



## Judicial Council of California · Administrative Office of the Courts

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on October 25, 2013

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Title	Agenda Item Type
Criminal Procedure: Petition and Order for Dismissal	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise forms CR-180 and CR-181	January 1, 2014
Recommended by	Date of Report
Criminal Law Advisory Committee Hon. Tricia Ann Bigelow, Chair	August 21, 2013
	Contact
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### Executive Summary

The Criminal Law Advisory Committee recommends revising the *Petition for Dismissal* (form CR-180) and the *Order for Dismissal* (form CR-181) to incorporate an additional statutory basis for dismissal, add a check box to the petition to apply the forms to infractions, add an advisement to the order to clarify that dismissals do not automatically relieve petitioners of requirements to register as a sex offender, and delete certain personal identifying information. The committee also recommends revisions to the format, advisements, and instructions on both forms to reduce confusion and update and enhance the information on the forms.

### Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2014, revise the *Petition for Dismissal* (form CR-180) and *Order for Dismissal* (form CR-181) to:

1. Add check boxes and related instructions to item 4 on form CR-180 to incorporate an additional statutory basis for dismissal;

2. Add a check box to item 2 on form CR-180 to apply the forms to infractions;
3. Add an advisement to item 5b on form CR-181 to clarify that a dismissal does not automatically relieve a petitioner of requirements to register as a sex offender;
4. Delete data fields for personal identifying information, including driver's license, social security, and criminal identification numbers (CII), from the captions of both forms; and
5. Revise the format, advisements, and instructions on both forms to reduce confusion and update and enhance the information on the forms.

The proposed revised forms are attached at pages 5 and 6.

### **Previous Council Action**

There is no relevant previous Judicial Council action to report.

### **Rationale for Recommendation**

The *Petition for Dismissal* (form CR-180) and *Order for Dismissal* (form CR-181) are optional forms used by petitioners and courts to facilitate dismissals under Penal Code sections 1203.4 and 1203.4a.<sup>1</sup>

In 2010 and 2011, legislation amended section 1203.4a to extend dismissal relief to certain infractions<sup>2</sup> and clarify that dismissals under that section do not relieve petitioners of any resulting prohibition against holding public office,<sup>3</sup> a consequence that previously only applied to dismissals under section 1203.4. The 2011 legislation<sup>4</sup> also amended section 1203.4 to authorize courts to grant dismissal relief “in the interests of justice.” In response, the committee recommends revisions to apply the forms to infractions and add the new statutory basis for relief and the advisement regarding public office.

To reduce confusion and update and enhance the information on the forms, the committee also recommends (a) adding an advisement to the order (form CR-181) to clarify that dismissals do not automatically relieve petitioners of sex offender registration requirements; (b) replacing outdated references to firearms sections 12021 and 12021.1, which have been renumbered as sections 29800 and 29900; (c) adding a data field to the caption of the petition (CR-180) for the clerk to indicate a date, time, and place for any hearings; and (d) adding instructions to the order (form CR-181) to ensure that orders include specific conviction information.

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<sup>1</sup> All remaining statutory references are to the Penal Code.

<sup>2</sup> Assem. Bill 2582 (Adams; Stats. 2010, ch. 99, p. 95).

<sup>3</sup> Assem. Bill 1384 (Bradford; Stats. 2011, ch. 284, p. 94).

<sup>4</sup> *Ibid.*

In addition, the committee recommends deleting from the captions of both forms the data fields for entry of petitioner's driver's license number, the last four digits of petitioner's social security number, and the criminal identification information (CII) number. The committee decided that this information is personal in nature, subject to identity theft, and otherwise unnecessary to process dismissal requests.

## **Comments, Alternatives Considered, and Policy Implications**

### **Two comment periods**

The recommended revisions related to personal identifying information and sex offender registration requirements were first circulated for public comment from April 21, 2011, to June 20, 2011. Nine commentators submitted comments; of those, 5 agreed with the proposal and 4 agreed if modified. No commentators disagreed with the proposal. The committee, however, tabled the proposal after the comment period to concentrate on criminal justice realignment legislation enacted later that year.

Meanwhile, the committee developed several additional revisions and circulated *all* proposed revisions together from April 19, 2013, to June 19, 2013, including the two that previously circulated in 2011. A total of 11 comments were received—5 that agreed with the proposal, 4 that agreed if modified, 1 that opposed the proposal, and 1 that did not indicate a position. A chart with all comments received and the committee's responses is attached at pages 7–17.

