

PROBATION DEPARTMENT ADULT MANUAL

Chapter No. 3211	Page 1
Issue Date:	08/31/84
Revised:	12/30/19

Notes and References

TERMINATION, DISMISSAL AND EXPIRATION PROCEDURES

I. General

- A. The primary objective of supervision of the probationer should have been achieved at the time of a successful termination of probation.
 - 1. No case otherwise eligible for early termination should be returned to court prior to the fulfillment of at least one-half (1/2) of the ordered probation term. Exceptions to this policy may be made in unusual circumstances with approval of the supervisor and noted in IMPACT events.
 - 2. Prior to a case being presented to the court with a recommendation for termination of probation, the supervision officer should review the file for appropriateness, such as the seriousness of the offense, the severity of any past probation violations, unfulfilled terms and conditions, response to supervision, positive lifestyle changes, completion of case plan goals, etc.
- B. The supervision officer may request early termination in cases when there is no further need for supervision, unless such early termination is not permitted by statute.
- C. If permitted by local jurisdictions, the supervision officer should request court probation status on misdemeanants for whom there is no further need for supervision except for misdemeanor court fines and the defendant has fulfilled all terms and conditions of formal probation.
- E. The supervision officer should explain to the felony probationer the following information concerning termination of probation and the effects of Section 1203.4 PC procedures:
 - 1. Penalties and disabilities reviewed:
 - a. The order of dismissal per Section 1203.4 PC serves to certify successful completion of a probationary period.

**PROBATION DEPARTMENT
ADULT MANUAL**

Chapter No. 3211	Page 2
Issue Date:	08/31/84
Revised:	12/30/19

**TERMINATION, DISMISSAL AND EXPIRATION
PROCEDURES (cont.)**

**Notes and
References**

- b. The right to vote in counties that refuse voter registration to persons convicted of a felony is restored.

- 2. Penalties and disabilities not relieved:
 - a. This action does not eradicate, expunge or seal the record.
 - b. No right to own or possess a concealable firearm is restored. Firearms restrictions pursuant to the Federal Firearms Act remain in force. Pursuant to 29805 PC, certain crimes, including Domestic Violence crimes such as 273.5 PC and 243(e) PC, prohibit firearm possession for 10 years from the date of conviction.
 - c. As of January 1, 2019, anyone convicted of a misdemeanor violation of 273.5 PC is prohibited from purchasing or having in possession a firearm.
 - d. Registration pursuant to Sec. 290 PC (a Certificate of Rehabilitation is required per Sec. 290.5 PC) and Sec. 457.1 PC (a Certificate of Rehabilitation is required per Sec. 457.1(l) PC).
 - e. The conviction may be charged as a prior conviction in subsequent actions.
 - f. The order for dismissal does not relieve the probationer of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery.
 - g. In cases of unlicensed governmental employment, conviction dismissed under this procedure may not be the sole consideration for denying employment.

Title 18

1203.4 PC

**PROBATION DEPARTMENT
ADULT MANUAL**

Chapter No. 3211	Page 3
Issue Date:	08/31/84
Revised:	12/30/19

**TERMINATION, DISMISSAL AND EXPIRATION
PROCEDURES (cont.)**

**Notes and
References**

- g. Conviction, even though dismissed, may be used in some circumstances as grounds for deportation of some aliens.

II. Basic Considerations and Significant Factors

“(The court) may at any time when the ends of justice will be subserved thereby, and when the good conduct and reform of the person so held on probation shall warrant it, terminate the period of probation and discharge the person so held...”

1203.3(a) PC

A. Terminations

1. The supervision officer may return to court for consideration of early termination and dismissal of any probation cases in which the probationer’s adjustment reveals that this action would be most meaningful in the treatment plan. Generally, at least one-half of the probation term has been completed, there have been no sustained violations of probation, there are no outstanding financial obligations, the underlying offense was not egregious and further supervision is not needed.
2. Termination of probation may at times be indicated when the defendant has been sentenced to state or federal prison, or is serving an 1170(h)(5)(A) PC sentence in jail in another case. Care should be exercised in considering termination when another case resulted in commitment to a state hospital or to the California Rehabilitation Center. Such commitments might summarily terminate, resulting in a need for supervision and control for public safety which could be provided with the existing grant of probation.
3. In the event of a probationer’s death, the Probation Officer will inform the Deputy Chief Probation Officer (DCPO) via the chain of command. Following the immediate notification, the SPO will provide a brief analysis on the case management efforts to the Manager. The Probation Officer will also file an ex-parte report to the Court, with an official record such as a copy of the coroner’s report or death certificate. Obtaining the coroner’s report is the preferable method as it does not incur additional cost. If the coroner’s report is not available or the Court requests a certified

**PROBATION DEPARTMENT
ADULT MANUAL**

Chapter No. 3211	Page 4
Issue Date:	08/31/84
Revised:	12/30/19

**TERMINATION, DISMISSAL AND EXPIRATION
PROCEDURES (cont.)**

**Notes and
References**

copy of the death certificate, it can, can be obtained from the Registrar of Vital Statistics, County Clerk-Recorder’s Office. If a certified copy is required, the SPO will then authorize the purchase of a certificate and notify the AOP Supervisor to complete the request. The same method is utilized whether the probationer died in Santa Barbara County or another jurisdiction.

- a. If there is an unpaid financial balance, the account should be closed via notice to the Revenue Recovery Unit
- b. If there is unpaid restitution, the supervision officer must notify the victim(s) or agency of the probationer’s death.

