

Research on Rights & Record Clearance

Started on National Day of Civic Hacking, LA, Nov 23, 2019

**[Originally titled: Hack for LA
2019 National Day of Civic Hacking]**

Civic Action for Justice

While we are all entitled to certain rights, particularly when encountering the criminal justice system and record clearance process, many times we don't know what they are.

Easy access to this information that is readily available and user-friendly is needed across the country. For National Day, one thing many Brigades across the country are doing is designing a website that effectively informs people of their rights.

Target User Personas

- Individuals seeking to learn their legal options
- Advocacy organizations trying to help those individuals

Today we are starting a website project to inform justice-impacted individuals of their rights. Our initial goal is to cover rights in California. The longer term goal is to combine our project with others from across the country to create a single national website that's easy to use.

Resources for Research

The [Collateral Consequences Resource Center](#) is a trusted source of legal analysis on access to rights. Specifically these pages may be useful:

- [State-Specific Resources](#)
- [50-State Comparison - Loss and Restoration of Civil Rights](#)

The [National Inventory of Collateral Consequences of Conviction](#) is another useful resource.

Know Your Rights Guide Example

The ACLU has [done prior work here](#) (an interactive infographic map) which could serve as a model for approaching the Know Your Rights guide.

Collaborating in This Document

Please find your team's section and work within it. Everyone can work at the same time!

Collaborating in This Document	2
Content Research: Rights Impacted	3
Team Members:	3
Team Name: Unicorn_____	3
Findings	3
Content Research: Rights Regained	4
Team Members:	4
Team Name: _____	4
Findings	4
UX: Know-Your-Rights Site	5
Team Members:	5
Team Name: _____	5
Findings	5
UX: Record Clearance Journey Map	6
Team Members:	6
Team Name: _____	6
Findings	6
Info Architecture/Technology	7
Team Members:	7
Team Name: _____	7
Findings	7
Open Data Research	8
Team Members:	8
Team Name: _____	8
Findings	8

Team 1: Content Research: Rights Impacted

How does a criminal conviction (or arrest) impact your right

- Vote?
- Run for public office?
- Apply for a job?
- Serve on a jury?
- Find employment? What are you required to disclose to potential employers after your sentence is completed?

Team Members:

- Ralph
- Tamura

Findings

VOTING

<https://www.sos.ca.gov/elections/voting-resources/voting-california/who-can-vote-california/voting-rights-californians/>

<https://www.aclusocal.org/en/know-your-rights/voting-rights-los-angeles-county-jails>

If sentenced to prison term, voting rights are restored after completion of prison term, including parole. IF serving community service sentence or county jail, you may vote.

JOBS

Employment post contact with the criminal justice system is very challenging. There are organizations that offer assistance.

<https://workforce.lacounty.gov/job-seekers/re-entry-2/>

Data on post prison employment and other research resources:

<https://www.prisonpolicy.org/reports/outofwork.html>

General Information

This site list available resources by state:

<https://helpforfelons.org/reentry-programs-ex-offenders-state/>

JURY SERVICE

If you've been convicted of a felony, you're disqualified to serve on a jury unless:

- Restored by pardon, Certificate of Rehabilitation. OR
- If your felony is reduced to a misdemeanor, then your civil right to serve on a jury is reinstated.

Public Office

Individuals are disqualified from public service only for specific convictions. From the RRP website: "The California Constitution disqualifies from office anyone convicted of vote-buying, and authorizes laws disqualifying from public office anyone convicted of bribery, perjury, forgery, malfeasance in office, and other "high crimes.""

Team 2: Content Research: Rights Regained

- What can someone do to get rights back?
- Who is eligible and under what conditions?
- How does expungement work?
- What does it mean to have your record "cleared"?
- Does it still exist in some form, and who would be able to see it?
- Are arrests (without conviction) part of this process?
- Has this impacted my ability to get a business license?