### **Notable comments and alternatives considered**

Notable comments and committee responses include:

- **Sex offender registration:** To enhance the information on the forms, the committee originally proposed adding the following advisement on the order (CR-181): “A person required to register as a sex offender *may only be relieved* of the registration requirement if he or she obtains a certificate of rehabilitation and is entitled to relief from registration under Penal Code section 290.5.” (Emphasis added.) Commentators, however, noted that the advisement was inaccurate because there are means to obtain relief from registration requirements *other than* a certificate of rehabilitation, including a full pardon, vacation of the judgment, or decriminalization of the underlying offense. To reduce confusion, the committee agreed to revise the advisement to read: “Dismissal of the conviction does not *automatically* relieve a person from the requirement to register as a sex offender. (See, e.g., Pen. Code § 290.5).”
- **Notification about reimbursement costs:** The committee considered but declined suggestions from the Superior Courts of Orange and San Diego Counties to include advisements and orders about reimbursement costs on the order (CR-181) because local practices for assessing ability to pay and imposing reimbursement costs vary widely among counties, including common use of local forms for those purposes.

- **Fulfillment of the conditions of probation for the entire period:** Item 3a on the petition (CR-180) currently includes the following basis for dismissal: “[The defendant] has fulfilled the conditions of probation for the entire period thereof.” Judge Russell Scott of the Superior Court of Monterey County suggested revising item 3a to clarify that this basis for relief requires the defendant to complete the entire probationary period without any violations. The committee declined the suggestion, however, in favor of the current wording, which accurately tracks the language of the statute.

The committee also considered postponing or declining to recommend any form revisions in light of the severe economic circumstances faced by courts. The committee, however, decided to recommend the revisions because many are required by recent statutory amendments and the revisions would not impose any significant change in court practices; rather, the recommended revisions are designed to improve dismissal procedures by reducing confusion and enhancing the information on the forms.

### **Implementation Requirements, Costs, and Operational Impacts**

Expected costs are limited to training and the production of new forms. No other implementation requirements or operational impacts are expected.

One court noted that the recommended revisions would significantly reduce printing costs because the court would use the Judicial Council forms, which will now apply to felonies, misdemeanors, and infractions, instead of three separate sets of locally developed forms based on the category of offense.

### **Relevant Strategic Plan Goals and Operational Plan Objectives**

The proposed revisions to forms CR-180 and CR-181 support the policies underlying Goal I, Access, Fairness, and Diversity and Goal IV, Quality of Justice and Service to the Public. Specifically, these form revisions support Goal I, objective 4, “Work to achieve procedural fairness in all types of cases”; and Goal IV, objective 3, “Provide services that meet the needs of all court users and that promote cultural sensitivity and a better understanding of court orders, procedures, and processes.”

### **Attachments**

1. Forms CR-180 and CR-181, at pages 5–6
2. Comments chart, at pages 7–17



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (Name): _____	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;"><b>DRAFT</b> <b>Not Approved by the</b> <b>Judicial Council</b></p>
PEOPLE OF THE STATE OF CALIFORNIA <p style="text-align: center;">v.</p> DEFENDANT: _____ DATE OF BIRTH: _____	
<b>ORDER FOR DISMISSAL</b> <b>(Pen. Code, §§ 17(b), 1203.4, 1203.4a)</b>	CASE NUMBER: _____

1.  The court denies the petition.
2.  The court grants the petition. The court finds from the records on file in this case, and from the foregoing petition, that the defendant is eligible for the relief requested.
3.
  - a.  The court reduces the felony offense to a misdemeanor.
  - b.  The court denies the request to reduce the felony offense to a misdemeanor.
4.  It is ordered that the plea, verdict, or finding of guilt regarding the following convictions in the above-entitled action be set aside and vacated and a plea of not guilty be entered and that the complaint be, and is hereby, dismissed (*specify charges and dates of convictions*):
  
