





Declaration Drafting

Volunteer Training



Agenda

1. Introduction to Root & Rebound
2. Why your role is so vital!
3. The record clearing process & your role in it
4. Effective Declaration drafting: Trauma-Informed Interviews & Cultural Humility
5. Logistics

About Root & Rebound

ABOUT ROOT & REBOUND

MISSION: Our mission is to support people navigating reentry and reduce the harms perpetuated by mass incarceration.



11 AREAS OF LAW & LIFE



Housing



Public Benefits



Parole & Probation



Immigration



Education



Understanding and
Cleaning Records



ID & Voting



Family



Court-Ordered Debt



Employment



Tribal Law

How many Legal Barriers Based on
Having a Record ?

> 40,000

Your Role



What is your role?

You will:

- ✓ Complete the declaration interview with the client
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- ✓ Email the declaration (in Word format) to R&R

You will **not**:

- ✗ Be responsible for unresponsive clients (please let us know, though!)
- ✗ Advise the client on the impact of a cleared record
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- ✗ Compile the entire filing

Note: If not participating in declaration drive, you will also be responsible for contacting and scheduling the declaration interview with the client.

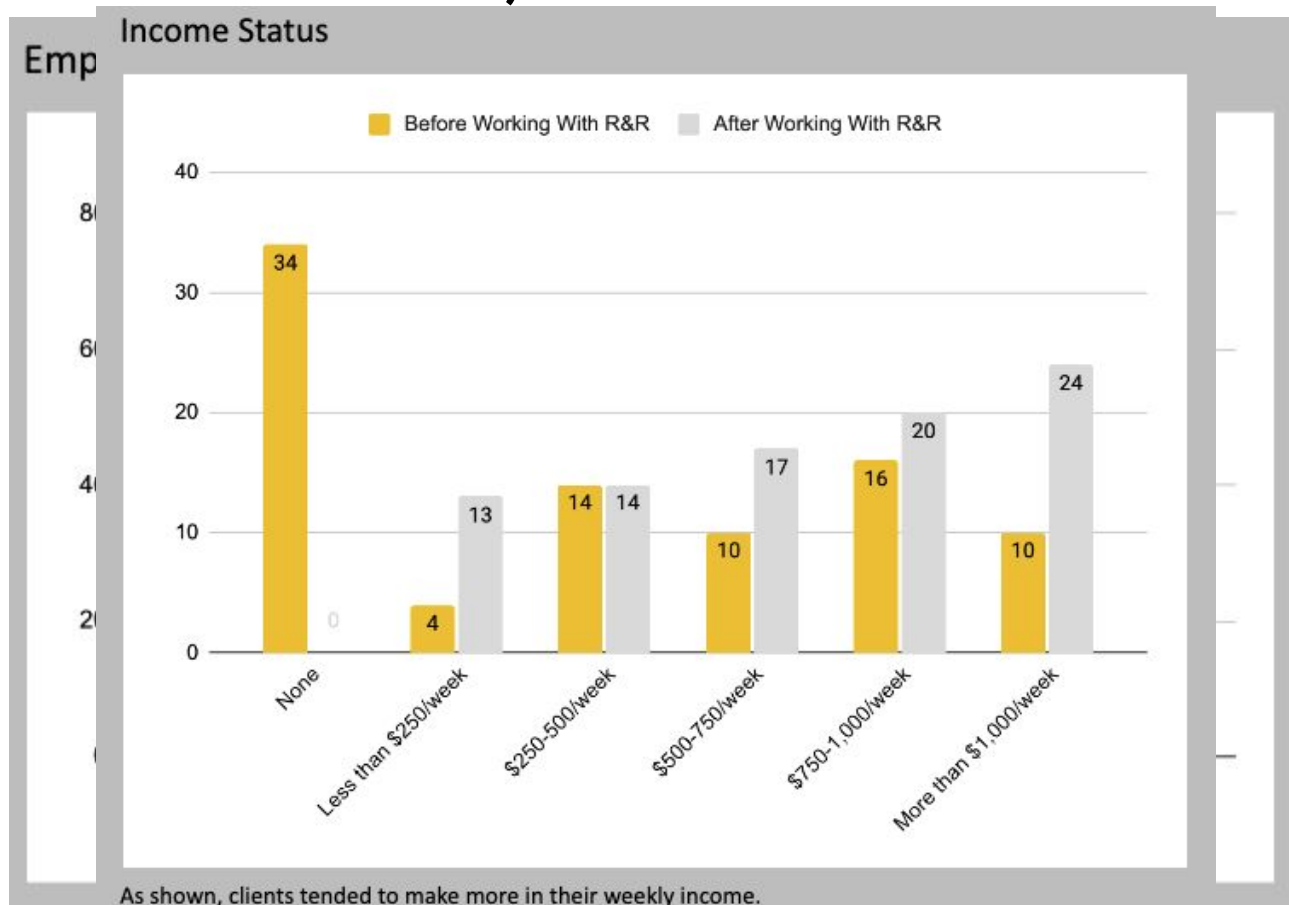
Declaration Day (and Surrounding days) overview

