

ANWOL-UCLA LAW REENTRY LEGAL CLINIC TRAINING

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INTRODUCTION & CLINIC OVERVIEW

Thank you for volunteering at the A New Way of Life – UCLA Law Reentry Legal Clinic! Our ability to help people overcome the barriers posed by their conviction histories rests largely on the volunteers who give their time so generously. Without you, most of what we do here would not be possible.

A New Way of Life Reentry Project

A New Way of Life Reentry Project is a nonprofit organization in South Central Los Angeles that provides housing and support services to formerly incarcerated women, facilitating a successful transition back to community life.

A New Way of Life was founded in 1998 by Susan Burton, a formerly incarcerated woman who gained her freedom and sobriety after cycling in and out of the criminal justice system for 15 years. Understanding the barriers that women faced upon leaving prison, she opened her home to women returning home from prisons and jails, offering them shelter, safety, leadership and support in breaking the cycle of incarceration, addiction and homelessness.

In addition to its housing services, ANWOL provides legal assistance to people of all genders who have conviction histories, with a primary focus on helping people overcome barriers to employment. ANWOL also houses the Lifers Friends & Family Project, a support group for loved ones serving life sentences, and is a founding member of All of Us or None, a national grassroots initiative of formerly incarcerated people and allies.

The ANWOL-UCLA Law Reentry Legal Clinic

The ANWOL-UCLA Law Reentry Legal Clinic began in 2007 as a collaboration between A New Way of Life and the UCLA Law Critical Race Studies Program. The clinic is the largest clean slate clinic in Southern California.

While the focus of the clinic is on helping people expunge their criminal records, our true goal is to combat the discrimination faced by people with conviction histories, particularly in employment. We use the clinic as a starting off point with clients and community members, identifying people who may need further legal assistance—at the clinic, we screen clients for issues that we can follow up on after the clinic, and provide more involved legal services. These issues include employment discrimination in violation of Title VII of the Civil Rights Act, background checks and employment applications that violate state and federal laws, and denials of state occupational licenses.

In 2011, the staff attorneys at A New Way of Life filed over 600 petitions for expungements—the vast majority of those petitions originated at the ANWOL-UCLA Law Reentry Clinic.

A NOTE ABOUT THE UNAUTHORIZED PRACTICE OF LAW

It is important to remember that, unless and until you are licensed to practice law and an active member of the State Bar in the State of California, you cannot engage in the practice of law.

The unauthorized practice of law is a misdemeanor, punishable by up to one year in county jail or a fine up to \$1,000. Bus. & Prof. § 6126(a). Being convicted of the unauthorized practice of law is also one of the best ways to ensure that you will NEVER be admitted to the Bar.

Although you need to be cautious even if you are just chatting with someone in line at Jimmy's, it is especially important to take great care to not engage in the practice of law in a clinic setting, where it is easy for a client to be confused as to who is an attorney, and where a client has come for help and advice.

As a law student volunteer:

- You CANNOT give clients the impression that you are an attorney (duh).
 - Tell the client at the very beginning that you are a law student, not an attorney. "Hi there. My name is Joe and I'm a law student volunteer. I'll be helping to go through your papers, then an attorney will come by to take a look at your cases."
- You CANNOT give individualized legal advice.
 - DO NOT interpret or apply the law specific to that person's facts.
 - If you are about to use the word "you," STOP.
 - "You can"
 - "You should"
 - "In your case"
 - "It looks like"
- You CANNOT make ANY recommendations about a course of action the person should take.

You can, however, give general legal information, if you are confident you know the law. This consists ONLY of giving the client generic information about the state of the law. Be very cautious if you do this, however—if someone acts on misinformation that you give them to their detriment, it could spell trouble. If you have any concerns whatsoever, just tell the person you don't know and the attorney will be able to tell them whatever it is they have asked.

Examples:

- YES: "If a defendant successfully completes probation, then dismissal is often mandatory."
- NO: "It looks like you successfully completed probation, so your dismissal is mandatory."

- YES: "Sometimes judges will terminate probation early."
- NO: "You can apply for early termination of probation, so that you can file for expungements."

- YES: "Under California law, background check companies can't report most convictions that are over seven years old."
- NO: "It would be illegal for a background check company to report this conviction, because it's over seven years old."
- EVEN WORSE: "This conviction shouldn't show up on a background check report, so you don't have to disclose it."

OVERVIEW OF CLINIC PROCEDURE

As a volunteer, your primary role at the clinic is to meet the client, create the client file with information about their convictions based on the documents they bring, and prepare declarations and fee waivers that will be needed to file their petitions.

In the course of this, you should also take note of other areas where the client may need assistance. Keep alert for instances where a client may have unlawfully been denied a job, had an old conviction reported on a background check, or denied an occupational license. **These issues, as well as any particularly important information regarding their petitions, should be noted in the “Notes” section on the back of the client’s Contact Information sheet.**

Basic Procedure

See Detailed Clinic Procedure form for more details.

