



Arrest Records & Work

Shasta County Health and Human Services Agency
CalWORKs Employment Services Program





Arrest Records & Work

Arrest records can make it hard to get a job.

Is a conviction holding me back from getting the job I want?

If my answer is yes, I need to take action! This Tool Kit goes over some of the options for cleaning up my legal issues so I can get work or a better job.

Action Items:

- Learn how to obtain and review my arrest record (“rap sheet”).
- Learn what I must tell about my convictions, and the best ways to list them when completing job applications.
- Learn how to clean up my California conviction history by applying for a Certificate of Rehabilitation (COR), a “traditional” pardon, an expungement (having your conviction set aside and dismissed), or a pardon.
- Learn about useful websites. If I don’t have a computer I may be able to use one at the local library or community employment center. If I need help, I won’t be afraid to ask for help.



THE KEY TO YOUR SUCCESS IS PREPARATION. GOOD LUCK!

“Arrest Records & Work”

The information in this packet is provided for general purposes only and is not legal advice. We attempt to provide quality information, but the law changes frequently and can vary in different regions of the country. If you require legal advice please consult with an attorney.

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Arrest Records

If you have ever been arrested and fingerprinted for breaking a state or local law in California, you have an arrest record. This is true even if you were never found guilty of the charges. The arrest record is kept on permanent file with the Department of Justice (DOJ) in Sacramento. These records are also called “rap sheets”.

If you have a rap sheet, it is important to make sure the information is correct. In looking for work, you may need to report arrests and convictions. Some employers may be able to get a copy of your rap sheet.

The California DOJ keeps track of arrests in California only; cases from other states and federal cases will not appear on your California rap sheet.

State and local courts send information to the DOJ after your case is over. This is known as the “disposition” of the case. There are many possible dispositions which could appear on your rap sheet. Common dispositions include “NOT CONVICTED”, “DISMISSED”, “ACQUITTED”, “NOLO” (you don’t admit guilt, but are convicted), and “CONVICTED”. A conviction is generally a **guilty plea or a court’s finding of guilt**.

The FBI keeps a complete list of your arrests in all states and for federal cases. Your California DOJ file will include your FBI computer code number.

Why Should You Review Your Rap Sheet?

1. So you can fix any mistakes.
2. So you can fill out job applications correctly, and prepare for job interviews.
3. For non-citizens, getting your record cleared could help avoid deportation.

Being prepared can help you find and keep work.

Offenses That May Be on Your Rap Sheet

1. Infraction: Non-criminal law violations, where the penalty may be a fine, but not jail time. Most infractions are traffic-related. Common infractions include many traffic violations, first conviction for loitering, or trespass. If you got an infraction, you were not convicted of a crime; you were convicted of an offense. This is important for when you answer questions about convictions for crimes.

2. Misdemeanor: Criminal offenses less than a felony. These are crimes in which possible jail time is less than one year and/or a fine under \$1000. Examples of misdemeanors include petty theft, a fist fight, and leaving the scene of an accident.

3. Felony: Serious criminal offenses. These can be punishable by time in state prison for more than one year. Common felony charges include intent to sell controlled substances, burglary, robbery, arson, and carjacking.

How To Get a Copy of Your Rap Sheet

You have the right to obtain a copy of your California rap sheet from the California DOJ. This is done by completing a “Request for Live Scan Service – Form BCIA 80 16RR”, available at http://oag.ca.gov/sites/all/files/agweb/pdfs/fingerprints/forms/bcia_8016RR.pdf or by writing to:



California Department of Justice
P.O. Box 903417
Sacramento, CA 94203-4170
Attn: Record Review Unit
(916) 227-3835

You will also need a copy of your fingerprints. You can get your fingerprints from any law enforcement agency. Check to see if they charge a fee.

Send your completed form and the set of fingerprints to the California DOJ. You also need to send the appropriate fee. To check to see what the current fee is, please visit <https://oag.ca.gov/fingerprints/security>. You can pay the DOJ by personal check from a California bank, U.S. money order, certified check, or cashier’s check. Make the check payable to the “California Department of Justice”.

The California DOJ may not charge the application fee if you have “financial hardship” or are an inmate. You will need to fill out a fee waiver form, and give proof you have no money to pay, such as proof of receiving public assistance or MediCal. You can get the fee waiver form from a Superior Court Clerk or by visiting this link: <http://www.shastacourts.com/Forms-Filings/Forms-Filing.shtml>

Warning: If you think that there may be an outstanding warrant for your arrest, you should clear it up before you contact the DOJ. To clear up an open warrant, contact an attorney or call your local public defender.

