

Why and How to Get Your Criminal Record

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A. WHY IS MY CRIMINAL RECORD IMPORTANT?

Your criminal record can have a major impact on your life long after you were arrested, convicted or served time for an offense. In particular, having a criminal record can make getting a job much harder. Many employers ask about your criminal record, and some employers make hiring and firing decisions based on what is in your criminal record. In addition, landlords, schools, and licensing agencies may make decisions based on your criminal record. *If you have a criminal record, you need to know what is on that record.*

B. DO I HAVE A CRIMINAL RECORD?

Many employers will ask whether you have ever been convicted. A civil infraction – say for speeding – is not a criminal conviction. However, a misdemeanor – say for driving on a suspended license – is a criminal conviction. Some employers will ask whether you have ever been convicted of a felony. It is therefore important to know whether or not your convictions are misdemeanors or felonies. In addition, juvenile adjudications are not convictions, even though they may appear on your record. A case results in a conviction if you are an adult when you commit your offense, or if you are tried as an adult. If you are tried as a juvenile, then the case results in a juvenile adjudication.

Getting your record will help you figure out if you have felonies, misdemeanors, civil infractions, or juvenile adjudications. Getting your record will also help you answer questions like “have you been convicted of a felony in the last five years?” You will need to know when you were convicted in order to answer that question. If you are still uncertain about what is on your record after you’ve looked at a copy, consult an attorney.

Michigan criminal records do not include arrests that did not result in convictions, and do not include pending cases. However, if an arrest results in a conviction or adjudication, your criminal record will contain information about your arrest, about the charges that were brought against you, and about the charges upon which you were convicted/adjudicated. For example, if you were arrested for and charged with felony assault, but were convicted only of misdemeanor assault, your record will show that you were originally charged with a felony. In cases like this people reading your record often become confused, and think you have been convicted of a felony. Make sure you know how to read and explain your record.

If you were found not guilty, or if your case was dismissed, your case should not appear on your public criminal record. Similarly, if you have had a conviction expunged or vacated, it should not appear on your public criminal record. In addition, certain juvenile records and certain records for first time offenses should not appear on your public criminal record. However, information that is not generally available to the public -- including information about

arrests, pending cases, charges for which you were not convicted, and expunged convictions -- will still be available to law enforcement.

C. WHERE DO I GET A COPY OF MY CRIMINAL RECORD?

There are several different places where you can get your criminal record: the Michigan State Police (MSP), the Michigan Department of Corrections (MDOC), your local police department, your local district or circuit court, the Federal Bureau of Investigation (FBI), and private companies. Each keeps different information about your criminal record and has different procedures for getting that information.

Where you go to get your record depends on what information you need, how much time you have, whether you are able to go in person, and how much money you can afford to spend. Employers who do criminal record checks frequently rely on the Michigan State Police database or on local court and police records. The Michigan State Police database does not include out-of-state convictions, and often does not include minor Michigan convictions. Local court and police records usually only include convictions from that jurisdiction. The database of the Michigan Department of Corrections only includes information about offenses for which you were sentenced to the custody of MDOC. Your FBI record is the most comprehensive, as it includes information about out-of state convictions.

D. HOW DO I GET MY CRIMINAL RECORD?

1. Records from the Michigan State Police

The Michigan State Police database is one of the databases most commonly used by employers and others who are seeking information on Michigan convictions. The MSP provides quick, cheap, and easy access to criminal records. ***Because the MSP database is so widely used and because the FBI and private companies rely on the MSP's data when compiling their records, you should make sure your MSP record is accurate.***

a. Name-Based Criminal Records

Because name-based checks are quicker, cheaper, and easier than fingerprint-based records, they are used by most employers, landlords, and other individuals who check your criminal record. Unfortunately, name-based checks are much less reliable than fingerprint-based checks. ***Not infrequently, a name-based check will pull up a criminal record that does not even belong to you. Therefore, it is very important to get a copy of your name-based record to make sure that the information is correct.***

i. Getting Your Criminal Record Off the Internet

The Michigan criminal record database is publicly accessible on the Internet via the Internet Criminal History Access Tool, also call ICHAT. Go to: <https://mi-mall.michigan.gov/ichat>. You will need to register before using ICHAT, and you will need to provide credit card information. There is a \$10 fee charged for each search. Complete the

Criminal Record Search screen, click “submit,” and then click “view responses.” The results will come back immediately.

