# 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; Mand = Mandatory dismissal
Misd = misdemeanor, Disc = discretionary dismissal
Fel = Felony Inelig = ineligible for dismissal

# <u>Is dismissal of Mr. A's convictions</u> <u>Mandatory, Discretionary or Ineligible?</u>

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

# <u>Is dismissal of Ms. B's convictions</u> <u>Mandatory, Discretionary or Ineligible?</u>

			•	,
		or none	parole, or r	ione
Misd	resist arrest	2 days	0	Mand Disc Inel
Misd	resist arrest	2 days	0	Mand Disc Inel
Fel	sales contrl subs not marijuana	3 months	3 years	Mand Disc Inel
Fel	child endangermt probation violation	6 months	5 years	Mand Disc Inel
Fel	domestic violence	10 months	3 years	Mand Disc Inel
	Misd Fel Fel	Misd resist arrest  Misd resist arrest  Fel sales contrl subs not marijuana  Fel child endangermt probation violation	Misd resist arrest 2 days  Misd resist arrest 2 days  Fel sales contrl subs not marijuana 3 months not marijuana  Fel child endangermt probation violation 6 months	Sentence: jail, prison or none supervision parole, or none  Misd resist arrest 2 days 0  Misd resist arrest 2 days 0  Fel sales contrl subs 3 months 3 years not marijuana  Fel child endangermt 6 months 5 years probation violation

# <u>Is dismissal of Mr. C's convictions</u> <u>Mandatory, Discretionary or Ineligible?</u>

		Sentence:	Incarceration: jail, prison or none	Probation supervisi parole, o	on,
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 contrl subs	2 years prison	3 years parole	Mand Disc Inelig
6.1.2017 6.1.2019	Fel	child endangermt probation termina		5 years	Mand Disc Inelig

# <u>Is dismissal of Ms. D's convictions</u> <u>Mandatory, Discretionary or Ineligible?</u>

Incarceration:

Probation.

Sentence: jail, prison supervision, or none parole, or none 1.2.2000 Fel identity theft 2 months jail 2 years Disc Inelig 1.2.2003 Fel sale of marijuana 6 months jail 2 years Mand Disc Inelig (adults involved, not on school or daycare) 8.8.2006 Fel sale of heroin 2 years prison 2 yrs parole Mand (Disc) Inelig Mand Disc Inelig 9.9.2012 Fel own/rent drug 16 months jail house per 1170(h)

# <u>Is dismissal of Mr. E's convictions</u> <u>Mandatory, Discretionary or Ineligible?</u>

Incarceration: Probation, Sentence: jail, prison supervision, or none parole, or none 1.1.2010 Fel child endangermt 6 months 5 years Mand Disc Inel 1.1.2012 probation terminated early 1.1.2016 Fel Mand (Disc) poss contrl subs drug diversion Inel not marijuana 3.1.2016 Fel assault w/ deadly 8 months 3 years Disc Inel weapon 1.1.2023 Fel grand theft 2 years Mand Disc Inel 20 days What? Still on probation! -> wait till 1.1.2025 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:

17b, Prop 47 or Prop 64

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

### <u>Is reduction of Mr. A's convictions</u> Mandatory, Discretionary or Ineligible?

Incarceration: jail <u>or</u>	, 1170(h), prison	Law	Can / Must / Can't be reduced
Auto theft VC 10851	jail	17b) P 47 P 64	Can Must Can't
Possess meth HS 11377	prison	17b P47 P64	Can Must Can't
Assault with deadly weapon PC 2	jail 45	17b P 47 P 64	Can Must Can't
Assault with deadly weapon PC 2	prison 245	17b P47 P64	Can Must Can't

### <u>Is reduction of Ms. B's convictions</u> Mandatory, Discretionary or Ineligible?

Incarceration: jail, 1170(h), Can / Must / Can't or prison Law be reduced

of prison Eaw Se reduce

Grand theft jail (17) P(47) P 64 (2a) (Mus): Can't (\$450) PC 487

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

Possess jail (7b) P(47) P(64) (an Must Can't marijuana HS 11379 (adults involved, not at school or daycare)



RCP website: www.sjsu.edu/rcp



Email the SJSU Record Clearance Project at

expunge@sjsu.edu

10