

Expungement Policies and Procedures

for Los Angeles County

**Penal Code Section 299
Agency Responsibilities**

**Proposition 69 Implementation Task Force
Countywide Criminal Justice Coordination Committee**



County of Los Angeles
May 2009



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Penal Code Section 299 Expungement Policies and Procedures for Los Angeles County Agency Responsibilities

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Penal Code Section 299 Expungement Policies and Procedures Manual

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Penal Code Section 299 Expungement Policies and Procedures Manual

Introduction

Approved by voters in 2004, Proposition 69 (Penal Code §295 et seq.) requires individuals convicted of certain crimes to provide DNA samples to law enforcement upon request. More than one million DNA profiles exist in California's data bank, making it the fourth largest DNA data bank in the world.

Effective January 1, 2009, Proposition 69 requires a DNA sample to be taken from adults arrested for any felony in California. In addition to requiring broad DNA collection, Proposition 69 also provides for "expungement" procedures which allow qualified individuals to have their DNA sample and profile removed from the database.

To prepare for the expected DNA expungement requests, the Countywide Criminal Justice Coordination Committee (CCJCC) Proposition 69 Implementation Task Force formed the Expungement Subcommittee to develop and implement countywide DNA expungement policies and procedures. The subcommittee's objectives were to develop a streamlined process that a petitioner could easily navigate and to create and standardize expungement forms and information. This manual outlines these forms, instructions and procedures for the benefit of Los Angeles County departments and employees affected by the expungement process.

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Overview of the Expungement Process

I. Statutory Authority Penal Code Section 299

(a) A person whose DNA profile has been included in the data bank pursuant to this chapter shall have his or her DNA specimen and sample destroyed and searchable database profile expunged from the data bank program pursuant to the procedures set forth in subdivision (b) if the person has no past or present offense or pending charge which qualifies that person for inclusion within the state's DNA and Forensic Identification Database and Data Bank Program and there otherwise is no legal basis for retaining the specimen or sample or searchable profile.

(b) Pursuant to subdivision (a), a person who has no past or present qualifying offense, and for whom there otherwise is no legal basis for retaining the specimen or sample or searchable profile, may make a written request to have his or her specimen and sample destroyed and searchable database profile expunged from the data bank program if:

(1) Following arrest, no accusatory pleading has been filed within the applicable period allowed by law charging the person with a qualifying offense as set forth in subdivision (a) of Section 296 or if the charges which served as the basis for including the DNA profile in the state's DNA Database and Data Bank Identification Program have been dismissed prior to adjudication by a trier of fact;

(2) The underlying conviction or disposition serving as the basis for including the DNA profile has been reversed and the case dismissed;

(3) The person has been found factually innocent of the underlying offense pursuant to Section 851.8 or Welfare and Institutions Code Section 781.5; or

(4) The defendant has been found not guilty or the defendant has been acquitted of the underlying offense.

(c)(1) The person requesting the data bank entry to be expunged must send a copy of his or her request to the trial court of the county where the arrest occurred, or that entered the conviction or rendered disposition in the case, to the DNA Laboratory of the Department of Justice, and to the prosecuting attorney of the county in which he or she was arrested, or convicted, or adjudicated, with proof of service on all parties. The court has the discretion to grant or deny the request for expungement. The denial of a request for expungement is a nonappealable order and shall not be reviewed by petition for writ.

(2) Except as provided below, the Department of Justice shall destroy a specimen and sample and expunge the searchable DNA database profile pertaining to the person who has no present or past qualifying offense of record upon receipt of a court order that verifies the applicant has made the necessary showing at a noticed hearing, and that includes all of the following:

(A) The written request for expungement pursuant to this section.

(B) A certified copy of the court order reversing and dismissing the conviction or case, or a letter from the district attorney certifying that no accusatory pleading has been filed or the charges which served as the basis for collecting a DNA specimen and sample have been dismissed prior to adjudication by a trier of fact, the defendant has been found factually innocent, the defendant has been found not guilty, the defendant has been acquitted of the underlying offense, or the underlying conviction has been reversed and the case dismissed.

(C) Proof of written notice to the prosecuting attorney and the Department of Justice that expungement has been requested.

(D) A court order verifying that no retrial or appeal of the case is pending, that it has been at least 180 days since the defendant or minor has notified the prosecuting attorney and the Department of Justice of the expungement request, and that the court has not received an objection from the Department of Justice or the prosecuting attorney.

(d) Upon order from the court, the Department of Justice shall destroy any specimen or sample collected from the person and any searchable DNA database profile pertaining to the person, unless the department determines that the person is subject to the provisions of this chapter because of a past qualifying offense of record or is or has otherwise become obligated to submit a blood specimen or buccal swab sample as a result of a separate arrest, conviction, juvenile adjudication, or finding of guilty or not guilty by reason of insanity for an offense described in subdivision (a) of Section 296, or as a condition of a plea.

The Department of Justice is not required to destroy analytical data or other items obtained from a blood specimen or saliva, or buccal swab sample if evidence relating to another person subject to the provisions of this chapter would thereby be destroyed or otherwise compromised.

Any identification, warrant, probable cause to arrest, or arrest based upon a data bank or database match is not invalidated due to a failure to expunge or a delay in expunging records.

(e) Notwithstanding any other provision of law, the Department of Justice DNA Laboratory is not required to expunge DNA profile or forensic identification information or destroy or return specimens, samples or print impressions taken pursuant to this section if the duty to register under Section 290 or Section 457.1 is terminated.

(f) Notwithstanding any other provision of law, including Section 17, Section 1203.4 and 1203.4a of the Penal Code, a judge is not authorized to relieve a person of the separate administrative duty to provide specimens, samples, or print impressions required by this

chapter if a person has been found guilty or was adjudicated a ward of the court by a trier of fact of a qualifying offense as defined in subdivision (a) of Section 296, or was found not guilty by reason of insanity or pleads no contest to a qualifying offense as defined in subdivision (a) of Section 296.

II. Petitioner's Filing Requirements

- A. Petitions – Expungement petitions and general information is available at all Los Angeles County courthouses and at the Los Angeles County District Attorney's Office website: <http://da.lacounty.gov>.
- B. LiveScan ID Transaction – The petitioner is required to have a LiveScan ID transaction in order to provide his/her CII/SID number on the expungement petition and order.

