

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.

1 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. You may ask the court to seal an arrest that did not result in a court case, or to seal an arrest that resulted in a court case—as long as the case did **not** result in a conviction. If you are requesting sealing for more than one arrest, you must file a separate petition for each arrest.

2 What information do I include in the petition?

Refer to *Petition to Seal Arrest and Related Records* (form CR-409) to see what information must be included in your petition. Because form CR-409 is an optional form, you may fill out the form or you may write your own petition.

You should carefully fill out all parts of form CR-409 or, if writing your own petition, include the same information as in the form. The court may deny your filing if you provide incomplete information, so provide as much information as you can.

3 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.

4 Must anyone else get the petition?

A copy of the petition must be served (delivered by hand, by mail, or electronically) 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. You can serve the petition by:

- | Personal service: You or another person over age 18 go in person to hand-deliver a copy of the petition to the prosecuting attorney's office and to the law enforcement agency during business hours by handing it to an employee. Be sure to get the name of the employee for your proof of service.
- | Service by mail: Mail a copy of the petition to the prosecuting attorney's office and to the law enforcement agency. You may mail the petition by first-class mail or by certified mail with a return receipt requested.
- | Electronic service: Contact the prosecuting attorney's office and the law enforcement agency to see if they accept electronic service. If they do, the court may require proof of their consent to electronic service. You can use *Consent to Electronic Service and Notice of Electronic Service Address* (form EFS-005-CV), available at www.courts.ca.gov/forms.

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. You may use *Proof of Service—Criminal Record Clearing* (form CR-106), available at www.courts.ca.gov/forms.

5 How will the court make its decision?

The court will first determine if you are eligible to have your arrest sealed. You are **not** eligible and the court will **deny** your petition for arrest sealing if any of the following is true:

- | Your arrest resulted in a conviction;
- | You may still be charged with any of the offenses upon which the arrest was based;
- | 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
- | You intentionally evaded law enforcement efforts to prosecute the arrest, including by engaging in identity fraud.

If none of the above is true, then the court will look at your arrest and your criminal record history (if any). In most types of cases, the court must seal your arrest **as a matter of right**—meaning that the court is required to **grant** your petition.

However, if your arrest was based on an offense involving domestic violence, child abuse, or elder abuse, and if your record demonstrates a “pattern” of arrests or convictions for the same type of offense, then the court can only seal your arrest **in the interests of justice**—meaning that the court may, but does not have to, grant your petition. The court will decide whether to seal your arrest in the interests of justice based on any relevant factors, including whether you have shown that the arrest has caused you hardship, whether you submitted declarations or evidence regarding your good character, declarations or evidence regarding the arrest, and your record of convictions (if any).

6 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.

7 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.

8 Are there other ways to seal or limit arrest records?

Yes. If your arrest did not result in a conviction and meets certain other conditions, you may have already been granted automatic arrest record relief by the California Department of Justice (DOJ) under Penal Code section 851.93. A petition to seal may be unnecessary if the DOJ has granted automatic relief—but there may be additional benefits to filing a petition with the court. If you want to know if you have already been granted relief, you can request your Record of Arrest and Prosecution (RAP) sheet from the DOJ—but this is not required to file a petition.

You may also 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 pretrial diversion program under section 851.87.