YOUR NEW YORK STATE RAP SHEET

A GUIDE TO GETTING, UNDERSTANDING & CORRECTING YOUR CRIMINAL RECORD

LEGAL ACTION CENTER

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INTRODUCTION

WHAT DOES THIS BOOKLET COVER?

This booklet tells you how to get a copy of your criminal record and how to correct any mistakes in it. It also explains how and what information employers get about your record and when they can get it.

The Legal Action Center has written other booklets that can help you get a job or housing even with a criminal record. These booklets cover topics such as the few types of cases that can be sealed (there is no expungement in New York), Certificates of Relief from Disabilities or Certificates of Good Conduct, and workplace rights. A list of these publications is at the end.

SECTION I. RAP SHEETS BASICS: WHAT THEY ARE, WHERE TO GET THEM, WHO SEES THEM

HOW CAN I FIND OUT WHAT IS ON MY CRIMINAL RECORD?

The best way is to get a copy of your rap sheet (see "How Do I Get My Rap Sheet?" on page 3). You can get your rap sheet both while in prison/jail and when you are out. You also can buy information about your New York misdemeanor and felony record from the courts (New York State Office of Court Administration, or "OCA") *or* get a free copy of your background check from companies that sell them to employers. For more information about OCA records and private background checks, see page 13.

WHAT IS A RAP SHEET?

RAP stands for "Record of Arrest and Prosecution." A rap sheet is a record of all your arrests and convictions. If you have ever been arrested in New York State AND fingerprinted, you have a New York State rap sheet.

The Division of Criminal Justice Services (DCJS) in Albany collects and distributes rap sheet information in New York State. Information about out-of-state and federal cases will *not* appear on your New York rap sheet, though there may be a notation that you have an out-of-state record. The FBI collects criminal record information it gets from all the states. Other states keep information about arrests and convictions in their own state.

REMEMBER: Even if you did **not** serve time in jail or your case was dismissed, you will have a DCJS record if you were ever arrested and fingerprinted.

HOW DO I GET MY RAP SHEET?

THROUGH DCJS

1. **If you are serving a sentence of more than 45 days (at the time you are requesting the rap sheet) in a New York State prison or a county or city jail,** DCJS will send you a free copy of your rap sheet if you write a letter (see Appendix A for a model letter) to DCJS that includes your:

   - Name
   - Aliases (any other name you used for yourself or are known by to law enforcement or a court)
   - Date of birth
   - DIN (the Department of Corrections "Department Identification Number") or your inmate number if you are in a local facility
   - NYSID number (a unique number given by DCJS to identify and group your record) if you have it, (it's ok if you don't)
   - Race, sex and Social Security number (to help identify your file)
   - Remaining time you will be incarcerated. (DCJS will not send your rap sheet if you will be incarcerated for less than 45 days.)

WARNING: If you think there may be an **outstanding warrant** for your arrest, take care of it *before* you contact DCJS to order a rap sheet. Contacting DCJS may mean that the arresting agency learns your current address. To address the warrant, try to contact the attorney who represented you in the case or call the local public defender's office where your case was heard. You can find contact information for public defenders in every state at:
www.nlada.org/NLADA/Links/Links_Home#links_IndigentDefense

DCJS CONTACT INFO

New York State Division of Criminal Justice Services
Record Review Unit
4 Tower Place
Albany, NY 12203-3764

(518) 485-7675
(518) 457-9847 or
(800) 262-3257

RecordReview@dcjs.state.ny.us

2. **If you are not incarcerated or will be incarcerated for less than 45 days,** you can get a copy of your rap sheet directly from DCJS.

3. **How you get your rap sheet from DCJS depends on whether you live in New York and whether you can afford DCJS's fee.**

   a) **If you cannot afford the fee:**
   Fee-waivers are available if DCJS determines that you cannot afford the $60.75 fee. To get a fee-waiver application packet, contact DCJS.