Petitioner can have a LiveScan ID transaction at:

- 1. Los Angeles County Sheriff's Department
Records & Identification Bureau (RIB)
12440 E. Imperial Hwy.
Norwalk, CA 90650; or
- 2. The arresting law enforcement agency
- C. The expungement petition and order along with a completed proof of service should be filed at the Clerk's Office at the Los Angeles Superior Court:

Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street, Room 5-305
Los Angeles, CA 90012

- D. Proof of Service Requirements – Pursuant to P.C. §299(c)(1), petitions must be served on the following:

Los Angeles County District Attorney's Office
Complaints Division
Attn: Expungement Request
210 West Temple Street, Room 17-715
Los Angeles, CA 90012

Jan Bashinski DNA Laboratory
California Department of Justice
Attn: Expungement Request
1001 W. Cutting Blvd., Suite 110
Richmond, CA 94804

III. The Prosecutors' Role

A. Prosecutor Determines Eligibility

1. Upon receipt of a petition, the prosecutor determines whether the petitioner is eligible for expungement.
2. The prosecutor reviews criminal history records to determine whether petitioner has "no past or present offense or pending charge which qualifies that person for inclusion within the State's DNA" data bank.

B. Prosecutor's Letter Pursuant to P.C. §299(c)(2)(B)

1. The prosecutor will provide the court with a letter certifying whether or not the petitioner is eligible for expungement within 180 days from the date the petition was filed.
 - a. The prosecutor will provide the court with an **ineligibility** letter no more than **150 days** after being notified of the expungement request.
2. Form letters have been developed for use by county prosecutors to comply with P.C. §299(c)(2)(B). (Copies of the letters are included in **APPENDICES II and III.**)
3. The prosecutor will forward a copy of the letter to the California Department of Justice DNA Laboratory.

USE NOTE: Examples of Eligibility

EXAMPLE ONE: On January 1, 2009, the petitioner was arrested for felony commercial burglary. His DNA sample was taken at the time of arrest. Felony burglary charges were rejected. The case was referred to the City Attorney's Office, and a misdemeanor charge of petty theft was filed. The petitioner pleaded guilty to the petty theft charge. He has a prior conviction for Health and Safety Code Section 11350, possession of a controlled substance.

The petitioner's current petty theft conviction and prior qualifying conviction precludes expungement.

EXAMPLE TWO: On January 1, 2009, the petitioner was arrested for felony commercial burglary. His DNA sample was taken at the time of arrest. Felony burglary charges were rejected. The case was referred to the City Attorney's Office, and misdemeanor charges were also

rejected. Petitioner is currently on probation for Health and Safety Code Section 11350.

The petitioner is on probation, and his prior qualifying conviction precludes expungement.

EXAMPLE THREE: On January 1, 2009, petitioner was arrested for felony commercial burglary. His DNA sample was taken at the time of arrest. Felony burglary charges were rejected. The case was referred to the City Attorney's Office, and misdemeanor charges were also rejected. Petitioner has a prior conviction for Health and Safety Code Section 11350.

Petitioner is eligible for expungement.

IV. Superior Court

A. Petitioner Qualifies for Expungement – Court GRANTS Petition

1. The Court receives a letter from the prosecutor stating that the petitioner is eligible for expungement **and does not** receive an objection from the Department of Justice (P.C. §299(c)(2)(D)).
2. The Court GRANTS the petition without a noticed hearing at least 180 days after the petitioner notified the prosecuting attorney and the Department of Justice of the expungement request (P.C. §299(c)(2)(D)).
3. The Court mails notification of the granted petition to the petitioner. (A copy of the court's Notice of Ruling on Petition and Order is included in **APPENDIX I(f).**)
4. The Court faxes the certified court order to the California Department of Justice DNA Laboratory at (510) 231-8744 and mails a copy to the Sheriff's Department Records & Identification Bureau at the following address:

Los Angeles County Sheriff's Department
Records and Identification Bureau
12440 East Imperial Highway, Ste. 400 West
Norwalk, CA 90650

B. Noticed Hearing

1. The Court receives a letter from the prosecuting attorney or Department of Justice objecting to expungement (P.C. §299(c)(2)(D)).

2. The Court notifies the petitioner, prosecutor, and Department of Justice of the objection and sets petition for hearing for a date no more than 180 days after the date the petitioner notified the prosecuting attorney and the Department of Justice of the expungement request (P.C. §299(c)(2)(D)).
3. The Court notifies the petitioner, prosecutor, and Department of Justice by mail of hearing date. (A copy of the court's Notice of Hearing on Petition and Order is included in **APPENDIX I.E.**)
4. The petitioner has the burden at the hearing.

V. Sheriff's Department Records & Identification Bureau (RIB)

A. Updating Criminal History Records

1. Upon receiving an expungement court order, RIB shall immediately update the "DNA Collection Status" on the petitioner's DOTS, CCHRS and other local criminal history records.
2. RIB shall immediately notify the automated criminal history system (ACHS) to update the "DNA Collection Status" on petitioner's state criminal history records.

VI. California Department of Justice (DOJ) DNA Laboratory

A. Expunge the Offender Profile

1. Upon receiving an expungement court order with the documents listed below and verifying that the petitioner has no present or past qualifying offense of record, DOJ shall expunge the offender profile from the searchable DNA database and destroy blood, saliva, and buccal samples:
 - a. Expungement petition;
 - b. Proof of service of the petition to DOJ and prosecutor; and
 - c. Either a certified copy of the court order reversing and dismissing the conviction or case, or the prosecutor's eligibility letter.

B. Update Criminal History Records

1. Upon receiving a court order for expungement, the CAL-DNA lab shall immediately notify the automated criminal history system (ACHS) to update the "DNA Collection Status" on petitioner's state criminal history records.

C. Expungement of Profiles and Sample Destruction Not Required

1. Expungement/sample destruction is not required where the duty to register under Section 290 or 457.1 is terminated (P.C. §299(e)) or where action has been taken pursuant to Section 17, 1203.4 or 1203.4a (P.C. §299(f)).
2. DOJ need not destroy analytical data, etc. pursuant to the expungement provisions if doing so would compromise or destroy evidence relating to another person (P.C. §299(d)).

D. Notification of Expungement

1. The CAL-DNA lab will notify the petitioner that his/her profile and biological samples have been expunged and destroyed pursuant to the court order.

Responsibilities of Prosecutors

I. The Prosecutor Reviews the Case

A. The prosecutor reviews the case and does one of the following:

1. Files felony and/or misdemeanor charges
2. Declines the case
3. Requests further investigation

II. The Prosecutor Determines Eligibility

A. The petitioner files the petition for expungement with the court and files a copy of the petition with the prosecutor.

