

Criminal History Record Frequently Asked Questions

How do I obtain a copy of my New York State criminal history?

New York State regulations allow an individual to receive a copy of his or her criminal history record information maintained at the Division of Criminal Justice Services (DCJS) or a "no record" response indicating that the individual has no criminal history record information on file with the agency. An attorney may also request this information on behalf of his or her client.

This process is known as a Personal Record Review. Individuals **cannot** request a Personal Record Review for another person in order to determine if that person has a criminal history.

There are two types of Personal Record Review responses:

Personal Record Review – Unsuppressed: This response contains **all** criminal history record information suppressed or sealed under the Criminal Procedure Law (CPL), including:

- CPL 160.50 dismissed cases
- CPL 160.55 eligible violation/infraction convictions
- CPL 160.58 eligible substance abuse and related convictions
- CPL 720.35 youthful offender adjudications

Personal Record Review – Suppressed: This response **does not** include sealed or suppressed information, as detailed above.

Information Required for a Personal Record Review

An individual or his or her attorney must choose to receive either an unsuppressed or suppressed Personal Record Review response. If both responses are needed, a separate request must be submitted for each response.

Individuals who believe they have criminal history record information under more than one name must include those name(s) as aliases on the Personal Record Review application and fingerprint card. This information will help DCJS locate additional sealed records.

An individual can use his or her criminal history record information report, also known as a "rap sheet," or his or her "no record" response for any personal reason.

However, an individual **may not** use that information to obtain a job or license if he or she is required by law to undergo a fingerprint-based background check for that job or license. There is a separate process that individuals must undergo if a fingerprint-based background check is required for a job or license; see Access to Criminal History Information.

New York State Labor Law prohibits employers from requiring individuals to be fingerprinted as a condition of obtaining or continuing a job, unless required to do so by law. This section does not apply to:

- Employees of state or municipal departments;
- Employees of legally incorporated hospitals, and employees of medical colleges associated with such hospitals;

- Employees of private proprietary hospitals.

New York State Labor Law also requires that every employer shall post, in a place accessible to his or her employees, a copy of Correction Law Article 23-A, which deals with the licensing and employment of persons convicted of crimes.

To Request a Record Review while Living in New York State

1. To schedule an appointment for fingerprinting, contact MorphoTrust USA by calling 1-877-472-6915 (toll-free) or visiting its website: www.Identogo.com. New York State contracts with MorphoTrust USA to provide this service.
2. The following information must be provided when calling to schedule an appointment:
 - a. The Record Review ORI Number: NYDCJSPRY
 - b. The type of Personal Record Review: Suppressed or Unsuppressed
 - c. If the response will be sent to an attorney instead of the individual making the request
3. Individuals must provide the following upon arrival for the fingerprinting appointment:
 - a. Two forms of identification (information on acceptable forms are available on the MorphoTrust USA website or from the MorphoTrust USA Call Center);

AND

- b. Pay for fingerprinting services: \$59.95 using cash, credit card or personal or business check, certified check, bank check or money order made out to "MorphoTrust USA."

After Submitting a Request

Individuals may verify that their fingerprint transaction has been submitted to DCJS by contacting MorphoTrust USA at 1-877-472-6915 (toll-free).

DCJS will send the Personal Record Review response via U.S. mail within seven to 10 business days after it receives an individual's fingerprints. Responses cannot be picked up at DCJS.

The response may include criminal history information, civil information when fingerprints are submitted by law for employment or licensure, or "no response," which indicates no criminal history on file with DCJS. Also included in the response is a form explaining how to challenge the accuracy of any reported information.

To Request a Record Review while Living Outside New York State

1. Contact the DCJS Record Review Unit to request an out-of-state Record Review application packet by:

- a. **E-Mail: RecordReview@dcjs.ny.gov.** Please provide current complete mailing address, including addresses outside the United States, to obtain the application packet. The packet cannot be sent via e-mail.