Pro-129
Pro-212c

B. Dismissals

“In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation...been discharged prior to the termination of the period of probation...a court, in its discretion...determines that a defendant should be granted relief available under this section...is not then serving a sentence for any offense, on probation for any offense...the court shall thereupon dismiss the accusations or information against the defendant...”

1203.4(a) PC

- 1. The application for dismissal and change of plea may be made by the probationer in person or by his/her attorney or by the probation officer in writing. If the supervision officer receives a notice of hearing for a termination of probation or dismissal, he or she will request the appropriate record checks, review the case, print a copy of the financial report, and make a “event” note in IMPACT. The file will then be given to the Supervising Probation Officer for review prior to the Court hearing.

C. Required clearances

Pro-121

- 1. Record Bureau clearances

Prior to a case being presented to the court for termination or dismissal, or is due to expire, the probationer’s criminal history and DMV record during probation must be ascertained.

**PROBATION DEPARTMENT
ADULT MANUAL**

Chapter No. 3211	Page 5
Issue Date:	08/31/84
Revised:	12/30/19

**TERMINATION, DISMISSAL AND EXPIRATION
PROCEDURES (cont.)**

**Notes and
References**

2. Financial record clearance

All financial accounts should be paid in full prior to termination, dismissal or expiration in all cases where there have been financial orders as a term and condition of probation.

3. District Attorney clearance

In felony cases only, at least 10 days prior to submitting an ex-parte request for termination, dismissal and/or reduction of an offense to a misdemeanor, the supervision officer will notify the District Attorney of the intended action. Any written comments, objections, etc., from the District Attorney are to be attached to the report to the court. If, after 15 days from the submission of the notification, no response is received, the supervision officer will proceed with the matter, but will attach a copy of the request to the District Attorney.

D. Court reports

1. A Request for Termination of Probation is to be used only for routine dismissals where there have been no arrests or violations during the period of probation and where its use provides adequate information for the Court.

2. Whenever there has been a violation of probation and the defendant has been continued or reinstated on probation, and in any case in which there may be a continuing interest by the Court, such as one of serious community concern, an offense of an aggravated nature, the probationer severely maladjusted, or in which there is a need to advise the Court fully as to the defendant's adjustment under supervision, a complete report is required.

3. In special expiration situations where there are unusual circumstances favorable to the probationer which may indicate the appropriateness of a modification, the supervision officer should prepare a complete memorandum report stating all the facts and make a recommendation appropriate to the situation, e.g., that the original terms of probation be modified to set aside the unpaid

Pro-106

**PROBATION DEPARTMENT
ADULT MANUAL**

Chapter No. 3211	Page 6
Issue Date:	08/31/84
Revised:	12/30/19

**TERMINATION, DISMISSAL AND EXPIRATION
PROCEDURES (cont.)**

**Notes and
References**

balance of the fine, and that the case be dismissed. A CHO note is acceptable when a CHO is present in court.

4. All dismissal reports must include a statement naming the identification bureaus and agencies actually cleared, and the results of such clearance.

III. Expiration list procedure

- A. IMPACT reports may be utilized to generate cases expiring and should be reviewed by the supervision officer on a quarterly basis, listing four months in advance those probationers whose probation period is scheduled to expire.

1. Cases that are approaching expiration are reviewed by the supervision officer, who will initiate a CLETS check request, an NCIC check if the probationer was out of state during the period of probation, and a DMV check. (The results of these checks must be indicated on subsequent termination reports).
 - a. Occasionally, through some inadvertence, a case which should appear on the expiration list will be omitted. In such cases, the supervision officer is not relieved of the responsibility for ensuring the accuracy of the listing.
2. If CLETS and DMV information does not become available or if the supervision officer suspects possible arrests not known to those agencies, it is the supervision officer's responsibility to check directly with the law enforcement agencies most likely to have had contact with the probationer.
3. If there is a financial obligation, it is the supervision officer's responsibility to check with the Revenue Recovery Unit. If there is outstanding restitution and the probationer has paid to the best of his/her ability, an Order for Restitution and Abstract of Judgment should be filed with the Court.

CR-110/111

**PROBATION DEPARTMENT
ADULT MANUAL**

Chapter No. 3211	Page 7
Issue Date:	08/31/84
Revised:	12/30/19

**TERMINATION, DISMISSAL AND EXPIRATION
PROCEDURES (cont.)**

**Notes and
References**

4. If the probationer has not complied with the Court’s financial orders, has been arrested and convicted of a new offense since the grant of probation, may otherwise have been in violation of probation, or if there are other circumstances of which the court should be aware, the matter is discussed with the supervisor to determine if the case should be returned to court for further disposition.
5. Verification of the case expiration date and any extensions ordered by the court shall be done to ascertain the expiration date indicated in their record.
6. At the point of expiration, it is important that a careful evaluation of the case be made to determine if all factors and interested parties have been prepared for termination, such as private and public social agencies that are involved in rendering a service, victim, family members, etc. Such notification can be done in writing or verbally and should be noted in IMPACT or scanned into the defendant’s file.

IV. Sealing the record

Section 1203.45 PC provides that a person under the age of 18 years at the time of the commission of certain misdemeanor offenses may petition for an order which seals the official records of the case. If the supervision officer receives a request from a probationer concerning the sealing of such a case, the supervision officer shall refer the probationer to the Juvenile Services Unit for such process under Section 781 W&I.

1203.45 PC

781 W&IC