

1 What does this information sheet cover?

This information sheet tells you how to use and fill out *Proof of Service—Criminal Record Clearing* form CR-106. This information sheet does not need to be copied, served (delivered), or filed.

2 What is proof of service?

- ÿ A “proof of service” is a form used in legal cases.
- ÿ If you want a judge to look at your case, you or someone who is helping you has to file certain documents in court.
- ÿ You also have to give or mail copies of those documents to the other party in the case, usually the prosecutor.
- ÿ The proof of service has spaces for you or someone who is helping you to write in when, where, and how the other party got the documents.
- ÿ Once the proof of service is filled out and filed with the court, it shows the court that the other party got the documents.

3 What is record clearing?

- ÿ Record clearing is a process that allows you to ask a court to improve your criminal record.
- ÿ For example, a court may be able to change some convictions from felonies to misdemeanors.
- ÿ You can start the process of record clearing by filing certain documents or forms called “applications,” “petitions,” or “motions.”

4 Who do I need to serve when I ask a court to clear my criminal record?

Most record clearing laws say you have to let the prosecuting agency (usually the district attorney) know about the record clearing request. Sometimes you also have to let law enforcement (like the police or sheriff) or other parties know about your request. You can do so by “serving” (delivering) a copy of the papers you filed with the court on the prosecuting agency or other parties. Read the record clearing law you are basing your request on carefully to see who needs to know about your record clearing request. Those are the parties who must be served.

5 Why do I need to file a proof of service?

Filing a proof of service shows the court that you have let the other parties know about the record clearing request by giving them a copy of the document or form you are using to make a record clearing request to the court.

6 When can I use *Proof of Service—Criminal Record Clearing* (form CR-106)?

Proof of Service—Criminal Record Clearing (form CR-106) is intended to be widely used with **any** record clearing request that requires notification or service of the request to the prosecuting agency and other parties, such as the following optional Judicial Council forms for record clearing:

- ÿ *Petition for Dismissal* (form CR-180), dismissals under Penal Code sections 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, and 1203.49, and reductions under Penal Code sections 17(b) and 17(d)(2)
- ÿ *Petition for Dismissal (Military Personnel)* (form CR-183), dismissals under Penal Code section 1170.9(h), and reductions under Penal Code section 17(b)
- ÿ *Motion to Vacate Conviction or Sentence* (form CR-187), vacating convictions under Penal Code sections 1016.5 and 1473.7
- ÿ *Petition/Application (Health and Safety Code, § 11361.8)* (form CR-400), relief under Proposition 64 for specified marijuana-related convictions
- ÿ *Petition/Application for Resentencing and Dismissal* (form CR-404), resentencing and dismissal under Penal Code section 1170.22
- ÿ *Petition to Seal Arrest and Related Records* (form CR-409), sealing under Penal Code section 851.91
- ÿ *Petition for Resentencing Based on Health Conditions From Military Service Listed in Penal Code Section 1170.91(b)* (form CR-412/MIL-412)
- ÿ *Petition for Writ of Habeas Corpus* (form HC-001)

7 Who can serve the petition or motion?

- ÿ In most cases, the law allows you (the person who is filing the record clearing request) to serve the document or form.
- ÿ You can also ask someone else to serve the document or form.
- ÿ The person who serves a document or form for record clearing and fills out the *Proof of Service-Criminal Record Clearing* (form CR-106) must be at least 18 years old.
- ÿ Read the record clearing law you are basing your request on carefully to see if it sets any other requirements for who can serve the request.

8 When are the other parties served, and when do I file a proof of service?

- ÿ **Ask the court clerk if any local filing rules apply.**
- ÿ In most cases, the other parties should be served *after* the original document or form is filed with the court. That way, the court may add helpful information to the document or form, such as a hearing date.
- ÿ Some courts require that the document or form is first served on the other parties, and then the original document or form is filed with the court, along with a completed and signed proof of service.
- ÿ When you file the document or form with the court, take the original plus at least two copies of your documents.
 - i The court will keep the original.
 - i The clerk will stamp your copies “Filed” and return them to you. Keep one copy for your records.
 - i The other parties can be served with a copy of your court-stamped document or form, and then you should file the proof of service with the court after the parties are served.

9 How should the petition or motion be served?

There are three main ways to serve documents: by **mail**, **personal delivery**, or **electronic service**. *Proof of Service—Criminal Record Clearing* (form CR-106) can be used to prove service by mail or personal delivery.

If serving electronically:

- ÿ Do not use *Proof of Service-Criminal Record Clearing* (form CR-106).
- ÿ Carefully read and follow the requirements in California Rules of Court, [rule 2.251](#), and use *Proof of Electronic Service* (form POS-050/EFS-050).

If someone else is serving documents on your behalf, make sure to provide them with the name of the agency that must be served (for example, San Francisco County District Attorney), the agency's address, and a copy of the document or form.

If serving by mail:

- ÿ The server should put one copy of the document or form in an envelope addressed to the agency, seal the envelope, and place first-class postage on the envelope; and
- ÿ The server should mail the document or form by depositing the envelope at a post office or mailbox or by depositing the envelope at an office or business mail drop where the server knows mail is picked up every day by the postal service.

If serving by personal delivery:

- ÿ The server should give the document or form to a person with the agency and note the name of the person, as well as the address, date, and time of the service.

Once the document or form has been served on the other parties by mail or personal delivery, the server should fill out and sign the proof of service form.

10 What do I do with *Proof of Service—Criminal Record Clearing* (form CR-106) once it is filled out?

You should file a completed proof of service with the court where you filed your document or form. Ask the court clerk if any local filing rules apply.