

## BOOKLET 4

### REPRESENTING YOURSELF IN COURT AFTER FILING A PETITION TO SEAL CRIMINAL CASES



**STEP 1. Review your CORI to make sure your cases are eligible for sealing by a judge and that this is the best time to try to seal your criminal cases.**

If you were arrested recently, have criminal cases still going on in court, are in jail, or there are warrants for your arrest, it may be impossible to persuade a judge to seal your criminal cases.

#### **STEP 2. Prepare for any hearing.**

- You will have to go to one or two hearings. The court gives the public notice of the final hearing by posting a notice of the hearing in or near the clerk's office.

**IMPORTANT. Be prepared to talk to a judge. In some courts, the first hearing is held on the same day that you file your paperwork in the clerk's office**

- Review any paperwork you filed in court. Think about and maybe make notes about what you want to say to the judge. For example, you were rejected for jobs because of your CORI and you desperately need a job or you and your children will be homeless, or you and your children will have to stay on MassHealth and public assistance because your CORI stops you from working.

#### **STEP 3. Show up for any hearing on your petition to seal criminal records.**

- Bring a copy of what you filed in court to the hearing because the judge may ask questions about the paperwork you filed. You may not remember what you wrote in the paperwork you filed if you do not have a copy.
- Be on time for hearing(s) and be courteous and patient with everyone at the courthouse.
- Be respectful to the judge and do not interrupt the judge or anyone else who speaks. Wait until it is your turn to speak, but speak up so you can be heard.
- Tell the judge about why your CORI is a problem. In Commonwealth v. Pon, 496 Mass. 296 (2014), the SJC (our highest state court) made it easier to seal cases, but you still have to show "good cause" to seal a record. To show there is "good cause" to seal records, there must be "credible" evidence of a "disadvantage" at the present time OR possibly in the future if your record is not sealed.
- Do point out how your CORI harms you or might put you at a disadvantage in the future.

- Tell the judge about past job, housing or other rejections caused by your criminal record and future problems you're likely to have because of your record. If you have copies of rejection letters from employers and/or letters from counselors saying that you need to seal your CORI to get a job, show those letters to the judge.
- If a social worker, job counselor or other person has come to court with you and is ready to speak on your behalf as a witness, let the judge know this. Be sure that you know in advance what the person would say if asked a question.
- Be prepared for the judge to ask about what happened in the case(s) you are trying to seal, or why any cases were dismissed. For example, in some cases, the response might be: "I was found not guilty" or "I was arrested by mistake so the District Attorney dropped the case;" "I paid the money owed for the 'bounced' check so the case was dismissed;" or "I successfully completed drug treatment and the case was dismissed."
- An Assistant District Attorney in the courtroom may be asked whether he or she objects to the sealing of your record(s). This is not something you should take personally and remaining calm when you respond to unfavorable things said by the prosecutor is something that impresses most judges. Don't lose your temper because you not like what he or she says.
- If the judge thinks your record should be sealed, the judge will grant your petition. If the judge takes the case "under advisement," it means he or she wants more time to think about it. The clerk's office will call you or mail you the judge's decision. If you don't hear from the court within two weeks, you should call the clerk's office.
- If you lose at the hearing, seek the legal advice of an attorney immediately.

**STEP 4. Get ready for and go to a second hearing if the Court holds two hearings instead of just one hearing.**

- Review the paperwork you filed in court. This hearing is very much like the first hearing. See the points listed above regarding the first hearing.
- Do NOT assume the judge will remember your case from the prior hearing.
- If you lose (the petition is "denied"), seek advice from an attorney immediately.

**STEP 5. Send for a copy of your CORI report a few weeks later if you win your case.** If the sealed cases are still on the CORI report, contact the Probation Department at the courthouse for help. If that does not resolve the problem, seek advice from an attorney.

**AFTER THE RECORD IS SEALED**

After your case is sealed, the law states that you may answer you have "no record" as to the sealed record when you apply for jobs, housing and occupational licenses. G.L. c. 276, § 100A.

## FOR MORE INFORMATION

- Call the ERLI helpline at 617-603-1700 if you live in the Boston area and you'll be screened for eligibility for an intake for Greater Boston Legal Services (GBLS). GBLS is not able to take every case, but ERLI or GBLS may be able to offer advice or refer you to other programs or resources.
- To find a legal aid program near you, go to: [www.masslegalhelp.org](http://www.masslegalhelp.org)
- Read other booklets in this series:
  - Booklet 1: How to Get a Copy of Your Criminal Record (CORI)
  - Booklet 2: How to Seal Old Criminal Cases
  - Booklet 3: Sealing Cases that Ended without a Conviction or First Time Drug Offenses
  - Booklet 4: Representing Yourself in Court After Filing a Petition to Seal Criminal Cases
  - Booklet 5: One Stop CORI Sealing in Boston Municipal Court
  - Booklet 6: Loss of Drivers' Licenses for Drug Convictions, Court Defaults, Warrants, and Tagging or Vandalism Convictions
  - Booklet 7: How to Seal Decriminalized Marijuana Cases
  - Booklet 8: Avoiding Guilty Pleas and Criminal Case Dispositions that Give You Life-Time Criminal Records
  - Booklet 9: How to Expunge Records

**This information is provided as a public service by Greater Boston Legal Services and does not constitute legal advice which can only be given to you by your own attorney. This booklet relates only to Massachusetts state court records and laws in effect as of October 13, 2018. This booklet is made available through funding in part from Gardiner Howland Shaw Foundation. You can share this booklet which is also available online at [https://www.gbls.org/cori\\_record\\_sealing\\_booklets](https://www.gbls.org/cori_record_sealing_booklets) or at [masslegalhelp.org](http://masslegalhelp.org)**