

Now some practice!

The following people come to you to ask which of their convictions *must* be dismissed and which *can* be dismissed.

Assume that

- Unless shown, the people are eligible to file for expungement (dismissal)
- They have no probation violations other than from new convictions shown on their records
- The last conviction shown is their last conviction

Abbreviations used:

Infrac = Infraction;

Misd = misdemeanor,

Fel = Felony

Mand = Mandatory dismissal

Disc = discretionary dismissal

Inelig = ineligible for dismissal

Is dismissal of Mr. A's convictions Mandatory, Discretionary or Ineligible?

			Sentence:	Incarceration: jail, prison or none	Probation, supervision, parole, or none			
1.1.2010	Misd	petty theft		1 day jail	1 year	Mand	Disc	Inel
6.1.2013	Inf	resist arrest		no jail	fine only	Mand	Disc	Inel
12.7.2014 12.8.2016	Fel	sale cont subs probation terminated early		30 days jail	3 years	Mand	Disc	Inel
1.1.2017	Misd	give false name to officer		4 days jail	2 years	Mand	Disc	Inel
2.2.2018	Fel	assault deadly weapon		1 year jail	3 years	Mand	Disc	Inel

Is dismissal of Ms. B's convictions
Mandatory, Discretionary or Ineligible?

		Sentence:	Incarceration: jail, prison or none	Probation, supervision, parole, or none			
1.1.2006	Misd	resist arrest	2 days	0	Mand	Disc	Inel
3.1.2006	Misd	resist arrest	2 days	0	Mand	Disc	Inel
1.1.2008	Fel	sales contrld subs not marijuana	3 months	3 years	Mand	Disc	Inel
1.1.2013 1.1.2016	Fel	child endangermt probation violation	6 months	5 years	Mand	Disc	Inel
1.1.2018	Fel	domestic violence	10 months	3 years	Mand	Disc	Inel

Is dismissal of Mr. C's convictions
Mandatory, Discretionary or Ineligible?

		Sentence:	Incarceration: jail, prison or none	Probation, supervision, parole, or none			
1.1.2010	Misd	resist arrest	2 days	1 year	Mand	Disc	Inelig
3.1.2010	Misd	domestic battery	2 months	3 years	Mand	Disc	Inelig
1.1.2014	Fel	sales contrld subs	2 years prison	3 years parole	Mand	Disc	Inelig
6.1.2020 6.1.2023	Fel	child endangermt probation terminated early	6 months	5 years	Mand	Disc	Inelig

Is dismissal of Ms. D's convictions Mandatory, Discretionary or Ineligible?

Sentence:			Incarceration: jail, prison or none	Probation, supervision, parole, or none			
1.2.2000	Fel	identity theft	2 months jail	2 years	Mand	Disc	Inelig
1.2.2003	Fel	sale of marijuana (adults involved, not on school or daycare)	6 months jail	2 years	Mand	Disc	Inelig
9.9.2006	Fel	own/rent drug house	16 months jail per 1170(h)	--	Mand	Disc	Inelig
8.8.2008	Fel	voluntary manslaughter	12 yrs prison	2 yrs parole	Mand	Disc	Inelig

Is dismissal of Mr. E's convictions Mandatory, Discretionary or Ineligible?

Sentence:			Incarceration: jail, prison or none	Probation, supervision, parole, or none			
1.1.2014 1.1.2016	Fel	child endangermt probation terminated early	6 months	5 years	Mand	Disc	Inel
1.1.2019	Fel	poss contrld subs not marijuana	drug diversion		Mand	Disc	Inel
3.1.2019	Fel	assault w/ deadly weapon	8 months	3 years	Mand	Disc	Inel
1.1.2024	Fel	grand theft	50 days	2 years	Mand	Disc	Inel

Still on probation!
-> wait till 1.1.2026 or
ask for early termination
of probation

Now some practice!

Following are some felony convictions.

Assume that all offenses involved people who were over the age of 21 and not on school grounds (matters for Prop 64)

Decide what law applies, if any:

17(b), Prop 47 or Prop 64

Then decide whether the conviction can be reduced, must be reduced or can't be reduced.

Is reduction of Mr. A's convictions Mandatory, Discretionary or Ineligible?

Incarceration: jail, 1170(h), or prison		Law		Can / Must / Can't be reduced		
Auto theft VC 10851	jail	17(b)	P 47 P 64	Can	Must	Can't
Assault with deadly weapon PC 245(a)	jail	17(b)	P 47 P 64	Can	Must	Can't
Assault with deadly weapon PC 245(a)	prison	17(b)	P 47 P 64	Can	Must	Can't

Is reduction of Ms. B's convictions Mandatory, Discretionary or Ineligible?

Incarceration: jail, 1170(h),
or prison

Law

Can / Must / Can't
be reduced

Sale of marijuana prison 17(b) P 47 P 64 Can Must Can't
(adults involved, not at school or daycare)
HS 11359

Burglary jail 17(b) P 47 P 64 Can Must Can't
(second degree) (took diapers worth \$45 from Costco)
PC 496(a)



RCP website:
www.sjsu.edu/rcp

Email the SJSU Record Clearance Project at
expunge@sjsu.edu