5. If this order is granted under the provisions of Penal Code section 1203.4:
  - a. The defendant is required to disclose the above conviction in response to any direct question contained in any questionnaire or application for public office or for licensure by any state or local agency or for contracting with the California State Lottery Commission.
  - b. Dismissal of the conviction *does not automatically relieve a person from the requirement to register as a sex offender. (See, e.g., Penal Code section 290.5.)*
  - c. The defendant may also be eligible to obtain a certificate of rehabilitation and pardon under the procedure set forth in Penal Code section 4852.01 et seq.
6. If the order is granted under the provisions of either Penal Code section 1203.4 or 1203.4a, the defendant is released from all penalties and disabilities resulting from the offense except as provided in Penal Code sections 29800 and 29900 (formerly sections 12021 and 12021.1) and Vehicle Code section 13555. The dismissal does not permit a person to own, possess, or have in his or her control a firearm if prevented by Penal Code sections 29800 or 29900 (formerly sections 12021 and 12021.1). *Dismissal of the conviction does not permit a person prohibited from holding public office as a result of that conviction to hold public office.*
7. In addition, as required by Penal Code section 299(f), relief under Penal Code sections 17(b), 1203.4, or 1203.4a does *not* release defendant from the separate administrative duty to provide specimens, samples, or print impressions under the DNA and Forensic Identification Database and Data Bank Act (Pen. Code, § 295 et seq.) if defendant was found guilty by a trier of fact, not guilty by reason of insanity, or pled no contest to a qualifying offense as defined in Penal Code section 296(a).

Date: \_\_\_\_\_

\_\_\_\_\_  
(JUDICIAL OFFICER)

<i>FOR COURT USE ONLY</i>

**SPR13–15 (including comments to SPR11-29)****Criminal Procedure: Petition and Order for Dismissal** (revise forms CR-180 and CR-181)

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
<b>SPRING 2011</b>				
1.	Amador County Probation Department Mr. Deron Brodehl Adult Unit Supervisor	AM	I have but one comment ... I think the title of the form, "Petition for Dismissal," should be changed to "Reduction to Misdemeanor and/or Petition for Dismissal" since a [Penal Code section] 17(b) motion (reduction of a felony to a misdemeanor) is not necessarily a petition for dismissal. While the two motions often go hand in hand, they are not the same requests....	The committee declines the suggestion to avoid confusion. Motions to reduce felonies to misdemeanors under Penal Code section 17(b) may be raised orally on the record at various stages of criminal proceedings, not only in conjunction with motions to dismiss. Adding reference to section 17(b) to the title of these forms would inadvertently imply that the forms may be used for all motions under section 17(b).
2.	Ms. Laura Hertlein Court Clerk II Superior Court of Amador County	A	Thank you for proposing to make these changes. As stated on the proposal, the [driver's license number] and the last four digits of the [social security number] are not warranted as needed for processing a petition for dismissal. With the increase in identity theft, this is a much needed change.  In regards to the second issue of sex offender registration requirements, the enhancement proposed to the form makes it very clear in [item] 5b.  Thank you for proposing these changes.	No response required.
3.	Orange County Bar Association Mr. John Hueston President	A	No additional comments provided.	No response required.
4.	Superior Court of Monterey County Ms. Rebecca Hayes Operations Manager	AM	We recommend item #2 on form CR-180 be amended to add "Infraction" in response to recent amendments to Penal Code section 1203.4a effective January 1, 2011.	The committee agrees. A check box has been added to item 2 on form CR-180 to apply the forms to infractions.

**SPR13–15 (including comments to SPR11-29)**

**Criminal Procedure: Petition and Order for Dismissal** (revise forms CR-180 and CR-181)

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
5.	Superior Court of Orange County Ms. Erin Rigby Criminal Division Managers	AM	<ul style="list-style-type: none"> <li>• Removing the driver’s license [number] and last four digits of the social security number is necessary. We would also add the removal of the CII number, which in most cases the filing person would not know.</li> <li>• This proposed form also has information regarding the reducing of a felony to a misdemeanor under [Penal Code] section 17. It should be [Penal Code] section 17(b) that a judge would [use to] reduce a felony to a misdemeanor. Currently, if a person wanted the felony to be reduced a separate motion would need to be filed and granted by the judge before a dismissal petition can be submitted. It would streamline the process of the 17(b) and dismissal [motions] if both could be handled on one form.</li> <li>• Our local form was recently changed to include an order from the judge regarding payments. This should be added to this form as well:                       “[checkbox] The court has reviewed the Defendant’s Financial Statement and determines defendant can pay reimbursement costs n the amount of \$120/\$60/other amount, which must be paid by:                       [check box] The court has reviewed the Defendant’s Financial Statement and determines defendant cannot pay reimbursement costs.”</li> </ul>	<ul style="list-style-type: none"> <li>• The committee agrees to delete the Criminal Identification Information number as unnecessary.</li> <li>• The committee agrees to revise the references to Penal Code section 17 in both forms to specify subdivision (b). The committee also notes that both forms are currently designed to include motions to reduce under section 17(b).</li> <li>• The committee declines the suggestion because local practices for assessing ability to pay and imposing reimbursement costs vary widely across the state, including making those decisions during separate proceedings.</li> </ul>

