

EFFECTIVE WAYS TO ADDRESS A LEGAL HISTORY BACKGROUND WHEN SEEKING EMPLOYMENT

If you have been involved with the criminal justice system at some point in your life, it is important to plan for how to address this part of your history during your employment search. Thoughtful planning about how to address this can substantially limit the negative impact legal involvement will have on your search.

State and FBI Criminal History Background Checks

First, as background checks are conducted more and more frequently by potential employers, it is in your interest to know what your background check will show if a potential employer initiates one for you.

Unfortunately, there is not one single method of obtaining a copy of one's criminal background check report which applies in every state in the United States. In some states, one has to submit a formal request in writing and pay a modest fee (usually about \$25-\$30). Other states such as Texas maintain a searchable online database which contains information relating to all convictions in the state.

To find out how to obtain a criminal background in your state, just enter the term "***Your State's*** Criminal Background Check" in an internet search engine. In addition to your state's process, your search will also bring up information on commercial services or companies which offer to provide criminal background information for a fee. The information contained on commercial services is generally gathered from a variety of different public records sources and is likely to only be as reliable and as accurate as the sources from which the information is drawn. To get the most reliable information and to see a report most like what a potential employer would see, it is best to follow the formal procedure your state has in place.

In addition to background check information you can get from your state, you can also request a criminal history report from the Federal Bureau of Investigation (FBI) at <http://www.fbi.gov/about-us/cjis/background-checks>. You should be aware, however, that not all arrest and conviction information which might be contained in a state background check will necessarily also be contained in a report from the FBI. The reason for this

possible discrepancy is that not all types of crimes and convictions are necessarily reported to the FBI for inclusion in their database.

Generally, most employers will request a background check from your own state rather than requesting a background check from the FBI. However, there are certain jobs which do utilize an FBI background check, particularly ones with security considerations or job responsibilities with sizable financial transactions.

Making Informed Decisions About Your Background Report

Once you have a copy of your own criminal background report, the first thing you should do is to verify that the information it contains is, indeed, accurate.

Next, determine if the particular type of offense detailed on your criminal justice background report is by its nature one which would block you from applying for the job in which you have interest. It can be difficult to know if having a criminal justice background of a particular kind will render you unable to apply for a particular position. There are many variables which have to be assessed so you can make the most informed decision you can about applying for any one position. Some of these variables include: 1) The nature of the offense(s), 2) How long ago they occurred, and 3) The employer's specific background check parameters.

Also, even though you may have certain offenses which show on your criminal justice background, it may be possible to initiate proceedings to have either the records eligible to be sealed (usually offenses committed before one was legally an adult) or even expunged (removed from showing on your criminal history.) Oftentimes, for certain types of crimes the court may rule that the offense may be struck from your record upon your successful completion of conditions associated with your sentencing. To find out if something on your record is eligible to be sealed or expunged, you will need to find out the rules that apply to your specific jurisdiction.

One resource for information pertaining to specific areas of the country is The National HIRE Network. This is an online clearinghouse of information for individuals with legal histories who are entering or re-entering the workforce. HIRE works to increase job opportunities for individuals with legal histories and provides useful information about resources,

organizations and agencies in all fifty states. Their web address is:
www.hirenetwork.org

Tips for Presenting Information Honestly to Potential Employers

Once you have a solid and reliable basis for knowing what is contained in your own criminal history report, you know what information a potential employer will see if they choose to run a background check on you. Knowing this, how do you honestly represent your criminal justice history or background on an application or in an interview?

- The first thing you need to know is that having a legal history does not necessarily mean that you do not have a chance to get the job for which you want to apply;
- Secondly, if you are asked on an application or in an interview about having a criminal history background, always answer the question honestly, but also *always make sure you fully understand specifically what it is the question is asking.*

For example, some applications or some interviewers may ask you only if you have ever been convicted of a **felony**. If your answer to that is “no,” then you have no obligation to mention that you were convicted of a misdemeanor or that you were arrested for a crime but were not ultimately charged for it.

Another example might be that an application or an interviewer could ask if you have been “**convicted of a crime in the past ten years.**” If the honest answer to that question is no – you were convicted of a crime, but it was eleven years, for example – you are under no obligation to mention it.

We stress answering honestly specific questions that are asked about a legal history. If a criminal history background check is ordered by the potential employer, you want to make sure that your answers match what the report will show.

If an application you complete asks if you have a criminal history, always make sure not to just answer “yes” and leave it there. Instead, either briefly explain the criminal history **or** attach a brief letter of explanation which you

have prepared in advance for such a situation *or* words to the effect that you will be glad to discuss your legal history during an interview process.

If you are asked about any legal history in an interview, make a special point of not talking in too much detail about any criminal charges. Also, do not attempt to make the case to someone who does not know you – in this case, the interviewer – that you were in some way not responsible for that for which you were charged and found guilty. In this situation, the interviewer would likely conclude that you might not be willing to take responsibility for your actions. Besides, the interviewer is not there to determine if you were guilty or not as charged; he/she will assume that was the task of the court which heard your case, and his/her primary concern is more narrowly focused on whether you are the right candidate to fill the position.

Instead, when you talk about your criminal history background, try in all of your comments to put the emphasis on what positive effects resulted from you being arrested. For example, you might want to tell an interviewer that your arrest had been a “wake up call” and that you had used this experience to turn your life around, if you feel that is an accurate way to characterize your response to being arrested and convicted.

If relevant, you might also reference any work programs or additional education you pursued while you were incarcerated. Put special emphasis on your work history since your conviction or other positive accomplishments you can point to as evidence that you have gotten yourself on track. If you have made significant life changes since your arrest and conviction – for example, moved away from an unhealthy living environment or enrolled in counseling, etc. – these would also be things you would want in any discussion about your criminal history.

You cannot change what you have done in the past. What you can do, and what it is to your advantage to communicate to a potential employer, is to demonstrate clearly by your words and your manner that you are now ready to moving forward in a positive way and would make an excellent addition to the workplace.

This material is based on a peer-delivered employment services and supports approach developed by Jo-Ann Sowers, Ph.D. and Rollin Shelton of the Regional Research Institute at Portland State University.