B. The court forwards notice to the prosecution that the hearing has been calendared.

C. The petitioner is eligible for expungement if, as to the qualifying offense:

1. The case is declined following arrest (P.C. §299 (b)(1)).
2. The conviction is reversed and the case dismissed (P.C. §299 (b)(2)).
3. There is a finding of factual innocence (P.C. §299 (b)(3)).
4. The person is found not guilty or acquitted (P.C. §299 (b)(4)).

D. The prosecutor further determines eligibility by reviewing local and state criminal history records for any present or past qualifying offense.

III. The Prosecutor's Eligibility Letters Pursuant to P.C. §299 (c)(2)(B)

A. The prosecutor will provide the court with a form letter certifying whether or not the petitioner is eligible for expungement within 180 days from the date of the filing of the petition.

1. The prosecutor will provide the court with an **ineligibility** letter no more than **150 days** after being notified of the expungement request.

B. If the petitioner is eligible for expungement, the letter will certify that:

1. No qualifying charges have been filed;

2. The qualifying charges have been dismissed before adjudication;
3. The qualifying conviction has been reversed and the case dismissed;
4. The petitioner has been found factually innocent of the qualifying offense;
5. The petitioner has been acquitted or found not guilty of the qualifying offense; or
6. The petitioner's sustained delinquency petition has been reversed and dismissed.

C. If the petitioner is ineligible for expungement, the letter will certify that:

1. The statute of limitations has not expired on the qualifying charges;
2. The current case precludes expungement;
3. The petitioner is on probation or parole and has a prior qualifying conviction; or
4. The petitioner is a sex or arson registrant.

D. The prosecutor will forward copies of eligibility letters to the California Department of Justice DNA Laboratory.

Responsibilities of Defense Attorneys

For purposes of this section, defense counsel shall include the Office of the Public Defender, Office of the Alternate Public Defender, ICDA (bar panel), any other appointed counsel, and privately retained counsel.

1) If counsel represented the client following an arrest and no accusatory pleading was filed within the applicable period allowed by law charging the person with a qualifying offense as set forth in subdivision (a) of Section 296, defense counsel will need to advise the client of his/her right to petition the Department of Justice to destroy his/her DNA specimen and expunge the database profile from the database program.

2) If counsel represented the client on charges which qualified for inclusion in the database and those charges were dismissed prior to adjudication by a trier of fact, defense counsel will need to advise the client of his/her right to petition the Department of Justice to destroy his/her DNA specimen and expunge the database profile from the database program.

3) If counsel represented the client at trial on charges which qualified for inclusion in the database and the client was found not guilty or was acquitted of the charges, defense counsel will need to advise the client of his/her right to petition the Department of Justice to destroy his/her DNA specimen and expunge the database profile from the database program.

4) If counsel represented the client who was convicted of charges which initially qualified for inclusion in the database but subsequently the conviction was reversed and the case dismissed, defense counsel will need to advise the client of his/her right to petition the Department of Justice to destroy his/her DNA specimen and expunge the database profile from the database program.

USE NOTE: If your client intends to petition to have his DNA expunged (P.C. §299) *and* to have his arrest records sealed and destroyed (P.C. §851.8, or W.I.C. §781.5), the client may wish to file the DNA expungement request first.

Explanation:

Penal Code Section 851.8 (adults) and Welfare and Institutions Code Section 781.5 (juveniles) are related codes. Both allow for the sealing and destruction of arrest records when there is a determination of factual innocence. For example, in the case of an arrest in which a DNA sample is taken and thereafter no charges are filed or the arrested person obtains a finding of factual innocence, he/she may be entitled to relief pursuant to both Penal Code Section 851.8 and Penal Code Section 299. Unfortunately, if the arrest records are sealed and destroyed first, the associated CII/SID number will also be destroyed. The CII number is necessary to identify, remove, and destroy the appropriate DNA sample from the DNA database. Without the CII number, the individual's DNA cannot be expunged. Therefore, it may be the better practice to seek DNA expungement (P.C. §299) prior to sealing and destroying the relevant arrest records (P.C. §851.8, W.I.C. §781.5).

Responsibilities of the Court

I. The Defendant or his/her Attorney Submits Petition and Order

A. The Court Reviews the Petition and Order for the Following:

1. Completion of the petition including the CII/SID number
2. Proof of service to the prosecutor
3. Proof of service to the Department of Justice (DOJ) DNA Laboratory

B. The Court Accepts the Petition and Order for Processing and Does the Following:

1. Sets the petition and order on the Court's calendar
2. Updates the Case Management System or prepares a manual minute order if there was no accusatory complaint filed with the Court
3. Completes the DNA Expungement Tracking Log (see **APPENDIX I.D**)
4. Prepares the Notice of Calendared Case Form (see **APPENDIX I.E**)
5. Mails the notice to the defendant, prosecutor, and DOJ
6. Forwards the petition, proof of service, and notice to courtroom

C. Judicial Officer Review:

1. The judicial officer reviews the prosecutor's letter.
2. The judicial officer will rule on the petition and order as follows:
 - a. Continue the petition for a formal hearing
 - b. Deny the petition after a formal hearing
 - c. Grant the petition

D. Recording of the Court's Ruling:

1. The Court will enter its finding in the Case Management System or prepare a manual minute order if there is no accusatory complaint filed with the Court.
2. The Court will complete the Notice of Ruling form.

3. The Court will mail the Notice of Ruling to the defendant, prosecutor and DOJ (see **APPENDIX I.F**).


E. Notification of Court's Ruling:

1. The Court will immediately fax a certified copy of the Order to DOJ.
2. The Court will immediately mail a certified copy of the Order to the Sheriff's Department Records & Identification Bureau.

APPENDIX I

Superior Court Policy and Procedure – Expungement of DNA Profiles and Samples

- A. Petition for Expungement of DNA Profiles and Samples
- B. Order for Expungement of DNA Profiles and Samples
- C. Proof of Service by First Class Mail
- D. Tracking Log for Expungement Petitions and Orders
- E. Notice of Calendared Case on Petition and Order under P.C. §299
- F. Notice of Ruling on Petition and Order under P.C. §299

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES	
Court-wide Criminal Policy and Procedure Petition and Order for Expungement of DNA Profiles and Samples Pursuant to Penal Code Section 299	Policy No.: 02.17.03
	Effective Date: <u>3-19-09</u>
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Approved By: 	John A. Clarke Executive Officer/Clerk

I. PURPOSE

The purpose of the policy is to establish a court-wide policy and procedure for processing Petitions and Orders under Penal Code section 299.