FBI Rap Sheet

To get a copy of your rap sheet (Identity History Summary Request) from the FBI, visit <https://www.fbi.gov/about-us/cjis/identity-history-summary-checks/submitted-an-identity-history-summary-request-to-the-fbi>.

You will need to submit a complete set of fingerprints along with the Applicant Information Form (included in the above link). The FBI charges \$18 for your FBI record, so you must enclose a certified check or money order payable to the “Treasury of the United States”.

The fee may not be charged if you send a notarized letter explaining that you cannot pay the fee.

Job Applications

What information must I give about my criminal record?

You do not have to tell most employers:

- Arrests that did not lead to conviction.
- Arrests when you got a pre-trial diversion, and finished all your requirements.
- Sealed or purged convictions.
- Expunged convictions. *Exception:* Applicants for any government employment or any government license must still answer "Yes – Conviction Dismissed" if asked.

How Do I List My Convictions?

Pay attention to the questions. Give only the information asked. If the employer is asking for convictions for the last 5 years, don't list one 7 years old. If the application asks only about felonies, you don't need to list misdemeanors or infractions.

Questions You May See on a Job Application

Q: "Have you ever been arrested? If so, explain."

A: Generally arrest questions are prohibited by law.

1. If you have arrests, but none resulted in conviction or you successfully completed pre-trial diversions, it is ultimately up to you how you choose to answer this question.
2. If you have any arrests that resulted in a conviction, answer "**yes**". (This does not include convictions that have been expunged or purged, unless you are applying for government employment or licensing.) Remember, a guilty or "nolo" plea to any infraction and/or crime is a conviction.
3. If you have been arrested and are waiting for your trial, answer "**yes**".

Q: "Have you ever pled guilty or been convicted of a crime, offense or violation of the law? If so, explain."

A: If you have any convictions, answer "**yes**."

1. List all misdemeanor convictions that have not been expunged or purged, and all felony convictions that have not been expunged. In addition, list all infraction convictions. This includes if you pled "nolo" or "no contest" to any charge.

Q: "Have you been convicted of a crime in the past 7 years? If so, explain."

A: If you have any criminal convictions within this period, answer "**yes**." List all misdemeanor convictions that have not been expunged or purged, and all felony convictions that have not been expunged, that occurred during the past seven years. You *don't* need to list traffic infractions (they are **not crimes**.)

Be able to **briefly** explain the facts about your convictions. Talk about your successes since then. Be ready to provide reference letters from a treatment provider or counselor, and from a clergy, community, or family member who can say how you have changed.

Clean Up Your California Criminal Conviction History

Certificate of Rehabilitation (COR)

A **Certificate of Rehabilitation (COR)** is a court order stating that a person convicted of a felony is now rehabilitated. This means a finding that you have become a good citizen and reformed from crime. If a petition for a COR is granted, it is sent to the Governor by the Court and is the application for a pardon. Special laws apply to those convicted of sex offenses. If you were convicted of a misdemeanor, you must use the "traditional" pardon process (see below). You must stay living in California for the entire "period of rehabilitation". The following information applies to California only.

The following agencies must, if asked by the applicant, provide help with the petition for a COR. They may not know of this duty, so bring a copy of Penal Code §4852.04 (see attached) to show them.

- Adult probation of the county;
- All state parole officers; and
- For people under the age of 30, the Juvenile Division of the Department of Corrections and Rehabilitation (formerly known as the California Youth Authority or CYA).

You can get the petition for a COR from a court clerk, probation department, and public defender's office.

"Traditional" Pardon

The "Traditional" Governor's Pardon (TGP) is mostly used by those who were convicted of a criminal offense in California, but who now live out of state. Persons who are not eligible for a Certificate of Rehabilitation (COR) and persons convicted of misdemeanor offenses can also apply for a TGP.

Applicants who want to apply for a TGP must either contact the Governor's Office, or the Public Defender's Office where they live. No fee is charged to apply for a pardon.

Governor's Office
California State Capitol
Attention: Legal Affairs Secretary
Sacramento, CA 95814

If the applicant has been convicted of one or more felonies in separate cases, the California Supreme Court, by a vote of four (4) justices, must first approve the granting of a full pardon.

For pardon, expungement, or Certificate of Rehabilitation forms, go to:

http://www.co.shasta.ca.us/docs/Public_Defender/docs/pardon_form.pdf (Pardon)

http://www.co.shasta.ca.us/docs/Public_Defender/docs/expungement_form.pdf (Expungement)

http://www.co.shasta.ca.us/docs/Public_Defender/docs/COR_pardon_petition.pdf (Certificate of Rehabilitation)

Clearing Your Criminal Record

In California, an expungement is the process to have your conviction set aside and dismissed (Cal. Penal Code §1203.4 and §1203.4a). Other states, the military, and the federal government may have similar procedures, but you must check with them to find out what is required. An expungement does NOT erase an actual conviction from your adult criminal record. But, it:

(1) May help you with getting a license or certificate needed for you to work in certain professions, (2) gives you the right to say “no” when asked by a private (non-government) employer about arrests or convictions, (3) Helps you with getting a Certificate of Rehabilitation (COR) or Pardon from the Governor.