NOTE: If you are on public assistance, you can qualify for a fee-waiver by sending a photocopy of your EBT or Medicaid card. If not, you must include a notarized financial statement of available assets and current income with your application so DCJS can determine if you qualify for a fee waiver. For more information, visit:
http://www.criminaljustice.ny.gov/ojis/recordreview.htm

b) If you live in New York State and do not qualify for a fee-waiver:
Contact L-1 Identity Solutions to make an appointment:
(877) 472-6915
http://www.identogo.com/
For more information, visit:
http://www.criminaljustice.ny.gov/ojis/recordreview.htm
The fee to get a rap sheet is $60.75 ($50 for the DCJS Record Review Fingerprint Fee plus $10.75 for L1's processing fee).

c) If you live outside New York State and do not qualify for a fee- waiver:
Contact DCJS and ask for an out-of-state Record Review application packet (see DCJS contact info on page 4). Or, for more information, visit:
http://www.criminaljustice.ny.gov/ojis/recordreview.htm

OTHER OPTIONS

1. **The Legal Action Center can get rap sheets for people who cannot afford the fee.** To make an appointment, call (212) 243-1313 and ask for the rap sheet coordinator. The Community Service Society offers a similar service. For more information, call: (212) 614-5441

2. **When you go to court for a criminal case, your lawyer gets a copy of your rap sheet.** This copy stays in your lawyer's file and you can ask to see it. If your case is over, you may be able to call the office that represented you on your most recent case and ask to see the rap sheet.

REMEMBER: This rap sheet was created when you were arrested, so it will not include the outcome of the case.

3. **If you applied for an employment license and were denied,** you can sometimes get a copy of your DCJS rap sheet from the licensing agency that denied you.

NOTE: The rap sheet your defense attorney has will not be as complete as the rap sheet you receive from DCJS. When you request a copy of your rap sheet from DCJS, you have the right to see all the information it contains. Rap sheets sent by DCJS to a court or a probation or parole officer will not include information that is sealed or suppressed.

CRIMINAL RECORDS IN OTHER STATES

1. **If you want to get information about your record in all states,** as well as any federal convictions, order your rap sheet from the FBI. Write to:

   US Department of Justice
   Federal Bureau of Investigation
   1000 Custer Hollow Road
   Clarksburg, WV 26306

   Your letter to the FBI should say that you are making your request under the Freedom of Information Act and should include your:

   - Name
   - Address
   - Date of birth
   - Place of birth
   - A complete set of fingerprints (You must use an FBI fingerprint card, which you can get from their website. You can get fingerprinted by either the NYPD at 1 Police Plaza in New York City or by the New York State Police. There may be a fee. You may also be able to get fingerprinted by some non-profits that help people with criminal records. If you believe you may have a warrant for your arrest, take care of it before you are fingerprinted by law enforcement.)
   - A certified check or money order for $18 payable to the "U.S. Treasurer." (The fee may be waived if you send a notarized letter explaining that you cannot afford it.)

For more information about getting your FBI rap sheet, visit:
http://www.fbi.gov/about-us/cjis/criminal-history-summary-checks

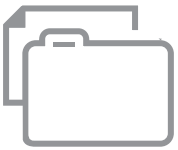
2. **If you want to get a record from another state,** visit:
http://hirenetwork.org/clearinghouse
click on the state(s) where you have a record and look for the Criminal Record Repository. Visit the repository's website or contact it to find out how to get your record from that state.

WHY SHOULD I GET MY RAP SHEET?

TO CHECK FOR MISTAKES – WHICH ARE COMMON!

Rap sheets are often incomplete and contain mistakes that can hurt your chances of getting a job or housing if they are seen by an employer or others.* If you review your rap sheet before applying for a job, you can correct mistakes before they become a problem.

*NOTE: Employers, training programs and landlords may sometimes ask for a copy of your rap sheet. We do not suggest you give them one, because the rap sheet sent to you may contain information about confidential or sealed arrests, convictions and adjudications that they are not legally permitted to see or use in making decisions. If an employer or landlord asks for your rap sheet, tell them that you give them permission to run a background check on you.



For example you might have been adjudicated a Youthful Offender ("YO") when you were between the ages of 16 and 18. If entered properly in the rap sheet computer, YO information is confidential and will not be sent to an employer. Sometimes, however, the YO notation that would keep the case

from being disclosed to potential employers does not appear on the rap sheet. Information that should be confidential is then sent to any employer who is authorized to see your record. If you notice the mistake ahead of time, you can make sure your YO records stay confidential.