If you do not have access to the Internet or if you cannot afford to pay \$10, contact your local Michigan Works! agency, Goodwill, Salvation Army, or other job placement program. Nonprofit organization can get free access to ICHAT by contact the Michigan State Police. Many job placement programs will be able to run your record for free and give you a copy.

ii. **Getting Your Criminal Record By Mail**

- Write a letter to the Criminal Justice Information Center and include you Name, Race, Sex, Date of Birth, Maiden Name and all prior Married Names. You may also wish to include a social security number, especially if you have a common name. Make sure to include your return address. See Appendix 1 for a sample letter.
- Mail your letter along with a check or money order made out to the State of Michigan. As of May 2005, the fee was \$10. The address is:

Michigan State Police
Criminal Justice Information Center
Identification Section
7150 Harris Drive
Lansing, MI 48913
Tel: 517-322-1956

- It will take about three to five weeks to get your results.

b. **Fingerprint-Based Records**

Fingerprint-based records are significantly more accurate than name-based records. Some employers require fingerprint-based records. In addition, if your name-based record is inaccurate, you will usually need to get a fingerprint-based record before you can get your name-based record corrected.

To get your fingerprint-based record:

- Go to your local police station and asked to be printed on an RI-8 Fingerprint card. In the section for “reason fingerprinted,” write “Michigan Record Check.”
- Write a cover letter explaining what information you want. For example, if you need a certified copy, make sure to state that in the letter. You may want to ask for both a copy of your “public” record, which is what other people see when they run your record, and a copy of your “non-public” record, which includes information such as arrests, dropped charges, or expunged cases. See Appendix 2 for a sample letter.
- Submit the card and appropriate fee, in the form of a money order or check made out to the State of Michigan to the Criminal Justice Information Center. As of May 2005, the fee for a fingerprint-based search of Michigan records was \$30.

- If you also need an FBI record check, ask the person making the prints to mark box E on the RI-8 card. There is an additional fee to do a search of FBI records. The Michigan State Police will only do FBI checks under certain circumstances, such as if you work in a field where your employer is required to do an FBI check.
- It will take about three to five weeks to get your results.

c. Aliases and Errors: Information In the Michigan State Police Database That is Not Correct or Complete

i. What To Do if Your Name-Based Record Does Not Belong to You

One of the reasons it is so important to get copies of your name-based criminal record is that sometimes these records contain convictions that do not belong to you. There are two main reasons why this happens. First, you could be a victim of identity theft. If someone uses your name as an alias when that person is arrested, your name will be entered in the MSP database as an alias. Thereafter, if a background check is done on your name, it will pull up all of the convictions that belong to the person who used your name. It will look like that person's criminal record is your criminal record.

Second, you may have the same name as a person who has a criminal record. At present, ICHAT only searches on the name, sex, and year of birth. That means that if you were born the same year as a person who has your name and is of the same sex as you are, that person's criminal record may show up when your name is searched.

If a name-based search of your name produces a record that does not belong to you, you will need to get fingerprinted. Go to your nearest police station and ask to be printed on an RI-8 card. Then, write a cover letter to the Michigan State Police explaining that you want to do a "record challenge. See Appendix 2 for a sample letter. Enclose a copy of your name-based criminal record. There is no fee for a record challenge. The Michigan State Police will compare your fingerprints with the fingerprints of the person who gave your name. If the fingerprints are not the same, you will get a clearance letter from the MSP. You can use this letter to prove to prospective employers that the criminal record that shows up under your name does not belong to you.

At present the MSP will not remove the convictions belonging to someone else from under your name. However, the MSP has said that it will be reprogramming its computers to allow it to make such corrections. The MSP anticipates that its computers will be reprogrammed by early 2006.

ii. What To Do if there are Errors in Your Record

Both your name-based and fingerprint-based records can contain errors. Sometimes the record will list your convictions inaccurately. In order to correct such mistakes, you should get a certified copy of the judgment of sentence in your case. You can get this from the court where you were convicted. Send the judgment to the Michigan State Police along with a letter explaining why you think your record is incorrect. The Michigan State Police should then correct the errors on your record.

