the matter of the Application of

Type Applicant's Full Name – First Middle Last and Suffix, if applicable.

Certificate Number _____

Date of Birth _____

CII Number _____

Criminal Case Number(s) _____

List applicable Criminal Case Number

Court use only

CERTIFICATE OF REHABILITATION Pursuant to Penal Code Sections 4852.13

The petition of _____, presently residing

Type Applicant's Full Name – First Middle Last and Suffix, if applicable

at _____, heretofore filed, praying

Type Applicant's Street Address, City, State and Zip Code

for a Certificate of Rehabilitation pursuant to the provisions of Chapter 3.5, Title 6 of Part 3 of the Penal Code of the State of California, came on regularly for hearing on this _____ day of

Day of the Month

_____ and proof having been made to the satisfaction of the Court that notice of the time

Month, Year

of hearing has been regularly given as required by law; and satisfactory proof taken at said hearing the Court finds that all allegations of said petition are true, and that the required period of rehabilitation has elapsed since petitioner's date of discharge from custody due to completion of the term to which the petitioner was sentenced, or upon the release on parole or probation on _____, that, where

Month Day, Year

appropriate, petitioner has obtained relief pursuant to Penal Code Section 1203.4, and that petitioner has demonstrated by the course of conduct his/her rehabilitation and fitness to exercise all the civil and political rights of citizenship (except as provided in Penal Code Section 4852.15); and that petitioner has been

_____ time(s) convicted of a felony;

Total Number of Felony Convictions

WHEREOF, It is Ordered, Adjudged and Decreed, And this court does hereby order, adjudge and decree the petitioner has been rehabilitated and is fit to exercise all the civil and political rights of citizenship (except as provided in Penal Code Section 4852.15) and by virtue thereof, this court recommends that the Governor of the State of California grant a full pardon to said petitioner.

Done in open court this _____ day of _____.

Day of the month

Month, Year

Judge of said Superior Court – TYPED or PRINTED

Judge of said Superior Court - Signature

APPENDIX O - FBI REQUEST FOR IDENTIFICATION RECORDS

MEMORANDUM

TO: FEDERAL BUREAU OF INVESTIGATION

FROM:

RE: REQUEST FOR FBI IDENTIFICATION RECORD

I hereby request a copy of my criminal identification record from the Federal Bureau of Investigation, if one exists. The record is being requested for preparation of a court order or for personal reasons.

I am enclosing my fingerprint card along with a money order, payable to the Treasurer of the United States, in the amount of \$18.00.

Applicant's Name

Mailing Address

City/State/Zip

Telephone Number
