

## Tips for Your First Clean Slate Hearing

- **State criminal court is not like federal court!**
  - You'll be attending the motions calendar in an overwhelmed criminal court. There are likely to be several dozen matters on the calendar. The DAs and PDs will come and go very informally at the bar, and it will look confusing.
  - Your matter will likely be given no more than 5 minutes.
- **When you receive the hearing notice.**
  - **Communicate with your client.**
    - Let them know whether they should attend (discuss with Pro Bono Supervisor). If they are attending, they should make a plan for transportation if they need one. They should arrive at least 20 minutes before the beginning of the motions calendar. They should dress nicely. Many people who do not work in offices don't have business clothes. If they're worried about that, let them know that they just need to look tidy and respectful. Ideally no jeans or sneakers. A collared shirt or blouse. Skirts should not be short. No writing on shirts. In all likelihood your client has been to court more than you have and already knows the drill.
    - The client generally does not need to speak at the hearing, but they should be prepared to answer questions about their efforts at rehabilitation. Most people are happy to talk about what they've accomplished.
  - **Preparation.**
    - **The court's website is extremely helpful – use it!** It will have the calendar for the week, so you can see how many cases are on your day, and where you are in the list. It will give you directions, tell you which department you should be in, and will have information about your judge.
    - Be sure you know your record, both the individual convictions and sentences, and the details of your client's efforts at rehabilitation.
    - If you have to juggle multiple convictions at one hearing, it's best to use a "cheat sheet." You may need to answer specific questions, so it's best to have information at your fingertips. Give a copy to the prosecutor and ask the judge if they would like one as well. Most judges appreciate it, since they have a lot to keep track of.
    - The judge will either ask you to state the reasons for your motion (open-ended) or ask you questions. To be prepared for either possibility, you should be prepared to summarize the motions. If you have any mandatory cases, or cases where the DA has not objected, point out why they should be granted first. Then move on to discretionary cases. For discretionary

matters, prepare a BRIEF explanation for why the judge should grant your client a second chance at employment and dignity.

- If you will need a translator for your client, check with the court about how to request one. Also check with the court to find out if hearings are taking place in person or over video, if relevant.
- **The Day Before.**
  - Be sure you've got your business cards.
  - Gather copies of your motions and the prosecutors' responses. Make sure you have clean copies of your proposed orders in case the judge doesn't have them. If you have multiple cases, it might be easiest to put everything in a binder with tabs for each case. A litigation secretary or legal assistant can help you with this.
  - Plan to dress in a suit or business dress. The DAs and PDs will look a little casual because it's their home turf. You should not.
  - Figure out how you're going to get there. **YOU CANNOT BE LATE**, and most criminal motions calendars start at 8:30 am, some judges expect you there early. You'd be surprised how long it takes to get to Napa or Fairfield on a weekday morning, and you'll have to find parking in an unfamiliar place. For courts more than a few hours' drive away at rush hour, you may want to ask permission from your supervising partner or pro bono manager to go the night before and get reimbursed for lodging.
- **The Hearing.**
  - **Arrive at least 20 minutes before the hearing.** When you arrive at the courthouse, there will be a metal detector and security. There may be a line, so you should leave plenty of time. You should know the department number from your preparation! If you don't know where to go, ask the courthouse security staff. They are generally very helpful.
  - Meet your client outside the hearing room. If for some reason your client doesn't show up, you can still do the hearing. They are not required to be present. (Of course, they should be!!)
  - Once the doors are open, check in with the courtroom deputy (in uniform) or the courtroom clerk (seated at a desk in front of the bench). You'll be able to tell who is checking people in by what other lawyers are doing. Write your client's name on your business card and give it to the deputy or clerk. Let them know that you are not usually in this courtroom and may not know the procedures as well as a PD would. They are usually really nice about it. The business card is for the court reporter – that way they don't have to ask how to spell your name.

- If you can identify the DA, introduce yourself and see if he/she plans to object to the petition/order.
- Wait for your case to be called. Walk past the bar. The DA is usually on the left. Take the table where the DA is not sitting (usually the right). Your client should come up as well.
- As soon as you are standing at the table, say “Good morning, your honor, [your name] for defendant [client name].” Then introduce your client.
- The judge will either ask you to state your argument (open-ended) or have specific questions for you (closed-ended). You have prepared for either possibility!
- The judge will allow the DA to respond, and then may ask you to respond to the DA. You should limit this rebuttal to just what is pertinent to what the DA raised.
- If you have multiple cases, offer the judge and the DA a copy of your demonstrative to make it easier to keep the cases straight. If the judge says yes, **you approach the clerk, not the judge**, and hand it to them. They will give it to the judge.
- The judge will in most cases make decisions right away. Keep track of the decisions on the cheat sheet.
- If the judge doesn’t sign the proposed orders you submitted with your motion, ask the judge how they would like to handle the orders. Tell them you have proposed orders with you, or ask if you can submit proposed orders to the clerk for signature later. If the judge asks for your proposed orders, again, **hand them to the clerk, not the judge**.
- Ask if you can deliver the signed orders to the clerk’s office so that you can take copies with you. If they say no, that’s fine, but you will need to get copies later.
- If the judge grants the motions, they will often congratulate you client on a job well done. If they don’t, they will often give encouragement to keep up the good work and apply again in a year or two.
- **That’s it!** Gather your things and move out of the way for the next matter.
- **After the hearing.**
  - Make sure you get copies of the court’s orders. If the judge hasn’t signed them on the spot, you will need to ask the clerk’s office to send them to you
  - Send copies of the executed orders to the DOJ and your client. The DOJ will remove convictions from your client’s records much faster this way.