Sometimes the record will mistakenly contain expunged, dismissed, or vacated convictions. Such convictions are not supposed to appear on your public criminal record. In

order to get them removed from your record, you will need a certified copy of the court order expunging, dismissing, or vacating your conviction. Send that order to the Michigan State Police along with a letter explaining why you think your conviction should not appear on your record. The Michigan State Police should then remove the conviction from your record.

If the MSP will not correct the information on your record, contact a lawyer for assistance. If you cannot afford a lawyer, contact your nearest Legal Aid office.

iii. Why Your Criminal Record May Not Contain All of Your Convictions

Sometimes your MSP record will not contain all of your convictions. The Michigan State Police Criminal Justice Information Center compiles criminal records based on information reported by Michigan law enforcement, prosecutors, courts, and prisons. If information is not forwarded to the Michigan State Police, your record may not include all of your convictions. Michigan law enforcement agencies are supposed to provide fingerprint and arrest information when a person is charged with an offense punishable by over 92 days. In other words, all arrests for felonies or serious misdemeanors are supposed to be reported. Other misdemeanors are reported after conviction if the sentence includes imprisonment with fines and costs totaling more than \$100. This means that minor offenses for which you did not receive jail time probably will not show up on a Michigan State Police criminal record check. However, these offenses will usually show up on a criminal record check in the jurisdiction where they were committed.

2. *Records from the Local Police and Local Courts*

Records from your local police department or local court usually only include information about local offenses. These records tend to include information about minor offenses that may or may not be included on your Michigan State Police record. However, local records typically do not include information about convictions in other parts of the state.

Because different courts and different police departments have different rules, you should check with your local court or police department about how to obtain your criminal record. In some cases your criminal record may be available on the Internet. In other cases you may need to go to the court or police station to get your record.

3. *Records from the Michigan Department of Corrections*

The Michigan Department of Corrections maintains a publicly available database called the Offender Tracking and Information System (OTIS). OTIS contains information about prisoners, parolees and probationers. Because OTIS does not contain information about convictions that did not result in a prison or probation sentence, it is not as complete as the MSP database. However, because OTIS is free, some people use OTIS instead of the MSP database. Therefore, it is a good idea to know what is on your OTIS record. Since OTIS does not require you to enter a date of birth, if you have a common name it may appear that you have a record when you do not. To obtain your OTIS record, go to: <http://www.state.mi.us/mdoc/asp/otis2.html>, and fill in the search screen.

If there are errors on the OTIS database, contact the MDOC's Office of Public Information and Communications at (517) 373-6391. If you are a victim of identity theft and another individual appears in OTIS under your name, contact an attorney for assistance.

4. *Records from the Federal Bureau of Investigation*

a. What Information Does The FBI Have?

The FBI keeps a list of all of your arrests and convictions in the United States. The FBI is a good place to get your record if you have ever been arrested or convicted outside of Michigan.

b. How Do I Get My FBI Record?

You can get your FBI record by writing directly to the FBI. (Certain employers can also get your FBI records through the Michigan State Police.) You can call the FBI at (304) 625-3878 for specific questions about getting your record, but they will not send your record without a written request. You must include all the necessary information, a money order for \$18 and your fingerprints or the FBI will not send you your record. See Appendix B for a sample letter requesting a FBI criminal record.

Your letter must include:

- Your full name.
- Your date of birth.
- Your place of birth (including the state and country)—for example, Grand Rapids, Michigan, USA or Landover, MD, USA or San Salvador, El Salvador.
- Your return address.
- A set of fingerprints. You can get fingerprints from your local police station.
- A money order for \$18 payable to "Treasurer of the United States." If you cannot afford to pay \$18, you must send a notarized affidavit stating that you are unable to pay.

Send this information to:

FBI CJIS Division – Record Request
1000 Custer Hollow Road
Clarksburg, West Virginia 26306

5. *Records from Private Companies*

A significant number of private companies now provide criminal background checks for a fee. Many of these checks are available on the Internet. Some web sites are:

<http://www.docusearch.com>

<http://www.amerusa-criminal-records.com>

<http://www.tracingamerica.com>

The procedures to get and correct the records of a private company vary by company, so you will need to talk to each company directly. If criminal record information provided by a private company is inaccurate, you may have a legal claim against them. Please consult an attorney.