**SPR13–15 (including comments to SPR11-29)**

**Criminal Procedure: Petition and Order for Dismissal** (revise forms CR-180 and CR-181)

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<ul style="list-style-type: none"> <li>We also suggest adding infractions to the form for consistency as they are now eligible instead of making the parties write a declaration.</li> </ul>	<ul style="list-style-type: none"> <li>The committee agrees. A check box has been added to item 2 on form CR-180 to apply the forms to infractions.</li> </ul>
6.	Superior Court of Sacramento County Mr. Robert Turner ASO II Finance Division	A	[We] [a]gree to delete [the] requirement for [driver’s license number] and the last 4 digits of [social security number] from the form to protect filers from identity theft and to add an advisement regarding sex offender registration to item 5b to inform the defendant that relief under 1203.4 does not relieve defendants of sex offender registration requirements unless the defendant obtains a certificate of rehabilitation and is entitled to relief under Penal Code section 290.5.	See the committee response to the related comment in Item 12 below (submitted in Spring 2013).
7.	Superior Court of San Diego County Mr. Michael M. Roddy Court Executive Officer	A	No additional comments provided.	No response required.
8.	Superior Court of Sonoma County Ms. Reyna Patricia Lewin Supervisor	AM	Form CR-180, [item] [n]umber 2 should have an additional block indication for “infraction” (since [Penal Code section] 1203.4a was revised effective January 1, 2011.	The committee agrees. A check box has been added to item 2 on form CR-180 to apply the forms to infractions.
9.	Superior Court of Ventura County Ms. Brenda Reeder Supervisor	A	Please add “Infractions” to line 2 on form CR-180.	The committee agrees. A check box has been added to item 2 on form CR-180 to apply the forms to infractions.
<b>SPRING 2013</b>				
10.	Ms. Gleneda Borton Paralegal Marin County Public Defender	A	The proposed changes submitted by Eliza Hersh, [East Bay Community Law Center] - Clean Slate would all be very helpful.	See the committee response to the comments in Item 12 below (submitted in Spring 2013).

**SPR13–15 (including comments to SPR11-29)**

**Criminal Procedure: Petition and Order for Dismissal** *(revise forms CR-180 and CR-181)*

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
11.	California Judges Association Lexi Howard Legislative Director	N/I	<p>The proposal indicates:</p> <p>The proposed revisions would delete certain personal identifying information, add an advisement to the order form to clarify that dismissals generally do not relieve petitioners of requirements to register as a sex offender, add a check box to the petition to apply the forms to infractions, and incorporate an additional statutory basis for dismissal. Several revisions to the format, advisements, and instructions on both forms to reduce confusion and update and enhance the information on the forms are also proposed.</p> <p>The California Judges Association provides the following comments on the proposed form changes, as specified in Invitation to Comment SPR13-15.</p> <p>It would be helpful for the forms to be guidelines that have to be followed substantially but not exactly. The forms would be most effective in Word format, where those sections that needed more space could be expanded without the need to add an attachment. The ability to expand and customize the form would provide the flexibility needed for maximum utility and efficiency.</p> <p>Thank you for the opportunity to comment on these matters. Should you have questions or need further information, kindly email me ... or reach me by phone ....</p>	<p>The two revised Judicial Council dismissal forms are optional. This means that courts and petitioners are free to create their own dismissal forms using Word or other word processing methods, if desired. Judicial Council forms are created using professional forms-creation software and are posted electronically on the California Court Website, where the forms are both fillable and savable. This method for creating forms has many advantages as a general format in terms of consistency of content, legal reliability, public accessibility, and user friendliness. The revised criminal forms are intended to provide two simple one-page forms in the standard council format for the purpose of handling petitions for dismissals. But because the forms are optional, their availability does not preclude parties or courts from using documents in Word instead if they prefer.</p>