OR

- b. **Surface Mail:**

Record Review Unit
Office of Criminal Justice Operations
New York State Division of Criminal Justice Services
Alfred E. Smith Building
80 South Swan St.
Albany, New York 12210

2. Complete the "Request for MorphoTrust USA Cardscan Fingerprinting Services – NYS Division of Criminal Justice Services Record Review Program" application form and select the type of Personal Record Review: Suppressed or Unsuppressed.
3. Obtain fingerprints on the enclosed fingerprint card and complete the demographic information on the card. **Please use only the card provided and do not fold it.** If applicable, complete the authorization on the application form to have the Record Review response mailed to an attorney.
4. Send the completed application form and fingerprint card, along with the fee of \$59.95, which can be paid by credit card or personal or business check, certified check, bank check or money order made out "MorphoTrust USA," to the following address:

MorphoTrust USA
New York Card Scan Department
3051 Hollis Drive, Suite 310
Springfield, IL 62704

After Submitting a Request

Individuals may verify that their fingerprint transaction has been submitted to DCJS by contacting MorphoTrust USA at this toll-free number: 1-877-472-6915.

DCJS will send the Personal Record Review response via U.S. mail within seven to 10 business days after it receives an individual's fingerprints. Responses cannot be picked up at DCJS.

The response may include criminal history information, civil information when fingerprints are submitted by law for employment or licensure, or "no response," which indicates no criminal history on file with DCJS. Also included in the response is a form explaining how to challenge the accuracy of any reported information.

Can I request a waiver of the Record Review fee?

Individuals unable to pay the fingerprint processing fee may contact DCJS to request a Record Review Fee Waiver application packet by:

E-Mail: RecordReview@dcjs.ny.gov. Please provide current complete mailing address, including addresses outside the United States, to obtain the application packet. The packet cannot be sent via e-mail.

OR

Surface Mail:

Record Review Unit
Office of Criminal Justice Operations
New York State Division of Criminal Justice Services
Alfred E. Smith Building
80 South Swan St.
Albany, New York 12210

1. Complete and return the Record Review Fee Waiver packet to the DCJS Record Review Unit (address above) and select the type of Personal Record Review: Suppressed or Unsuppressed.
2. Please include the following:
 - a. The Record Review Fee Waiver application form.
 - b. The completed fingerprint card: obtain fingerprints on the enclosed fingerprint card and complete the demographic information on the card. **Please use only the card provided and do not fold it.** If applicable, complete the authorization on the application form to have the Record Review response mailed to an attorney.
 - c. Documentation to support the request for a fee waiver such as a photocopy of a valid and current public assistance benefits card; or a notarized financial statement listing available assets and current income, which includes a certification or attestation that the statement is true and accurate.
3. DCJS staff will process the fingerprint cards after the Record Review Fee Waiver request has been approved.

After Submitting a Request

After mailing the Record Review Fee Waiver request to DCJS, please allow for a minimum of seven to 10 business days for a response, which will be sent via U.S. Mail.

The response may include criminal history information, civil information when fingerprints are submitted by law for employment or licensure, or “no response,” which indicates no criminal history on file with DCJS. Also included in the response is a form explaining how to challenge the accuracy of any reported information.

How can I correct information on my criminal history record that is wrong or incomplete?

Criminal history record information is provided to DCJS by criminal justice agencies, including police departments, the courts, probation departments and the state Department of Corrections

and Community Supervision. Criminal history records also are commonly referred to as “rap sheets.”

Individuals who believe their personal criminal history records maintained by DCJS are incomplete or inaccurate can use the “challenge” process to provide supporting documentation so that incorrect or incomplete data can be fixed.

The DCJS Record Review Unit handles the challenge process. For more information or to submit a challenge to a criminal history record, contact the unit by:

E-Mail: RecordReview@dcjs.ny.gov

OR

Surface Mail:

Record Review Unit
New York State Division of Criminal Justice Services
Alfred E. Smith Building
80 South Swan St.
Albany, New York 12210

The following steps must be taken to challenge the accuracy or completeness of a criminal history record involving:

- **Arrest Information:** To change or correct arrest information, such as arrest charges, date of arrest or date of crime, individuals must contact the agency that made the arrest and request that the agency submit the changes to DCJS. The agency must submit the changes in writing in order for DCJS to update the criminal history record information.
- **Disposition Information:** To change or correct existing disposition information, or to update missing disposition information, individuals must contact the court that handled the case and request a certified copy of the disposition. Individuals must then send the certified copy of the disposition to DCJS. Photocopies are not acceptable unless they contain a raised seal placed on the document by the court.
- **Unsealed Arrest and/or Conviction Information:** Individuals who believe that arrests or convictions should be sealed must contact the court that handled the case and request a certified sealing order. Individuals must then send the certified sealing order to DCJS. Photocopies are not acceptable unless they contain a raised seal placed on the document by the court.

