

CHECKLIST FOR IMPACT LITIGATION ISSUES

CORI/CINI Issues

CORI = version of state summary criminal history info distributed to anyone other than the subject

CINI = version of state summary criminal history info distributed to the subject

- CORI with entry for arrest or detention that did not lead to conviction
- CORI with entry for arrest or detention without any disposition information/ or “NDIA”
- CORI with reference to successfully completed diversion program, including PC §1210.1/prop 36, or successfully completed deferred entry of judgment program
- CORI or CINI with entry for arrest or conviction under H&S Code §§11357(b), (c), (d), (e) or 11360(b) that is more than two years old
- CORI or CINI with entry for an arrest for which the conviction (whether or not an entry for the conviction appears on the CORI) was under H&S Code §§11357(b), (c), (d), (e) or 11360(b)
- Denials of CORI correction requests (requested pursuant to PC §11105) by the California DOJ

Licensing/Employment Issues

- State agency (esp. DSS) denials of initial work clearance to individuals with arrest-only records
- Significant delays in processing applications for licenses, clearances, exemptions, or benefits due to an applicant’s criminal history information
- Denials of jobs based on dismissed or sealed convictions (including convictions dismissed under PC §1203.4), infractions, juvenile adjudications, arrest/detentions not leading to conviction, offenses resulting in successful completion of diversion or deferred entry of judgment program, arrests or convictions under H&S Code §§11357(b), (c), (d), (e) or 11360(b), and/or convictions that are very old or not closely related to the job function
- Denials of licenses based on infractions, dismissals (but not PC §1203.4), arrests resulting in successful completion of diversion or deferred entry of judgment program, arrests not leading to conviction, arrests or convictions under H&S Code §§11357(b), (c), (d), (e) or 11360(b)
- Applications for job or license instructing applicant to disclose criminal record information and not expressly stating that applicant is not required to disclose certain types of criminal history information that may not be considered in employment/licensing decisions (*roughly*, the categories described in prior two bullet points)
- Employer or licensing agencies’ denials of individuals’ requests for copies of CORI provided by the DOJ to the employer or licensing agency
- Employer or agency decisions relying on criminal history information reported DMV record

Procedure for Flagging Case Issue(s)

- SCAN COPIES OF KEY CASE DOCUMENTS AND SAVE TO K:\Data\Cleanslate\Sarah
- ENTER CASE ISSUES IN PIKA:
 - Assign Sarah Crowley as “Primary Counsel #2” or “co-counsel” for the case
 - Select “Duplicate this case” on the left side of screen; select appropriate opening code
 - In the “Notes” tab, describe issue

PLEASE TURN OVER!

DOJ RAP Sheets/CORI Reports

- ALWAYS ASK CLIENT FOR COPY OF THEIR DOJ RAP SHEET AND ANY CORI REPORTS PROVIDED TO EMPLOYERS/LICENSING AGENCIES (AS WELL AS ANY PRIVATE BACKGROUND CHECK REPORTS)
- IF NO RECENT DOJ RAP SHEET, ASK CLIENT TO REQUEST COPY

Procedure for DOJ RAP sheet request:

- Complete DOJ Fee Waiver Application – *K:\EBCLC\Data\CleanSlate\Advocate Intake Tools\Getting your RAP Sheet - Info & Forms* – and fax to DOJ.
- Client receives a “Request for Live Scan” form in the mail from the DOJ.
- Helps/instruct client make an appointment with Sparkle at All Scan Live Scan, 492 7th Street in Oakland, (510) 409-7463 (Sparkle gives discount to EBCLC clients).
- Follow up with client to make sure they send us a copy of the RAP sheet when they get it (probably within a week).

DMV Records

- ALWAYS ASK CLIENT FOR COPY OF THEIR 10-year certified driving record
- FOLLOW PROCEDURE FOR DMV RECORD REQUEST if client doesn't have an up-to-date 10-year record and if client has any of the following: (1) DUI (VC §§23152, 23151, or 23140) conviction older than 7 years; (2) DUI arrest older than 3 years; or (3) any successfully completed drug diversion (DIVERSION, DIV, DISM-DRUG, Penal Code 1210.1 (Prop 36))

Procedure for DMV record request:

- Schedule in-person appointment online:
<http://www.dmv.ca.gov/foa/welcome.do?localeName=en>
- OR, if client is reluctant to go in person to DMV, help them fill out request form to submit by mail: <http://apps.dmv.ca.gov/forms/inf/inf1125.pdf>
- Notify client EBCLC can reimburse them for the \$5 cost of DMV record
- REQUEST CORRECTION OF ERRONEOUS CRIMINAL HISTORY INFORMATION ON DMV RECORD
 - Submit DL 207 form: <https://apps.dmv.ca.gov/forms/dl/dl207.pdf>
- REQUEST REMOVAL OF CRIMINAL HISTORY INFORMATION ON DMV RECORD OLDER THAN
 - **10 years** for violation of VC §23140, 23152, or 23153 (DUI)
 - **7 years** for VC §§2800.2, 2800.3, 14601, 14601.1, 14601.2, 14601.3, 14601.5, 20001, 20002, 21651(b), 22348(b), 23103, 23109(a) or (c), 23109.1, 23140(a) or (b), 31602; PC §§191.5, 192
 - **3 years** for other violations and any accidents

Procedure for requesting removal of old information:

- Call the DMV's Mandatory Actions Unit: (916) 657-6525 or (916) 657-6526
- Log any communications with (and/or attempts to reach) Mandatory Actions Unit in Mandatory Actions Unit Log (K:\Data\Cleanslate\Sarah)

PLEASE TURN OVER!



Clean Slate Legal Consultation Worksheet

Keep in mind that clients may be eligible for multiple remedies, or may not currently be eligible for any remedies, but may become eligible later (e.g., after probation is completed). Please attach this form to the client’s intake form and RAP sheet.

Client Name: _____ Date: _____ Advocate: _____

Has the client worked with EBCLC in the past?	Yes	No	N/A
Is the client registered to vote ? <i>If no, advise that any U.S. citizen, 18 years or older, not currently in prison or on felony parole is eligible to vote in California. (Provide voter registration forms.)</i>	Yes	No	N/A
Did the client have contact with the juvenile justice system? <i>If yes, is the client over 18? 707(b) offenses (often serious or violent) not eligible. If sentenced to CYA, or transferred to adult court, not eligible. (If the record has not been sealed, provide SOS intake/referral)</i>	Yes	No	N/A
Alameda County, state DOJ, FBI RAP sheet , or juvenile case file ? Make copy and check print date .	Yes	No	N/A
Any arrests convictions, or adjudications outside of Alameda County or prior to 1974 (Ask this question for anyone born before 1956)? <i>If yes, DOJ RAP sheet is needed for full consultation. (Provide information on obtaining DOJ RAP sheet, and provide referrals to clean slate resources in other counties, as applicable.)</i>	Yes	No	N/A
Any criminal convictions in traffic court ? <i>If yes, driving record is needed to determine if client has criminal traffic convictions. Or, any traffic or drug-related convictions? If yes, convictions may be listed on DMV record and can be purged from his or her record if older ten years. (Provide information on DMV “H-6 10-year driving record.”)</i>	Yes	No	N/A
U.S. citizen? Green card or visa ? <i>Consider advising client to speak to an immigration attorney.</i>	Yes	No	N/A
Currently on probation (court or informal or formal) anywhere? Did the judge or DA promise early termination or felony reduction after “x years” at the time of plea? Will your Probation Officer write a letter supporting early termination? <i>If on probation, not eligible for dismissal under PC § 1203.4 or § 1203.4a on any case. Possibly eligible for discretionary early termination of probation under PC § 1203.3 and reduction of felony under PC § 17(b). (Provide info about early termination of probation and felony reduction; explain procedure and necessary documentation of rehabilitation. Note if case pertains to domestic violence, there may be a protective/stay-away order that will be lifted if probation terminated.)</i>	Yes	No	N/A
Currently on parole anywhere? <i>If yes, not currently eligible for dismissal under PC § 1203.4 or § 1203.4a on any cases. Possibly eligible for discretionary petitions once off parole, and possibly eligible for Certificate of Rehabilitation for prison cases after waiting period.</i>	Yes	No	N/A
Currently servicing a sentence or charged with a crime (i.e., outstanding warrant) ? <i>If yes, not eligible for dismissal until sentence completed or outstanding case resolved.</i>	Yes	No	N/A
Convicted for sex crime involving a child ? E.g. violations of PC §§ 286(c), 288, (lewd acts with a child), 288a(c), 288.5 (child molestation), 289(j), or <u>felony</u> violation of PC § 261.5(d) (statutory rape)? <i>If yes, no dismissal under § 1203.4.</i>	Yes	No	N/A
PC § 290 registrant ? <i>Likely no remedy, except may be eligible to be relieved of duty to register if client obtains a COR (See PC §§ 290.5, 4852.01). Also, some individuals may be exempt or partially exempt from “Megan’s Law” internet registration (See PC § 290.46(a)(2)). If client was a juvenile at the time of the incident giving rise to registration requirement, refer to Social Justice Law Project. If client has been the victim of improper use of Megan’s Law, consider possible advocacy under PC § 290.46(l).</i>	Yes	No	N/A

