

DECLARATION GUIDE

This guide will assist you with interviewing your client and structuring a comprehensive declaration. Below are a few tips to help prepare yourself for the interview and declaration writing process. Remember the declaration is the client's chance to provide context to their conviction(s). The goal is to humanize them and persuade the court to look beyond the conviction(s). Write this declaration as though you are working to persuade a judge to grant this expungement for your client.

In order to draft the most persuasive declaration it is important that you take the necessary steps to prepare yourself to ask the right questions during your interview with the client. If you follow the guidance below, you should have no trouble gathering the necessary information to draft a persuasive declaration for your client.

1. Review Cheat Sheet

Prior to interviewing the client, please review the cheat sheet and case summaries. The cheat sheet will ask you to address any patterns of behavior and probation/parole violations that will need context in the declaration, if applicable.

As you review the cheat sheet, you will notice a trend in the types of convictions.

- a. For example, a client who has numerous DUI or substance abuse convictions will signal trouble with addiction. Make note of that and ask questions during the interview that provide some context regarding the addiction that can explain the behavior(s) that led to the convictions.

Before conducting the interview, please confirm the following general/starting questions.

- a. Full legal name.

*Note: Client's legal name and the name client was convicted under may differ. For example, client's legal name is Johnathan Smith, but the name client was convicted under is John Smith or Jon Smith.

**In the "DEFENDANT" box on the CR-180 and CR-181 and in the declaration, please use the name client was convicted under. You can find this name at the top of the cheat sheet "Name of defendant."

- b. Mailing/home address on cheat sheet and confirm it is a safe/secure address.
- c. Contact information (phone number and email address).
- d. Convictions on the cheat sheet are the ones you will be working on.
- e. Are you on probation or parole? Do you have any pending cases or warrants?
- f. When were you last engaged in criminal behavior (including arrest without conviction)?

2. Create a Timeline

For clients with a more extensive record, it is helpful to create a timeline based on the dates in the cheat sheet to provide the court with appropriate context.

Create a timeline that includes each conviction and covers *4 general time periods*:

I. Pre-conviction

- a. We want to know what was going on in the client's life before their criminal justice involvement, focusing on events and experiences that may have contributed to the conviction. Ask open-ended questions about the clients' life pre-conviction.
- b. **Sample questions:**
 - i. How would you describe your upbringing/background?
 - ii. How would you describe your relationships with your family/siblings/friends?
 - iii. Did you and/or your family experience any significant challenges?

II. During conviction

- a. We want to know what was going on in the client's life at the time of the conviction.
- b. **Sample questions:**
 - i. At the time of the arrest/conviction, what was happening in your life?
 - ii. Were there any specific and/or significant hardships that led to this conviction? (i.e. experiencing homelessness, string of bad luck, domestic struggles, mental health crisis, financial hardships, addiction, or poor decision making)
 - iii. What were the events leading up to this arrest/conviction?
*Note: Not all of the information you will be collecting regarding the facts of the incident will be included in the declaration. We want to gather as much information regarding the facts of the incident to strategize on how to make the declaration strong.
*Note: Regarding the details of the incident, if client's story contradicts with what the police/probation report states then there will be consequences.
 - iv. Was anyone impacted by this conviction? If yes: Who was the victim? What impact did your actions have on the victim? (Was the victim physically harmed, financially impacted, etc.)

III. Post-conviction

- a. We want to know what the client has been doing since their *LAST* conviction. For those who may have significant breaks between convictions, we also want to know what occurred in their life that caused a relapse.
- b. Discuss positive changes the client has made in their life since the last conviction like: development of a support system, attended treatment programs, schooling/degrees/certificates earned, employment.
- c. Discuss any challenges the client has had due to their criminal record.
- d. **Sample questions:**
 - i. How did your actions affect you, or those around you?
 - ii. How do you feel about your actions now?
 - iii. What did you learn from this incident? Do you have any takeaways?
 - iv. Is it safe to say you are regretful or remorseful of your actions?
 - v. Is it safe to say you are no longer the person that your record reflects?

IV. Future

- a. Finally, we want to know what the client hopes to do in the future if expungement is granted.
- b. **Sample questions:**
 - i. What was the turning point in your life? Was there a moment that led you to change?
 - ii. What tools (classes, programs, therapy, family, school, etc) did you use to help you in your turning point?
 - iii. Ask following up questions if they provide certain tools. Follow up questions can include:
 - When did you take or start x class/program?
 - When did you finish/stop?
 - What were your takeaways, if any?
 - iv. Did you take any classes/programs/schooling outside of the conviction? What were your takeaways from each of those?
 - v. Do you utilize any positive steps or strategies?
 - vi. What industries have you worked in?
 - vii. What has life been like since your conviction?

3. Benefits of Expungement

Explain the reason(s) client is seeking an expungement and/or reduction.

Sample questions:

- i. Why are you seeking expungement/record clearing?
- ii. What is the career field you would like to work in? How is your record barring you from pursuing your desired career field and/or housing?
- iii. What would an expungement mean to you? How would it make you feel?
- iv. What would be different in your life if you had a clean slate?
- v. What opportunities could you take advantage of if your criminal record was expunged?
- vi. What does the court need to know about who you are today?
- vii. Why is granting this relief the right thing to do for you, your family and your community?
- viii. Is there anything else you would like to tell the judge about why you deserve a second chance? Is there anything we haven't covered?

3. Responsibility/Lessons Learned statements

Finally, and most importantly, the declaration must include statements taking responsibility for the behavior and actions that led to the convictions as well as a statement on the lessons the client has learned as a result.

4. Supporting documents

Attaching supporting documents will make client's expungement petition(s) stronger. Please ask clients to start gathering their supporting documents. Once client has obtained all their supporting documents, client can forward them to Rene Pena at rpena@lafla.org.

Examples:

- a. Letters of support and/or character references from friends, family, community members, etc.
- b. Certificates, diplomas, licensures, resume
- c. Documentation showing proof of volunteering/participation in the community
- d. Documentation of classes, programs, therapy, etc.