**SPR13–15 (including comments to SPR11-29)**

**Criminal Procedure: Petition and Order for Dismissal** (revise forms CR-180 and CR-181)

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
12.	East Bay Community Law Center Ms. Eliza Hersh Director Clean Slate Practice	AM	<ul style="list-style-type: none"> <li>Please modify the change to the Order (CR-181) [regarding Penal Code section] 290 registration, which as proposed reads: “Dismissal of the conviction does not relieve a person from the requirement to register as a sex offender. A person required to register as a sex offender may only be relieved of the registration requirement if he or she obtains a certificate of rehabilitation and is entitled to relief from registration under Penal Code section 290.5.” Instead, I request that it states only: “Dismissal of the conviction does not relieve a person from the requirement to register as a sex offender.” I propose this modification because the second sentence is not legally accurate, as there are other mechanisms to obtain relief from a 290 registration requirement besides a [certificate of rehabilitation] (i.e., full pardon through a direct application and without a [certificate of rehabilitation], vacation of judgment, or decriminalization of the underlying offense, etc.)</li> <li>On the Order (CR-181), please make the blank at the end of the line on Number 4 a fillable box. Petitioners may miss the requirement to fill in that info because it is not obvious.</li> </ul>	<ul style="list-style-type: none"> <li>The committee agrees that the proposed advisement is inaccurate and has replaced it with the following to reduce confusion while still providing an important advisement: “Dismissal of the conviction does not <i>automatically</i> relieve a person from the requirement to register as a sex offender. (See, e.g., Pen. Code § 290.5.)”</li> <li>To emphasize that item 4 of the order (form CR-181) requires specific conviction information, the committee agrees to increase the space after the item and add the following instruction: “(specify charge and dates of convictions).” The committee also notes that the electronic version of the form</li> </ul>

**SPR13–15 (including comments to SPR11-29)**

**Criminal Procedure: Petition and Order for Dismissal** (*revise forms CR-180 and CR-181*)

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
				already includes a “fillable” box that is not visible on the printed form.
13.	Mr. Joshua Kim Staff Attorney A New Way of Life Reentry Project	A	No additional comments provided.	No response required.
14.	Lawyers' Committee for Civil Rights of the San Francisco Bay Area Ms. Meredith Desautels Staff Attorney	AM	<ul style="list-style-type: none"> <li>• Please modify the change to the Order (CR-181) [regarding Penal Code section] 290 registration, which as proposed reads: “Dismissal of the conviction does not relieve a person from the requirement to register as a sex offender. A person required to register as a sex offender may only be relieved of the registration requirement if he or she obtains a certificate of rehabilitation and is entitled to relief from registration under Penal Code section 290.5.” Instead, I request that it states only: “Dismissal of the conviction does not relieve a person from the requirement to register as a sex offender.” I propose this modification because the second sentence is not legally accurate, as there are other mechanisms to obtain relief from a 290 registration requirement besides a [certificate of rehabilitation] (i.e., full pardon through a direct application (without a [certificate of rehabilitation]), vacation of judgment, or decriminalization of the underlying offense, etc.)</li> <li>• On the Order (CR-181), please make the blank at the end of the line on Number 4 a fillable box. Petitioners may miss the</li> </ul>	<ul style="list-style-type: none"> <li>• See the committee response to the related comment in Item 12 above (submitted in Spring 2013).</li> <li>• See the committee response to the related comment in Item 12 above (submitted in</li> </ul>

**SPR13–15 (including comments to SPR11-29)**

**Criminal Procedure: Petition and Order for Dismissal** *(revise forms CR-180 and CR-181)*

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			requirement to fill in that info because it is not obvious.	Spring 2013).
15.	Legal Services for Prisoners with Children Mr. Jesse Stout Policy Director	AM	<ul style="list-style-type: none"> <li>Please modify the change to the Order (CR-181) [regarding Penal Code section] 290 registration, which as proposed reads: “Dismissal of the conviction does not relieve a person from the requirement to register as a sex offender. A person required to register as a sex offender may only be relieved of the registration requirement if he or she obtains a certificate of rehabilitation and is entitled to relief from registration under Penal Code section 290.5.” Instead, we request that it state only: “Dismissal of the conviction does not relieve a person from the requirement to register as a sex offender.” We propose this modification because the second sentence is not legally accurate, as there are other mechanisms to obtain relief from a 290 registration requirement besides a [certificate of rehabilitation] (i.e., full pardon through a direct application (without a [certificate of rehabilitation]), vacation of judgment, or decriminalization of the underlying offense, etc.)</li> <li>On the Order (CR 181), please make the blank at the end of the line on Number 4 a fillable box. Petitioners may miss the requirement to fill in that info because it is not obvious.</li> </ul>	<ul style="list-style-type: none"> <li>See the committee response to the related comment in Item 12 above (submitted in Spring 2013).</li> <li>See the committee response to the related comment in Item 12 above (submitted in Spring 2013).</li> </ul>
16.	Orange County Bar Association	A	No additional comments provided.	No response required.

