

Q&A Column
Author: Mark Swartz

Email Subject Line: Dealing With Your Criminal Record

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Headline: What To Do About My Criminal Record?

Summary:

Question: A few years back I was found guilty of a victimless crime. Now I'm finding it hard to get bonded, work for a bank, or even pass a clearance test to serve as a volunteer. Are there steps I can take to make the situation less dire for me?

Name Withheld By Request, Regina, Saskatchewan

Landing Page copy

Headline: What To Do About My Criminal Record?

Dear Mark,

Question: A few years back I was found guilty of a victimless crime. I paid my dues but unfortunately the conviction keeps coming back to haunt me. I'm finding it hard to get bonded, work for a bank, or even pass a clearance test to serve as a volunteer. You can imagine how this is hurting my employment chances as a finance professional. Are there steps I can take to make the situation less dire for me?

Name Withheld By Request, Regina, Saskatchewan

Dear Reader,

Thank you first of all for bringing up this seldom discussed issue. Having a record is more common than you might think: over 5% of Canadians have one. It's definitely not the sole preserve of hardened criminals or some top U.S. executives (not that I mean to draw a direct parallel or anything...). There are many good, hard working people who may find themselves on the wrong side of the law for one reason or another.

The answer to your query depends, in large part, on the severity of your misdoing. Obviously something like "theft under \$5,000," which is not uncommon in the world of business or shoplifting, is far less drastic than armed robbery or assault. Your lawyer can tell whether you have been found guilty of an indictable offence (the most serious kind), a hybrid offence (can be treated as either serious or not so much so), or a summary conviction offence (less serious).

In any event, what you ought to be looking into is getting your record removed from record books. A service like Pardons Canada (www.pardons.org) offers information, support and guidance. For what appears to be a pretty reasonable fee they will "undertake all necessary steps and procedures for removing a criminal record, including: Pardons, Purges, File Destructions, U.S.A. Entry Waivers, and U.S.A. Visa Waivers." Some similar organizations include canadianpardons.ca and nationalpardon.org.

The sooner you start the process, the better. Regardless how old your record is, criminal convictions are generally not automatically destroyed or sealed. You yourself must take steps and apply to have it removed (don't stop at simply getting a pardon otherwise your record might remain). Here are some answers to Frequently Asked Questions, according to the pardons.org website:

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- *Do employers have access to my criminal record?*

It depends. If you signed an employment application, the documents may have contained a statement giving your employer permission to conduct a criminal record search. Also, many employers have employment agreements which a new employee must sign before starting their job. Often in these agreements, the employee gives the employer the right to conduct a criminal record check.

- *I was told that I must wait 5 years before applying to have my criminal record removed. Is this true?*

Waiting periods range from 3 months, for withdrawn, dismissed or acquitted charges, one year for absolute discharges, 3 years for conditional discharges and summary convictions, to 5 years for indictable convictions. For convictions, waiting periods begin to run once the sentence imposed by the court is satisfied. For discharges, waiting periods begin to run from the court date.

- *How long does it take to get a pardon?*

It takes an average of 12-20 months for a pardon application to be processed and granted. However, to prepare the pardon application, many documents must be collected. Acquiring the proper supporting documents takes between 3-9 months. Therefore, it is a good idea to start preparing the application well in advance of your eligibility date. In fact, most people cannot even determine what their eligibility date is until after they have acquired RCMP reports and relevant court documents.

- *How likely am I to be granted a Pardon and who decides?*

The National Parole Board (NPB) has exclusive jurisdiction to grant, refuse to grant or to revoke a pardon. However, they will not arbitrarily refuse to grant a pardon. If you have waited the requisite time after the sentence imposed was completed, and if you have all the proper supporting documents and if you have been of good conduct, the NPB will grant you a pardon.

- *What happens to my criminal record file after I have been granted a pardon?*

A pardon vacates a conviction. The RCMP and all police agencies are notified of the pardon by the NPB. Your criminal record, including RCMP, police and court records, are removed and sealed. These records cannot be disclosed without the permission of the Solicitor General of Canada.

Your end game is to have your record disappear, if possible, from the databases that might give you problems. *Please consult your lawyer and Pardons Canada directly for details.*

In the meantime it's important to be straightforward when applying for work. If you can show that you've made restitution, learned from your errors and have kept a clean record since the episode in question, an employer is much more likely to look at your overall picture than simply that one dark stain on your otherwise pristine record.