Are there any unpaid finances, fees, or restitution ? <i>If yes, not eligible for mandatory dismissal under PC § 1203.4 or § 1203.4a. Possibly eligible for discretionary petition under extraordinary circumstances if fines/fees only, NOT restitution. One possible exception: restitution results from a public benefits conviction. (Provide referral to Homeless Court program if client is low-income and has non-violent misdemeanor convictions or infractions. Provide information on obtaining receipt from Alameda County Collections.)</i>	Yes	No	N/A
Sentenced to state prison for any conviction? (even if no prison time served) <i>If yes, that case not eligible for dismissal under PC § 1203.4 or § 1203.4a, or felony reduction under PC § 17(b). Possibly eligible for Certificate or Rehabilitation, filed in county of residence. (Provide information on procedure, benefits, and drawbacks – long process, including investigation; conviction still a public record; licensing boards do not have to accept. Determine eligibility date, usually 7 years after last law enforcement contact.)</i>	Yes	No	N/A
Sentenced to probation, jail, or fine for felony (not state prison sentence) for a “ wobbler ”? <i>If yes, eligible for discretionary reduction of felony to misdemeanor under PC § 17(b), and also dismissal under PC § 1203.4.</i>	Yes	No	N/A
Any arrests for which client was not convicted on any related charges and not sentenced to a diversion program ? Is there proof of factual innocence? Less than 2 years since arrest (or good cause)? <i>Possible motion to seal and destroy arrest – PC § 851.8. (Provide information on obtaining police report from arresting agency.)</i>	Yes	No	N/A
Successful completion of non-Prop 36 drug diversion ? <i>If yes, eligible for partial sealing of diversion under PC § 851.90, if it would serve the “interests of justice.”</i>	Yes	No	N/A
Have you ever served in any branch of the United States military ? <i>If yes, client may be eligible for additional remedies. Follow up with an attorney.</i>	Yes	No	N/A
Denied employment, fired, demoted or not promoted within last 300 days (roughly ten months) due to criminal record? <i>If yes, possible violation of federal law. Refer to National Employment Law Project.</i>	Yes	No	N/A
Denied housing, evicted, or rent increase within last year due to criminal record? <i>If yes, possible violation of state and federal law. Refer to EBCLC housing unit.</i>	Yes	No	N/A
If yes to above, received a copy of commercial criminal background report produced for employment or housing purposes? <i>If no, advise regarding right to request a copy and how to get a copy from employer. If yes, make copy and check for accuracy. If there are reporting errors or violations, attach copy of background check and copy of RAP sheet to a BCAP cover sheet and consult with a CSP attorney.</i>	Yes	No	N/A
What jobs have you applied for in the past 24 months?			
Notes (use activity log if more space is needed):			



DATE

CLIENT NAME
STREET ADDRESS
CITY, STATE ZIP

Dear Ms./Mr. Last Name,

Congratulations! As you know, your petition(s) to dismiss your conviction(s) in Alameda County under Penal Code section 1203.4 in [case number(s)] was/were granted on [date]. Additionally, your petition(s) under Penal Code section 17(b) to reduce your felony to a misdemeanor was/were also granted on [date] in [case number(s)].

I have enclosed copies of the order(s) for you to keep for your records.

I have also enclosed a document that explains your rights and responsibilities with regard to your clean slate remedies. Please review it carefully.

- Please note that you cannot answer “no convictions” on a job application with a private company you still have [a conviction in [county] (case number[]) that needs to be dismissed]/[a conviction for which you received a prison sentence that cannot be dismissed.
- Please be advised that you are required to pay Alameda County any outstanding fines, fees, and/or restitution despite the dismissals.
- Please be advised that this dismissal does not necessarily restore your right to own a firearm. For more information on this, please contact our office.