- Meet client at registration, complete Statement of Understanding & Employment Rights Survey.
- Gather case information—complete Criminal History Worksheet.
- Have client sign CR-180 – one copy for each case.
 - Double check non-LA county convictions with an attorney, to verify the correct form.
- Prepare fee waivers if needed.
 - Watch for courts needing non-standard fee waivers.
 - Make one copy of fee waiver for each case.
 - Client signs AFTER copies have been made.
- Write declaration if needed.
 - Have attorney review declaration before printing.
 - Print one copy of declaration for each discretionary case.
- Scan complete case dockets into clinic computer.
- Complete case notes, on back of Contact Information form.
- Attorney signs off and, if applicable, completes Representation Agreement with client.
 - NO CLIENT LEAVES WITHOUT ATTORNEY SIGN OFF.
- Conclusion with Client – Give Next Steps form to client for future reference.
- Bundle case file with Contact Information on top, place with other completed files.

One of the Clinic co-chairs serves as a wandering “queue” person—if/when you have questions or you are ready for review & sign off, let that person know. If they aren’t able to answer your question, they will add you to the queue for an attorney to come over.

WHAT IS “EXPUNGEMENT”?

Clients come to our clinic seeking “expungement.” Many people, however don’t really understand what “expungement” is. It is important to know that in California, there is no way to seal and destroy an adult conviction record, or to take it out of the public record. The best that we can do is take steps to minimize the impact of convictions as possible.

Dismissal Under PC §§ 1203.4 and 1203.4a

When people talk about “expungement” in California, they are referring to “dismissal under § 1203.4.” Sections 1203.4 and 1203.4a of the California Penal Code provide a remedy where under certain circumstances, the defendant can ask the court to vacate the finding of guilt, and dismiss the complaint. In many cases, the judge *must* grant the petition—it has no choice. In other cases, the court can decide whether or not to grant the petition.

What Dismissal Does NOT Do

This sounds like a wonderful remedy—the case is dismissed! There is no conviction! However, it is not the same as if the conviction had never happened. There are a lot of things that dismissal under § 1203.4 does NOT do. Here are a few things dismissal does NOT do:

- Dismissal does NOT remove the conviction from the public record.
 - The court records still show that the conviction happened. There is simply a later entry that states that it was “dismissed pursuant to § 1203.4.”
- Dismissal does NOT remove the conviction for the purpose of government agencies.
 - Whenever the person is fingerprinted, the conviction will still appear on the rap sheet from the Department of Justice.
 - § 1203.4 specifically states that the person must still disclose the conviction when applying for a job with any government agency, when applying for an occupational license, and in several other cases.
- Dismissal does NOT remove a number of other burdens that come from the conviction.
 - Offender registries (sex crimes, narcotics crimes, arson)
 - Gun possession (felons)
 - Jury service (felons)
 - Etc. etc. etc. etc. etc. etc.....

What Dismissal DOES Do

The situation is not ALL bad, however. There are a number of advantages to getting dismissal under § 1203.4.

- Dismissal removes the conviction for the purpose of private employers in California
 - Private background check companies are not allowed to report dismissed convictions.
 - A job applicant does not have to disclose a conviction that has been dismissed on a job application for a private employer.
- Dismissal can open the door for many occupational licenses.
 - Some convictions are an absolute bar to some occupational licenses—dismissal may remove that bar and allow the state to consider granting the license.
 - Dismissal serves as important evidence of rehabilitation.

DISMISSAL ELIGIBILITY UNDER PC §§ 1203.4 AND 1203.4A

Is Client eligible to file for dismissal?

ELIGIBILITY OF CLIENT

- off probation/parole
- not charged with a new crime
- not incarcerated

What standards apply?

Was _____ granted for this conviction?

YES PROBATION
Dismissal is under _____

NO PROBATION
Dismissal is under _____

Is conviction eligible for dismissal?

The conviction is eligible if:

- A prison sentence was never _____

The conviction is eligible if :

- It was a _____ or a _____

Is dismissal mandatory?

Dismissal is mandatory if:

Probation successfully completed

- Not found in _____
- No new crimes _____ during probation
- _____ paid

OR

Probation terminated early

AND

- Defendant _____

AND

- At least _____ has passed

Is dismissal discretionary?

Dismissal is mandatory if:

1-year rule

- Defendant _____ for one year after _____

In all other cases, dismissal is discretionary.

- Court must find that dismissal is _____
- _____ is required

EXCEPTIONS:

NEVER ELIGIBLE:
Penal Code § 286(c), 288, 288a(c), 288.5, or 289(j); and any *felony* conviction under Penal Code § 261.5(d).

ALWAYS DISCRETIONARY:
Penal Code § 191.5(b) or 192(c); Vehicle Code § 2800.2, 2800.3, 14601, 14601.1, 14601.2, 14601.3, 14601.5, 20001, 20002, 21651(b), 22348(b), 23103, 23109(a), 23109(c), 23109.1, 23140(a), 23140(b), 23152, 23153, or 31602.
WHERE PROBATION ENDED ON/AFTER 1/1/2008.

PC § 17(B) (REDUCTION OF FELONY TO MISDEMEANOR)

Some felonies can be reduced to misdemeanors, under P.C. § 17(b)(3). Two criteria must be met:

1. Conviction was a “wobbler” - can be charged as either a felony or a misdemeanor.
 - Defined by _____ options found in the statute.
 - Before realignment: Punishable by _____ or _____.
 - After realignment:
 - Punishable by _____ or _____.