If You Have Questions

If you have questions about expungement after you have read this, contact Legal Services of Northern California, 1370 West Street, Redding CA, 96001, (530) 241-3565. They occasionally have free expungement clinics; call to find out when.

California Proposition 47

Proposition 47 was passed in California in 2014 and reclassified certain low-level drug and theft offenses from felonies to misdemeanors. Persons currently serving or who have completed their sentences for felonies that qualify under the new provisions may apply to have those convictions reclassified as misdemeanors. For more information, see the California Courts website at <http://www.courts.ca.gov/prop47.htm> .

Useful Websites

California Court's Self-Help Center: <http://www.courtinfo.ca.gov/selfhelp> accessed 9/11/15

California Courts Self-Help Center – “Cleaning Your Record”: <http://www.courts.ca.gov/1070.htm> accessed 9/11/15

California Department of Justice, Office of the Attorney General, “Criminal Records – Request Your Own”: <http://ag.ca.gov/fingerprints/security.php> accessed 9/11/15

California Legislative Information – California Law – Code Search: <http://leginfo.legislature.ca.gov/faces/codes.xhtml> accessed 9/11/15

California Office of the Attorney General: <http://oag.ca.gov/> accessed 9/11/15

Federal Bureau of Investigation (FBI) – Identity History Summary Checks: <https://www.fbi.gov/about-us/cjis/identity-history-summary-checks> accessed 9/11/15

National HIRE Network – From Hard Time to Full Time – Strategies to Help Move Ex-Offenders from Welfare to Work: <http://www.hirenetwork.org/sites/default/files/From%20Hard%20Time%20to%20Full%20Time.pdf> accessed 9/11/15

Legal Action Center (<http://www.lac.org>) accessed 9/11/15

Legal Services of Northern California, (main website): <http://lsnc.net/> accessed 9/11/15

Legal Services of Northern California, (Shasta Regional Office): <http://lsnc.net/contact-lsnc-offices/#redding>

National HIRE Network: <http://www.hirenetwork.org> accessed 9/11/15

Shasta County Public Defender: http://www.co.shasta.ca.us/html/Public_Defender/pd_index.htm accessed 9/11/15

Superior Court of California, County of Shasta: <http://www.shastacourts.com> accessed 9/11/15

U.S. Department of Labor Directory of State Bonding Coordinators: <http://www.doleta.gov/usworkforce/onestop/FBPCContact.cfm> accessed 9/11/15

U.S. Department of Labor Federal Bonding Program Information: <http://www.bonds4jobs.com/index.html> accessed 9/11/15



California Penal Code Section §4852.04

“Each person who may initiate the proceedings provided for in this chapter shall be entitled to receive counsel and assistance from all rehabilitative agencies, including the adult probation officer of the county and all state parole officers, and, in the case of persons under the age of 30 years, from the Youth Authority.”

Sources

Information contained in this packet was adapted from material found on the following websites:

Arrest Records

- National HIRE Network <http://www.hirenetwork.org>
- Legal Action Center <http://www.lac.org> all links accessed 02/19/2016

How to Get a Copy of Your Rap Sheet

- National HIRE Network <http://www.hirenetwork.org>
- Legal Action Center <http://www.lac.org>
- State of California Department of Justice
http://oag.ca.gov/sites/all/files/agweb/pdfs/fingerprints/forms/bcia_8016RR.pdf all links accessed 02/19/2016

Job Applications

- National HIRE Network <http://www.hirenetwork.org>
- Legal Action Center <http://www.lac.org> all links accessed 02/19/2016

Clean Up Your California Criminal Conviction History

- Shasta County Public Defender http://www.co.shasta.ca.us/html/Public_Defender/pd_index.htm
- OneClerk Court Opinions <http://law.onecle.com/california/penal/4852.04.html> all links accessed 02/19/2016

Clearing Your Criminal Record

- Shasta County Public Defender http://www.co.shasta.ca.us/index/pd_index.aspx
- My Prop 47 <http://myprop47.org/> and <http://myprop47.org/app/uploads/2015/03/Reclassification-8.5x11-FINAL.pdf> all links accessed 02/19/2016

California Penal Code Section §4852.04

- Find Law for Legal Professionals
<http://codes.findlaw.com/ca/penal-code/pen-sect-4852-04.html> accessed 02/19/2016