Team Members:

- Wes - @wesrowe
- Ted
- Sam - @Sam Miyamoto
- Claire - @Claire Nguyen
- Ted
- Harry
- Thomas
- Sophia

Useful Websites:

[Expungement of Criminal Records in California - Penal Code 1203.4](#)

Explains what expungement is, eligibility, what expungement can and cannot do, the difference between expungement and sealing/destroying records, answers frequently asked questions

Summary of CA Relief: <http://restoration.ccresourcecenter.org/#ca>

- Site also includes summary for other states
- Full Profile of CA Relief:
<https://ccresourcecenter.org/state-restoration-profiles/california-restoration-of-rights-pardon-expungement-sealing/>
- Pain Points: This site has a lot of great info, but it covers SOOO many different situations (see also the flow-charts from the presentations today). If there was a way to filter it down to those that apply to you (possibly using your RAP sheet, along with that tool that the public defender talked about, where it reads your rap sheet and spits out the forms that apply to you), it'd be much more

digestible. And could direct you to the proper resources for you, too, without you having to think about it.

- **Derivative Pain Point:** It costs too much money to pull up your RAP sheet. Maybe if there were a cheaper way to get a close-enough version of it for the site, that would help. Doesn't have to be as accurate as you would expect for the \$25 fee, but it would make the site much more usable.

Step by Step Guide - <https://www.211la.org/sites/default/files/pictures/ExpSBS.pdf>

"Clean Your Record" page from CA.Courts.gov: <https://www.courts.ca.gov/1070.htm>

LA County Public Defender Office has a lot of good information.

- [Prop 47](#) gets its own section, including events calendar, FAQs about relief under Prop 47
- Prop 64 video from VICE News on home page, feat. Nick Stewart-Oates (at 4:15)
- **Broken link re Prop 47:** FAQ at <https://pubdef.lacounty.gov/questions/>, under "...get past conviction taken off my record," says "([Click here](#) to visit our Prop 47 site, which includes upcoming events for free record-clearing.)" That link is <http://cleanrecordla.lacounty.gov/>, a dead site. Probably should link to the Prop 47 page above.

Example "Am I Eligible" quiz: www.recordgone.com -- owned by a huge firm called Higbee & Associates. Quiz ends with price around \$1000.

Findings

Stats

Size of Eligible Population

- ~200k individuals in LA county eligible under Prop 64 (per VICE video)
- In CA, African Americans represent 25% of population serving jail time exclusively for marijuana offenses. (latimes.com)

Benefits of automation

- In San Joaquin county, 26k Prop 47 clearances were done manually by DA's office, took 4 years, cost of \$2.5M (latimes again).
-

Forms

CR-180 form for dismissal

- <https://www.courts.ca.gov/documents/cr180.pdf>

Filing fees for expunging vary by county

- San Diego 60 for misdemeanor and 120 for felony each case
 - https://www.sandiegocounty.gov/content/sdc/public_defender/expungement_faq.html#7

Overview of expungement from a private law firm:

What an expungement **can** do:

- An **employer may not discriminate** against a job applicant based on expunged convictions
- Easier to **obtain a state professional license**
- Expunged convictions **can't be used to impeach someone's credibility as a witness** in court (unless the individual is the defendant being prosecuted in the subsequent case)
- In some cases, helping **avoid certain immigration consequences** such as deportation

What expungement **cannot** do (examples):

- **Seal records** automatically
- **Overturn** a driver's license suspension or revocation
- **Restore** CA gun rights
- **End duty** to register as a sex offender

Other major issues with expunged records (ie not deleted):

- They **can still be used** as prior convictions to **enhance sentencing**
- They **can still count as a "strike"** under the three strikes rule.

Getting your own RAP sheet in CA

Where can you look for your records (RAP sheet) in California?

- 1) Site to obtain your own RAP sheet:
 - <https://oag.ca.gov/fingerprints/record-review>
 - a) You will need to submit LiveScan fingerprint images and \$25 fee as well as follow a process. There is a separate additional fee for the LiveScan fingerprint, depending on where you get it done.
 - b) Apply for a fee waiver for your own RAP sheet:
 - <https://oag.ca.gov/fingerprints/record-review/fee-waiver>
 - c) TOTAL Cost: \$50+ (min \$25 for "rolling fingerprints"; [registry of providers](#))
- 2) ??? You may also be able to get it from your county public defender in person ???

a) Research: NDICA clinic provided this service

How much does the expungement process cost?