**SPR13–15 (including comments to SPR11-29)****Criminal Procedure: Petition and Order for Dismissal** *(revise forms CR-180 and CR-181)*

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
	Mr. Wayne R. Gross President			
17.	Hon. Russell D. Scott Judge Superior Court of Monterey County	N	The dismissal form should specify that to be entitled to relief under 1203.4 because the defendant “has fulfilled the conditions of probation for the entire period thereof” that he must have done so without violating probation for the entire period. It should read “has fulfilled the conditions of probation for the entire period thereof [without violating probation.]” The same amendment should be made to 3(b): “has been discharged from probation prior to the termination of the period thereof [without violating probation.] The meaning of the statutory language is not immediately clear to defendants or judges who have not studied it. It is not unusual to receive the petition with the checkbox marked despite the fact that the defendant has previously been held in violation of probation. The defendant who suffers a violation of probation and thereafter complies for the remainder of the period of probation for some reason does not understand that he has not complied “for the entire period.” Judges for some reason do not catch this subtlety and grant the petition believing the defendant is entitled to relief. In such instances, relief is not mandatory, but discretionary, and can only be granted “in the interests of justice.” The form is easily amended to clarify this underlying ambiguity.	The committee appreciates but declines the suggestion. The current language of item 3 on form CR-180 accurately tracks the language of Penal Code section 1203.4, which the committee favors to avoid confusion caused by evolving interpretations of the statute by case law.
18.	Superior Court of Los Angeles County	A	No additional comments provided.	No response required.

**SPR13–15 (including comments to SPR11-29)**

**Criminal Procedure: Petition and Order for Dismissal** (revise forms CR-180 and CR-181)

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
19.	Superior Court of Orange County Ms. Kelli Beltran Branch Manager Criminal Operations North Justice Center	A	<p>The Orange County Criminal Operations Managers agree with the proposed changes and recommend including information regarding reimbursement costs on the proposed Order.</p> <p><b>Would the proposal provide costs savings? If so, please quantify. If not, what changes might be made that would provide savings, or greater savings?</b> No savings.</p> <p><b>What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.</b> Approximately one hour training for court staff, revise procedures, replace on-line forms via the web, judicial notification, possible docket code changes, print new forms.</p> <p><b>Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</b> 6–9 months preferred in order to update our web-forms, notify and train staff.</p>	See the committee response to the related comment in item 5 above (submitted in Spring 2011).
20.	Superior Court of San Diego County Mr. Michael M. Roddy Court Executive Officer	AM	Our court believes the proposed changes on the Petition for Dismissal and Order forms are reasonable and are important items that clarify the	The committee declines to add the various advisements as suggested for three reasons. First, the committee notes that courts are not

**SPR13–15 (including comments to SPR11-29)**

**Criminal Procedure: Petition and Order for Dismissal** (*revise forms CR-180 and CR-181*)

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
			<p>information stated on these forms. Currently, we provide three separate dismissal packets contingent on the type of offense. Using this petition and order which can apply to any offense would significantly reduce our printing costs.</p> <p>The following are our comments related to the CR-181, Order for Dismissal:</p> <ul style="list-style-type: none"> <li>• Consider adding “or exclude a person from the internet publication provisions of Megan’s Law” to the end of the first sentence of 5(b).</li> <li>• Consider adding something to the consequences of a grant of relief, to the effect of: “In any subsequent prosecution for any other offense, the conviction in this case may be pleaded and proved as a prior conviction and shall have the same effect as if this petition has not been granted.”</li> <li>• Consider adding something to the consequences of a grant of relief, to the effect of: “The conviction in this case remains a part of the court file which can be viewed by the public.”</li> <li>• Add a line for noting an order to pay court costs (see PC 1203.4(d) and 1203.4a(e).)</li> <li>• As for the advisement (#5b) on the order for dismissal, it should also address that the “dismissal of the conviction does not remove the conviction from the Department of</li> </ul>	<p>expressly required to advise defendants of all consequences of a dismissal. Second, although some advisements regarding the direct consequences of dismissals are important to include on the forms, the committee believes it is impractical to attempt to capture all conceivable consequences. Third, if the forms are intended but fail to include all conceivable consequences, petitioners may be misled into believing that no other consequences apply.</p>

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			Justice’s records.” A common misconception by the defendants is when their petition for dismissal is granted then their conviction is deleted in DOJ’s system. That is not the case.  We believe the above recommendation additions would serve all courts well.	