

RECORDS OF ARREST & PROSECUTION*

If you have been convicted, or even arrested, for a crime, there is a record of it, often in many places at once. The court where you were sentenced maintains records of your criminal case, and those are public information available to credit reporting agencies. A record of your arrests and convictions—known as a “rap sheet”—is also kept by the Division of Criminal Justice Services, a state agency in Albany. It’s important to know who can access these records and that you have a right to correct any incorrect information.

If you have ever been arrested and fingerprinted, you have a rap sheet – an official record of your arrest and conviction history, kept in Albany, NY by the Division of Criminal Justice Services (DCJS). Rap sheets are most often used by criminal justice agencies – police, prosecutors, and defense attorneys, but some public employers do have access to official rap sheets. You will always know if an employer or other agency is requesting a copy of your official DCJS rap sheet because they will need to fingerprint you in order to get it.

Most employers and landlords, however, rely on court records instead of official DCJS rap sheets to check on the criminal backgrounds of prospective employees, tenants, etc. Your court records can be obtained directly from the New York State Office of Court Administration for a fee of \$55. They can also be purchased at a much cheaper rate from private credit reporting agencies – the kinds of companies that advertise on the internet: “background searches for \$10.” There are hundreds of small companies that buy information about criminal cases from local court systems and sell it over the internet. Because criminal history information is complicated, these criminal background reports often have many errors. You should obtain your own criminal background report from the internet so that you know what information your prospective employers might be able to see. Out of all the ways employers might try to find out about your criminal history, the online background check is among the most likely.

For more information, including a step-by-step guide to fixing rap sheet errors, visit the Legal Action Center (www.lac.org) or the Criminal Records section of Reentry Net/NY (http://www.reentry.net/ny/library/folder.77459-Criminal_Records).

1. What is a rap sheet?

- Officially, “RAP” sheet means “record of arrest and prosecution.” But people use “rap sheet” generally to mean the record of your history with the criminal justice system. If you have ever been arrested and fingerprinted, you have a rap sheet.

* This handout is an excerpt from *The Consequences of Criminal Charges: A People’s Guide*, published by The Bronx Defenders. It is for informational purposes only and is NOT a substitute for legal advice. It is up to date as of October 2010.

2. *What are the different ways someone can find out about my criminal history?*

- Division of Criminal Justice Services (DCJS) rap sheet – your official arrest and conviction history
 - Based on your fingerprints
 - Only criminal justice and some public agencies have access
 - All records kept in Albany, NY
- Office of Court Administration Criminal History Record Search – informal history of your convictions reported by the court system.
 - Based on your name and date of birth (not fingerprint)
 - Public access – anyone can purchase a record for \$55
 - Records available online through the Office of Court Administration (www.nycourts.gov/apps/chrs/)
- Credit Reporting Agencies – private companies that report on criminal backgrounds
 - Most information is summarized from court records
 - Also based on your name and date of birth (not fingerprint)
 - Public access – anyone can purchase records, price varies
 - Errors are frequent
- FBI Rap Sheet – The FBI should include information about convictions in every state in the US as well as Federal court.
 - Based on your fingerprints
 - Only government agencies and a small number of employers may have access
 - FBI records have a lot of errors and missing information – one report found that more than half of arrests in FBI rap sheets have no outcome reported
 - You can request a copy of your own record by sending a fingerprint card and \$18. More information below (#4) or on the web at : www.fbi.gov/hq/cjisd/fprequest.htm

3. *How do I get a copy of my official DCJS rap sheet?*

- If you were arrested in New York State, the New York State Division of Criminal Justice Services (“DCJS”) maintains your New York State rap sheet.
- Note that if you request your own DCJS rap sheet, the copy you receive will include sealed criminal history information. Do not share this rap sheet with a potential employer. If your employer needs a copy of your rap sheet, they must submit their own request.
- The best place to get a copy of your rap sheet is through the Legal Action Center (212) 243-1313 or the Community Service Society Record Repair Hotline (212) 614-5441.
- DCJS contracts with a private company called L-1 Identify Solutions to process all personal record review requests that don’t come through service agencies.
 - The total fee is \$61.50 - \$50 to DCJS and \$11.50 for processing.
 - You can call 1-877-472-6915 (toll free number) or www.l1enrollment.com to schedule an appointment for fingerprinting.
 - **You will need the ORI Number – NYDCJSPRY – to schedule the appointment.**