II. CODE REFERENCE – AUTHORITY

Penal Code section 299 provides – A person whose DNA profile has been included in the data bank pursuant to this chapter shall have his or her DNA specimen and sample destroyed and searchable database profile expunged from the data bank program pursuant to the procedures set forth in subdivision (b), if the person has no past or present offense or pending charge which qualifies that person for inclusion with the State's DNA and Forensic Identification Database and Data Bank Program, and there otherwise is no legal basis for retaining the specimen or sample or searchable profile.

Penal Code section 299 (b) provides in part – Pursuant to subdivision (a), a person who has no past or present qualifying offense, and for whom there is otherwise no legal basis for retaining the specimen or sample or searchable profile, may make a written request to have his or her specimen and sample destroyed and searchable database profile expunged from the data bank program if:

- (1) Following arrest, no accusatory pleading has been filed within the applicable period allowed by law charging the person with a qualifying offense, or if the charges which served as the basis for including the DNA profile in the state's DNA Database and Data Bank Identification Program have been dismissed prior to adjudication by a trier of fact;
- (2) The underlying conviction of disposition serving as the basis for including the DNA profile has been reversed and the case dismissed;
- (3) The person has been found factually innocent of the underlying offense pursuant to Penal Code section 851.8 or Welfare and Institutions Code section 781.5; or
- (4) The defendant has been found not guilty or has been acquitted of the underlying offense.

Penal Code section 299 (c) (1) provides in part – The person requesting the data bank entry to be expunged must send a copy of his or her request to the trial court of the county where the arrest occurred, or that entered the conviction or rendered disposition in the case, to the DNA Laboratory of the Department of Justice, and to the prosecuting attorney of the county in which he or she was arrested or, convicted or adjudicated, with proof of service on all parties.

III. DEFINITIONS

Qualifying Offense – is defined as any felony offense or any offense requiring registration pursuant to Penal Code sections 290 or 457.1 [Penal Code section 296(a)].

IV. RESPONSIBILITY

Court Services Assistant I – III

Judicial Assistant

Court Manager/Administrator I or his/her designee

V. POLICY

The Los Angeles Superior Court shall timely process all Petitions and Orders for Expungement of DNA Profiles and Samples pursuant to Penal Code section 299.

Petitions and Orders for Expungement of DNA Profiles and Samples shall be filed and heard in the Central District of the Los Angeles Superior Court at the:

Clara Shortridge Foltz Criminal Justice Center

210 W. Temple Street, Room 5-305

Los Angeles, California 90012

All Petitions must be served on the District Attorney's Office at the Clara Shortridge Foltz Criminal Justice Center.

VI. PROCEDURE

A. Submission and Review of the Petition and Order for Expungement of DNA Profiles and Samples pursuant to Penal Code Section 299 (CR-185) and (CR-186)

1. The defendant or his/her attorney must complete both the Petition (Attachment 1-CR 185) and the Order (Attachment 2 – CR 186) for Expungement of DNA Profiles and Samples. The petitioner is required to have a LiveScan ID transaction in order to provide the correct CII/SID number on the Expungement Petition. The petitioner can have a LiveScan ID transaction at:
 - a. The Los Angeles County Sheriff's Department

Records & Identification Bureau (RIB)
12440 East Imperial Highway
Norwalk, California 90650; or

- b. Any law enforcement agency station.
2. The completed Petition and the Order for Expungement along with the Proof of Service shall be submitted to the Clerk's Office at the following Los Angeles Superior Court location for processing:

Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street, Room 5-305
Los Angeles, California 90012
3. A completed Proof of Service (Judicial Council form POS-030 – Attachment 3 - or similar) must accompany the Petition and Order. Any Petition and Order not properly served on the prosecutor and the DNA Laboratory of the Department of Justice shall be rejected. A party to the action cannot serve the documents (i.e., the defendant).
 - a. All Petitions must be served on the Los Angeles District Attorney's Office.
 - b. All Petitions must be served on the California Department of Justice DNA Laboratory at the Jan Bashinski DNA Laboratory.
4. There is no filing fee for this Petition. Affix a "RECEIVED" stamp to the Petition for Expungement form. Do not affix a "FILED" stamp to the Order for Expungement until the Court has ruled on the Petition. Inform the defendant or his/her attorney that he/she will be notified of the decision by U.S. mail in approximately 180 days.
5. It is not necessary to obtain a case file since in some instances there will not be a criminal filing.
 - a. If a case was filed with the Court, obtain a docket printout from the Trial Court Information System (TCIS).
 - b. If a criminal case was not filed with the Court, obtain an Administrative Order number from the 5th Floor Clerk's Office.

(Note: The 5th Floor Clerk's Office at the Foltz Criminal Justice Center will be responsible for maintaining a log with DNA Expungement Administrative Order numbers.)

Prepare a proceeding sheet indicating that there was no accusatory complaint filed with the Court. **Include the assigned Administrative Order number on the proceeding sheet and all manual minute orders.**
6. Set the Petition and Order on the Court's calendar no sooner than 180 days from the date of filing of the Petition. If the case is in

another district's control, contact your MOPI representative to obtain control of the case in TCIS.

- a. For Active Cases in TCIS, make a TCIS F5 screen (MCDP) entry to calendar the Petition and Order in TCIS using the following next event code:

407 - Motion for DNA Expungement

- b. For Petitions where there is no criminal case filed in TCIS, create a manual minute order, indicating the date the Petition is calendared for a hearing. A manual minute order is one generated by a word processor. Contact your Court Manager/Administrator I for the minute order template.
7. Complete the DNA Expungement Tracking Log sections A-E as indicated on the form (Crim 188 - Attachment 4).
8. Complete the Notice of Calendared Petition and Order form (Crim 187 - Attachment 5). Affix a "FILED" stamp to the original form. Mail a copy of the Notice of Calendared Petition form as indicated at the bottom of the Notice. Attach the original Notice of Calendared Petition form to the Petition and Order form.
9. Forward the Petition and Order, Proof of Service, Notice of Calendared Petition form and the docket/proceeding sheet to the designated courtroom in advance of the scheduled court date.
10. The Prosecutor's Office must provide the Court with a letter certifying whether or not the petitioner qualifies for the Expungement prior to the scheduled court date. Affix a "FILED" stamp to the Prosecutor's letter and place it in the file for the Judge's review and determination on the calendared date.
11. If the Prosecutor's letter indicates that his/her office objects to the Expungement, a formal hearing **must** be scheduled requiring the petitioner's appearance. Affix a "FILED" stamp to the Prosecutor's letter, and pull the file for the Judge to order a formal hearing either on the previously calendared date 180 days hence, or fix a new date in order to allow time for notice to the petitioner.

