Information on How to File a Petition to Seal Arrest and Related Records Under Penal Code Section 851.91

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

What is a petition to seal arrest and related records?

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

What 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.

What information do I include in the petition?

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

How will the court makes its decision?

To have the arrest sealed as a matter of right, the court will determine whether the arrest did not result in a conviction (Pen. Code, § 851.91(a)(1)). The court will not seal the arrest as a matter of right if (1) you may still be charged with any of the offenses upon which the arrest was based;

(2) the arrest or case was filed for murder or any other offense for which there is no statute of limitations (except if you have been acquitted or found factually innocent), or (3) you intentionally evaded law enforcement efforts to prosecute the arrest, including by engaging in identity fraud. (Pen. Code, § 851.91(a)(2).)

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

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

If a criminal case was filed based on the arrest you want to have sealed, serve a copy of the completed Petition, inclusive of court hearing date, time and department on the District Attorney of the county where the arrest happened *and* the law enforcement agency that made the arrest.

The person who delivers the Petition to the District Attorney and law enforcement agency must complete the Proof of Service showing that a copy of the Petition has been served on these agencies.

Take or mail the original Petition and the original Proof of Service to the clerk's office in the court where the case was filed at least 15 days prior to the hearing on the Petition.

If no criminal case was filed or charged against you, the Petition/Proof of Service must be provided 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.

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.

Prepare for, and attend, the court hearing.

Does anyone else get the petition?

A copy of the petition must be served (delivered by hand or by mail) on the District Attorney of the county where the arrest happened *and* the law enforcement agency that made the arrest at least 15 days before the hearing on the petition.

Are there other ways to seal or limit arrest records?

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

ATTORNEY OR PARTY WITHOUT ATT	ORNEY (Name, State Bar number, and addres	s):			FOR COURT USE ONLY
STATE BAR NO.:					
TELEPHONE NO.:	FAX N	O.(Optional):			
E-MAIL ADDRESS (Optional):					
ATTORNEY FOR (Name):					
SUPERIOR COURT OF	CALIFORNIA, COUNTY OF	KERN			
PLAINTIFF					
PEOPLE OF THE STA	ATE OF CALIFORNIA				
PETITIONER					
				COURT	CASE NUMBER
				(Hearin	g date minimum 15 day service)
PETITIO	N FOR SEALING OF ARRE			,	g date minimum to day service/
	(Pen. Code §§ 851.91, 85	1.92)		DATE:	
				DEPARTMENT:	
TO THE CLERK OF THE	ABOVE-ENTITLED COUR	T AND TO THE DIST	RICT ATT	ORNEY	OF KERN COUNTY:
	ne Court order the sealing of	the following Kern Co	ounty arres	t records	s and associated court
records:					
CITY OF ARREST	ARRESTING	BOOKING #	DATE	TE OF CHARGE(S)	
(REQUIRED)	AGENCY(IES)	(IF KNOWN)	ARR	EST	(REQUIRED)
	(REQUIRED)		(REQU	IRED)	
Other identifying inform	action.				
Other identifying inform Petitioner's date of birth (
	imber or police report number	er (if known):			
District Attorney report nu	ımber (if known):				
Datitionar suffered on a	rract that did not recult in	a conviction because	a (abaak a	no):	
	rrest that did not result in iled and the statute of limitat		•	•	which the arrest was hased
	I, but the case was dismisse				Willow the direct was based.
☐ Charges were filed	l, but petitioner was acquitte	d of all charges.			
	victed, but the conviction wa		d on appeal	l, all app	ellate remedies have been
exhausted, and none	of the charges may be refile	ed.			
Petitioner states he/she	is eligible for relief becau	se:			
 Petitioner did not inte 	ntionally evade law enforcer		ute the arre	st, inclu	iding absconding from the
jurisdiction where the					
	ntionally evade law enforcer rges for that identity fraud.	nent efforts to prosect	ute the arre	est by en	ngaging in identity fraud
Petitioner is (check one)		41	14		
□ entitled to relief as Code § 851.91(c)(1).	s a matter of right because	the arrest did not re	esuit in a c	onviction	on pursuant to Penai
OR					
☐ not entitled to relie	ef as a matter of right but i	s requesting relief ir	n the intere	est of ju	stice pursuant to Penal
Code § 851.91(c)(2) b					
	ncluded a domestic violence ce arrests, convictions, or bo				•

		a child abuse charge and th oth, as defined by Penal C		record demonstrates a pattern of child abuse
				's record demonstrates a pattern of elder abuse
		oth as defined by Penal Co		
	a declaration stating how grant this request, the co you consider important: h character, from you, othe	the interest of justice woul urt may consider any impor nardship and difficulties cau ers, or both; statements or e	ld be served be tant factors, in sed by the arm evidence regan	Code § 851.91(c)(2)(B), petitioner must provide by granting this petition. In deciding whether to including the following factors and anything else rest; statements or evidence regarding your good rading the arrest, from you, others, or both; your is entitled to relief as a matter of right):
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	(If additional space is ne	eded, attach a supplement	al Declaration	, Judicial Council Form MC-30.)
Please at	tach any additional signe	d and dated statements wi	th the petition	
on my ow	n knowledge and I believ		re verify the p	All factual assertions in this petition are based etition. I further declare under penalty of perjury ct.
Dated:	at		by	
		(CITY, STATE)		(SIGNATURE OF PETITIONER)
Dated: _			Respec	tfully submitted,
			·	
			Бу:	Attorney for Petitioner

PROOF OF SERVICE

	☐ Personal Service	☐ Service by Mail
۱.	Person serving: I am over the age of 18 and not a party to this a	ction.
	(1) Name:	
	(2) Address:	
	(3) Telephone:	
2.	I served a copy of the Petition for Sealing of Arrest Records as f a. Personal Service: I personally delivered the Petition for Sea the address listed below: (1) Name of person served:	aling of Arrest Records to the person at
	(2) Address where served:	
	(3) Date Served:	
	(4) Time Served: AM	PM
	b. Service by Mail: I deposited the Petition for Sealing of Arre in a sealed envelope with first class postage fully prepaid. The (1) Name of person served: (2) Address:	
	(3) Date of Mailing:	
	(4) Place of Mailing (city and state):	
_	declare to the best of my information and belief that the foregoing ate:	is true and correct.
٥	AIG.————————————————————————————————————	(Signature of Declarant)
	•	(Printed Name of Declarant)