OR

 - Punishable by _____ or _____.
2. _____ of sentence must be suspended.

Reductions under PC § 17(b) are always _____.

- _____ required.

STANDARD FOR COURT DISCRETION: “IN THE INTERESTS OF JUSTICE”

State’s Interests

Punishment/Deterrence
Public/Community Safety
Victim Restitution
Rehabilitation

AND

Defendant’s interests

Survival – employment, housing
Rehabilitation

ANALYZING CRIMINAL RECORDS

When looking through the client’s criminal records, you will look through the records to pull out the information we need in order to file petitions for dismissal, and put this information into the Criminal History Worksheet.

There are three basic categories of information you’ll need:

- Case Information
 - Case Number, arresting agency, offense date, prosecuting agency
- Conviction Information
 - When client was convicted and in what court
 - What client was convicted of
 - What happened at sentencing
- Post-conviction Information
 - Probation revocations or violations
 - Payment of fines & fees
 - Later prison sentence

During this training, we will do some work with both LA County dockets, and DOJ rap sheets. For additional practice finding the necessary information from these documents, visit:

- <http://reentrylegalclinic.dozuki.com/Guide/How-to-read-records-from-the-Los-Angeles-Superior-Court/2/1>

- <http://reentrylegalclinic.dozuki.com/Guide/How-to-read-a-DOJ-rap-sheet/1/1>

Los Angeles County Case Dockets

Most clients will bring an LA County case docket for each case. The docket is a complete record of the proceedings in a case. The docket will consist of an initial heading section which gives the original filing information, followed by a series of entries—one entry for each proceeding in the case. Together, these entries tell the story of what happened throughout a case.

When analyzing a docket, after you get the initial case information from the header, you will look for the entry where the conviction was actually entered. This will give you conviction and sentencing information. Then, you will analyze the entries that occur after the conviction, to determine whether the client met the various terms of the sentence or probation.

Below are some key phrases to keep an eye out for when analyzing LA County case dockets:

ON PEOPLE'S MOTION, COURT ORDERS COMPLAINT AMENDED BY INTERLINEATION TO ADD VIOLATION OF _____ AS COUNT xx.

The Court adds an additional charge and numbers it as a new count.

COUNT xx: DISPOSITION:

Marks the final disposition of the count—whether the defendant is convicted of that charge, or that charge is dismissed without conviction.

AS TO COUNT xx:

Marks the beginning of the Court's sentencing for the Defendant's conviction for that count.

IMPOSITION OF SENTENCE SUSPENDED

The Court declines to impose a term of incarceration and instead grants probation.

EXECUTION OF SENTENCE SUSPENDED

Although the Court has imposed a term of incarceration, it has not executed it yet, and instead grants probation.

PROBATION REVOKED

The Court has "paused" the probation—usually either the defendant has failed to appear, or there is a possible violation of probation. Time during which probation is revoked does not count towards length of probation—in effect, the clock is not ticking.

PROBATION REINSTATED

The Court is "restarting" the clock on the term of probation. Make note of any changes to terms and conditions.

PROBATION IS MODIFIED AS FOLLOWS

The Court is changing the terms of the probation.

COURT FINDS DEFENDANT IN VIOLATION OF PROBATION

The Court *officially* finds the Defendant in violation of probation. The most common reasons for which the Court finds the Defendant in violation of probation are: (1) the Defendant's failure to report to the Court as promised; (2) the Defendant's failure to obey a term(s) of probation; and (3) the Defendant's violation of the law during probation.

DOJ Rap Sheets

A DOJ rap sheet gives records of each time the Client has been fingerprinted. In addition to convictions, it may also include information about other times they have been fingerprinted, such as arrests that were not prosecuted, job and license applications, etc.

The most difficult part of rap sheets is finding convictions. Individual records on the rap sheet are separated by a line of asterisks: * * * * To find records that include convictions, look for records that have a line of dashes in the middle: - - - -. The portion of the record above the dashed line contains arrest information; the portion below the dashed line contains court information.

While the rap sheet contains information about every case, it does not contain all the information that the Criminal History Worksheet asks for. Most significantly, you will usually not be able to find any post-conviction information. Just get what you can from the rap sheet. In some cases, after the conviction there will be another dashed line, followed by more court information. Look at the additional entries to see what they say about the case. If it mentions reinstatement of probation, or additional terms (such as more jail time), it is a very safe bet that the person violated probation.