B. The Judicial Officer's Review and Determination

The Judicial Officer may rule on the Petition and Order as follows:

- The case is continued for a formal hearing.
- The Petition and Order is denied. A Petition may only be denied after a formal hearing has been conducted.
- The Court grants the Petition and orders that the petitioner's DNA specimen and sample be destroyed and petitioner's searchable database profile be expunged from the California

Department of Justice DNA and Forensic Identification
Database and Data Bank Program as required by Penal Code
section 299.

C. Record the Court's Finding on the Petition and Order

1. If the case is continued for a formal hearing:
 - a. Make the appropriate F5 (MCDP) screen continuance entry in TCIS:

407 - Motion for DNA Expungement

- b. Complete the Notice of Ruling form (Crim 189 -Attachment 6) by checking the box indicating that the matter is continued for a formal hearing and that the petitioner's appearance is required. Affix a "FILED" stamp to the original Notice of Ruling form. Mail copies of the Notice and a copy of the Prosecutor's letter as indicated at the bottom of the form. Place the original Notice with the Petition forms.
 - c. If there is no criminal case in TCIS, make a word processor minute order.
 2. After a formal hearing, if the Petition and Order is denied:
 - a. Affix a "FILED" stamp to the original Order for Expungement of DNA Profiles and Samples form.
 - b. Make the appropriate TCIS entry using the following Court order finding code:

792 - Motion for Expungement of DNA Profiles and Samples pursuant to Penal Code section 299 has been denied.

Enter 700 – Proceedings Terminated.

- c. Complete the Notice of Ruling form (Crim 189) (Attachment 6) indicating the Petition was denied. Affix a "FILED" stamp to the original Notice of Ruling form. Mail copies of the Notice of Ruling as indicated at the bottom of the form. Place the original Notice with the Petition forms.
 - d. If there is no criminal case file in TCIS, create a word processor minute order.
 3. If the Petition and Order is granted:
 - a. Affix a "FILED" stamp to the original Order for Expungement of DNA Profiles and Samples form.

- b. Make the appropriate TCIS entry using the following Court order finding code:

791 - Motion for Expungement of DNA samples pursuant to Penal Code section 299 has been granted. The Court orders that petitioner's DNA specimen and sample be destroyed and petitioner's searchable database profile be expunged from the California Department of Justice DNA and Forensic Identification Database and Data Bank Program as required by Penal Code section 299.

Enter 700 – Proceedings Terminated.

- c. Complete the Notice of Ruling form (Crim 189 - Attachment 6) indicating that the Order was granted. Affix a "FILED" stamp to the original Notice of Ruling form. Mail copies of the Notice of Ruling as indicated at the bottom of the form. Place the original Notice with the Petition forms.
 - d. If there is no criminal case file in TCIS, create a word processor minute order.
4. Notice of Calendared Petition forms and Notice of Ruling forms should be mailed as follows:
- a. Notification to the Prosecutor should be mailed to the District Attorney's Office:

Office of the District Attorney
Complaints Division
210 West Temple Street, Room 17-715
Los Angeles, California 90012
Attention: Expungement Request

- b. Notification to the Department of Justice DNA Laboratory should be mailed to:

Jan Bashinski DNA Laboratory
1001 West Cutting Boulevard, Suite 110
Richmond, California 94804
Attention: Expungement Request

D. Notification

1. On the same day that the Order was granted, make a certified copy of the Order for Expungement of DNA Profiles and Samples form and distribute as follows:
 - a. Fax a certified copy of the Order to the California Department of Justice (DOJ) DNA Laboratory at (510) 231-8744.
 - b. Mail a certified copy of the Order to the Sheriff's Department Records & Identification Bureau using the County Messenger service.
2. Attach the fax confirmation page (indicating that the fax was sent successfully to the DOJ) to the Petition.
3. Make a TCIS F5 screen (MCDP) entry as follows:

Certified copies of the Order for Expungement of DNA Profiles and Samples, faxed to the California Department of Justice DNA Laboratory and mailed to the Los Angeles County Sheriff's Department Records & Identification Bureau.
4. Complete the DNA Expungement Tracking Log sections F-I for documentation purposes as indicated on the log.

E. Storage/Housing of Petition and Orders

The Petition and Order will be stored in a secured, designated area in the Clerk's Office of the Courthouse that heard the Petition. Petitions and Orders, Proof of Services, Notification of Calendared Petitions, Notification of Rulings and DNA Expungement Tracking Logs must be retained for the appropriate retention period according to the criminal case type. If there is no criminal case filed, the Petition shall be retained for three (3) years.

ATTACHMENTS

- | | |
|---------------|---|
| Attachment 1: | Petition for Expungement of DNA Profiles and Samples pursuant to Penal Code section 299. (CR 185) |
| Attachment 2: | Order for Expungement of DNA Profiles and Samples pursuant to Penal Code section 299. (CR 186) |
| Attachment 3: | Proof of Service by First Class Mail – Civil (POS-030) |
| Attachment 4: | DNA Expungement Tracking Log. (CRIM 188) |
| Attachment 5: | Notice of Calendared Case on Petition and Order under Penal Code section 299. (CRIM 187) |

Attachment 6: Notice of Ruling on Petition and Order under Penal Code section 299. (CRIM 189)

Prepared by: Criminal Litigation Committee

ATTORNEY OR PETITIONER WITHOUT ATTORNEY (Name, State Bar number, and address):		FOR COURT USE ONLY
TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____		Court or Arresting Agency Case Number: _____
PETITION FOR EXPUNGEMENT OF DNA PROFILES AND SAMPLES (Pen. Code, § 299)		
PETITIONER'S INFORMATION NAME: _____ CII: _____ DRIVER'S LICENSE #: _____ SSN # (Last four digits only): _____ DATE OF BIRTH: _____		

PETITION

- Petitioner has been included in the California Department of Justice's DNA and Forensic Identification Database and Data Bank Program as required by Penal Code section 296.
- No past or present offense or pending charge qualifies petitioner for inclusion in the California Department of Justice's DNA and Forensic Identification Database and Data Bank Program, nor is there any legal basis for the continued retention of petitioner's specimen, sample, or searchable profile.
- Petitioner requests that the California Department of Justice destroy petitioner's DNA sample or specimen, or both, and expunge petitioner's searchable DNA database profile as provided for in Penal Code section 299 on the following grounds (check one):
 - ☐ No qualifying charges were filed within the applicable period allowed by law following petitioner's arrest.
 - ☐ The qualifying charges were dismissed before adjudication.
 - ☐ The qualifying conviction has been reversed and the case dismissed.
 - ☐ Petitioner has been found factually innocent of the qualifying offense under Penal Code section 851.8 or Welfare and Institutions Code section 781.5.
 - ☐ Petitioner was acquitted or found not guilty of the qualifying offense.
 - ☐ Petitioner's previously sustained delinquency petition alleging an offense that would be a felony if committed by an adult has been reversed and dismissed.
- I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on: _____ at _____, California.

