

**PETITION TO SEAL AND DESTROY ARREST RECORDS
PURSUANT TO PENAL CODE SECTION 851.8**

PETITIONER: Please type or print the following information.
Information relating to the arrest:

Name Last		First		Middle	
Maiden or Alias Name Last		First		Middle	
Street Address				Phone No.	
City, State, Zip Code				Date of Birth	
Driver's License No.			Social Security No. (voluntary – for ID only)		
Date of Arrest	Arresting Agency	Agency Number	Charge(s)	Disposition	

Petitioner's
Signature _____ Date _____

TO BE COMPLETED BY LAW ENFORCEMENT OR COURT HAVING JURISDICTION OVER THE OFFENSE

I have verified the above information to be accurate.

Signature of Agency or Court Officer _____ Date _____

Agency or Court Name _____ Agency or Case No. _____

Petitioner's CII No. _____ FBI No. _____

Law Enforcement Agency having jurisdiction under Penal Code 851.8(a)

Signature of Agency _____ Date _____ * Petition Granted

Typed Name and Title _____ Petition Denied

Court having jurisdiction under Penal Code 851.8(b), (c), or (d)

Signature of Judge _____ Date _____ * Petition Granted

Typed Name _____ Petition Denied

Waiver: Time restriction on filing is being waived under Penal Code 851.8(l)

Signature of Agency or Judge _____ Date _____

Typed Name and Title _____

* Having jurisdiction in the matter, the law enforcement agency or court has determined that the above – named petitioner is **factually innocent** of the arrest indicated and is hereby exonerated. Hereafter, the arrest shall be deemed not to have occurred, and the petitioner may answer any questions relating to this arrest accordingly.

Copies to: Department of Justice
District Attorney
Petitioner

<p><u>IMPORTANT</u> See reverse side for additional information pertaining to Penal Code Section 851.8</p>

**PETITION TO SEAL AND DESTROY ARREST RECORDS
PURSUANT TO PENAL CODE SECTION 851.8**

PETITIONER:

Penal Code Section 851.8 provides that a person who has been arrested or detained and is determined to be factually innocent may petition the law enforcement agency or court having jurisdiction over the matter to provide for the sealing and destruction of the record of that arrest. Petitions concerning arrests occurring on or after January 1, 1981, may be filed for up to two years following the arrest filing date. Until January 1, 1983, petitions can be filed for arrests which occurred or accusatory pleadings which were filed up to five years prior to the statute's effective date of September 29, 1980.

PENAL CODE SECTION 851.8(a) PROVIDES IN PART:

"In any case where a person has been arrested and no accusatory pleading has been filed, the person arrested may petition the law enforcement agency having jurisdiction over the offense to destroy its records of the arrest. A copy of such petition shall be served upon the district attorney of the county having jurisdiction over the offense."

PENAL CODE SECTION 851.8(b) PROVIDES IN PART:

"If, after receipt by both the law enforcement agency and the district attorney of a petition for relief under subdivision (a), the law enforcement agency and district attorney do not respond to the petition by accepting or denying such petition within 60 days after the running of the relevant statute of limitations or within 60 days after receipt of the petition in cases where the statute of limitations has previously lapsed, then the petition shall be deemed to be denied. In any case where the petition of an arrestee to the law enforcement agency to have an arrest record destroyed is denied, petition may be made to the municipal or justice court.* A copy of such petition shall be served on the district attorney of the county having jurisdiction over the offense at least 10 days prior to the hearing thereon."

PENAL CODE SECTION 851.8(c) PROVIDES IN PART:

"In any case where a person has been arrested, and an accusatory pleading has been filed, but where no conviction has occurred, the defendant may, at any time after dismissal of the action, petition the court which dismissed the action for a finding that the defendant is factually innocent of the charges for which the arrest was made. A copy of such petition shall be served on the district attorney of the county in which the accusatory pleading was filed at least 10 days prior to the hearing on the petitioner's factual innocence."

It is the responsibility of the petitioner to submit any declarations, affidavits, police reports or other evidence, which may exist to support the petition to appropriate arresting agency or court and to serve a copy of the petition and supporting papers on the district attorney.

** In this case the petitioner shall be responsible for obtaining the original petition from the law enforcement agency and submitting it to the court of jurisdiction.*