- The “[Request for L-1 Livescan Fingerprinting Services – NYS Division of Criminal Justice Services Record Review Program](#)” form is available for your information. You should bring the application form and the required forms of identification to your fingerprinting appointment. Visit the DCJS website for the form: <http://criminaljustice.state.ny.us/ojis/recordreview.htm>

4. *How can I get a copy of my FBI rap sheet?*

- You can get a copy of your FBI rap sheet by writing to:
FBI CJIS Division – Record Request
1000 Custer Hollow Road
Clarksburg, West Virginia 26306
- Your letter should include:
 - Your name, address, that you are requesting a personal record request pursuant to 28 C.F.R. § 16.30-16.34, and the address that you would like the results of the record check to be mailed to. You should also include your telephone number and/or e-mail address for them to contact you if they have any questions.
 - If you have a particular date which you need the results by, then you should also mention that in your letter to the FBI.
 - You must also include a complete set of fingerprints and your date of birth and your place of birth and \$18 (either money order or certified check) made payable to the Treasury of the United States. You may also pay by credit card if you are not requesting to rush the record search.
 - For more information regarding this process see the FBI’s website at: <http://www.fbi.gov/hq/cjisd/fprequest.htm>

5. *Should I check for errors on my rap sheet?*

- Yes, rap sheets frequently have errors on them, including:
 - Information about records that should be sealed
 - Records from another person’s case (especially when the search is just based on your name and date of birth)
 - Cases with “no disposition reported” so they look like they are still open even if they are finished
 - Warrants that have been cleared up but continue to appear

6. *What kinds of information should be sealed?*

- Arrests that did not lead to a conviction. This can include:
 - Dismissed cases
 - “Voided Arrests” – cases where you were released from the precinct without a date to come back to court
 - “Decline Prosecution” – cases where the prosecutor decided there was not enough evidence to charge you, and released you from court before you saw a judge
 - “Acquittals” – cases where you went to trial and beat your case

- “Adjournments in Contemplation of Dismissal” – special type of dismissal where your case stays officially open for six months or a year. If you do not get arrested again during that time, the case is dismissed and sealed automatically.
- Arrests that led to conviction for violations, also called “non-criminal offenses.” Violations are not crimes, and are the legal equivalent of a traffic ticket. They should be sealed automatically. Common violation convictions include:
 - Disorderly conduct
 - Harassment
- Youthful Offender adjudications – If you were convicted of an offense when you were 16, 17 or 18 years old, the judge could have chosen to set aside your conviction and offer you a Youthful Offender adjudication (often called a “YO”) instead. For first-time misdemeanor convictions, a YO should be automatic; for future convictions it is up to the judge. Check with your defense lawyer to see whether you have any YO adjudications. You don’t have to disclose them to employers, but it’s good to know about them.
- Family Court (Juvenile Delinquent) convictions – any conviction you got in Family Court is a juvenile delinquent conviction, not an adult criminal conviction, and should be sealed for employment, housing, and other civil purposes. In some cases law enforcement agents (like police officers and prosecutors) may have access to some Family Court records.

7. *Can I do anything to seal criminal convictions on my rap sheet?*

- Unfortunately, the answer is no. At this time, no criminal convictions – including ANY misdemeanor or felony – can be sealed or expunged in New York State, even if they are decades old.
- However, you can apply for certificates that show rehabilitation – information about this is in the next section.

8. *What if I find errors on my rap sheet?*

- The Legal Action Center has published a booklet to teach you how to get a copy of your rap sheet and then review and correct its mistakes. This booklet is called “How To Get and Clean Up Your Rap Sheet” and is available at:
http://www.lac.org/pubs/gratis/NYS_Rap_Sheet_Final.pdf

9. *Where can I get my fingerprints taken?*

- The best place to get your fingerprints taken is at a legal services office or community-based organization that will work with you to request your rap sheet, review it for errors, and prepare for job interviews. In New York City, the Legal Action Center will take your fingerprints for free. Call (212) 243-1313 to make an appointment. Visit www.lawhelp.org/ny to find service providers in your area. You can also get your fingerprints taken at the police station. However, if there is even the slightest chance that you have an open warrant – because of an old arrest, a summons that you forgot about, etc. – you could risk getting arrested if you are fingerprinted at the police station.