Please Note:

New York State law does not allow for adult (defined as individuals 16 years or older) arrest or conviction records to be expunged (erased).

Certain convictions or a record related to an arrest resulting in a termination of the case in favor of an individual, such as dismissal or acquittal, may be sealed.

Sealing means that information is not included on a criminal history record, however, there are limited circumstances when a sealed record can be released.

Examples are as follows:

- In response to a fingerprint-based criminal history background check on an individual applying for a peace/police officer job;
- In response to a check on an individual seeking a firearms license;
- As a result of a court order; and
- In response to an individual's request for his or her own criminal history record. An attorney also can request a criminal history record on behalf of a client. To receive criminal history record information with sealed information included, an individual or his or her attorney must request an unsuppressed (unsealed) record.

How do I obtain a certificate of relief from disabilities?

A certificate of relief may be issued by a court or the New York State Department of Corrections and Community Supervision (DOCCS). The certificate removes restrictions barring individuals who have been convicted of misdemeanors, or up to one felony, from certain types of employment and/or from obtaining certain licenses. Individuals seeking a certificate of relief must contact the court that handled their case or visit the DOCCS website at www.doccs.ny.gov for information on how to apply.

How do I obtain a certificate of good conduct?

A certificate of good conduct may be issued by DOCCS. This certificate removes certain employment and licensure restrictions imposed on individuals who have been convicted of two or more felonies, and may restore the right of the individual to hold public office. Individuals seeking a certificate of good conduct can visit the DOCCS website at www.doccs.ny.gov for information on how to apply.

I was convicted of a misdemeanor or felony in New York State more than 10 years ago. How do I get the conviction expunged?

New York State law does not allow for adult (defined as individuals 16 years or older) arrest or conviction records to be expunged (erased). Certain convictions or a record related to an arrest resulting in a termination of the case in favor of an individual, such as dismissal or acquittal, may be sealed.

Sealing means that information is not included on a criminal history record, however, there are limited circumstances when a sealed record can be released. Examples are as follows:

- In response to a fingerprint-based criminal history background check on an individual applying for a peace/police officer job;
- In response to a check on an individual seeking a firearms license;
- As a result of a court order; and

- In response to an individual's request for his or her own criminal history record. An attorney also can request a criminal history record on behalf of a client. To receive criminal history record information with sealed information included, an individual or his or her attorney must request an unsuppressed (unsealed) record.

Can an individual obtain a copy of someone else's criminal history record information?

No, only an attorney can request a criminal history record on behalf of his or her client. Those requests must be submitted in writing.

Does DCJS perform criminal background checks?

Yes. DCJS performs fingerprint-based criminal history record information background checks for employment and licensing purposes for a fee.

Who can request a background check?

An individuals can request his or her own criminal history record information or authorize an attorney to do so on his or her behalf.

Criminal History Record Information maintained by the DCJS may only be released to entities having statutory authority to access that information or pursuant to a judicial order or subpoena.

New York State Executive Law defines the "qualified agencies" that are eligible to access criminal history record information. Access to criminal history record information for employment or licensing is permitted only if there is a state law, federal law, or local law of a New York State village, town, city or county that specifically authorizes a fingerprint-based criminal history record background check.

If an agency is authorized by law to request a fingerprint-based background check for a certain type of job/license application, what fees are charged?

The standard DCJS processing fee for a fingerprint-based criminal background check is \$75.

The standard Federal Bureau of Investigation (FBI) fee for a fingerprint-based criminal background check is \$14.75.

An additional fee may apply if an agency chooses to use MorphoTrust USA to submit fingerprints to DCJS. Applicants should contact the agency that directed them to MorphoTrust USA for the current fee.

When a fingerprint card is submitted to DCJS for a criminal history background check, how long does it take for results to be sent to the agency that requested the check?

Fingerprint-based criminal background checks submitted electronically to DCJS are typically processed within two business days of receipt. Hard-copy requests can take up to five business days.