Here is an example of a record showing a conviction, as well as a later proceeding:

```
* * * *
ARR/DET/CITE:      NAM:01      DOB:19790101
19870731  CAPD LONG BEACH
```

```
CNT:01      #123445
  647(B) PC-DISORDERLY CONDUCT
```

```
- - - -
COURT:      NAM:01
19870802  CASC LONG BEACH
```

```
CNT:01      87M98765
  647(B) PC-DISORDERLY CONDUCT
DISPO:CONVICTED
  CONV STATUS:MISDEMEANOR
  COM: 36 MO PROB, 30 DS JL, IMPSS
```

```
- - - -
COURT:      NAM:01
19881001  CASC LONG BEACH
CNT:01      87M98765
  647(B) PC-DISORDERLY CONDUCT
DISPO:PROB REINST, 30 DS JL
```

```
* * * *
```

Keep an eye out for records showing arrests for a warrant. The warrant number may be a case number—make sure that case number is accounted for in the rap sheet. If it is not, bring that to the attention to the attorney. Here is an example of an arrest involving a warrant:

```
* * * *
ARR/DET/CITE:      NAM:01      DOB:19790101
19880601  CAPD LONG BEACH
```

```
CNT:01      #456789
  - BENCH WARRANT
  647(B) PC-DISORDERLY CONDUCT
  WARRANT #LB87M98765
```

```
* * * *
```

WRITING THE DECLARATION

The goal of the declaration is to show the court why the interests of justice favor granting the petition. The declaration should be easily readable—use short paragraphs, and give basic important facts.

As you are talking to the client about their story, they will give you a ton of information. Your job is to pare that information down and organize it so that the court can easily understand the client's case.

We provide a declaration template to help guide you. Modify it as necessary, and make sure to delete directions & comments. Above all, write a declaration that makes sense for that client's situation.

What to Highlight

- Client's interests – Burdens posed by the convictions
 - Employment (threat to present job, ability to find work)
 - Housing (threats to present or future housing)
 - Family (child custody)
- Factors that mitigate the state's interests
 - Eventual completion of sentence, esp. fines and fees.
 - Rehabilitation
 - Passage of time since desistance
 - Successful reintegration (community participation, family relationship)
 - Acceptance of responsibility

What to Avoid

- Long, meandering paragraphs
 - One paragraph = One point of discussion
 - Closely examine any paragraph longer than 5 or 6 lines – Is there unnecessary detail? Does it make sense to break into multiple paragraphs?
- A long, drawn out “sob story”
 - Focus on the rehabilitation & client's current good character
 - Give brief reasons, not meandering excuses
- Statements that deflect responsibility
 - “I didn't do it but I was there.” “The police stopped me for no reason.” “My friends made me do it.”
 - Distinguish between “the whole truth” and helpful facts—the person has already been convicted; insisting on less culpability will NOT help the client with the court.
 - If a client insists on innocence, it's better to not talk about the crime.
- Conflicting facts
 - The person's story must make sense
 - Explain potential inconsistencies; e.g., living with a previously abusive family member; crimes committed after their “turning point”

Common Problem Types

- “Innocent” defendant
- “Loner” defendant
- “Career Criminal” defendant
- “One-time” defendant

APPENDIX I - THE IMPACT OF YOUR CLEAN SLATE REMEDIES

Common Questions About Penal Code § 1203.4 Dismissals

- What is a Penal Code § 1203.4 dismissal? Does a dismissal mean my record is totally clean?

When your conviction is dismissed under Penal Code § 1203.4, you have been released from the penalties and disabilities of the conviction. A dismissal is “expungement” under California law. When your conviction is dismissed it is not removed from your record, but your record will show that your conviction was dismissed.

- When does my dismissal take effect?

On the day the judge signs the order, the dismissal is effective and you are entitled to all rights of the dismissal. It may take several months for the state and county to update your record. Keep the order as proof of your dismissal.

- How should I answer questions about my convictions on job applications?

The answer depends on the **type of employer** – public or private. Determine the type of work you are applying for and follow the rules below.

- ◆ Public employers:

These rules apply if the job is with a **government entity**, or requires a **government- issued license, certificate or permit**, or requires a **security clearance**, or involves work in **hospitals or with children or the elderly**, or involves a **government contract**.

Examples: Jobs in the field of security, nursing, or real estate, jobs at banks, the post office, airports/airlines, AC Transit, a city office, schools, daycares, or work involving TrustLine funds.

Rules:

- ⤴ You must disclose (or list) all of your convictions, including those that were dismissed under Section 1203.4, unless the application tells you not to list them.
- ⤴ If your convictions have been dismissed, write: “dismissed pursuant to Penal Code section 1203.4.”

- ◆ Private employers:

This rule applies if the job is with a **private company**, not a government-related entity.

Rule:

- ⤴ After you have had *all of your convictions dismissed* (in all counties in California) under Section 1203.4, you are legally permitted to state that you have no convictions.

General rules for all applications:

- ⤴ Read the questions on the application carefully and *provide only the information requested*. Some employers ask only about felony convictions, not misdemeanors, and some ask only about convictions that happened in the last seven years. You should only answer the questions asked.
- ⤴ If you are uncertain about what to write on your applications, you can contact an attorney for help or call the Human Resources office of the employer (you can call anonymously) and ask about their policy.

- What does a § 1203.4 dismissal NOT do for me?

- ⤴ A § 1203.4 dismissal **does not reinstate the right to possess firearms**.
- ⤴ A § 1203.4 dismissal **does not prevent the dismissed conviction from being used as a “prior”** to increase punishment if you are prosecuted for another offense.
- ⤴ A § 1203.4 dismissal **does not necessarily prevent the U.S. government from considering the conviction for immigration purposes**.
- ⤴ A § 1203.4 dismissal **does not change a requirement that you register as a sex offender**.
- ⤴ A § 1203.4 dismissal **does not automatically reinstate your driver’s license** if your driver’s license was suspended as a result of your case.

