

PETITION TO SEAL ARREST AND RELATED RECORDS UNDER PENAL CODE § 851.91

SELF-HELP FORM PACKET



SHC-CRIM-13 (Rev. 08/09/2021)

Self-Help Services can review your completed forms before you file them with the Court. To request review of your completed forms:

1. Complete the attached forms in black ink.
2. Scan your completed forms and save as a single PDF file.
3. Go to [**www.occourts.org/self-help**](http://www.occourts.org/self-help) (click the blue button labeled *Click Here to Contact Self-Help Services*), attach the PDF, and complete the online request form. Make sure to select CRIMINAL/TRAFFIC as the case type on the form.

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 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 make 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 from you 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, 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.

Must anyone else get the petition?

A copy of the petition must be served (delivered by hand or by mail) 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. 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.

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.

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.htm.

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.

Trial Court Case Name: _____

Trial Court Case Number: _____

e. Include any other information about the arrest that is available from the prosecutor (district attorney/city attorney) or the court, including the case number that the prosecutor used to review the arrest or used to file a case against you. If you would like to explain the information provided, please do so below, or complete and attach the *Attached Declaration* (form MC-031) or submit other relevant documents.

f. Add any information on offenses or charges based on the arrest. If you would like to explain the information provided, please do so below, or complete and attach the *Attached Declaration* (form MC-031) or submit other relevant documents.

g. If the prosecutor filed a case against you, please include what the charges were (*for example, Pen. Code, § 242, for battery*).

h. Choose one:

I am entitled to have this arrest (the arrest described in item ② of this petition) sealed as a matter of right because the arrest did not result in a conviction, and I satisfy the requirements of Penal Code section 851.91.

OR

I am requesting to have the arrest sealed in the interests of justice (Pen. Code, § 851.91(c)(2)(B)). *(Describe below how this is in the interests of justice. In deciding whether to grant this request, the court may consider any important factors, including: hardship and difficulties caused by the arrest; statements or evidence regarding your good character; statements or evidence regarding the arrest; your record of convictions; or any other important factors. You may provide statements or evidence from you, from others, or both.)*

Please attach any additional signed and dated statements with the petition.

I declare under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: _____

 _____
Signature of petitioner or attorney

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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DECLARATION

(This form must be attached to another form or court paper before it can be filed in court.)

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

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

- Attorney for Plaintiff Petitioner Defendant
- Respondent Other (*Specify*):

Case Name:	Case Number:
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PROOF OF SERVICE

Personal Service **Service by Mail**

1. Person serving: I am over the age of 18 and not a party to this action.
Name:
Address:

Telephone:

2. I served a copy of the Petition and Order to Seal and Destroy Arrest Records as follows (*check one*):
 - a. **Personal Service:** I personally delivered the Petition and Order to Seal and Destroy Arrest Records to the person at the address listed below:
 - (1) Law Enforcement Agency:
 - (2) Address where served:

 - (3) Date served:
 - (4) Time served:

 - b. **Service by Mail:** I deposited the Petition and Order to Seal and Destroy Arrest Records in the United States mail, in a sealed envelope with first class postage fully prepaid. The envelope was addressed as follows:
 - (1) Law Enforcement Agency:
 - (2) Address:

 - (3) Date of Mailing:
 - (4) Place of Mailing (city and state):

3. I served a copy of the Petition and Order to Seal and Destroy Arrest Records as follows (*check one*):
 - a. **Personal Service:** I personally delivered the Petition and Order to Seal and Destroy Arrest Records to the person at the address listed below:
 - (1) Name of person served:
 Office of the District Attorney
 Office of the City Attorney
 - (2) Address where served:

 - (3) Date served:
 - (4) Time served:

 - b. **Service by Mail:** I deposited the Petition and Order to Seal and Destroy Arrest Records in the United States mail, in a sealed envelope with first class postage fully prepaid. The envelope was addressed as follows:
 - (1) Name of person served:
 Office of the District Attorney
 Office of the City Attorney
 - (2) Address:

 - (3) Date of Mailing:
 - (4) Place of Mailing (city and state):

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

Date:

▶ _____
TYPE OR PRINT NAME

▶ _____
(SIGNATURE OF DECLARANT)

PETITION AND ORDER TO SEAL AND DESTROY ARREST RECORDS