You may wish to order another copy of your RAP sheet in order to ensure that it has been updated to accurately reflect the remedies you were granted. We encourage this action. For more information, please contact Intake Specialist Serina Rankins at (510) 548-4040 ext. 357.

We also encourage you to obtain copies of any criminal background check run by an employer or landlord. You have the right to receive a copy of these records, and it is important to check them for accuracy as they frequently contain errors. You have the right to request corrections to inaccurate reports, and certain errors may entitle you to a monetary award. If you are denied a job or housing on the basis of one of these background checks, or if you would like us to review it for accuracy, please call our office.

[FOR OUT OF COUNTY CASES -- As we discussed, we advise you to contact [county] to pursue criminal records remedies in your other cases. [add referral if available]]

[FOR PRISON CASES -- As we discussed previously, in those case[s] for which you were sentenced to state prison, you will be eligible to apply for a Certification of Rehabilitation and pardon in or around [month, year], which will be the seven year anniversary of your last contact with law enforcement. You



should contact the public defender in the county in which you live at that time for assistance with that petition.

PICK ONE

As we have completed our service in remedying your criminal record in Alameda County [to the extent available at this time], we will be closing your file with EBCLC. Please do not hesitate to contact us if you have further questions or concerns.

We will continue working with you regarding [issue]. Please keep us update with any changes in your contact information; it is important that we are able to reach you with any updates for your case.

Sincerely,

Your Name
Your Position
Clean Slate Practice

ATTORNEY NAME
Supervising Attorney
Clean Slate Practice

Enclosures



Dear Applicant:

Pursuant to our conversation, you would like to obtain a copy of your state record from the California Department of Justice (DOJ). You are eligible for a fee waiver from the DOJ that will waive the \$25 processing fee. You will still be required to pay a rolling fee at the time you do your live scan at an authorized location.

I have faxed the **Fee Waiver Application** to the Department of Justice for approval. You will need to complete the remaining steps as listed below.

Please follow these steps to get your state RAP sheet:

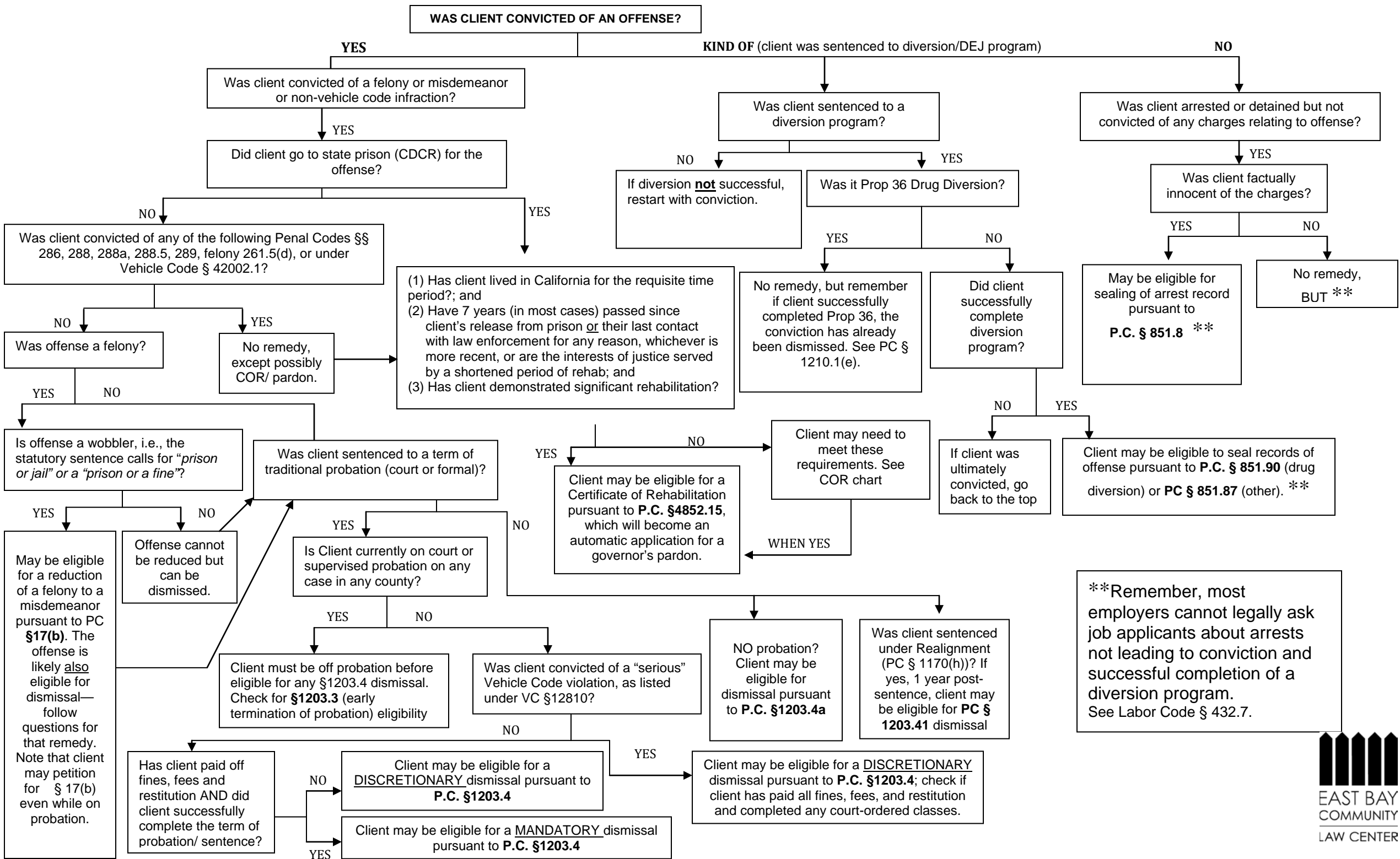
1. The Department of Justice will mail you a "**Request for Live Scan Service**" form by mail.
2. Complete and take the "**Request for Live Scan Service**" to one of the authorized Live Scan locations provided with this information
3. The Live Scan Operator will require you to pay a rolling fee, and then the operator will take your fingerprints and electronically submit them to the Department of Justice.
4. You will receive back from the Live Scan Operator a copy of your **Request for Live Scan Form**, which will have an "Automated Transmitting Identification" (ATI) number to be used to track your request if there are any problems.
5. You should receive your RAP sheet within a couple of weeks from the date you submit your fingerprints. If you wish to check the status of your record request, call the DOJ at (916) 227-3849 with the "ATI" number.
6. Once you receive your RAP sheet, you are ready for a legal consultation. You can **drop-in** at one of our Clean Slate Clinics listed below.

Hayward Clinic
Mondays, 10 am – 1 pm
Eden Area One-Stop Career Center
24100 Amador Street, 3rd Floor

Oakland Clinic
Tuesdays, 10 am – 1 pm
Alameda County Law Library
125 – 12th Street, 1st Floor

7. If you have any questions regarding this process, please contact the Clean Slate Practice at (510) 548-4040

Sincerely,
Clean Slate Practice



SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
VS.

Case No[s].:
DECLARATION IN SUPPORT OF
PETITION[S] UNDER P.C. §§
1203.4, [1203.4a, 17(b)]

CLIENT NAME,
Defendant.

I, CLIENT NAME, declare:

I believe the following facts justify my petition[s] for release from penalties and dismissal of my conviction[s] pursuant to California Penal Code § 1203.4 [and my petition for felony reduction of under California Penal Code § 17(b); to seal my drug diversion program participation pursuant to California Penal Code §851.90]:

1. I was convicted of violating California _____ Code § _____ on [conviction date]. (If more than two convictions write I was convicted of violating multiple California laws between the years of [] and []).
2. (Describe/explain any other contacts with law enforcement since the incident/conviction, e.g. Since the 1997 conviction, I have had one contact with law enforcement. I was cited and released for driving on a suspended license. Currently, I am working with the DMV and the courts to get my drivers license back and clear this violation from my record.)
3. (Describe need for remedy requested, e.g., My prior conviction is greatly limiting my job opportunities and a dismissal of the conviction would allow me to work and achieve my goal of self-sufficiency and continued sobriety. For these

reasons, I respectfully request that the court exercise its discretion to dismiss my conviction(s).)

4. (Describe any unpaid fines, fees and restitution including any ongoing efforts to that end.)

I declare under penalty of perjury under the laws of the State of California and the United States that the above is true and correct to the best of my knowledge.

DEFENDANT'S NAME

Executed on DATE, at CITY, California.