Common Questions About Penal Code § 17(b) Felony Reductions

➤ What is a felony reduction under Penal Code § 17(b)?

A reduction of a felony to a misdemeanor under Penal Code § 17(b) reduces a felony to misdemeanor **for all purposes**. After your felony is reduced, you are entitled to say that you *have not been convicted of a felony* for that case.

➤ Am I required to tell employers that I have a felony conviction after it has been reduced?

A felony that has been reduced becomes a misdemeanor for all purposes. You should disclose it, when necessary, as a misdemeanor conviction to all types of employers, public or private. BUT, a felony that has been reduced still counts as a felony for discipline purposes for certain professional licensing boards.

➤ Will my reduced felony still count as a strike?

Under the Three Strikes law, a felony that has been reduced to a misdemeanor may still be counted as a strike.

➤ Will my reduced felony still count as a felony for gun laws?

A felony that has been reduced to a misdemeanor may still count as a felony for federal gun laws.

Employment Applications & Commercial Criminal Background Checks

⚡ **Your Rights as an Applicant or Employee in California**

- ⚡ An employer must first get your permission before running a criminal background check, except when an employer suspects an employee of wrongdoing or misconduct.
- ⚡ You have the right to request a copy of the background report at the time you give permission for the background check. You should always ask for a copy to make sure the report is accurate.
- ⚡ *Remember:* You have the right to say that you have no convictions once your convictions are dismissed (“expunged”) if the employer is a private company.

⚡ **Information Reported in Your Commercial Criminal Background Report**

- ⚡ Under California law, a commercial background screening company MAY NOT REPORT:
 - ⚡ Arrests or convictions that are more than seven years old;
 - ⚡ Any arrests not resulting in a conviction, unless the arrest is still open for prosecution;
 - ⚡ Dismissed misdemeanor convictions.
- ⚡ If a background screening company reports the above information, you may have a legal claim for monetary compensation and should consult with an attorney.

⚡ **Challenging a Commercial Criminal Background Report**

- ⚡ You have a right to challenge any inaccurate information in the report.
- ⚡ The employer must give you the contact information for the background screening company. Contact that company directly to file your challenge. You should provide documents, such as court orders, to support your challenge.
- ⚡ The background screening company must notify you of any changes to the report. You have a right to request that the company send the changes to any employer who received the incorrect report in the last two years.
- ⚡ If the background screening company refuses to correct the report, you may have a legal claim and should consult with an attorney.

Credit: East Bay Community Law Center • 2921 Adeline Street, Berkeley, CA 94703 • t 510.548.4040 • www.ebclc.org

APPENDIX II – CLINIC FORMS AND SAMPLES

- Detailed Clinic Procedure
- Criminal History Worksheet
- CR-180
- FW-001
- Declaration Template
- Sample Declaration

A New Way of Life & UCLA Reentry Legal Clinic

CLINIC PROCEDURE

- **Introduction with Client**
 - Meet Client at registration table, return with them to your station.
 - Review Statement of Understanding with Client & initial over Volunteer.
 - Have Client complete Employment Rights Survey form.
- **Case Information**
 - Complete Criminal History Worksheet.
- **CR-180**
 - Client signs one copy of CR-180 for each case.
 - Double check correct form for non-LA County cases.
- **Fee Waivers**
 - Help Client complete Fee Waiver forms.
 - Watch for courts needing special fee waivers: Compton, Long Beach/South District, Van Nuys and some Non-LA County (see sign by forms).
 - Make one copy of Fee Waiver for each case.
 - CLIENT SIGNS AFTER COPIES ARE MADE.
- **Declaration**
 - Write Declaration—one general declaration will cover all petitions.
 - Have attorney review Declaration before printing.
 - Print declaration at Print Station – one copy for each discretionary expungement.
 - Use Clinic USB to save Declaration to printing computer.
 - Client signs each copy of Declaration.
- **Scanning**
 - Scan complete case dockets into scanning computer.
 - See scanning instructions by computer.
- **Case Notes**
 - Mark boxes for what services Client needed.
 - Make general notes – anything particular about Client’s situation.
- **Attorney Sign-Off**
 - Attorney checks over the file and signs off.
 - Attorney reviews & completes Representation Agreement with Client if needed.
 - NO CLIENT LEAVES WITHOUT ATTORNEY SIGN-OFF
- **Conclusion with Client**
 - Give Next Steps to Client for future reference.
 - Ask if Client has any further questions.
- **Case File**
 - Bundle file together, with Contact Information form on top.
 - Place file in grey “Completed Forms” bin.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: Leave Blank al): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
PETITION FOR DISMISSAL (Pen. Code, §§ 17, 1203.4, 1203.4a)	CASE NUMBER: Leave Blank
DEFENDANT'S INFORMATION	
CII: DRIVER'S LIC #: SSN # (LAST FOUR DIGITS ONLY): DATE OF BIRTH:	Leave Blank

