



# Certificate of Probable Cause FAQs for Criminal Case Defendants

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**1. What is a certificate of probable cause?**

- Generally, when you enter a guilty or no-contest plea to a criminal charge, you cannot appeal to change or challenge your plea, or challenge anything that occurred prior to the entry of the plea.
- However, some issues can be raised on appeal if you obtain a certificate of probable cause that is granted by the trial court judge as a part of your notice of appeal.
- The certificate asks the trial court judge (usually the judge at sentencing) to certify a non-frivolous appeal issue that challenges the validity of your plea or admission.
- If your certificate of probable cause is granted by the trial court, then you are permitted to raise additional issues on appeal that would ordinarily be waived by your plea or admission.

**2. Do I need a certificate of probable cause?**

- The general rule is that you need a certificate of probable cause if after sentencing from a guilty or no-contest plea, or from a revocation of probation admission, you want to appeal one or more issues regarding your plea bargain, the court process, or a denied motion that occurred prior to the plea being entered.
- A denied motion to suppress is the most common exception to this general rule for pleas. – See Question #13 below.
- Consult with your trial attorney for other exceptions to the general rule for pleas.
- You do not need a certificate if you had a jury trial or a contested violation of probation hearing.
- Juvenile adjudications. – See Question #15 below.

**3. How do I ask for a certificate of probable cause?**

- You can ask for a certificate of probable cause by checking box 2.a.(3) on the [Notice of Appeal CR-120 form](#) and listing or briefly describing your issue(s) on page 2 of the form.
- You don't need to cite law when describing your issue. State it in your own words.

**4. What if my certificate of probable cause was denied by the trial court judge?**

- If your certificate of probable cause was denied, then your appeal will still be processed by the Superior Court clerk, but it will be limited to only issues that can be raised that don't require a certificate of probable cause, such as sentencing issues.
- If you want to challenge the court's denial of your certificate of probable cause, you need to file a petition for writ of mandate, which is not covered in this FAQ list.

**5. I asked my lawyer to request a certificate of probable cause but they didn't, now what can I do?**

- Re-contact your lawyer; it might not be too late to file an amended notice of appeal.
- If your appeal deadline has passed, write to the [appellate project](#) that is within the [appellate jurisdiction](#) for the Superior Court that sentenced you. CCAP reviews matters for counties located only in the Third and Fifth appellate districts.

**6. Is it too late for me to ask for a certificate of probable cause?**

- The deadline to appeal and request a certificate of probable cause is 60 days from the date of felony judgment/sentencing.
- Delay beyond this deadline will usually result in the Superior Court clerk deeming your late notice as an "inoperable appeal," and your appeal will not be processed by the court.
- Count the actual days; not every month has 30 days in it. You can use the CCAP [Day & Date Calculator](#) to calculate your 60-day deadline.

**7. My certificate of probable cause was granted, so why can't I raise the issues I want on appeal?**

- There are some issues that cannot be raised on appeal, even if you are granted a certificate of probable cause.

**8. I waived my right to appeal my case as part of my plea agreement, can I still appeal if I get a certificate of probable cause?**

- It depends. If there are issues you would like to raise by appeal, then it's important to file your notice of appeal and request for certificate of probable cause by the 60-day deadline. If you have an attorney, then you should discuss whether you can raise your issues with your attorney.

**9. What issues can I raise without asking for a certificate of probable cause?**

- You can raise issues that arose after your plea that don't challenge the validity of the plea.
- Usually, these issues include sentencing issues such as custody credits, restitution, fines and fees, etc.
- A denied motion to suppress is the most common exception. – See Question #13 below.

**10. I think that some of the new laws passed might apply to me, do I need a certificate of probable cause to ask whether they apply to me?**

- No, you do not. *People v. Stamps* (2020) 9 Cal.5th 685, says that you can raise new changes in the law without a certificate of probable cause. However, the DA may be able to cancel your plea bargain if you raise changes in the law which affect parts of your plea. It is always best to discuss your options with your lawyer as they can advise you if your plea is at risk by raising certain issues on appeal, including new changes in the law.

**11. I have a plea agreement for a stipulated sentence, can I ask for a certificate of probable cause?**

- Yes, you can.

**12. Do I need a certificate of probable cause to challenge my fines and fees or conditions of probation?**

- No, unless you waived your right to appeal as part of your plea bargain.

**13. My suppression motion was denied and then I pled out, can I still appeal the denial of my suppression motion?**

- Yes, you can still appeal the suppression motion, unless you waived your right to appeal as part of your plea.
- See checkbox 2.a.(2) on the [Notice of Appeal CR-120 form](#).

**14. I wasn't advised of the immigration consequences of my plea, do I need a certificate of probable cause to raise this issue?**

- No, you do not need a certificate of probable cause to appeal the denial of a Penal Code section 1016.5 or a Penal Code section 1473.7 petition.

**15. I have a juvenile adjudication, do I need a certificate of probable cause?**

- No, you do not need a certificate of probable cause.

**16. My resentencing petition was denied, do I need a certificate of probable cause to appeal it?**

- Generally, no, you do not need a certificate of probable cause to appeal the denial of a resentencing petition. Please note however that at the time of writing this article some resentencing petitions are not appealable. This means that you cannot appeal the denial. For example, if you file a Penal Code section 1172.1 (formerly 1170(d) and 1170.03) motion for resentencing in pro per (on your own, not at the request of the DA or CDC) then you cannot appeal that denial.

**17. I felt pressured into accepting a plea bargain by my lawyer or someone else, do I need a certificate of probable cause to raise this issue on appeal?**

- Yes.

**18. I don't think my lawyer did a good job to represent me and was ineffective in my case, do I need a certificate of probable cause to raise this issue on appeal?**

- Yes.