- The week before:
 - Watch this training
 - Review, Agree to, and Sign the Volunteer Confidentiality Agreement. Return it to R&R
- The day before the drive:
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- By EOW:
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Why Your Role is so Vital

Economic Wellness: Survey of R&R former Clients

(survey results from fall 2022)





"The next step for me: Move up quickly in the job that I got because of you guys, and then just rock it out."

— R&R client Margo

Margo had been unable to find steady employment, no matter how hard she tried, because her record always came up in background checks. After she met with a R&R attorney who explained she was eligible to clear her record — something Margo didn't even know was an option — Margo's record was cleared. Finally, Margo got the phone call she had been waiting for. She said, "I felt like, 'Oh my goodness someone is finally calling me back! I'm actually going to get this job!'" And Margo did.

In listening to & writing down the client's story you:

- Validate the trauma and harm that many of our clients have suffered before and during their conviction histories.
- Empower them in sharing their experiences and stories.
- Support them in moving forward with their lives.
- Get them one step forward in eliminating legal barriers.
- Support the education of the legal profession (DA, yourself, judge, court staff) about the wider context of criminal cases and the client.

The client declaration allows the client to present themselves as fully human and fully deserving.

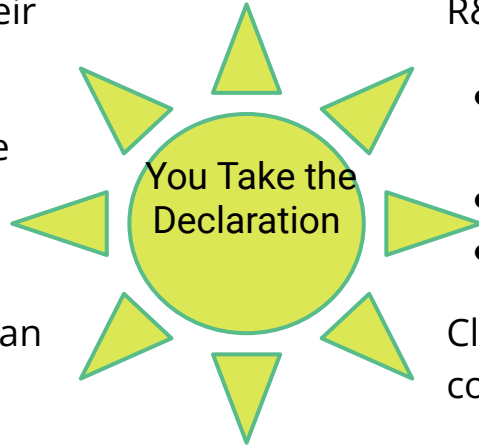
The Record Cleaning Process

Root & Rebound has already:

Met with the client to discuss their goals.

Screened the client to determine eligibility

Communicated the process generally and what a dismissal can and cannot do.



Post Declaration:

R&R staff will:

- review the declaration, confirm everything with the client
- File and serve the paperwork
- Coach the client on next steps

Client will (most of the time) appear in court for the dismissal hearing.

R&R will continue to work with the client on their underlying issue-- if applicable.

What underlying issue!?

- Housing
- Employment
- Occupational Licensing
- Privacy
- Dignity

Sometimes:

- *Working with vulnerable populations*
- *Future prosecution*
- *Gun possession*
- *Immigration status*
- *Government registration*

Most judicial dismissals are “discretionary”

Factors that make a dismissal discretionary:

- Certain convictions are always discretionary: DUI's (most common)
- If they violated probation or had a new conviction while on probation
- If they served a prison term for that low-level felony or a “realignment” sentence in county jail.
- If they worked in a firecamp while incarcerated.

What does it mean for the petition to be discretionary?

Up to the court whether or not to grant the dismissal. The court considers whether a dismissal is “in the interest of justice”

Basically, we need to give the judge a good reason to grant the motion.

Discussion: What are some reasons a dismissal would be “in the interest of justice” and what kind of evidence would you use to show that?

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Effective Interviewing & Declaration Drafting

Volunteer Website

Comprehensive guide to drafting
declarations at Root & Rebound.

