



## SAN MATEO COUNTY LAW LIBRARY

### RESEARCH GUIDE #2

## EXPUNGING YOUR CRIMINAL CONVICTION RECORD

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

### WHAT IS AN EXPUNGEMENT?

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

### DO I QUALIFY?

When a person has a conviction for a misdemeanor, or a felony where the felony resulted in a probationary sentence, a person may use expungement to dismiss the case after the probationary period is over if the following three criteria are met:

1. the person is off probation on any case;
2. the person is off parole; AND
3. the person has not been subsequently arrested.

The statute that outlines that procedure is section 1203.4 of the Penal Code of California.

### WHAT TO DO: THERE ARE 5 STEPS

#### STEP 1: Obtain These Forms

You may be able to get a packet from the clerk's office, but you can also get them online or ask at the front desk of the San Mateo County Law Library:

- 1) CR-180. This is the Petition for Dismissal  
<http://www.courts.ca.gov/documents/cr180.pdf>
- 2) CR-181. This is the Court Order for Dismissal

<http://www.courts.ca.gov/documents/cr181.pdf>

- 3) MC-031. This is the Declaration. In the Declaration you need to explain why the Petition should be granted.

<http://www.courts.ca.gov/documents/mc031.pdf>

## **STEP 2: Fill Out the Forms**

The forms CR-180, and CR-181 are pretty straight forward, but you can request to use additional guides at the San Mateo County Law Library. When filling out the MC-031, you are basically attaching a declaration stating why you want the expungement and explaining your situation in life. In this declaration, you may want to discuss:

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

## **STEP 3: Obtain a Copy of Your Criminal Record**

You will need to attach a copy of your criminal record or case information for each conviction you wish to expunge. Your criminal record or case history includes information essential to filling out the expungement papers.

For a copy of your state-wide criminal record, visit a Live Scan fingerprinting site. To find a Live Scan site near you, see <http://ag.ca.gov/fingerprints/publications/contact.php>. After providing your fingerprints and paying the required fee, a copy of your criminal record will be mailed to you.

More information about requesting your statewide criminal history is available at <http://ag.ca.gov/fingerprints/security.php>

## **STEP 4: File your forms with the San Mateo County Superior Criminal Court Clerk's Office at:**

400 County Center, 4<sup>th</sup> Floor  
Redwood City, CA 94063  
(650) 363-4712

When you file your documents with the court, the clerk will give you stamped copies of your papers.

**STEP 5: Take a stamped copy to the San Mateo County District Attorney's Office:**

400 County Center, 3rd Floor  
Redwood City, CA 94063  
(650) 363-4636

Your stamped papers must be served to the District Attorney. The person performing service will then complete a Proof of Service form, and turn it in to the court.

**AND, THAT SHOULD BE IT!**

For most people, no court hearing will be scheduled. Instead, the petition is automatically granted as long as you have met all the requirements. Keep in mind that the turnaround for expungement could be months, particularly with the downsizing of the California Court system.

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

**SO WHAT DOES IT MEAN?**

Practically, if you are filling out a job application and it asks whether you have ever been convicted of a felony, after expungement the answer is "No". In effect, you are no longer a convicted person. However, the case record itself will still exist, and the expungement will appear on your record.

**STILL CONFUSED?**

The Sacramento County Law Library has an excellent video on expunging your conviction.

<http://www.saclaw.org/video2/expunging-your-conviction.mpg>

EXAMPLE: Josh was convicted of shoplifting. His period of probation was 18 months. After 18 months, Josh realized his probation was over. He was not on probation for any other case. He was not on parole and he had not been arrested recently. No cases were pending. During the 18 months Josh had completed his jail sentence AND paid his fine AND paid the restitution. He filled out a CR-180 and a CR-181 and went to the court where he was convicted.

Josh HAD TO BRING WITH HIM \$60 for filing and two copies of the filled out forms in order to file with the court clerk. The clerk took his forms, stamped and filed them and gave Josh stamped copies of his papers. Josh then had to file with the District Attorney's office for a Proof of Service.