- On (date): _____ the defendant in the above-entitled criminal action was convicted of a violation of section(s) (specify): _____ of the (specify): _____ Code.
- The offense was a misdemeanor felony.
 Felony offense (Pen. Code, § _____)
 The offense listed above is Penal Code section 17.
 Offense with probation (Pen. Code, § _____)
 Probation was granted by the above-entitled court; the defendant is not under charge of commission of any crime, and the defendant (check one):
 a. has fulfilled the terms of probation.
 b. has been discharged.
 c. should be granted probation in the interest of justice.
 Offense with sentence of _____
 Probation was not granted and the defendant has complied with the terms of the sentence of _____ for any offense nor under charge of commission of any crime and has led a law-abiding and upright life and conformed to and obeyed the laws of the State of California.
 Petitioner requests that defendant's conviction and verdict or finding of guilt be set aside and a plea of not guilty be entered and the court dismiss this action under section 1203.4 or 1203.4a of the Penal Code.
 Petitioner requests that the felony charge be reduced to a misdemeanor under Penal Code section 17.

Do Not Fill Out Anything on This Form.

Have Client Sign & Date - That Is All.

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

Executed on: <Date> _____
 (DATE)

▶ <Client's Signature> _____
 (SIGNATURE OF PETITIONER OR ATTORNEY)

 (ADDRESS, DEFENDANT) (CITY) (STATE) (ZIP CODE)

Clerk stamps date here when form is filed.

If you are getting public benefits, are a low-income person, or do not have enough income to pay for your household's basic needs and the court fees, you may use this form to ask the court to waive your court fees. The court may order you to pay the court fees, you may

Although it is complicated, take the time to go through this form with the client. Do not simply hand it to them to fill out.

- You cannot give the court proof of your eligibility,
- Your financial situation improves during this case, or
- You settle your civil case for \$10,000 or more. The trial court that waives your fees will have a lien on any such settlement in the amount of the waived fees and costs. The court may also charge you any collection costs.

Fill in court name and street address:

Superior Court of California, County of

Do not fill these fields in at the clinic unless you know what you are doing 2,000%.

Fill in case number

Case Number

Case Name

1 Your Information (person asking the court to waive the fees):

Name: <Client's Name>

Street or mailing address: <Client's Street Address>

City: <Client's City> State: <State> Zip: <Client's ZIP>

Phone number: <Client's Phone #>

2 Your Job, if you have one (job title): <Client's job, or "Unemployed">

Name of employer: <Employer Name if Applicable>

Employer's address: <Employer Address if Applicable>

3 Your lawyer, if you have one (name, firm or affiliation, address, phone number, and State Bar number):

a. The lawyer has agreed to advance all or a portion of your fees or costs (check one): Yes No

b. (If yes, your lawyer must sign here) Lawyer's signature: _____

If your lawyer is not providing legal-aid type services based on your low income, you may have to go to a hearing to explain why you are asking the court to waive the fees.

4 What court's fees or costs are you asking to be waived?

- Superior Court (See Information Sheet on Waiver of Superior Court Fees and Costs (form FW-001-INFO).)
- Supreme Court, Court of Appeal, or Appellate Division of Superior Court (See Information Sheet on Waiver of Appellate Court Fees and Costs (form APP-015/FW-015-INFO).)

5 Why are you asking the court to waive your court fees?

- a. I receive (check all that apply): Medi-Cal Food Stamps SSI SSP County Relief/General Assistance IHSS (In-Home Supportive Services) CalWORKS or Tribal TANF (Tribal Temporary Assistance for Needy Families) CAPI (Cash Assistance Program for Aged, Blind and Disabled)

- b. My gross monthly household income (before deductions for taxes) is less than the amount listed below. (If you check 5b, you must fill out 5c.)

Check boxes in 5a, 5b and 5c as appropriate.

If 5b is checked, circle applicable household size.

Family Size	Family Income	
5	\$2,726.05	If more than 6 people at home, add \$397.92 for each extra person.
6	\$3,123.96	

- c. I do not have enough income to pay for my household's basic needs and the court fees. I ask the court to (check one): waive all court fees waive some of the court fees let me make payments over time (Explain): _____ (If you check 5c, you must fill out page 2.)

6 Check here if you asked the court to waive your court fees for this case in the last six months.

(If you have a previous request to reasonably available, please attach it to this form and check here:)

Do not check box 6 at the clinic.

I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct.

Date: <Client Signing Date>

<Client's Name>

Print your name here

<Client's Signature>

Sign here

Case Number: _____
Do not fill out at clinic.

Your name: <Client's Name>

If you checked 5a on page you **must** fill out this entire Financial Information and

If client has cases in Compton Courthouse, always complete both columns, regardless of what boxes are checked on the front.

9 only. If you checked 5c, of paper and write

7 Check if Fill out months month. st 12

You only have to complete this column if box 5b or 5c is checked on the front.