(DATE)

(CITY)

(PETITIONER'S SIGNATURE)

(PETITIONER'S ADDRESS)

(CITY)

(STATE)

(ZIP CODE)

ADDITIONAL INSTRUCTIONS: Penal Code section 299(c)(1) requires petitioner to send a copy of this petition to the DNA Laboratory of the California Department of Justice, and the trial court and prosecuting attorney of the county where petitioner was arrested, convicted, adjudicated, or had the disposition rendered, and to provide the court with proof of service on all parties.

ATTACHMENT 1

ATTORNEY OR PETITIONER WITHOUT ATTORNEY (Name, State Bar number, and address):		FOR COURT USE ONLY
TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____		Court or Arresting Agency Case Number: _____
ORDER FOR EXPUNGEMENT OF DNA PROFILES AND SAMPLES (Pen. Code, § 299)		
NAME: _____ CI#: _____ DRIVER'S LICENSE #: _____ SSN # (Last four digits only): _____ DATE OF BIRTH: _____	PETITIONER'S INFORMATION	

ORDER
☐ The court denies the petition.

☐ The court grants the petition and orders that petitioner's DNA specimen and sample be destroyed and petitioner's searchable database profile be expunged from the California Department of Justice's DNA and Forensic Identification Database and Data Bank Program as required by Penal Code section 299. Additionally, the court finds (a) that petitioner has made the necessary showing at a noticed hearing, (b) no retrial or appeal of the qualifying case (if any) is pending, (c) at least 180 days have passed since petitioner notified the prosecuting attorney and the Department of Justice of petitioner's request for expungement, and (d) the court has not received an objection from the Department of Justice or the prosecuting attorney. (Pen. Code, § 299(c)(2).)

Date: _____

(JUDICIAL OFFICER)

FOR COURT USE ONLY

ADDITIONAL INSTRUCTIONS:

As required by Penal Code section 299(c)(2), the California Department of Justice must destroy petitioner's specimen and sample and expunge petitioner's searchable DNA database profile on receipt of this court order, which must also include the written petition for expungement, proof of written notice of the petition to the California Department of Justice and the prosecuting attorney, and one of the following:

- a. A certified copy of the court order reversing and dismissing the conviction or case; or
- b. A letter from the prosecuting attorney certifying that:
 - (1) no accusatory pleading has been filed;
 - (2) the qualifying charges have been dismissed before adjudication;
 - (3) petitioner has been found factually innocent;
 - (4) petitioner has been found not guilty;
 - (5) petitioner has been acquitted of the underlying offense;
 - (6) the qualifying conviction has been reversed and the case dismissed; or
 - (7) the qualifying sustained delinquency petition has been reversed and the case dismissed.

ATTACHMENT 2

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): FAX NO. (Optional):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	
PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL	CASE NUMBER:

(Do not use this Proof of Service to show service of a Summons and Complaint.)

- I am over 18 years of age and **not a party to this action**. I am a resident of or employed in the county where the mailing took place.
- My residence or business address is:
- On (date): I mailed from (city and state):
the following **documents** (specify):

☐ The documents are listed in the *Attachment to Proof of Service by First-Class Mail—Civil (Documents Served)* (form POS-030(D)).
- I served the documents by enclosing them in an envelope and (check one):
 - ☐ **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - ☐ **placing** the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
- The envelope was addressed and mailed as follows:
 - Name** of person served:
 - Address** of person served:

- ☐ The name and address of each person to whom I mailed the documents is listed in the *Attachment to Proof of Service by First-Class Mail—Civil (Persons Served)* (POS-030(P)).

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 OF PERSON COMPLETING THIS FORM)

(SIGNATURE OF PERSON COMPLETING THIS FORM)

Form Approved for Optional Use
Judicial Council of California
POS-030 (New January 1, 2005)

PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL
(Proof of Service)

Code of Civil Procedure, §§ 1013, 1013a
www.courtinfo.ca.gov

American LegalNet, Inc.
www.USCourtForms.com

INFORMATION SHEET FOR PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL

(This information sheet is not part of the Proof of Service and does not need to be copied, served, or filed.)

NOTE: This form should **not** be used for proof of service of a summons and complaint. For that purpose, use *Proof of Service of Summons* (form POS-010).

Use these instructions to complete the *Proof of Service by First-Class Mail—Civil* (form POS-030).

A person over 18 years of age must serve the documents. There are two main ways to serve documents: (1) by personal delivery and (2) by mail. Certain documents must be personally served. You must determine whether personal service is required for a document. Use the *Proof of Personal Service—Civil* (form POS-020) if the documents were personally served.

The person who served the documents by mail must complete a proof of service form for the documents served. **You cannot serve documents if you are a party to the action.**

INSTRUCTIONS FOR THE PERSON WHO SERVED THE DOCUMENTS

The proof of service should be printed or typed. If you have Internet access, a fillable version of the Proof of Service form is available at www.courtinfo.ca.gov/forms.

Complete the top section of the proof of service form as follows:

First box, left side: In this box print the name, address, and telephone number of the person for whom you served the documents.

Second box, left side: Print the name of the county in which the legal action is filed and the court's address in this box. The address for the court should be the same as on the documents that you served.

Third box, left side: Print the names of the Petitioner/Plaintiff and Respondent/Defendant in this box. Use the same names as are on the documents that you served.

First box, top of form, right side: Leave this box blank for the court's use.

Second box, right side: Print the case number in this box. The case number should be the same as the case number on the documents that you served.

Complete items 1–5 as follows:

1. You are stating that you are over the age of 18 and that you are not a party to this action. You are also stating that you either live in or are employed in the county where the mailing took place.
2. Print your home or business address.
3. Provide the date and place of the mailing and list the name of each document that you mailed. If you need more space to list the documents, check the box in item 3, complete the *Attachment to Proof of Service by First-Class Mail—Civil (Documents Served)* (form POS-030(D)), and attach it to form POS-030.
4. For item 4:
Check box a if you personally put the documents in the regular U.S. mail.
Check box b if you put the documents in the mail at your place of business.
5. Provide the name and address of each person to whom you mailed the documents. If you mailed the documents to more than one person, check the box in item 5, complete the *Attachment to Proof of Service by First-Class Mail—Civil (Persons Served)* (form POS-030(P)), and attach it to form POS-030.

