



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101

GENERAL INFORMATION – PETITION FOR SEALING ARREST RECORDS

Pen. Code § 851.91 allows a defendant to petition for the sealing of arrest records and related court documents when the arrest did not result in a conviction.

Eligibility	<p>The arrest must not have resulted in a conviction. An arrest did not result in a conviction if either of the following are true:</p> <ul style="list-style-type: none"> • The statute of limitations has run on every offense upon which the arrest was based and the prosecuting attorney with jurisdiction over the offense(s) has not filed charges. • The prosecuting attorney filed charges based on the arrest, but, with respect to all charges, one or more of the following has occurred: <ul style="list-style-type: none"> (i) No conviction occurred, the charge has been dismissed, and the charge may not be refiled. (ii) The arrestee has been acquitted of the charges. (iii) A conviction occurred, but has been vacated or reversed on appeal, all appellate remedies have been exhausted, and the charge may not be refiled.
Ineligibility	<p>A person is <i>not</i> eligible for relief if he or she:</p> <ul style="list-style-type: none"> • May still be charged with an offense for which he or she was arrested. • Was arrested or charged with murder or any other offense for which there is no statute of limitations, unless he or she was acquitted or found factually innocent. • Intentionally evaded law enforcement efforts to prosecute, including by absconding from the jurisdiction in which the arrest took place. (Bench warrants or failures to appear adjudicated before the case was closed with no conviction do not establish intentional evasion.) • Intentionally evaded law enforcement efforts to prosecute by engaging in identity fraud and was subsequently charged with a crime for that act of identity fraud.
Filing Criteria	<p>The petition may be filed on Petition for Sealing of Arrest Records, (SDSC Form #CRM-304). If this form is not used, the specific filing requirements found at Pen. Code § 851.91(b)(1) must be complied with.</p> <p>If the petition requests sealing in the interests of justice (see Pen. Code § 851.91(c)(2)), the petition must include a statement of how the interests of justice would be served by granting the petition, accompanied by declarations made directly and verified by the petitioner, his or her supporting declarants, or both.</p> <p>Petitioner must file proof of service of the petition on the appropriate prosecuting and law enforcement agencies at least 15 days prior to the hearing on the petition.</p>
Submission to Prosecuting Agency	<p>A petition may be submitted to the prosecuting agency for response prior to setting a hearing date. If the prosecuting agency does not oppose the granting of relief, the court may summarily grant the petition without a hearing.</p>
Granting of the Petition	<p>If the petition is granted, the court will order that the Petitioner's arrest record be sealed in accordance with Pen. Code §§ 851.91(e) & 851.92. Generally, the arrest will be deemed not to have occurred, petitioner may answer any question relating to the sealed arrest accordingly, and petitioner will be released from all penalties and disabilities resulting from the arrest, except as provided by Pen Code §§ 851.91(e) & 851.92.</p>