YOUR LETTER TO THE JUDGE

In some cases, it is helpful to provide information about you to the judge hearing your case. You may or may not have the opportunity to provide this information by speaking in court at the hearing on your case. By writing a letter and filing it with your petition, you insure that the judge will have all of the information you feel is important before he or she makes a decision. Note that when you file your letter, the district attorney and possibly the probation department may see it. If you decide to write a letter to the judge, the following are some suggestions. The last page contains is a sample format for your letter.

General Information

- **Your letter can be typewritten or handwritten** (as long as your handwriting is legible). Unless you are self-employed, you should not use your company's letterhead.
- **Your letter should be no longer than necessary.** Aim for a letter that is one or two pages. Judges are very busy and it is a courtesy to provide them with documents that quickly get to the point. Also, if you put in too much information then you risk drowning out your most important points.
- **Every word of your letter must be true.** Even the small details. Don't exaggerate. If you can't remember something, say you cannot remember or leave it out. It's safer to be approximate if you cannot remember an exact date. For example, it's okay to say "When I was in my early twenties" or "In the late 1980s."
- **Focus on your rehabilitation since the conviction. Do not focus on the facts of the case.** If you pled guilty or "no contest" (also called *nolo contendere*) or if a judge or jury found you guilty, then you have a conviction. Your letter to the judge is not the right place for you to talk about your innocence, being railroaded by the system, that what you did was not that bad, or your feeling that the sentence you received was too harsh, even if those things are true. If you are innocent of the offense for which you were convicted or if you have questions about your case or sentence, you should speak with an attorney before filing any documents with the court.
- **Do not discuss your involvement in crimes for which you have not been charged until you have spoken with an attorney.** Of course, if you have feelings of regret or remorse about your convictions, you can share them with the judge.

Your Letter

- **Briefly state what you are asking the judge to do.** For example, you could say "I am writing this letter in support of my petition for dismissal (and/or reduction of a felony to a misdemeanor/ early termination of probation)."
- **Tell the judge why it is in the interests of justice to grant your request.**
 - What have you done with your life since your conviction that shows you have

YOUR LETTER TO THE JUDGE

learned from your mistakes and are now a productive member of the community? Consider telling the judge things about you that you are proud of or show that you are living a good, sober, law-abiding life. The following list contains some examples, which may or may not apply to you.

- Do you have a special skill or ability that you share with others to enrich the community, your church, or your family?
- Do you support a family?
- Have you gone back to school or pursued higher education?
- Do you volunteer your time at your child's school, your church, or your AA meeting?
- What are your short-term and long-term goals (education, employment, being a role model for your children, etc.)?
- What has the conviction prevented you from doing that might be helpful or useful to you, your family, and the community? For example, find steady employment, get a volunteer position, etc.
- What steps, if any, have you taken to address the problems that gave rise to the conviction(s)? For example:
 - If substance abuse was an issue giving rise or contributing to the offense, what steps have you taken to get clean and sober? If possible, attach to your letter copies of documents or certificates that show you have completed treatment programs, letters from sponsors at AA/NA, etc.
 - If domestic violence was an issue, have you done anything to address anger or relationship issues, such as counseling, therapy, or classes? If possible, attach copies of letters from the therapist or other people who can speak to your personal growth in these areas and/or discuss the peace in your home now.
 - If mental health was an issue, what have you done to address those issues and maintain your mental health? If possible, attach letter from your mental health care provider, case worker, social worker, or family members documenting what successful steps you have taken to improve and maintain your mental health.
- What support systems do you have in place now that will prevent you from committing new offenses?
- **If you are asking for Early Termination of Probation, detail your extraordinary circumstances that justify your petition.** Probation is inconvenient and makes getting a job difficult for nearly everyone, so, unfortunately, the judge may not think these reasons alone justify early termination. Do you have a particular job waiting for you and the employer is willing to write a letter saying that? Has your military recruiter suggested that you seek early termination of probation? Is probation standing in the way of your upcoming graduation from school or receiving a license? These are issues to mention in your letter.

YOUR LETTER TO THE JUDGE

SAMPLE FORMAT FOR YOUR LETTER TO THE JUDGE

Sample Letter Writer's name
1234 Alameda Dr.
Oakland, CA 94603
510-555-5555

DATE

Superior Court of Alameda County
Criminal Division

To Whom It May Concern:

[. . . insert body of your letter here. . .]

Sincerely,

Your signature

YOUR NAME (printed)