

MC-1000

Petition for Review of Denial of Request to Remove Name From Gang Database

Instructions: Please read the instructions on page 2 of this form before completing and filing this form.

Notice to the Clerk: This petition is filed under Penal Code section 186.35 and California Rules of Court, rule 3.2300. Rule 3.2300(c) requires the presiding judge of each superior court to designate one or more judges to hear such petitions. This petition must be submitted to one of those judges.

Clerk stamps date here when form is filed.

1 Name of Person Filing This Petition:

- I am: The person whose name is in the gang database.
 The parent or guardian of the child under 18 whose name is in the gang database.

Your lawyer in this case (*if you have one*):

Name: _____ State Bar No.: _____

Firm Name: _____

Address (*If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer, give your information.*)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____ E-mail: _____

Fill in court name and street address:

Superior Court of California, County of _____

Court fills in case number when form is filed.

Case Number: _____

2 Decision You Are Requesting Be Reviewed

I am seeking review of the following law enforcement agency's denial of my request under Penal Code section 186.34 to remove my name or the name of my child or ward from a shared gang database. (*Complete a. or b.*)

Name of law enforcement agency: _____

Address: _____

City: _____ State: _____ Zip: _____

- a. The decision denying the request was served on me/my client by the law enforcement agency:

By personal delivery By mail on (date:) _____

You must attach a copy of the written verification denying your request.

- b. The agency did not respond to my request, which I submitted in writing:

By personal delivery By mail on (date:) _____

You must attach a copy of your request and written documentation contesting your designation.

3 Reason for This Petition for Review

I am seeking review of the denial of my request on the basis that the law enforcement agency has not established by clear and convincing evidence the active gang membership, associate status, or affiliate status of the person whose name I requested be removed from the shared gang database.

4 Written Argument

- I have attached my written argument about why, based on the record specified in Penal Code section 186.35(b), the law enforcement agency has failed to establish by clear and convincing evidence the gang membership, associate status, or affiliate status of the person whose name I requested be removed from the street gang database.

NOTE: You do not have to submit written argument, but if you wish to, you can either include that argument in this petition or serve and file the argument separately within 15 days after the law enforcement agency serves and files the record in this proceeding. Please see rule 3.2300(f) for information about submitting written argument.



(5) Request for or Waiver of Oral Argument

I understand oral argument can be requested in this case. I am am not requesting oral argument.

Date: _____

Type or print your name

Signature

Instructions

This form is only for seeking review by a court of a local law enforcement agency's written or deemed denial of a request under Penal Code section 186.34 to remove an individual's name from a shared gang database.

You must serve and file this form **no later than 90 calendar days** after either (1) the law enforcement agency serves you with written verification of its decision denying your request under Penal Code section 186.34 to remove your name from a shared gang database or, if you are the parent or guardian of a child under 18 whose name is in the gang database, the child's name; or (2) the date your request was deemed denied under Penal Code section 186.34(e). **If your petition is late, your request will be dismissed.**

To serve and file this form, complete the following steps:

1. Fill out this form

In the second box on the right-hand side: Fill in the name of the county for the superior court where you plan to file the petition and the street address for the court (see rule 3.2300(d)(3) for information about where to file this form).

In Item 1: Fill in your name and check the box to indicate if you are the person whose name is in the gang database or that person's parent or guardian.

Fill in the name and firm name of your lawyer, if you have one.

Fill in your lawyer's contact information or, if you do not have a lawyer, your contact information.

In Item 2: Fill in the name and address of the law enforcement agency whose decision you are petitioning the court to review.

(a) If you received a written decision from the law enforcement agency denying your request to remove your name or the name of your child or ward from the gang database, attach a copy to the form.

(b) If you did not receive a decision, and your request was deemed denied, complete the date and way in which you submitted the request.

In Item 4: Check to indicate if you are attaching written argument to this request.

In Item 5: Indicate whether or not you want to have oral argument on your petition or whether you want to give up (waive) oral argument and have the court decide the case without oral argument.

At the end of the form: Print and sign your name and fill in the date you signed the form.

2. Make copies of the form

Make a copy of the completed form for your records and one for the law enforcement agency.

3. Serve the form

Serve a copy of the completed form and any required attachment on the law enforcement agency and keep proof of this service. You can get information about how to serve court papers and proof of service on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

4. File the form

Take or mail the original completed form with a copy of the law enforcement agency decision attached and proof of service on the law enforcement agency to the civil clerk's office of the court where you file this form. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

Pay the \$25 filing fee and file this form, or if you are unable to pay this fee, file a request to waive court fees (form FW-001) in the court.