YOU PROBABLY WILL HAVE TO DESCRIBE YOUR RECORD ON JOB APPLICATIONS

Under New York State law, employers may ask job applicants about any conviction that has not been sealed. If you do not answer correctly and completely and the employer finds out, the employer may legally deny you a job or fire you. This may be true even if you *thought* you were answering correctly. If you get your rap sheet before you apply for a job, you can describe your history correctly on the application. (For more information on how to complete employment applications, see *"Criminal Records and Employment: Protecting Yourself from Discrimination"*)

EMPLOYERS LIKELY WILL GET YOUR CRIMINAL RECORD – SO YOU SHOULD KNOW WHAT'S ON IT

Most employers will get a criminal background check on you before they hire you. If you know exactly what is on your record before you apply for a job or license, you can think about the best way to describe your convictions on an application and in interviews. You can also be better prepared to spot mistakes on the background check or correct an employer's misunderstanding about your record.

WHO CAN SEE MY DCJS "RAP SHEET"?

CRIMINAL JUSTICE AND LAW ENFORCEMENT AGENCIES

Police departments, courts, prosecutors, defense attorneys, parole and probation departments, and correctional officials may legally get your rap sheet. They get a version of the rap sheet that usually includes youthful offender adjudications (YO), even though YOs are otherwise confidential. In rare cases, they also get "sealed" information (see *"Lowering Criminal Record Barriers: Certificates of Relief/Good Conduct and Record Sealing"* for information about sealing records).

SOME EMPLOYERS

New York State law allows a very limited number of employers to get your official DCJS rap sheet when you apply for a job. Most get a version that does not show YOs or sealed cases, though law enforcement agencies will get that information. Here is a partial list of employers in New York State who are allowed to get your rap sheet from DCJS or the FBI:

- Public employers (government agencies, such as police, fire, transit, corrections, education, sanitation, postal service, etc.)
- Child care agencies
- Hospitals
- Museums
- Home health care agencies
- Financial institutions, such as banks and brokerage houses
- Schools and companies hiring school bus drivers and school bus attendants.

If you apply for a law-enforcement job or a job that requires a government-issued gun permit, the employer will have access to many parts of your record

that are not available to other employers, including sealed information. (See "*Lowering Criminal Record Barriers: Certificates of Relief/Good Conduct and Record Sealing*" for more information about sealing.)

OCCUPATIONAL LICENSING AGENCIES

Hundreds of jobs (including barber, real estate broker, doctor, nurse and taxi driver) require a state or municipal license. Some licenses are not available to individuals with a criminal record (or certain types of convictions). Other licenses may require the applicant to have "good moral character." The government agency issuing the license may use an applicant's conviction history to determine if they have good moral character. For this reason, many occupational licensing agencies will check your DCJS record when you apply for a license.

The Legal Action Center's Occupational Licensing Survey includes a list of these agencies, and their policies about licensing people with criminal records and is available at:

www.lac.org/index.php/lac/criminal_justice_publications

BONDING AGENCIES

A bond is an insurance policy an employer takes out on an employee to protect the employer in case the employee steals. The agencies that issue bonds can get your rap sheet when deciding whether to bond you.

For more information on the Federal Bonding Program, a program that provides bonding for people with criminal records, go to:

www.hirenetwork.org

YOU

You have the right to see your own rap sheet. See "How Do I Get My Rap Sheet" on page 3 to learn how.

WHAT EXACTLY IS ON MY RAP SHEET?

The version of your rap sheet you get will include every arrest for which you were fingerprinted. The rap sheet may include:

- NYSID number (a unique number identifier DCJS assigns your record)
- FBI number (a unique number identifier the FBI assigns your record)
- Date of arrest
- Name under which you were arrested
- Address given at time of arrest
- Location of crime
- Date of crime
- Arrest precinct
- Arrest number
- Arrest charges
- Docket number (the number the court assigned your case if the case went to court)
- Court of prosecution
- Prosecution charges
- Warrants issued
- Disposition of case (the final outcome in court) including the name of the charge, Penal Code, and level of offense (for example, felony, misdemeanor, or violation)
- Incarceration, probation, and/or parole information
- Whether the case is sealed
- Any licenses you have applied for
- Whether you have applied for and/or received a certificate of relief from disabilities or a certificate of good conduct
- Whether you have been adjudicated a sex offender.