At the bottom, fill in the date on which you signed the form, print your name, and sign the form. By signing, you are stating under penalty of perjury that all the information you have provided on form POS-030 is true and correct.

DNA EXPUNGEMENT TRACKING LOG
FOR PETITIONS AND ORDERS PURSUANT TO PENAL CODE SECTION 299

[illegible]

Crim 188

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES

COURTHOUSE ADDRESS:

**People of the State of California,
Plaintiff/Respondent**

Defendant/Petitioner

**NOTICE OF CALENDARED PETITION AND
ORDER UNDER PENAL CODE SECTION 299**

CRIMINAL CASE NUMBER

ADMINISTRATIVE ORDER NUMBER

You are hereby notified that a Petition and Order pursuant to Penal Code section 299 in the above-entitled action has been filed. Appearance by the defendant/petitioner and/or attorney is not required. The defendant/petitioner and or attorney will be notified of the decision by U.S. mail. The Petition and Order is calendared for the following date:

DATE:		
TIME:		
DEPARTMENT:		
COURTHOUSE ADDRESS:	Clara Shortridge Foltz Criminal Justice Center 210 West Temple Street, Room 5-305 Los Angeles, CA 90012	

CLERK'S CERTIFICATE OF MAILING (CCP section 1013a(4))

I, the below named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served a copy of this Notice of Calendared Petition and Order under Penal Code section 299, in the within action upon all parties listed below by depositing in the United States mail at the courthouse located in _____, California in a separate sealed envelope for each, addressed as shown below with the postage thereon fully prepaid.

**Office of the District Attorney
Complaints Division
210 W. Temple St., Rm. 17-715
Los Angeles, CA 90012**

**Department of Justice
Jan Bashinski DNA Laboratory
1001 West Cutting Blvd., Suite 110
Richmond, California 94804**

**Defendant/Petitioner:
Street Address:
City, State, ZIP:**

Date: _____

John A. Clarke, Executive Officer/Clerk
By: _____ Deputy

CRIM- 187 NOTICE OF CALENDARED PETITION AND ORDER UNDER P.C. SECTION 299
Rev 1/09

ATTACHMENT 5

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES

COURTHOUSE ADDRESS:

People of the State of California,
Plaintiff/Respondent

Defendant/Petitioner

**NOTICE OF RULING ON PETITION AND ORDER UNDER
PENAL CODE SECTION 299**

CRIMINAL CASE NUMBER

ADMINISTRATIVE ORDER NUMBER

You are hereby notified that:

- ☐ The matter is continued to _____ at _____ in Department _____ for a formal hearing. The petitioner's appearance is required. A copy of the Prosecutor's letter is attached for your review.
- ☐ After a formal hearing, the Court denies the above Petition.
- ☐ The Court grants the above Petition and Orders that petitioner's DNA specimen and sample be destroyed and petitioner's searchable database profile be expunged from the California Department of Justice DNA and Forensic Identification Database and Data Bank Program as required by Penal Code section 299.

CLERK'S CERTIFICATE OF MAILING (CCP section 1013a(4))

I, the below named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served a copy of this Notice of Ruling on Petition and Order under Penal Code section 299, in the within action upon all parties listed below by depositing in the United States mail at the courthouse located in _____, California in a separate sealed envelope for each, addressed as shown below with the postage thereon fully prepaid.

**Office of the District Attorney
Complaints Division
210 W. Temple St., Rm. 17-715
Los Angeles, CA 90012**

**Department of Justice
Jan Bashinski DNA Laboratory
1001 West Cutting Blvd., Suite 110
Richmond, California 94804**

**Defendant/Petitioner:
Street Address:
City, State Zip:**

Date: _____

John A. Clarke, Executive Officer/Clerk
By _____ Deputy

APPENDIX II

Prosecutor's Eligibility Letter

[Letterhead]

[Date]

[Honorable]

Superior Court of the State of California

County of Los Angeles

[Address]

RE: Penal Code Section 299 Expungement - Petitioner [NAME]

Dear [Honorable]:

Petitioner [NAME] is eligible to have his/her DNA specimen destroyed and searchable DNA database profile expunged as provided in Penal Code section 299 based upon the following grounds:

- a. ☐ No qualifying charges were filed within the applicable period allowed by law following petitioner's arrest.
- b. ☐ The qualifying charges were dismissed before adjudication.
- c. ☐ The qualifying conviction has been reversed and the case dismissed.
- d. ☐ Petitioner has been found factually innocent of the qualifying offense under Penal Code section 851.8 or Welfare and Institutions Code section 781.5.
- e. ☐ Petitioner was acquitted or found not guilty of the qualifying offense.
- f. ☐ Petitioner's previously sustained delinquency petition alleging an offense that would be a felony, if committed by an adult, has been reversed and dismissed.

Sincerely,

STEVE COOLEY

District Attorney

By:

[Deputy District Attorney]

CC: Jan Bashinski DNA Laboratory
California Department of Justice
Attn: Expungement Request
1001 W. Cutting Blvd., Suite 110
Richmond, CA. 94804

APPENDIX III

Prosecutor's Ineligibility Letter

[Letterhead]
[Date]

[Honorable]
Superior Court of the State of California
County of Los Angeles
[Address]

RE: Penal Code Section 299 Expungement – Petitioner [NAME]

Dear [Honorable]:

Petitioner [NAME] is ineligible to have his/her DNA specimen destroyed and searchable DNA database profile expunged as provided in Penal Code section 299 based upon the following grounds:

- a. ☐ The statute of limitations has not expired on the qualifying charges.
- b. ☐ Petitioner's current case [CASE NUMBER] precludes expungement.
- c. ☐ Petitioner is on felony probation or parole in [CASE NUMBER].
- d. ☐ Petitioner is on misdemeanor probation in [CASE NUMBER] and has a prior felony conviction in [CASE NUMBER].
- e. ☐ Petitioner is required to register under Penal Code section 290 in [CASE NUMBER].
- f. ☐ Petitioner is required to register under Penal Code section 457.1 in [CASE NUMBER].
- g. ☐ Unable to identify the Petitioner.

