

## Early Termination of Supervision

### 401.1 PURPOSE AND SCOPE

The purpose of this section is to specify policy relating to early termination of supervision, change in probation status, and sealing of records.

### 401.2 APPLICABILITY

This policy shall be applicable to all employees.

### 401.3 DECISION MADE BY OFFICER AND SUPERVISOR

The decision to recommend early termination for offenders or modification from supervision or Formal Probation to Probation to the Court rests with the Officer and his/her Supervisor. They have the discretion to exercise their judgment as to whether the Court ordered criteria have been satisfied.

#### 401.3.1 FACTORS TO BE CONSIDERED

In general, Officers should consider the following issues when making their decision as to recommending early termination of supervision or Probation to the Court:

- Completed all conditions of supervision;
- paid victim restitution, fines, fees, and costs;
- not on any type of probation; and
- no pending legal matters.

Note: No PC290 or Sex Offenders can request early termination.

#### 401.3.2 PERIODIC REVIEW

Since it is the Probation Department's policy to recommend early termination of supervision, or a change in probation status to probation to the Court in all appropriate cases, it is first necessary to identify appropriate cases. In order to do so, periodic review of supervision caseloads is required. Periodic reviews should occur every six months or anytime a change in circumstances has occurred such as a violation of probation, new arrest, new conditions, added, etc.

### 401.4 PROCEDURES FOR EARLY TERMINATION / CHANGE IN SUPERVISION STATUS

The Probation Officer may come to consider early termination or a change in supervision status for an offender, (1) during a periodic review of the offender's case, or (2) because of a request from the offender, his/her counsel, the District Attorney or the Court that the offender be considered for early termination.

#### 401.4.1 CONFERENCE WITH SUPERVISOR

- Meet with the Supervisor to discuss the support or denial of early termination.

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- If the offender made the request and the circumstances are completely unwarranted, the request may be denied, with the offender being advised as to our reasons for denial.
- Should the offender insist on early termination, the officer should direct the offender to contact his/her attorney and recommend the attorney calendar a hearing, but explain that probation will be recommending against early termination.

#### **401.5 RECORD CLEARANCE**

##### **401.5.1 30 DAYS PRIOR**

Within 30 days prior to initiation of a request for early termination of probation, or change in supervision status, the following clearances must be initiated by the assigned Officer (FBI/CII clearances must be done in the appropriate area office).

- (a) DMV clearance, if the offense be traffic related and/or they have a driver's license.
- (b) MC21/MC22 for traffic records if the offense is traffic related.
- (c) DA09/DA10 for criminal records in Superior Court for new Court cases or orders for extension of supervision.
- (d) MA09/MA10 for notifications and warrants.
- (e) SDLAW for new arrests/bookings.
- (f) Revenue and Recovery Records for restitution/fines/fees/costs balances.
- (g) FBI/CII printout if the offender has been outside of the Court's jurisdiction and he is not under supervision through Interstate Compact or Courtesy Supervision. (Most recent printout to be placed in the file.)
- (h) Department 11/Juvenile Minor Offense Court, if a minor.

#### **401.6 SUPPLEMENTAL REPORT**

If the Probation Officer is recommending early termination or change in supervision status, a hearing is to be calendared on the matter, and a regular supplemental report should be prepared and submitted to the Court. All reports submitted should address the following:

- (a) The facts and reasons that justify the recommendations for or against the desired disposition.
- (b) A statement regarding the specific record clearances which were made and the results of each. A general statement that the offender has had no reported arrests or convictions/True Findings during the period of supervision is insufficient in itself.

#### **401.7 RECOMMENDING PROBATION TO THE COURT**

If Probation to the Court is recommended, the recommendation is as follows:

- (a) Formal probation to convert to Probation to the Court forthwith.

Note: Juvenile Field Services Officers will only recommend Probation to the Court if all Court orders have been satisfied with the exception of restitution or the youth resides out of the state/country.

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### **401.8 SEALING OF RECORDS PURSUANT TO PC 1203.4 AND PC 1203.45**

If the offender has made a formal request for our assistance in applying to have his/her record sealed and if the offender was eligible for dismissal of accusation/charges, the following requirements must be met. The Probation Officer may also refer the offender to his/her attorney of record to assist him/her if necessary.

- (a) **Age:** The offender must have been under 18 years of age (21 years if the crime occurred prior to March 7, 1973) at the time of the commission of the offense.
- (b) **Misdemeanor:** The offense must have been a misdemeanor, and it must have been the offender's only misdemeanor conviction unless any other offense falls within one of the exceptions listed in Subsection (c) under 1203.45 PC (various Vehicle Code and local ordinance violations).
- (c) **PC290 Crimes:** The offense must not have been one for which registration pursuant to 290 PC is required, nor may the offense be one identified in Division 10 of the Health and Safety Code (commencing with Section 11000), and it must not have been for any misdemeanor Vehicle Code violation relating to the operation of a vehicle or any local ordinance relating to operation of, standing, stopping, or parking a motor vehicle.

#### **401.8.1 REPORT MUST STATE ELIGIBILITY**

The supplemental report submitted by the Officer must indicate the offender's eligibility and the Officer must prepare sealing recommendations pursuant to WIC786 if ordered to do so by the Court (for attachment to the report).

#### **401.8.2 EFFECT OF SEALING**

Once a Sealing Petition has been granted by the Court, the offense is deemed not to have occurred. If the offender is eligible for such relief, the sealing has the effect of securing the arrest and conviction records against examination, and the law requires that CII require previously notified agencies and Officers to seal their records and to respond to any inquiry: "We have no record of the named individual." This relief is, in effect, a cancellation of the arrest or conviction. The offender may thus answer "no" to any inquiry regarding the occurrence of that arrest or conviction