REMEMBER: When telling employers about your record, it is extremely important to give the outcome of the case. Just because you were arrested for a felony does not mean you were convicted of a felony. You may have ended up with only a misdemeanor conviction. Or the charges might have been dismissed. **Employers are only allowed to ask about cases that ended in convictions that were not sealed.** For more information about what employers may ask, see *"Criminal Records and Employment: Protecting Yourself from Discrimination."*

HOW DO I READ MY RAP SHEET?

DCJS gives a different (older) version of the rap sheet to people who are incarcerated and a newer version to everyone else reviewing their own rap sheet. In both versions, all information from an arrest is grouped together by arrest or incident.

OLD FORMAT

In the old rap sheet format, each cycle is presented in three columns.

- The first column gives information about the arrest (arrest date, arrest precinct/location, arrest charges)
- The second column tells you what the District Attorney's office charged you with
- The third column tells you what happened in court (docket number, court dates, warrants, case outcome, any sentence, whether the case is sealed) as well as any incarceration/parole/probation information.

NEW FORMAT

In the new format, arrest information (date of arrest, name recorded by the police, address given at arrest, date and location of crime, arrest number, arrest charges, etc.) is presented at the top of the cycle. Below the arrest information is the court information (docket (or case) number, arraignment

date and charges, indictment information (if any), warrants issued, case outcome, whether the case is sealed). This section will also tell you if the district attorney declined to prosecute the case. Below is any probation or incarceration/parole information (including inmate/probation number, where incarcerated or reporting location, when released, if reincarcerated, etc.). At the very end of the cycle there should be a note indicating if you have obtained a Certificate of Relief from Disabilities for the case.

HOW CAN OTHER EMPLOYERS LEARN ABOUT MY CRIMINAL RECORD?

Even though most employers cannot get your DCJS rap sheet, they can get information about your criminal record in other ways. These include:

OFFICE OF COURT ADMINISTRATION

The Office of Court Administration (OCA) of the State of New York (the New York court system) sells computerized criminal history information from court records.

These records cost $65.00 and are available to anyone who has your name and date of birth (alias names have to be searched separately). The search does NOT require your permission. Application forms can be filled out online by submitting the name, address and phone number of the person or company submitting the application. Since the search is not fingerprint-based, results may be inaccurate. You can also run a check on yourself, but you will have to pay the fee (no waiver is available). The records only contain information about unsealed felony and misdemeanor convictions. OCA records also include dismissals due to mental incapacity. Applications must be brought or mailed to:

NYS Office of Court Administration
Office of Administrative Services
Criminal History Record Search
25 Beaver Street (Room 840-Front Counter)
New York, NY 10004

Forms and information can be found at:

www.courts.state.ny.us/apps/chrs/

If your search produces inaccurate results, contact OCA's Criminal History Search Unit, between 10:00 am and 4:00 pm, at:

(212) 428-2943

The Legal Action Center may also be able to help you correct errors. For assistance, call:

(212) 243-1313

and ask for the paralegal on call. (You may be asked to call back on a different date when LAC is able to take your call.)

PRIVATE CRIMINAL BACKGROUND CHECK COMPANIES

Employers who do <u>not</u> have access to DCJS records MAY, <u>with your permission</u>, run a criminal background check on you, both when you apply for a job and once you have a job. Employers often use consumer reporting agencies to do these background checks. Consumer reporting agencies can get information about your criminal record from various sources, including the OCA record check. There **<u>are</u>** legal limits on the information a consumer reporting agency may give an employer, and there are laws that employers who use these background checks must follow. For more information, see *"Criminal Records and Employment: Protecting Yourself from Discrimination"* or *"Are You…"* a free Legal Action Center publication available at:

http://lac.org/index.php/lac/criminal_justice_publications

Some of the big private background check companies allow you to get a **free record check on yourself.** They will **not** do a new search for free, but if an employer already hired them to run a background check on you, you can get whatever information they found. To get a free background check, visit:

http://www.hireright.com/Consumers-Applicants.aspx

or

https://personalreports.lexisnexis.com/

SECTION II. RAP SHEET ERRORS AND HOW TO CORRECT THEM

WHAT ARE COMMON RAP SHEET MISTAKES?