6. *Other Ways To Get Your Criminal Record*

You may be able to get a copy of your criminal record in other ways. For example, if you are currently involved in a criminal case, your attorney can obtain a copy of record. Also, your parole officer or probation officer might have access to your record and might be able to make a copy for you. If you are incarcerated, you may be able to get your record from facility staff. Finally, if you are turned down for a job, apartment or other opportunity because of your criminal record, ask the person who did the record check for a copy of your record. Explain that you want to confirm that the information on the record is accurate. ***It is very important to get copies of the exact record used so that you know which background check service produced the record. You will not be able to correct any errors in the record if you do not know which background check service was used.***

**APPENDIX 1: SAMPLE LETTER TO REQUEST NAME-BASED CRIMINAL
RECORD FROM THE MICHIGAN STATE POLICE**

May 23, 2005

Michigan State Police
Criminal Justice Information Center
Identification Section
7150 Harris Drive
Lansing, MI 48913

To Whom It May Concern:

I am writing to request a certified copy of my criminal record. I would like a copy of both the public record, i.e. the record that prospective employers see, and a copy of the non-public record, i.e. what is available to law enforcement. I am including the following personal information to aid you in an accurate search for my record.

My Name: Jane G. Doe
Maiden Name: Jane G. Roe
Birth Date: 01-24-1977
Social Security Number: 111-22-3333
Race: African-American
Sex: Female
My address is: 1234 Some St., N.E.
Some City, MI 12345

Enclosed please find a money order for \$10 made out to the State of Michigan.

My phone number is 123-456-7890 in case you have any questions.

Thank you for your prompt attention to this matter.

Sincerely,

Jane G. Doe

Fees
Make sure to
include a check or
money order.

**APPENDIX 2: SAMPLE LETTER REQUESTING A RECORD CHALLENGE OF A
NAME-BASED MICHIGAN STATE POLICE RECORD**

May 23, 2005

Michigan State Police
Criminal Justice Information Center
Identification Section
7150 Harris Drive
Lansing, MI 48913

To Whom It May Concern:

I am writing to request a record challenge. A name-based criminal background check suggests that I have a criminal record. The convictions listed on that record do not belong to me.

I was hired by ABC Nursing Home. However, because a background check falsely suggests that I have a criminal record, I have been fired. I am asking that you correct this situation as quickly as possible so that I can attempt to get my job back.

My identifying information is as follows:

My Name: Jane G. Doe
Maiden Name: Jane G. Roe
Birth Date: 01-24-1977
Social Security Number: 111-22-3333
Race: African-American
Sex: Female
My address is: 1234 Some St., N.E.
Some City, MI 12345
Phone number: 123-456-7890

I enclose a copy of the results of the name-based background check.
I also enclose a copy of my fingerprints.
Michigan.

Thank you for your prompt attention to this matter.

Sincerely,

Jane G. Doe

Include a copy of your fingerprints and a copy of your name-based record. There is no fee for a record challenge.

APPENDIX 3: SAMPLE LETTER TO FBI

May 23, 2005

FBI
CJIS Division
1000 Custer Hollow Rd.
Clarkburg, WV 26306

RE: FREEDOM OF INFORMATION ACT REQUEST

To Whom It May Concern:

This is a Privacy Act Request. I would like to receive a copy of my criminal record from the FBI. The following information should assist you in your search for my records.

Full Name: John G. Smith
Date of Birth: 12/24/1970
Social Security Number: 123-45-6789
Place of Birth: Detroit, Michigan, U.S.A.

I have enclosed my fingerprints and a certified check or money order for \$18.00 made payable to the Treasurer of the United States. [**Note:** If you cannot afford the \$18.00 fee, you need to include a notarized affidavit stating you are unable to pay.]

Please send a copy of my criminal record to me at the following address:

2001 Some St., NW
Detroit, Michigan 12345

In case you have any questions, you can reach me at 123-456-7890.

Thank you in advance for your prompt reply.

Sincerely,

John G. Smith

"Privacy Act Request":

Write this both in the letter and on the envelope underneath your return address.

Also Include:

- A \$18 money order made out to "Treasurer of the United States" or a notarized affidavit that you are unable to pay.
- A set of fingerprints.

