

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

Is dismissal of Mr. A's convictions

Mandatory, Discretionary or Ineligible?

			Incarceration:	Probation,			
		Sentence:	jail, prison or none	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	Fel	sale cont subs	30 days jail	3 years	Mand	Disc	Inel
12.8.2016		probation terminated early					
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	Fel	child endangermt	6 months	5 years	Mand	Disc	Inel	
1.1.2016		probation violation						
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	Fel	child endangermt	6 months	5 years	Mand	Disc	Inelig	
6.1.2023		probation terminated early						

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	Mad	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	Fel	child endangermt	6 months	5 years	Mand	Disc	Inel	
1.1.2016		probation terminated early						
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	
1.1.2025	Fel	grand theft	50 days	2 years	Mand	Disc	Inel	

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: <u>jail, 1170(h), or prison</u>	<u>Law</u>	<u>Can / Must / Can't be reduced</u>
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
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Sale of prison 17(b) P 47 P 64 Can Must Can't
marijuana (adults involved, not at school or daycare)
HS 11359

Grand jail 17(b) P 47 P 64 Can Must Can't
theft (took computer worth \$1,145 from Costco)
PC 487(a)



Email the SJSU Record Clearance Project at

RCP website:
www.sjsu.edu/rkp

expunge@sjsu.edu