INCOMPLETE ENTRIES

Rap sheets sometimes report arrests without showing how the case ended. When this happens, your rap sheet will either say "no disposition reported" or will stop part-way through your case. This mistake can hurt your chances of getting a job or an occupational license because employers and licensing agencies might assume that the charges are still open, or that you were found guilty of all the original arrest charges (when instead the case might have been dismissed or you might have been convicted of lesser or fewer charges). Or they could assume that there is an open warrant for your arrest. (See page 17 for more information on incomplete entries)

INCORRECT ENTRIES

Any computer system is subject to human error. For example, one man's rap sheet reported that he was convicted of murder (§125.25 of the New York State Penal Law) when, in fact, he had been arrested for shoplifting and had pled guilty to Petit Larceny (§155.25 of the Penal Law). This was the result of a typing mistake. Alternatively, the judge may have given you Youthful Offender status but DCJS did not get the information or did not enter it correctly. You should check your rap sheet carefully to make sure that, as far as you can tell, all of the information on your rap sheet is correct. (See page 17 for more information on incorrect entries)

DOUBLE ENTRIES

Sometimes, information about one arrest will get split into two or more separate entries on your rap sheet. At other times, if you were resentenced,

the resentencing information may be presented as a new guilty plea. These mistakes make your criminal record look longer and more serious than it is. (See page 17 for more information on double entries)

OPEN WARRANTS

Sometimes warrants that are no longer open will look open on your rap sheet. **But BEWARE**, at other times, warrants that look open **actually are open.** You should call your defense attorney to resolve these as soon as possible. If employers see these warrants, they may think your case is still going on and that you may be arrested. (See page 18 for more information on addressing warrants.)

CASES THAT SHOULD BE SEALED BUT ARE NOT

Most cases that were dismissed or that ended in non-criminal violation-level convictions can be sealed under New York State law. Under some circumstances, other convictions can also be sealed. (For more information on which cases can be sealed, see *"Lowering Criminal Record Barriers Certificates of Relief/Good Conduct and Record Sealing"*.) But cases that can be sealed are not always sealed properly. Sometimes DCJS does not find out that the court sealed your case. At other times, the court may have forgotten to seal your case. Older cases may have ended before sealing existed or at a time when it did not happen automatically. If these cases are not sealed, employers who get your rap sheet will be able to see them. Also, employers are allowed to ask about convictions that are not sealed. You should therefore make sure that cases that can be sealed are sealed so employers cannot see or ask about them. (See page 19 for more information on cases that should be sealed)

DCJS will correct mistakes on your rap sheet if you explain the mistakes and provide proof that your rap sheet is incorrect. Most mistakes can be fixed easily, without the help of an attorney. But the process takes some time, so start as early as you can.

HOW DO I CORRECT INCOMPLETE, INCORRECT AND DOUBLE ENTRY MISTAKES?

To correct these mistakes, follow these steps:

1. **Get a disposition slip for the case from the court where the case was heard.** A disposition slip is an official court record of the case. The disposition slip should contain correct information about what happened in your case. If you disagree with what is on the disposition slip, then you may need a lawyer.

   To get a disposition slip, contact the clerk in the court where your case was heard. Your rap sheet should indicate the name of the court under the heading "Court Case Information" (for the new type of rap sheet) or in the right-hand column (for the old type). The quickest way to get a disposition slip is to go to the clerk's office in person. If you are incarcerated or cannot get to the court, you can write to the clerk's office, but it may take several months to receive your disposition slip. (See Appendix B for a sample letter) **Whether you write or go in person, give the clerk your name, any aliases the court may link you with, the date of your arrest, and the docket number under which your case is filed.** (Again, this information should be on your rap sheet.) If you can't provide a docket number or arrest date, your name and the approximate date that the case was heard may help the court locate the information.