10 Your Money You only have to complete this column only if box 5c is checked on the front.

8 Your Monthly Income

a. Gross monthly income (before deductions): \$ _____
List each payroll deduction and amount below:
(1) \$ _____
(2) \$ _____
(3) _____
(4) _____

b. Total deductions (add 8a (1)-(4) above):

c. Total monthly take-home pay (8a minus 8b)

d. List the source and amount of any other income per month, including: spousal/child support, retirement, disability, unemployment, military quarters (BAQ), veterans payments, dividend income, annuities, net business or rental income, reimbursement for job-related expenses, gambling winnings, etc.
(1) _____
(2) _____
(3) _____
(4) _____

e. Your total monthly income is (8c plus 8d)

a. Cash _____
b. All financial accounts (List bank name and amount):
(1) _____ \$ _____
(2) _____ \$ _____
(3) _____ \$ _____
(4) _____ \$ _____

Make sure that the information provided on this form paints a realistic picture. Avoid listing expenses that are ridiculously higher than the listed income.
Rarely will someone truly have \$0 income and \$0 expenses flat out. Good questions to probe are, "How are you making ends meet?" "Is someone helping you out?" "Are you working odd jobs to get by?" etc. Explain to the client that we need to show the court a realistic picture, or the fee waiver may be denied.
Also, if the client's income seems much higher than expenses, make sure the client is not underestimating their expenses. A good way to get an accurate picture of things like gas & groceries is to break it down. For example, "How often do you get gas?" then "And how much do you usually spend each time?"

Fair Market Value	How Much You Still Owe
\$ _____	\$ _____
\$ _____	\$ _____
\$ _____	\$ _____
Fair Market Value	How Much You Still Owe
\$ _____	\$ _____
\$ _____	\$ _____
\$ _____	\$ _____
Fair Market Value	How Much You Still Owe
\$ _____	\$ _____
\$ _____	\$ _____
\$ _____	\$ _____

9 Household Income

a. List all other persons living in your home and their income; include only your spouse and all individuals who depend in part on you depend in

List all household members who support client or who client supports. This includes young kids. If client is staying with someone but does not count on them for living expenses, that person does not have to be listed.

Gross Monthly Income
\$ _____
\$ _____
\$ _____
\$ _____
\$ _____

b. Total monthly income of persons above: \$ _____

Total monthly income and household income (8e plus 9b): \$ _____

To list any other facts you want the court to know, such as unusual medical expenses, family emergencies, etc., attach form MC-025. Or attach a sheet of paper, and write Financial Information and your name and case number at the top. Check here if you attach another page.
Important! If your financial situation or ability to pay court fees improves, you must notify the court within five days on form FW-010.

11 Your Monthly Expenses

(Do not include payroll deductions you already listed in 8b.)

- a. Rent or house payment & maintenance \$ _____
- b. Food and household supplies \$ _____
- c. Utilities and telephone \$ _____
- d. Clothing \$ _____
- e. Laundry and cleaning \$ _____
- f. Medical and dental expenses \$ _____
- g. Insurance (life, health, accident, etc.) \$ _____
- h. School, child care \$ _____
- i. Child, spousal support (another marriage) \$ _____
- j. Transportation, gas, auto repair and insurance \$ _____
- k. Installment payments (list each below):
Paid to:
(1) _____ \$ _____
(2) _____ \$ _____
(3) _____ \$ _____
- l. Wages/earnings withheld by court order \$ _____
- m. Any other monthly expenses (list each below). \$ _____
Paid to: _____ How Much?
(1) _____ \$ _____
(2) _____ \$ _____
(3) _____ \$ _____

Total monthly expenses (add 11a -11m above): \$ _____

1 **DECLARATION OF [CLIENT NAME]**

2 I, [Name], declare as follows:

3 I believe the following facts justify my petition for expungement:

- 4 1. *[BRIEFLY mention the conviction(s). Mention your current age if convictions occurred at*
5 *a much younger age. If it is not cumbersome, mention each one. If it becomes more than a*
6 *few lines, summarize the conviction history.]*
- 7 2. I have not engaged in any criminal behavior since ____date____. *[If applicable, add a*
8 *sentence that summarizes client’s “turnaround” such as sobriety, therapy, becoming*
9 *responsible, etc.]*
- 10 3. I take full responsibility for the conduct leading to my conviction(s). *[Add a sentence that*
11 *summarizes why client was convicted—addiction, irresponsibility, bad choices, etc.]*

12 *[The following section describes the convictions—keep it brief. Decide which is better: describing*
13 *specific events, or the general pattern. Avoid descriptions where it appears the client doesn’t take*
14 *responsibility—even if they were not at fault, asserting that will not help them get expungement.]*

- 15 4. *[Circumstances surrounding the conviction(s). If you can do it succinctly, describe the*
16 *incidents for each; if not, summarize the general pattern. If the client’s description brings*
17 *up issues of factual innocence or other problems of responsibility, work around—being*
18 *more vague can help here. Keep in mind the difference between “all the facts,” and*
19 *“useful facts.” If all else fails, skip this description.)*
- 20 5. The turning point in my life came around __date/year/event__, when __realized needed
21 help, saw this couldn’t continue, understood the true consequences of my acts...etc.____.
22 *[Or, if conviction was isolated incident, something more applicable to that—e.g., “After*
23 *this conviction, I realized that __was on a bad path/this couldn’t happen again/let myself be*
24 *put in a bad place, etc.____.”]*

25 *[The following section describes life after the convictions—pick facts that will help show the judge*
26 *the client’s current good character. Skip paragraphs that are unnecessary or inapplicable]*

- 27 6. *[BRIEFLY generally describe current life - Whom client lives with, family, etc. Important*
28

1 things to look for: reconnecting with family/kids, supportive environment for sobriety/law-
2 abiding, stability & strength in relationships w/ people.]