- \$50 to access your records by mail (incl. fingerprints)
- \$900 to expunge? ← need to confirm
- Free - Expungement clinics (fees are waived)

Prop 47

Prop 47 reclassified several felony offenses as misdemeanors

(<https://www.courts.ca.gov/prop47.htm>), these include:

- **Shoplifting** is now a misdemeanor if the individual enters the store during normal business hours and the property is worth less than \$950. Punishment is now 6 months max in county jail
- **Forgery** is now a misdemeanor if the forgery involved \$950 or less in value of a document but is a felony if the forgery involved identity theft
- **Insufficient funds** (writing bad checks) is a misdemeanor if the value between \$450 and \$950; and the number of convictions needed for this to become a felony has increased from 1 to 3 or more
- **Petty theft** any theft of an item worth less than \$950 is a misdemeanor
- **Receiving Stolen Property** if the item is worth less than \$950 it is a misdemeanor
- **Petty Theft with a Prior** is not longer a crime unless it involves homicide, forced rape of a minor, or solicitation of homicide

Prop 47 does **not** apply if you have any convictions under Penal Code section 667(e)(2)(C)(iv) (the list of offenses can be found here

<https://codes.findlaw.com/ca/penal-code/pen-sect-667.html>) but covers anything involving sex with a minor (14 or under or if there is more than a 10 year age gap between the minor and the assailant), homicide or solicitation of homicide (hitman), assault with a machine gun on peace officer or firefighter, or any serious crime where the punishment is life imprisonment or death.

Juvenile/Minor convictions

Guide to Juvenile Court: <https://www.courts.ca.gov/1216.htm>

- There are 2 kinds of petitions that refer juveniles to the court:
 - 601 Petition. The probation department files this petition. These are juvenile-only offenses -- e.g., disobeying parents, truancy from school
 - 602 Petition. The District Attorney's Office files this petition -- offenses that would be crimes for an adult.

Sealing Juvenile Records: <https://www.courts.ca.gov/28120.htm>

- Includes info on Situations where the court **automatically seals your records**
 - Mostly less serious cases dismissed after January 1, 2015
- If before Jan 1, 2015.. May have to ask judge to seal records
 - *How to Ask the Court to Seal Your Records* ([Form JV-595-INFO](#))

Sealing Juvenile Records for specific CA counties: <http://sealitca.org/>

Nick Stewart-Oates Presentation

Nick is a public defender in the LA County Public Defender's office

Types of expungement "Relief Actions"

- Delete record - 1203.43 Relief - Prop 64 legalized weed - some records actually "poof" vanished/deleted.
- 17(b) relief - *Get felony reduced to misdemeanor* isn't very effective. (aka "Wobblers")
- 1203.4/4a/41-42 Relief - "sealing" - but it's not very effective, often the record can be found. Visual: kid standing behind pole and says "you can't see me" (but you totally can)

Nick mentioned there are 25-30 "relief actions" available by law. Some *could be* automated, some cannot -- for a full list of relief actions see "Catalogue of California Relief Mechanisms" section (section 1.C) of [this web page](#). [Note: most reliefs are part of Penal Code, but marijuana ones are Health & Safety Code.]

- "Automate-able" means an application reading a RAP sheet can see that it's expungeable and therefore alter the record (delete, add 'expunged' flag, etc.). These tend to be expungeable crimes, e.g. Prop 64 records related to marijuana.

- “Not automate-able” examples include expungements made possible by the features of a person rather than a record/conviction. E.g., law allows expungement for many crimes committed by victims of human trafficking. This can’t be automated because the expungeability of a particular record on that victim’s RAP sheet depends on the discretion of a judge.

Pain points around expungement from a systems perspective:

- There are many IT systems, even within the county let alone state, cities.
- Data entry errors are common

Ingrid Archie presentation

[Bio article](#) on Ingrid.

She’s a Prop 47 specialist at New Way of Life, an org that helps women re-enter from prison.