2. **Send the <u>original</u> copy of the disposition slip and a "Record Review and Statement of Challenge" to DCJS.**

   A Record Review and Statement of Challenge is a DCJS form that is used to ask DCJS to correct a mistake. A blank "Statement of Challenge" is usually sent along with your rap sheet. If you do not have a "Statement of Challenge," you can write DCJS a letter explaining the mistake. (A sample challenge letter is available in Appendix C.)

   Include in your challenge when and where you saw your criminal record. To speed up your request, include your NYSID (New York State Identification Number), if you know it. Also, include the fingerprint card if you have it. Carefully explain what part of the record you think is wrong

and how you think it should be corrected. Be as clear as possible.

You MUST include an original disposition slip with a raised court seal to prove that the correction should be made. If there is more than one mistake on your rap sheet, be sure to provide a separate disposition slip for each mistake. **DCJS will only make corrections if you send an original, certified disposition slip with a court clerk or judge's signature or seal. Do not send a photocopy.** If you think you will need a copy of the disposition slip in the future, make a photocopy before you mail the original to DCJS, and keep the photocopy for your records.

Corrections should take a few weeks. When your record has been corrected, DCJS will send you a letter and a new copy of the rap sheet, and will return your disposition slip to you.

HOW DO I CORRECT WARRANT MISTAKES?

IMPORTANT: If you think you may have a warrant that is actually open, immediately contact the attorney who represented you or call the Legal Aid Society or a public defender's office.

Correcting warrant mistakes can be difficult. Visit the clerk's office at the court where your case was heard and ask the clerk if they can notify DCJS that the warrant was returned. If the clerk will not do this, ask the clerk for a printout of court appearances for your case. Send the printout to DCJS along with a challenge form or letter explaining what you want corrected and a copy of your fingerprint card. If you cannot do this or DCJS still will not correct your record, try contacting the attorney who represented you or call the Legal Action Center (LAC) and ask to speak to the paralegal-on-call. (You may be asked to call back on a different date when LAC is able to take your call.)

(212) 243-1313

HOW DO I CORRECT SEALING MISTAKES?

As described above, there are various reasons that cases may not have been sealed. For older cases, sealing may not have existed yet or sealing may have involved filing additional papers. In either of these situations, to get your case sealed now, you may need to file a motion with the court where your case was heard. But your case may also not have been sealed because of a clerical mistake.

To figure out whether the case is unsealed because of a clerical mistake and, if so, to correct the mistake, follow these steps:

1. **Visit the court clerk's office of the court where your case was heard. BUT:** if your case was dismissed before it reached the court, you may have to get proof that the District Attorney's (DA) office declined to prosecute. The clerk should tell you how to get this proof. Alternatively, the arresting agency may not have forwarded the case to the district attorney (known as a "voided arrest"). These mistakes can be difficult to correct.

2. **Tell the clerk that you want to know whether the court has your case listed as sealed.**

   - **If the clerk says yes**
     Ask the clerk for a disposition for the case. **Make sure** that the disposition has a **stamp** that says that the case is sealed. If the disposition is not stamped, ask the clerk to stamp it.
   - **If the clerk says no**
     Ask the clerk if the case has a "do-not-seal" order.
     - **If the clerk says yes**
       Your case will probably not be able to be sealed (unless the "do-not-seal" order is temporary). If your case ended recently with a Conditional Discharge, there

will probably be a "do-not-seal" order which will be automatically lifted at the end of the Conditional Discharge period.

- **If the clerk says no**
  Ask the clerk what steps you need to take to seal your case. Each court will have a different process. Some clerks may be able to seal the case themselves. Other courts will require you to file a sealing motion. For more information on filing a sealing motion, see *"Lowering Criminal Record Barriers: Certificates of Relief/Good Conduct and Record Sealing"*.

3. **If your case is already sealed or the clerk is able to seal the case, get a certified disposition slip from the clerk and mail it, together with a "Record Review and Statement of Challenge" to DCJS.** A Record Review and Statement of Challenge is a DCJS form that is used to ask DCJS to correct a mistake. A blank "Statement of Challenge" is usually sent along with your rap sheet. If you do not have a "Statement of Challenge," you can write DCJS a letter explaining the mistake.