<https://www.rootandrebound.org/4423-2/>

Contains:

Instructions & FAQ's

Sample client summaries

Sample declarations (redacted)

Presentation Slides

Confidentiality Agreement

Client handouts

Review the Client Summary before the Call

Any notes from the attorney including client's goals, history, or other factors: Donald is interested in getting his Real-estate license after cleaning up his record. He is recently off of probation and still working on paying his court fees.

Expungement Case Factors: His Alameda County case is more recent and he served a prison sentence for it– therefore more evidence of rehabilitation (such as letters of support, certificates or other materials), as well as a thorough declaration will be extra important in moving the judge to grant that case. On the other side, Alameda tends to be fairly progressive in expungements, and the other cases are less serious.

Case Info:

<u>County & courthouse</u>	<u>Date of conv.</u>	<u>Offense description</u>	<u>Fel/Misd</u>	<u>Other notes</u>
Sutter	5/31/2004	Pos. drug paraphernalia	Misd	
Humboldt	8/23/2007	"	Misd	
LA - Airport Courthouse	9/24/2012	Grand theft	Felony	Does he know if it was under 950\$? Any memory of what was taken?
Alameda	12/15/2016	robbery	Felony	He worked in a firecamp for this conviction, any information about the firecamp is helpful!

Structuring the Conversation

1. Introduce yourself, ask how they are doing right now (act like a human)
2. Explain the purpose of the call and the purpose of the declaration.
3. Conduct the interview.
4. Confirm whether or not they would like to submit any letters of support with their declaration.
5. Explain next steps and expected timeline.

Declaration Questions / Topics

What is your goal in clearing your record?

How is this / are these convictions holding you back?

Tell me about what was happening at the time of the conviction(s).

What have you been doing since the convictions? (Include relevant dates or estimations)

What are your goals moving forward?

Who are you today?

What else would you like the court to know about you or your situation in considering this petition?

Additional, Follow-up Questions

When you think back, is there a certain time in your life (“light bulb” moment) that made you change how you were approaching things? What happened and how did it impact you?

What has [program/church/hobby etc] taught you?

How has _____ influenced you?

What motivates you?

What are some of the things that are most important to you today?

“Wow! _____ is a great accomplishment. How did that make you feel?”

Best Practices

- Do not use legal jargon when explaining things. **Discuss:** what legal jargon have we heard in this training & what would you say instead?
- This experience (both the declaration drafting and record cleaning generally) are opportunities for client empowerment, not retraumatization or bureaucratic treadmills. Try to implement that opportunity.
- If a client expresses distress, discomfort or frustration, then acknowledge, validate and respond (can skip question, move on and come back, or offer to end the interview and come back to them-- as you see fit).
- It's OK to slow down the questions if the client expresses distress or a trauma response. Let client know that they can take breaks.

Expressing Empathy

- Active listening without judgement
 - Ex. "I hear you"
- Grasping the client's thoughts, feelings, experiences and perspective
 - Ex. Open ended question to get client's perspective: "What would this look like for you if everything was resolved?"
- Conveying that understanding to the client
 - Ex. "Your best case scenario is to get this expunged so you can move forward with your life."
- Reflective listening and validating the client's reality
 - Ex. "It sounds like you have been through a lot," "Anyone experiencing what you have would struggle in some way," "You did what you needed to do to survive."
- Working to understand the client's inner experience too and effectively communicating that to the client
 - Ex. "What are people not understanding about how this has impacted you?"



Let's look at declarations

Linked on the Pro Bono Webpage



Read the Sample Declarations in the Volunteer Manual

Sample Declarations:

- What common themes do you see?
- How are each of these different?
- Does each give good reasons for the petition to be granted in the “interest of justice,” in your opinion?

Letters of Support

Clients should send their completed letters to Root & Rebound.

Discuss:

- Who is a good person to write a letter of support?
- What types of things can / should be in the letters?
- What makes a strong letter of support? What makes a weak one?
- How can a client approach someone to request a letter of support?
- In which types of situations might a letter of support be more important?

What if...?

Discuss: What are some concerns or questions you have about things a client might raise during a declaration interview?

Client wants to talk about non-convictions.... What to do?! *Redirect as you are comfortable, and we will work with them on revising if needed.*

Logistics, Next Steps

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Beyond Declaration Day-- ways to get involved

If you are interested in continuing to support clients with declarations, please let Root & Rebound know. We can connect you with clients who are ready for declarations and then you schedule with the client to complete the declaration on your schedule (at your own pace, usually one or two per month).

Thank you!
