

This information sheet does not cover all of the questions that may arise in a case. Do *not* deliver this information sheet to the court clerk.

What is a petition to seal arrest and related records?

The petition is a request to the court to seal arrest and related records under Penal Code section 851.91. A separate petition must be filed for each arrest for which sealing is requested.

What information do I include in the petition?

Read the petition carefully and fill out all parts of the petition. The court may deny the petition based on incomplete information.

How will the court make its decision?

To have the arrest sealed as a matter of right, the court will determine whether the arrest did not result in a conviction (Pen. Code, § 851.91(a)(1)). The court will NOT seal the arrest as a matter of right if (1) you may still be charged with any of the offenses upon which the arrest was based; (2) the arrest or case was filed for murder or any other offense for which there is no statute of limitations (except if you have been acquitted or found factually innocent), or (3) you intentionally evaded law enforcement efforts to prosecute the arrest, including by engaging in identity fraud. (Pen. Code, § 851.91(a)(2).)

To have the arrest sealed in the interests of justice (Pen. Code, § 851.91(c)(2)(B)), you must describe how sealing the arrest is in the interests of justice through a personal statement from you and/or statements from others.

What do I do with the petition once I fill it out?

If a criminal case was filed based on the arrest you want to have sealed, take or mail this petition to the clerk's office in the court where the case was filed.

If no criminal case was filed or charged against you, take or mail this petition to the clerk's office in the court that handles criminal matters for the city or county where the arrest happened. If you don't know which court this is, you may want to contact a court in the county to ask. The clerk will give you a court date for the hearing, which should be at least 15 days from the date you file the petition.

It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

Must anyone else get the petition?

A copy of the petition must be served (delivered by hand or by mail) on the prosecutor of the city or county where the arrest happened *and* the law enforcement agency that made the arrest at least 15 days before the hearing on the petition. After you have served the petition on the prosecutor and the law enforcement agency, you will need to file a "proof of service" with the court.

What happens if the court grants my petition (request)?

If the court grants the petition, it will send a copy of the order to law enforcement and the California Department of Justice to update the arrest record, noting that the arrest is sealed. Records that are sealed under the court's order will not be disclosed except to you or a criminal justice agency (which includes courts, peace officers, prosecuting attorneys, city attorneys pursuing specific actions, defense attorneys, probation officers, parole officers, and correctional officers). Criminal history providers may disclose information to other criminal history providers. For more information, see Penal Code section 851.92.

Are translations of the petition available?

Translations of the petition are available in Spanish, Chinese, Vietnamese, and Korean at the California Courts website at www.courts.ca.gov/forms.htm.

Are there other ways to seal or limit arrest records?

Yes. You may request the court to deem an arrest a detention under Penal Code section 849.5; request a determination of factual innocence under section 851.8; receive an acquittal and a determination of factual innocence under section 851.85; have your conviction set aside based on a determination of factual innocence under section 851.86; and request relief after completion of a pre-filing diversion program under section 851.87.

Clerk stamps date here when form is filed.

Fill in the name and street address of the court that you are filing the petition in:

Superior Court of California, County of MADERA
200 South G Street
Madera, CA 93637

Criminal Division

Fill this out if a criminal complaint was filed or charged against the petitioner, and there is a case number and case name for that criminal case. Do not fill this out if an arrest happened but no criminal complaint was filed or charged in court:

Trial Court Case Number:

Trial Court Case Name:
People of the State of California
v.

1 Your Information

a. Petitioner (*the person who is filing this petition*):

Name: _____

Last First MI

Date of birth: _____ (mm/dd/yyyy)

Street address: _____

Street

City State Zip

Mailing address (*if you have a lawyer for this case, give your lawyer's information*):

Street

City State Zip

Phone: _____

E-mail (*if available*): _____

State Bar number: _____

2 Notice of Court Hearing

A court hearing is scheduled on this petition as follows:

Hearing Date → Date: _____ Time: _____
Dept.: _____ Room: _____

Name and address of court if different from above:

If an interpreter is needed, please specify the language: _____

3 Information About Your Case

a. Date of the arrest you are requesting to be sealed: _____ (mm/dd/yyyy)

b. Where did the arrest happen? Include the city and county: _____

c. What law enforcement agency made the arrest? If it was a police department, include the city (*for example, ABC City Police Department*). If it was a county sheriff, list the county (*for example, XYZ County Sheriff*):

d. What is the arrest report number or police report number, if available?

Trial Court Case Number: _____

Trial Court Case Name: _____

e. Include any other information about the arrest that is available from the prosecutor (district attorney/city attorney) or the court, including the case number that the prosecutor used to review the arrest or used to file a case against you. If you would like to explain the information provided, please do so below, or complete and attach the *Attached Declaration* (form MC-031) or submit other relevant documents.

f. Add any information on offenses or charges based on the arrest. If you would like to explain the information provided, please do so below, or complete and attach the *Attached Declaration* (form MC-031) or submit other relevant documents.

g. If the prosecutor filed a case against you, please include what the charges were (*for example, Pen. Code, § 242, for battery*).

h. Choose one:

I am entitled to have this arrest (the arrest described in item ② of this petition) sealed as a matter of right because the arrest did not result in a conviction, and I satisfy the requirements of Penal Code section 851.91.

OR

I am requesting to have the arrest sealed in the interests of justice (Pen. Code, § 851.91(c)(2)(B)).
(Describe below how this is in the interests of justice. In deciding whether to grant this request, the court may consider any important factors, including: hardship and difficulties caused by the arrest; statements or evidence regarding your good character; statements or evidence regarding the arrest; your record of convictions; or any other important factors. You may provide statements or evidence from you, from others, or both.)

Please attach any additional signed and dated statements with the petition.

I declare under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: _____



Signature of petitioner or attorney

1 What does this information sheet cover?

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

2 What is proof of service?

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

3 What is record clearing?

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

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

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

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

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

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

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

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

7 Who can serve the petition or motion?

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

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

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

9 How should the petition or motion be served?

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

If serving electronically:

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

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

If serving by mail:

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

If serving by personal delivery:

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

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

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

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

Clerk stamps date here when form is filed.

Instructions

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

Fill in court name and street address:

**Superior Court of California, County of
MADERA**
200 South G Street
Madera, CA 93637

Criminal Division

Fill in criminal case number and case name:

Case Number:

Case Name:
People of the State of California
v.

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

2 My home business address is:

Street City State Zip

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

4 **Service by mail** 

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

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

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

Street City State Zip

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

Street City State Zip

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

(c) I mailed the envelope or envelopes on (date): from (city): (state):
by depositing the envelope or envelopes (check one):

(1) With the U.S. Postal Service.

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



5 Service by Personal Delivery



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

(a) Name of person and agency served:

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

Street City State Zip

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

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

(b) Name of person and agency served:

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

Street City State Zip

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

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

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

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

Date: _____

Type or print server's name

Server signs here after serving