   Include in your challenge when and where you saw your criminal record. To speed up your request, include your NYSID (New York State Identification Number), if you know it. Also, include the fingerprint card if you have it. Carefully explain what part of the record you think is wrong and how you think it should be corrected. Be as clear as possible. **You MUST include an original disposition slip with a raised court seal to prove that the correction should be made.**

Corrections should take a few weeks. When your record has been corrected, DCJS will send you a letter and a copy of your corrected rap sheet. They will also return your disposition slip(s) to you.

HOW ELSE CAN I OVERCOME PROBLEMS DUE TO MY CRIMINAL RECORD?

Learning what is on your rap sheet and correcting mistakes are only the first steps you should take to overcome barriers caused by your criminal record. If you have any misdemeanor or felony convictions, you also can apply for a Certificate of Relief from Disabilities or a Certificate of Good Conduct. Additionally, certain information on your rap sheet may be eligible for sealing.

For more information about Certificates and about sealing, see *"Lowering Criminal Record Barriers: Certificates of Relief/Good Conduct and Record Sealing."* You also need to learn how to explain your criminal record to employers, landlords and others and what rights you have under laws that prohibit discrimination and that regulate criminal background checks.

For more information, read *"Criminal Records and Employment: Protecting Yourself from Discrimination."* You can also read *"Are You …"*, available at:

www.lac.org

STEP-BY-STEP GUIDE TO WHAT YOU SHOULD DO NOW

1. Order a copy of your New York State Rap Sheet from DCJS

IMPORTANT:
If you think you may have an open warrant, clear it before contacting DJCS.

- If you live in NYS and can afford the fee, contact L-1 solutions.
- If you cannot afford the fee, contact DCJS about the fee-waiver program. (If you live near NYC, you can also get a fee-waiver rap sheet from the Legal Action Center.)

2. If you think you have records in other states, order your Rap Sheet from the FBI and/or from the other states where you were arrested.

3. Obtain criminal record information from other available sources

- If you were incarcerated in an NYS facility, search for yourself on the Department of Correctional Services website.
- If you can afford the fee, order a copy of your background check from the Office of Court Administration.

4. Read through your DCJS Rap Sheet carefully

- Look for errors. Common errors include: incomplete entries (missing information about the outcome of an arrest); incorrect entries (the outcome of your case is not listed correctly); double entries (a conviction is entered more than once); open warrants (either warrants that were cleared but still look open or warrants that are still open); and sealing errors (cases that should have been sealed but were not).

5. Correct any errors you find. Correcting errors can take time, so begin as soon as you can.

- Visit or contact the court clerk's office in the court where your case was heard.

- **FOR WARRANT MISTAKES:** Ask the clerk to let DCJS know the warrant was returned or ask for a printout of your court appearances.

REMEMBER: If you think you may have a warrant that is actually open, immediately contact the attorney who represented you or call the Legal Aid Society or a public defender's office.

- **FOR OTHER ERRORS:** Get disposition slips for cases that contain errors. Disposition slips should give the correct outcome of your case. (If you think the disposition slip is wrong, you may need the help of an attorney to correct mistakes.)

- Send the official court disposition slip (with a raised seal or the court printout with the correct information) to DCJS, with a copy of your fingerprints (if you have them) and either a completed challenge form or a letter explaining as clearly as possible what information you want corrected on your rap sheet.

6. Learn what is on your rap sheet to prepare for job applications and interviews

- You will need to be able to answer questions about your record when you apply for jobs, including providing accurate information about your convictions and explanations about what happened and how you've changed since.

REMEMBER: Most employers in New York State are only allowed to ask about or consider information about arrests that led to convictions that have not been sealed. Pay close attention to whether you were in fact convicted and, if you were, what the conviction was for. The conviction charges are often very different from the charges for which you were arrested.

WHERE CAN I GET MORE INFORMATION?

The following Legal Action Center publications are all available for free at our website:

www.lac.org

Click on "free publications" and then "criminal justice." Also visit the "Need Help" section of our website.

Lowering Criminal Record Barriers: Certificates of Relief/Good Conduct and Record Sealing

Explains what cases are eligible to be sealed and how to seal them, as well as who is eligible for a Certificate of Relief from Disabilities or a Certificate of Good Conduct and how to apply for them

Criminal Records and Employment: Protecting Yourself from Discrimination

Explains what New York employers may legally ask about your criminal record, how you should describe your record, and what rights you have to be free of job discrimination

Are You . . .