Sincerely,

STEVE COOLEY
District Attorney

By:

[Deputy District Attorney]

CC: Jan Bashinski DNA Laboratory
California Department of Justice
Attn: Expungement Request
1001 W. Cutting Blvd., Suite 110
Richmond, CA. 94804

APPENDIX IV

Petitioner's Information Sheet

Petitioner's Information Sheet: What is a Petition for Expungement of DNA?

I. Is your DNA in the Department of Justice Database? Does Expungement apply to you?

California law (Penal Code sec. 296) requires that anyone arrested for a felony in California must provide a DNA sample as part of the arrest procedure. If you were arrested for a felony after January 1, 2009, or were convicted of a qualifying offense prior to 2009, you may have provided a "DNA Sample" which is preserved as a "DNA Profile" in a Department of Justice database. The information in the database is used to match evidence found at crime scenes to help identify individuals involved in unsolved crimes.

II. How can you petition to have your DNA removed from the Database?

California law (Penal Code sec. 299(a)) also provides that you may have your DNA sample removed, or "expunged," from this database if you qualify. To successfully expunge your DNA sample and/or DNA profile from the database, you must file a "Petition for Expungement." If the judge grants your petition for expungement, your DNA sample and/or DNA profile will be expunged from the database.

The judge will only review petitions for expungement that have been filed correctly. It is your responsibility to file the petition correctly. This information sheet and "Instructions: How to Fill Out the Petition for Expungement" are intended to help you understand and complete the petition for expungement process. Your petition can only be granted if you accurately complete your petition and if you qualify under California law.

The petition and instructions can be obtained at any Los Angeles County courthouse or online at the Los Angeles County District Attorney's Office website: <http://da.lacounty.gov>. The petition and proof of service can also be obtained at <http://www.courtinfo.ca.gov/forms>. Please follow the instructions carefully.

III. What happens after you file your Petition for Expungement?

After you have filed your petition and proof of service with the Court, the prosecution and the Department of Justice have 180 days to review your case. Your petition will either be GRANTED or a FORMAL HEARING will be scheduled.

1) The Petition may be GRANTED.

Details: You will receive a notification telling you the exact date that the Court will be reviewing your Petition for Expungement. You do not need to attend that informal hearing. If no objection is filed with the Court by the prosecutor or the Department of Justice, the Court has the discretion to grant your petition.

If the judge GRANTS your Petition, he will sign the order and you will be mailed a copy. If GRANTED, a copy of the Order will be sent to the Department of Justice. On the other hand, if there appears to be a legal basis to deny your petition, the judge will schedule a FORMAL HEARING to decide whether or not you qualify for expungement.

2) A FORMAL HEARING may be scheduled for further presentation of the facts.

Details: If the prosecution or the Department of Justice objects to the expungement petition, the Court will schedule a FORMAL HEARING. You will be notified of the date and location of the hearing based upon the contact information that you provide on your Petition (in Box 1). You will also be notified of the reasons for the objection to the petition.

At this hearing you will have the opportunity to tell the judge why you believe you qualify for expungement and bring any paperwork that you have to support your claim. The prosecution will also have an opportunity to present evidence to the Court and to explain why they believe you do not qualify. The judge will grant or deny your Petition for Expungement based upon the facts received at the hearing.

APPENDIX V

Petitioner's Instructions: How to Fill Out the Petition

Petitioner's INSTRUCTIONS: How to Fill Out the Petition to Expunge DNA

I. Where do I get the Petition for DNA Expungement Form?

The form can be obtained directly from any Los Angeles County courthouse or downloaded from the Los Angeles County District Attorney's website (<http://da.lacounty.gov>) or the California Judicial Council Forms website (<http://www.courtinfo.ca.gov/forms>). Once you have a copy in front of you, follow the directions below, starting at the top of the page. NOTE: Print clearly.

II. Filling out the Petition Form

Box 1 (Top of page 1 and 2): "Attorney or Petitioner without an Attorney"

You are the "Petitioner." In this Box print your Name, Address, and a Telephone Number. Include your Email address and Fax Number, if you have one. Print the identical information in Box 1, on the top of page 2. NOTE: The expungement process takes at least six months. If your address will change within six months, use a contact address where the court can reach you.

Box 2 (Below Box 1): "Superior Court of California, County of _____".

Write the name of the County where you were arrested. You must file in the County where you were arrested. Write the address where you will file your petition. In Los Angeles County, petitions are filed at:
Clara Shortridge Foltz Criminal Justice Center (CSF-CJC)
210 W. Temple St, Room 5-305
Los Angeles, CA 90012

Print the County name and courthouse address in Box 2 on pages 1 and 2.

Box 3 (Below Box 2, Right side of page): "Court or Arresting Agency Case Number"

If a criminal case was filed against you, write the case number in Box 3 on Pages 1 and 2.
If no criminal case was filed, leave this box blank.

Box 4 (Below Box 3): "PETITIONER'S INFORMATION"

You are the Petitioner. You must print your full name and CII / SID number in Box 4 on Pages 1 and 2. To obtain your CII/SID number you must have a LIVESCAN ID transaction. The LIVESCAN ID transaction can be done at:
The Sheriff's Department Records & Identification Bureau (RIB), 12440 E.Imperial Hwy., Norwalk, CA 90650 or the law enforcement agency where you were arrested.

Middle section of Page 1: "PETITION"

Paragraphs 1-3: This section describes who qualifies for expungement. Read carefully, then check the letter (a – f) that most accurately applies to you. If none of these apply, you probably do not qualify for expungement.

Paragraph 4: Complete the section and sign your name. By signing, you are stating under penalty of perjury, that the contents of this petition are true and accurate.

III. WHAT TO DO WITH THE COMPLETED PETITION?

Box 5 (Bottom of page) "Additional Instructions": You must file this petition properly or it will not be granted. Make three copies of this petition and attach three "Proofs of Service." (To obtain the Proof of Service Form, go to: <http://www.courtinfo.ca.gov/forms>, select "forms," then "Proof of Service," then form "POS - 030" to print out a Proof of Service form and Instructions. Read the instructions carefully – the Proof of Service form must be signed and served by someone else. It cannot be signed by you).

The Petition and the Proof of Service must be filed with all three of the following:

- 1) The Clara Shortridge Foltz Criminal Justice Center (written in Box 2 above);
- 2) The DNA Laboratory of the California Department of Justice (Jan Bashinski DNA Laboratory, Attn: Expungement Request, 1001 W. Cutting Blvd., Suite 110, Richmond, CA 94804); and
- 3) Los Angeles County District Attorney's Office, Complaints Division, Attn: Expungement Request, 210 W. Temple St, Room 17-715, Los Angeles, CA 90012.