



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

- CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101
- CENTRAL DIVISION, COUNTY COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92101
- EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020
- NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081
- SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910

GENERAL INFORMATION FOR PETITIONS TO SEAL AND DESTROY ARREST RECORDS PURSUANT TO PEN. CODE § 851.8

Pen. Code § 851.8 allows for sealing and destruction of **arrest** records (excluding infractions). For inquiries relating to sealing court documents, further research may be conducted at a local law library or you may wish to contact an attorney.

Statutory Criteria	Pen. Code § 851.8(a) No Case filed	Before a PC 851.8 petition may be filed with the court, a petition to destroy arrest records must be filed with the arresting law enforcement agency. Contact the Department of Justice for form BCII - 8270 at (916) 227-3832 or find the form online at http://caag.state.ca.us . A copy of this petition to law enforcement must be served on the prosecuting attorney of the county or city having jurisdiction over the offense. Note that misdemeanors committed in the City of San Diego are generally prosecuted by the City Attorney's Office. Misdemeanors committed outside the City of San Diego and all felony offenses are generally prosecuted by the District Attorney's Office. It is the Petitioner's duty to determine which prosecuting agency to serve.
	Pen. Code § 851.8(b) No Case filed – Petition denied or no response from the arresting agency	If a petition to the law enforcement agency is denied or has not been responded to within 60 days of the running of the statute of limitations for the crime charged (see Pen. Code §§ 799-805), or 60 days after receipt of the petition if the statute of limitations has already lapsed, a Petition for Sealing and Destruction of Arrest Records (SDSC Form #CRM-221) may be filed with the court. The Petitioner must serve a copy of the petition on the law enforcement agency and the prosecuting attorney of the county or city having jurisdiction over the offense (see above) at least 10 days prior to the hearing on the petition.
	Pen. Code § 851.8(c) Case dismissed – No conviction	If an accusatory pleading was filed but no conviction has occurred, the defendant may, at any time after dismissal of the action, file a Petition for Sealing and Destruction of Arrest Records (SDSC Form #CRM-221) with the court. A copy of the petition must be served on the prosecuting attorney of the county or city in which the accusatory pleading was filed at least 10 days prior to the hearing on the petition.
Filing Criteria	Pen. Code § 851.8(l) Statutory time frames	For arrests or accusatory pleadings occurring or filed on or after January 1, 1981, petitions for relief under this section may be filed up to two years from the date of the arrest or filing of the accusatory pleading, whichever is later. Any time restrictions on filing for relief under this section may be waived by the court upon a showing of good cause by the Petitioner and in the absence of prejudice to any other party.
Application	Location	The petition must be filed with the court having jurisdiction over the matter.
	Form	Court policy requires filing a Petition for Sealing and Destruction of Arrest Records (SDSC Form #CRM-221) and a declaration for all applications for sealing and destruction of arrest records. If applicable, a copy of the denied petition from the law enforcement agency must also be included.
	Supporting documents	It is the responsibility of the Petitioner to submit to the court any declarations, affidavits, police reports or other evidence that may exist to support the petition.
	Hearing	The petitioner should bring to the hearing: (1) the previous petition to law enforcement, if any; (2) the denial of that petition, if any; and (3) proof of service on the appropriate agencies.
Older Records	Since Govt. Code § 68152 allows that court records be destroyed after ten years, the court may not be able to process a petition filed more than ten years after a case has been adjudicated, unless documentation of the appropriate court records can be provided. The following documentation is acceptable: (1) certified copies of the complaint, conviction, and clerk's minutes in the case; (2) a Department of Justice abstract of the defendant's criminal history, which may be obtained by contacting the Department of Justice at (916) 227-3832 or online at http://caag.state.ca.us .	
Granting of the Petition	Upon granting the petition, the law enforcement agency having jurisdiction over the offense, the Department of Justice, and any law enforcement agency which arrested the petitioner or participated in the arrest of the petitioner, shall be ordered to seal their records of the arrest and the court order to seal and destroy such records; and shall three years from the date of the arrest destroy their records of the arrest and the court order to seal and destroy such records. The court will further order the law enforcement agency having jurisdiction over the offense and the Department of Justice to request the destruction of any records of the arrest which they have given to any local, state, or federal agency, person or entity. Each state or local agency, person or entity within the State of California receiving such a request shall be ordered to destroy its records of the arrest and the request to destroy such records.	