3 7. [Describe employment and/or schooling since convictions. Mention any barriers to these
4 posed by convictions, and any steps client has taken to overcome them.]

5 8. [Describe any involvement with the community since your conviction(s). When describing
6 community involvement, talk about your role in activities, why you are involved, etc.]

7 9. [Describe steps you've made to atone for convictions—restitution, mentoring others,
8 working to make payments on outstanding debts, etc.]

9 [The following section describes the need for the expungement—the burdens on petitioner of the
10 conviction history.]

11 10. [Motivation for filing a petition for expungement. Describe tangible ways that the
12 convictions have prevented petitioner from moving forward—schooling, employment,
13 family, volunteering, kids, etc. The more specific the better, but if specifics aren't there
14 then generalities are fine.]

15 11. Although sometimes [I am overwhelmed by shame and regret for any harm I have
16 caused]/[I regret the mistake(s) I made], I have worked very hard for the past ___#___
17 years to become a law-abiding and respectable person. I will continue to make sure that I
18 do not repeat the same mistakes in the future.

19 12. [Remove any portion that is inapplicable.] The granting of this petition will enable me to
20 pursue my career goals, move on as a self-supporting mother/father/parent and
21 productive citizen in my community, and will allow me to improve my financial security
22 and improve the standard of living for my children and family.

23
24 I declare under penalty of perjury of the laws of the State of California that the above is true
25 and correct to the best of my knowledge.

26 Executed on [date] at [City], California.

27
28 _____
[Name], Defendant

1 **DECLARATION OF JANE SMITH**

2
3 I, Jane Smith declare:

4 I believe the following facts justify my petition for expungement.

- 5 1. From 1992 to 2008, I received numerous convictions, including possession, prostitution,
6 and theft.
- 7 2. I have not engaged in any criminal behavior since the summer of 2008, and have been clean
8 and sober since October 5, 2008, when I began the Citytown Drug Court program.
- 9 3. I take full responsibility for the conduct leading to my convictions. All of my convictions
10 stemmed from my addiction to crack cocaine, which went on for almost 20 years.
- 11 4. I started using crack when I was about 17. I was raised by aunt and uncle who adopted me,
12 because my mother was an addict. When I was 15, I tracked my mom down—she was still
13 using. Even though I knew how much her use had hurt my family, I started using with her.
14 I was young and just didn't know—if I couldn't save her, I would join her. By the time I
15 was 19 I was fully addicted. I spent the next 16 years in and out of jail and drug programs.
16 I had two sons, both of whom were raised by other people. I figured that this was what my
17 life would be like—addiction and jail.
- 18 5. At the time of my last arrest in 2008, I was just tired. Somehow, I knew that going any
19 further down would have been my death. I was sent to drug court, which I had failed
20 before, but this time, I did it differently. I followed instructions; I went to meetings; I got a
21 sponsor. Little by little, I gave myself a chance—each small accomplishment built my self
22 esteem, and I was finally able to pull myself out. My sobriety date is 10/5/2008, and I am
23 proud to be sober for over 3 1/2 years.
- 24 6. I am presently living with my partner of two years, and we are raising the daughter of a
25 friend of mine. I met her mother back when I was addicted, and we both recovered around
26 the same time. Shortly after she gave birth to Susan, she was diagnosed with cancer and
27 became unable to care for her daughter. My partner and I agreed to help her, and have had
28 Susan living with us for over a year now. Taking care of means so much to me—partly

- 1 because I did not raise my own sons, and partly because it's just a miracle watching her
2 grow.
- 3 7. I have been working as a caretaker for IHSS for about a year and half, caring for the same
4 person, Mary. I first started working with her while I was a contractor with a company
5 called Healthcare Co.; she needed a full time IHSS caregiver so I moved into that role.
- 6 8. I am currently going to school at Citytown City College, working on two Associates
7 Degrees—Drug and Alcohol Counseling and Human Services. My ultimate goal is to work
8 with at-risk youth as a case worker and mentor. In August I will be starting my internship
9 at Rehab Org, the program that I graduated from.
- 10 9. I recently was the guest speaker at the Citytown Drug Court's graduation program with
11 Judge Gavel who presides over the program. I remained in close contact with Jennifer
12 Guidance, my counselor at the drug court, until she left the court. It is important to me to
13 reach out to others who are in the same place I was, to help them realize that it is possible to
14 turn their lives around.
- 15 10. I am filing this petition so that I can get low income housing. I have tentatively been
16 approved for housing at Housing Project in Citytown, but before I can be approved I have
17 to get this conviction expunged from my record.
- 18 11. Although sometimes I am overwhelmed by shame and regret for any harm I have caused, I
19 have worked very hard for the past 3 1/2 years to become a law-abiding and respectable
20 person. I will continue to make sure that I do not repeat the same mistakes in the future.

21
22 I declare under penalty of perjury of the laws of the State of California that the above is true
23 and correct to the best of my knowledge.

24 Executed on September 32, 2064, at Los Angeles, California.

25
26
27 _____
Jane Smith, Defendant

28