

## WHAT ARE MY RIGHTS AFTER MY CONVICTION IS DISMISSED?

Wondering what you are required to report on job applications?

Fired from a job because of your criminal record?

Visit Lawyers' Committee for Civil Rights' Second Chance Legal Clinic.

Call 415.814.7610 to sign up.

Leave a message and we will return your call within 1–2 business days.

Clinics are held twice per month in San Francisco.

### CONTACT US

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### WHEN DOES MY DISMISSAL TAKE EFFECT?

- On the day the judge signs the order, the dismissal is effective and you are entitled to all rights of the dismissal. It may take **several months** for the state and county to **update** your record. **Keep the order as proof of your dismissal.**
- It is highly recommended that you request a **new** Department of Justice (DOJ) RAP sheet within 3–6 months after your convictions were dismissed to ensure that the statewide records have been updated. If it is incomplete, you can use the form on the last page to request an update.

### WHAT DOES IT ACTUALLY MEAN TO HAVE CONVICTIONS DISMISSED?

- It is common for people to believe that when a conviction is dismissed by the court it is gone from their record, expunged, or sealed. **That is INCORRECT!**
- In California, a dismissed conviction still appears on your RAP sheet with a notation saying that it was “dismissed” pursuant to PC §§ 1203.4, 1203.4a, or 1203.41.

### HOW WILL A DISMISSED CONVICTION COME UP IN THE FUTURE?

- Will my dismissed conviction count as a “**prior**” or “**strike**”?
  - **Yes**, if you are arrested in the future, the dismissed conviction could impact your new case.
- Will the state reinstate my **firearm** privileges?

- **No**, if the conviction suspended your firearm privileges, the ability to own a firearm will not be reinstated even though the conviction was dismissed.

- Will the state reinstate my **driving** privileges?

- **No**, if the conviction involved the suspension of your driver's license, your driver's license will not be automatically reinstated even though the conviction was dismissed.

- Will I still be **obligated to register as a sex offender**?

- **Yes**, if you were required to register as a sex offender because of the conviction, you will still be required to do so even though the conviction was dismissed. **Exception:** Certain sex offenses may be eligible for a **Certificate of Rehabilitation**, which can sometimes remove the requirement to register. For more information about Certificates of Rehabilitation, speak with your attorney or the Lawyers' Committee for Civil Rights.

- Can a dismissed conviction be used for **impeachment** purposes at trial?

- **Yes**, if you are testifying during a trial, the opposing side could discredit you by referring to the dismissed conviction.

- Can the federal government consider a dismissed conviction for **immigration** purposes?

- **Yes**, the government can still consider a dismissed conviction for immigration purposes.

**If you have questions, call the Lawyers' Committee for Civil Rights at 415-814-7610.**

LAWYERS' COMMITTEE FOR

**CIVIL  
RIGHTS**

OF THE SAN FRANCISCO BAY AREA

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### WHAT SHOULD I WRITE ON JOB APPLICATIONS?

- What you write on a job application is different depending on whether the job is with a **private employer** or with a **government employer or a job that requires a license**.
- Read the questions on the application carefully and **provide only the information requested**.

### PRIVATE EMPLOYERS:

- Jobs with private employers include: working at restaurants, retail stores, hotels, etc.
- Private employers **cannot ask you about or consider any conviction that has been dismissed** pursuant to Penal Code section 1203.4, 1203.4a, or 1203.41.
- If **all** of your convictions have been dismissed ("expunged"), you can say "**no convictions**."

### GOVERNMENT EMPLOYERS OR JOBS THAT REQUIRE A LICENSE:

- Types of jobs where you would **still need to reveal your dismissed convictions** include:
  - Jobs with a government agency or involving a government contract;
  - Jobs that require a government issued license or a security clearance;
  - Jobs working in hospitals or health care facilities; or
  - Jobs working with children, seniors, or people with disabilities.

### Examples:

- Government employers include the post office, trash collection, or public transit.
- Jobs that require a license include being a nail technician, a real estate agent, or a teacher.
- Jobs that require a security clearance include working at the airport or in a bank.

### WHAT ARE MY RIGHTS IF A BACKGROUND CHECK IS RUN?

For commercial background checks for private employers:

- Always **request a copy** of the background check:
  - The employer must get your permission and provide a box to check to request a copy.
  - If you don't request a copy and get denied, you can contact the background check company directly for a copy.
- The background check is **not allowed to report**:
  - Arrests that did not result in a conviction
  - Convictions older than 7 years;
  - Convictions that have been dismissed (aka "expunged");
  - Diversion cases;
  - Information that is incorrect or contains errors.
- You have the right to **correct** any unlawful or incorrect information.

### FOR BACKGROUND CHECKS DONE BY GOVERNMENT EMPLOYERS OR FOR JOB LICENSES:

- If you do **fingerprinting** for the background check, your full conviction history will be reported. You may be required to report all convictions. **Read the application carefully.**
- Even if your conviction has been dismissed, if you do not report it, a government employer or licensing agency may consider not reporting it to be dishonest. **Again, read the application carefully or consult an attorney when filling out the application.**