- “Collateral consequences” are all the ways a criminal record affects someone’s life even after they’ve paid their debt to society (e.g., blocked from employment, housing, etc.)
- Her org has been involved in passage of CA Assembly Bill AB 1076 (hasn’t yet been signed by Gov Newsom as of 9/30).
- It would automate expungement of certain crimes. [get details]
- How many people would be helped by SB1076? Per [this report](#) from the CA Policy Lab:
 - 1 in 8 Californians with a criminal record could be 100% cleared (ie, all records qualify)
 - 1.8 million people would have at least one record qualify

PROP 64 - legalized recreational cannabis

<http://www.courts.ca.gov/prop64.htm>

-Proposition 64 eliminates the criminal consequences for personal level possession and cultivation of marijuana by persons 21 years of age or older. Subject to certain exceptions, it allows persons 21 or older to:

- possess, process, transport, purchase, obtain, or give away to persons 21 years old or older without compensation 28.5 grams (1 oz) or less of marijuana and 8 grams or less of concentrated cannabis;
- possess, plant, cultivate, harvest, dry, or process six or fewer living marijuana plants and products produced by the plants;

- smoke or ingest marijuana and marijuana products; and
- possess, transport, purchase, obtain, use, manufacture, or give away without compensation to persons 21 or older, any marijuana accessories.

Juvenile consequences under Prop 64

-For juveniles: Prop 64 outlines the consequences of marijuana use

- - It specifies the penalties the courts will impose and at a minimum include 4 hours of drug education or counseling and some amount of community service.
- - Also includes detailed info about the destruction of juvenile records in relation to marijuana offenses.

For juvenile expungement: <https://courseformip.com/states/CA>

- An online course is available for first time offenders if they are eligible. Shortest course costs \$25.

The outlines of Proposition 64 resentencing or dismissal of prior, eligible marijuana-related convictions:

3 cases:

1) Person currently serving sentences:

- A request may be made to resentence or dismiss a sentence for individuals who are eligible under prop 64. The individual must go back to the same court they were convicted at and make a petition. If the individual is eligible, the court must grant the petition unless the court determines the individual is a threat to public safety.

2) Persons who have completed their sentences”

- A person who completed their sentence for the eligible offense may file an application to have eligible convictions dismissed and sealed or have convictions redesignated as misdemeanors or infractions. The request must also be made to the same court they were convicted at.

3) Misdemeanor or infraction for all purposes: (very confusing language; basically talking about “Wobblers”?)

- If the court grants the request to change an eligible offense as a misdemeanor or infraction, the conviction is to be treated as a misdemeanor or an infraction.

Employer questions not allowed

- [California Labor Code section 432.7](#) says what an employer can and cannot ask someone applying for a job.

- If this information comes to the employer's attention anyway, the employer cannot use that record as a factor in hiring, promoting, or terminating that person.
- Cannot ask someone about a juvenile court case
 - If information about a juvenile case comes to the employer's attention, the employer cannot use that record as a factor in hiring, training, promoting, or terminating that person.

Assets (e.g., flowcharts):

Nick presented an excellent flowchart of Prop 64 expungement paths (depending on specifics of an individual's case). → ***Get Nick's flowchart***

Ingrid's flowcharts (below):

