



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.

01/2018

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. Common infractions include many traffic violations, first conviction for loitering, or trespass. If you have received 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. Process for fingerprints begins when you complete the **BCIA 8016 REQUEST FOR LIVE SCAN SERVICE** form. In California, fingerprinting must be performed by a certified fingerprinting roller or qualified law enforcement personnel. Please note: You must provide valid photo identification when being fingerprinted. Expired identification information will not be accepted. Once the application is received and processed, the DOJ will respond to the agency either electronically via a Secure Mail Server or U.S. mail. Process can take a minimum of seven days.

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> (accessed 01/2018). 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> (accessed 01/2018).

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/services/cjis/identity-history-summary-checks> (accessed 01/2018).

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

California Statewide Ban-the-Box Law

Assembly Bill 1008, effective January 1, 2018, contains new state-wide restrictions on an employer's ability to make pre-hire and personnel decisions based on an individual's criminal history.

The bill has made it unlawful for California employers with at least five employees to:

- Include on any application for employment any question that seeks the disclosure of an applicant's conviction history;
- Inquire into or consider the conviction history of an applicant before the applicant receives a conditional offer of employment; and
- Consider, distribute, or disseminate information about any of the following while conducting a criminal history background check in connection with any application for employment:
 - (1) an arrest that did not result in a conviction, subject to the exceptions in Labor Code § 432.7(a)(1) and (f);
 - (2) referral to or participation in a pretrial or post trial diversion program; and
 - (3) convictions that have been sealed, dismissed, expunged or statutorily eradicated pursuant to law.

Under AB 1008, consideration of an applicant's criminal history will be permissible only after the employer has made a conditional offer of employment. Once that offer has been made and the criminal history obtained, AB 1008 further provides that the employer cannot deny an applicant a position ***solely or in part because of conviction history*** until the employer performs an individualized assessment. This assessment must justify denying the applicant the position by linking relevant conviction history with specific job duties of the position sought.

AB 1008 **exempts** from its coverage only a handful of positions:

- Position for which a state or local agency is otherwise required by law to conduct a conviction history background check.
- Position with a criminal justice agency, as defined in Section 13101 of the Penal Code.
- Position as a Farm Labor Contractor, as described in Section 1685 of the Labor Code.
- Position where an employer or agent thereof is required by any state, federal, or local law to conduct criminal background checks for employment purposes or to restrict employment based on criminal history.

Answering Questions on a Job Application if Employer is Exempt from AB 1008

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 on a Job Application?

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 asked 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

"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.

01/2018

- 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.

The benefits of the expungement process are as listed:

- (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 64

Effective November 9, 2016, Proposition 64 legalizes specified personal use and cultivation of marijuana for adults 21 years of age or older; reduces criminal penalties for specified marijuana-related offenses for adults and juveniles; and authorizes resentencing or dismissal and sealing of prior, eligible marijuana-related convictions. The proposition includes provisions on regulation, licensing, and taxation of legalized use. For more information, see the California Courts website at <http://www.courts.ca.gov/prop64.htm> (accessed 01/2018).

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> (accessed 01/2018).

Useful Websites

California Courts Self-Help Center: <http://www.courtinfo.ca.gov/selfhelp> (accessed 01/2018)

California Courts Self-Help Center – “Cleaning Your Record”: <http://www.courts.ca.gov/1070.htm> (accessed 01/2018)

California Department of Justice, Office of the Attorney General, “Criminal Records – Request Your Own” <http://ag.ca.gov/fingerprints/security.php> (accessed 01/2018)

California Legislative Information – California Law – Code Search: <http://leginfo.legislature.ca.gov/faces/codes.xhtml> (accessed 01/2018)

California Office of the Attorney General: <http://oag.ca.gov/> (accessed 01/2018)

Federal Bureau of Investigation (FBI) – Identity History Summary Checks: <https://www.fbi.gov/about-us/cjis/identity-history-summary-checks> (accessed 01/2018)

National HIRE Network – From Hard Time to Full Time – Strategies to Help Move Ex-Offenders from Welfare to Work: <http://hirenetwork.org/sites/default/files/From%20Hard%20Time%20to%20Full%20Time.pdf> (accessed 01/2018)

Legal Action Center <http://www.lac.org> (accessed 01/2018)

Legal Services of Northern California, (main website): <http://lsnc.net> (accessed 01/2018)

Legal Services of Northern California, (Shasta Regional Office): <http://lsnc.net/office/redding> (accessed 01/2018)

National HIRE Network: <http://www.hirenetwork.org> (accessed 01/2018)

Shasta County Public Defender: http://www.co.shasta.ca.us/html/Public_Defender/pd_index.htm (accessed 01/2018)

Superior Court of California, County of Shasta: <http://www.shastacourts.com> (accessed 01/2018)

U.S. Department of Labor Directory of State Bonding Coordinators: <http://www.doleta.gov/usworkforce/onestop/FBPContact.cfm> (accessed 01/2018)

U.S. Department of Labor Federal Bonding Program Information: <http://bonds4jobs.com/> (accessed 01/2018)



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 30 years of age, from the Department of Corrections and Rehabilitation, Division of Juvenile Facilities. (Amended by Stats. 2015, Ch. 378, Sec. 8. Effective January 1, 2016.)”

[California Penal Code Section 4852.04](https://leginfo.legislature.ca.gov/) (from <https://leginfo.legislature.ca.gov/>, accessed 07/2017)

Sources

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

Arrest Records

- National HIRE Network <http://www.hirenetwork.org> (accessed 07/2017)
- Legal Action Center <http://www.lac.org> (accessed 07/2017)

How to Get a Copy of Your Rap Sheet

- National HIRE Network <http://www.hirenetwork.org> (accessed 07/2017)
- Legal Action Center <http://www.lac.org> (accessed 07/2017)
- State of California Department of Justice
http://oag.ca.gov/sites/all/files/agweb/pdfs/fingerprints/forms/bcia_8016RR.pdf (accessed 07/2017)

Job Applications

- National HIRE Network <http://www.hirenetwork.org> (accessed 07/2017)
- Legal Action Center <http://www.lac.org> (accessed 07/2017)

Clean Up Your California Criminal Conviction History

- Shasta County Public Defender http://www.co.shasta.ca.us/html/Public_Defender/pd_index.htm (accessed 07/2017)
- Onecle Court Opinions <http://law.onecle.com/california/penal/4852.04.html> (accessed 07/2017)

Clearing Your Criminal Record

- Shasta County Public Defender http://www.co.shasta.ca.us/index/pd_index.aspx (accessed 07/2017)
- My Prop 47 <http://myprop47.org/> and <http://myprop47.org/app/uploads/2015/03/Reclassification-8.5x11-FINAL.pdf> (accessed 07/2017)

California Penal Code Section §4852.04

- Find Law for Legal Professionals
<http://codes.findlaw.com/ca/penal-code/pen-sect-4852-04.html> (accessed 07/2017)