A guide for avoiding job discrimination based on HIV/AIDS, an alcohol/drug history, or a criminal record

Employment Laws Affecting Persons with Criminal Convictions

Discusses federal laws

How to Gather Evidence of Rehabilitation

A list of evidence you can use to convince employers and others of your rehabilitation

How to Obtain Important Documents

Information on getting important documents, including driver's licenses, non-driver I.D. cards, social security cards, birth certificates, voter registration, naturalization cards and passports

Know Your Rights: Understanding Juvenile & Criminal Records and Their Impact on Employment in New York State

Information about arrests that happened before you turned 19

Occupational Licensing Survey

A chart detailing criteria for eligibility and a guide to applying for various job-related licenses.

APPENDIX A: RAP SHEET REQUEST FOR INCARCERATED PEOPLE

_____
(date)

New York State Division of
Criminal Justice Services
4 Tower Place
Albany, NY 12203-3702

Dear Sir/Madam:

I am currently incarcerated at (full name and address of facility) _____
_____ and am due to be released on _____.
(date of release)

The following information should assist you in locating my file.

NAME and ALIASES _____

_____

DIN #/INSTITUTUIONAL ID # _____

DATE OF BIRTH _____

SOCIAL SECURITY # _____

NYSID # (if known) _____

Please process my request at your earliest convenience.

Thank you for your attention.

Sincerely,

_____
(name)

_____
(full mailing address)

_____

_____

APPENDIX B: MODEL LETTER TO COURT REQUESTING DISPOSITION SLIP – IF YOU ARE INCARCERATED

_____
(date)

_____
(court)

_____
(address)

_____

Dear Sir/Madam:

Please send me a certified disposition slip for the following case. I was the defendant in this matter.

ARREST DATE _____

ARREST CHARGES _____

DOCKET/INDICTMENT # _____

NAME/ALIASES _____

I request that you waive any fee for this service because I am incarcerated.
Thank you.

Sincerely,

_____
(name)

_____
(full mailing address)

_____

_____

APPENDIX C: MODEL LETTER CHALLENGING INFORMATION ON A RAP SHEET REQUESTING CORRECTIONS

July 15, 2003
New York State Division of
Criminal Justice Services
Record Review Unit
4 Tower Place
Albany, NY 12203-3764

RE: DCJS record of John Doe NYSID # 0000A

Dear Sir/Madam:

On June 18th, I reviewed a copy of my rap sheet with a DCJS representative in Syracuse. I discovered several errors on my record and am writing to outline the corrections that should be made. As required, I am enclosing certified disposition slips.

My challenges include:

1. My rap sheet reports that I was convicted of Burglary on 10/17/77. In fact, I was adjudicated a youthful offender on this charge, as documented by the attached disposition slip with docket number Y0012. Please correct my records as soon as possible.

2. No disposition is reported for my 3/24/78 arrest. The attached court transcript with docket number X3567 reveals that all charges were dismissed following this arrest. Please add this information to your files.

3. The third column of my 9/2/79 entry indicates that I was convicted of Petit Larceny (155.25 PL) when, in fact, I was convicted of Attempted Petit Larceny (110/155.25 PL). Please change my records after referring to the attached disposition slip with docket number 3611.

4. Information pertaining to my 8/28/81 arrest is split into two separate entries on my rap sheet. Please consolidate the arrest and corrections information into one entry. See attached disposition with docket number C1652-9.

5. My rap sheet reports that a bench warrant is outstanding in my 2/1/83 case. However, this warrant was vacated on 4/5/84 when I pled guilty to Criminal Trespass, as indicated by the attached disposition slip with docket number 6541. Please update my record.

Please inform me of the changes that you have made on my rap sheet. Thank you for your attention.

Sincerely,

John Doe
125 Main Street
Syracuse, NY 15555

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ACTION
CENTER

The Legal Action Center is a non-profit, public interest organization that works on legal issues involving criminal records, alcohol and drug problems, and HIV/AIDS.

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