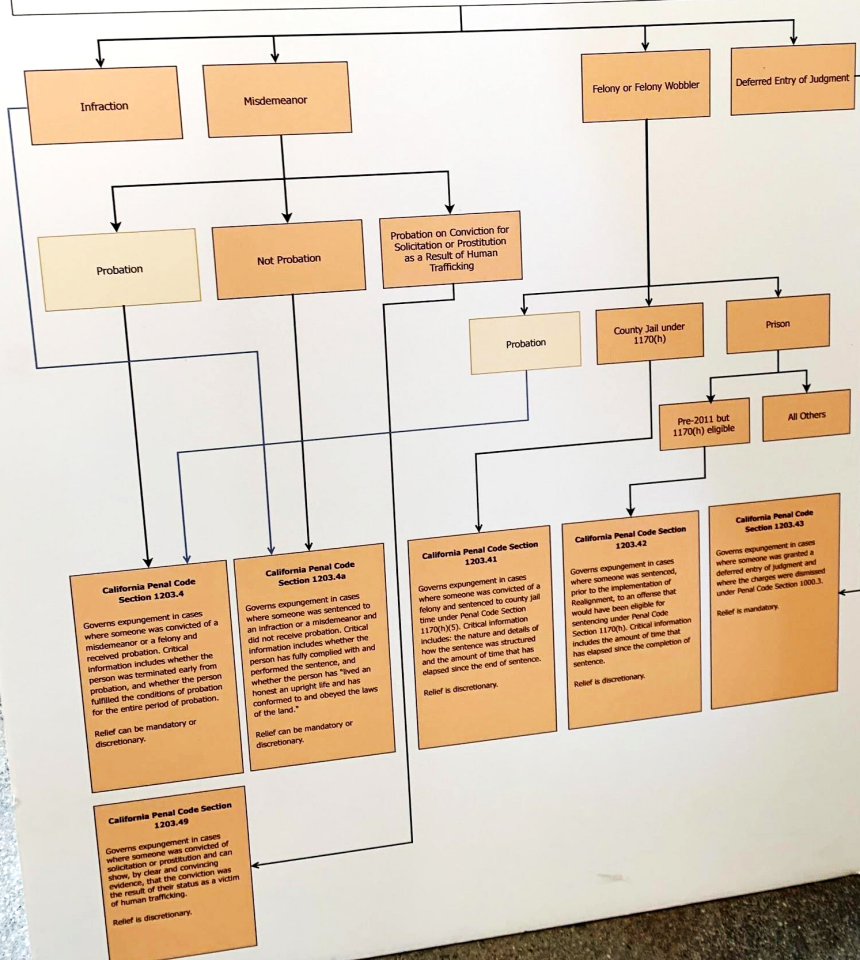
Are you serving any kind of criminal sentence?

Are you on probation for any offense?

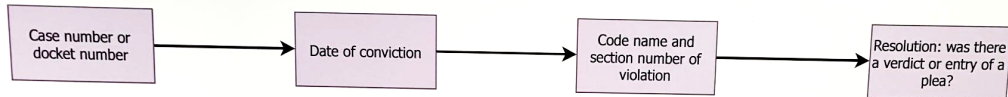
Do you have charges pending for any offense?

Start Here

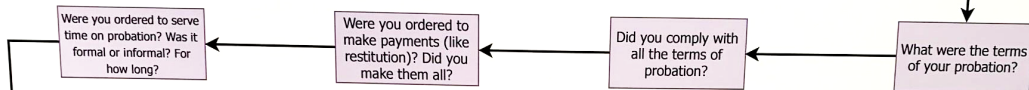
Determine which of California's several expungement laws is applicable in order to know what the statutory requirements for relief are, whether relief is mandatory or discretionary, and what you will have to prove in order to have your petition granted. Start with whether the underlying conviction was for an infraction, misdemeanor, felony wobbler, felony, or deferred entry of judgment, and then move onto sentencing outcomes.



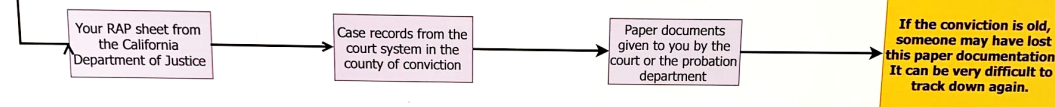
Gathering Information and Documentation: For EACH conviction to be expunged, someone MUST have the following information:



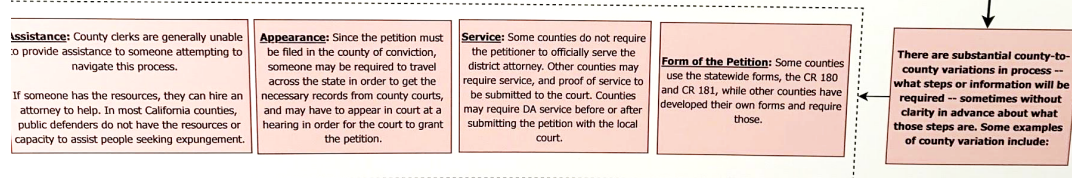
For EACH conviction to be expunged, someone MAY be required to have the following information:



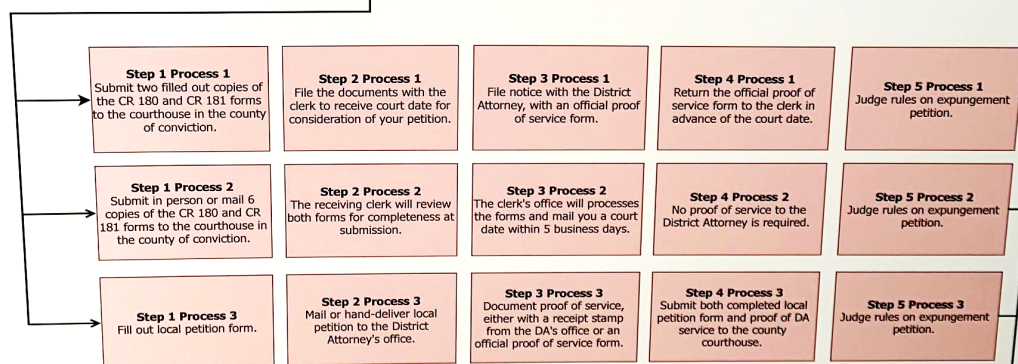
In addition to being able to answer the above questions, someone may need documentation to prove any or all of the above facts. Documents you may need could include:



Process and Petition: Once someone seeking to clear their record gathers all of the above information, they must find, learn, and navigate the application process in EACH county in which they are seeking expungement.



Diagramming all of the existing county processes in this document would be impossible, but below are 3 sample processes from county courts across California.



Money: Navigating and completing the expungement process can cost someone hundreds of dollars per offense.

Team 3: UX Research/Design for a Know-Your-Rights Site

You have a few main objectives:

1. **Users.** Define personas for the site. Who needs to know their rights, and in what stage of their interaction with the criminal justice system? What are they worried about? Who depends on them? What resources or limitations do they have?
2. **Site organization and user experience design.** What should people see when they first arrive on the site? What should be the main pages of the site?
3. **Language.** How can we use language that is clear to anyone who is not a lawyer? What should be the visual language and style of the site?
4. **(Bonus) Product management.** How will people find this guide? How can we test if this meets people's needs?

Team Members:

- Maile M.
- Andrew M.
- Jon(athan)
- Esther
- Eric
- Charlotte
- Steven
- Priya

Team Name: UX Know-Your-Rights Raptors

Findings

- Googling - A lot of law firms and attorneys by reviews and ratings
- Sites to reference with expungement info
 - <https://m.wikihow.com/Expunge-Your-Criminal-Records>
 - <https://eligibility.com/criminal-record-expungement>

- <https://www.criminaldefenselawyer.com/resources/getting-a-copy-your-criminal-record.htm>

Info Architecture exploration for a KYR Website

Know Your Rights Info Architecture

What do I
need to
clear my
record?

Get To
BE MORE
PREPARED
Before
Arrival

Previous
job
addresses
+ phone
numbers

Financial
Info eg. 2013
(Turbo Tax)
to see if you
are qualified
for free advice

Bring
ID

Gathered info/known
for EACH conviction
(see Ingrid's Flow
Chart)
Use B to check if you
are a convicted person

You MAY need
this info
(Ingrid's flow)

○ ○ ○ ○

You MAY need
this documentation
for the above
(Ingrid's flow)

○ ○ ○ ○

How
were they
tried?
(Juvenile, trial
etc.)

How
feels about
work

Prepare for
Personal
Statement?
(Declaration)

Do not
need
gap sheet

How long
does an
expungement
clinic take
on average

Detail
how
clinics
work

Need to register
again when
there even
you've already
registered
online

Detail
Process
of
Clinics/
events

What do I
need to know?
(as someone
looking to clear
my record)

How do I
clear my
record?

Explain
expungement
(steps)
(what is it)

About
Criminal
Records

Where can
I get help?

What jobs can
I apply for with
_____ record?

What
happens
after
expungement?

How long
does it take?

How long
does my
record
last?

Legal
disturbance
(how does it
work)

How does it
affect getting
a job? ~~after~~

Certificate
of
rehab

How can
expungement
help me?

How much
does exp
cost?

Who is
eligible?

What do I
need to
clear my
record?

Map
with by
radius

How does
record
look?
(after expungement)

clinics
- where are they
- how they work
- what do I need

Calendar
of
events
- clinics - workshops
- talks

