

Prop 47 Procedures (11/14/14)

Petitioner must complete a Petition for Resentencing or Reduction to Misdemeanor, indicating whether they are seeking Resentencing or Reduction. They must also prepare a blank Response and Order to accompany the Petition. These forms will be made available on line in the near future. In the meantime copies may be made available at the front counter. In addition, the Public Defender's Office has indicated that the clerks may refer any defendants having questions or needing assistance with these forms to go to their office and they will help.

Upon filing, petitioner is required to immediately serve a copy on the District Attorney, together with the Response and Order form. We should have on hand a blank POS for the Petitioner to complete and file once service has been affected.

The District Attorney will review and file a completed Response within 30 days of service of the Petition, and will serve on petitioner a copy of the response...

Upon receipt of the DA's Response, if the defendant has checked the "Waiver" box under "C", the clerk will immediately give the Petition and Response to the Department 4 judge in Nevada City, and to Judge Tamietti in Truckee. If the "Waiver" box "C" is not checked, the clerk will immediately give the Petition and Response to the original sentencing judge, if that judge is available. If not it will go to the Presiding Judge, or to the Presiding Judge's designee, for determination. Presently, the "designee" is the Department 4 judge in Nevada City, and Judge Tamietti in Truckee.

If the petitioner is currently in County Jail or State Prison related to this case or if the District Attorney indicates the petitioner is ineligible; the court will set a hearing and provide notice. These hearings will be set in Department 4 on a Monday afternoon or Friday morning in Nevada City, and on a Tuesday in Truckee, unless/until a different date and time are selected. The public defender's office will be automatically appointed to represent the defendant in that instance (unless, of course, defendant has retained counsel) and they will be immediately provided with a copy of the Petition and Response.

If the defendant is eligible for the relief requested and no hearing is required, the judge will grant the Petition using the Response and Order form. A copy will be provided to the Petitioner and District Attorney's Office.