



**What
Shows Up**



**On My
Record?**

For NY State

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Youth Represent is dedicated to improving the lives and futures of young people affected by the criminal justice system.

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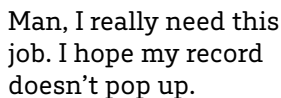
This document does not constitute legal advice. This information is current as of January, 2021.



If you're applying for a job, school, or housing, you'll want to know what parts of your record people can see.

This booklet can help you figure out if your case is PUBLIC or PRIVATE.

You can always contact Youth Represent for help, too: (646) 759-8088 or youthrepresent.org/legalhotline

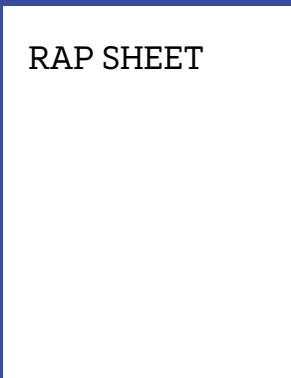


Man, I really need this job. I hope my record doesn't pop up.

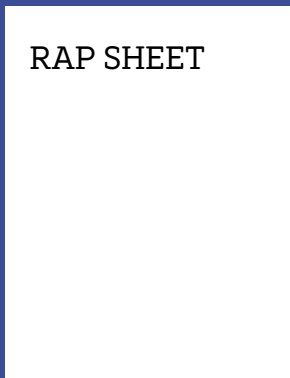


PRIVATE cases do not show up on your record.

If someone runs a background check, they won't see anything about PRIVATE cases. If all your cases are PRIVATE, it will look like somebody who has never been arrested in their entire life.



Someone who has never been arrested



Someone whose cases are all PRIVATE

EXCEPTIONS

If you thought a case was PRIVATE but something came up, it might be an error. Talk to your lawyer.

A small number of employers can see and ask about PRIVATE cases, including law enforcement, banks (FDIC), the military, or federal employers. Immigration Court can also see all arrests, including cases that have been sealed.

PUBLIC cases show up on your record.

If someone runs a background check, they will see PUBLIC cases.

But that doesn't mean everyone can see them. When people run a background check, they have to pay a company to send them a report directly. PUBLIC cases usually don't show up on Google.



It's really unlikely, but your case could show up on Google if it was in the news. But this almost never happens.



If you have a public criminal record, there are laws that protect you from discrimination. See pages 28 to 31.

How should I use this booklet?

If your case is closed:

First

No matter what, read pages 8 through 11 first. This will help you figure out if your case is automatically PRIVATE.

Then

If you read that and none of it applied to you, skip to the page with the age you were when you were arrested.

If you were 15 or younger..... Go to page 13

If you were 16..... Go to page 14

If you were 17..... Go to page 15

If you were 18..... Go to page 16

If you were 19 or older..... Go to page 21

Finally

If you went through those two steps, and none of it applied to you, your case is probably PUBLIC. Go to page 20 and read to the end.

If your case is open:



Skip to page 22.

If you got a program:



Talk to your lawyer.

**You can also just read this
straight through like a
regular book!**



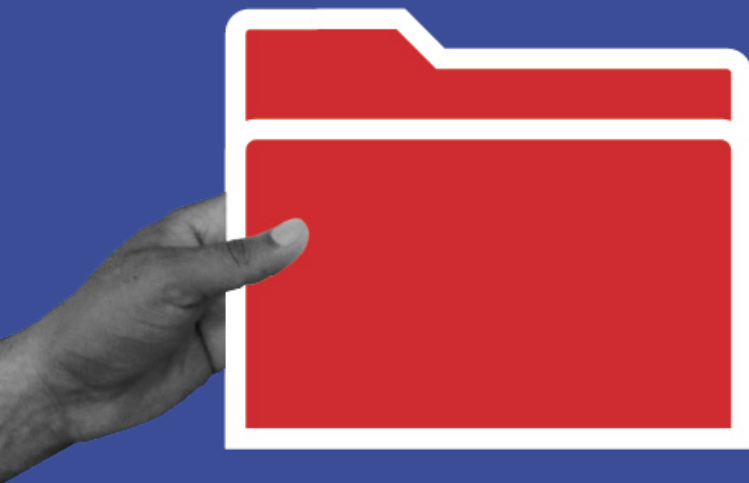
There are three ways your case could be PRIVATE no matter how old you were when you got arrested.

Keep reading



1. Was your case dismissed?

Then your case is PRIVATE.




EXCEPTIONS

A small number of employers can see and ask about PRIVATE cases, including law enforcement, banks (FDIC), the military, or federal employers. Immigration Court can also see all arrests, including cases that have been sealed.

2. Did you get an Adjudgment in Contemplation of Dismissal (ACD)?

You may have heard the judge say something like:



Stay out of
trouble for six
months.

Judges usually say your case is open for 6 months or a year and then dismissed automatically as long as you're not re-arrested. Your case is probably PRIVATE while it's open, and definitely PRIVATE once it's dismissed and closed.

Whether it's open or closed, employers and landlords can't use it against you. They have to treat it like a dismissed case.



This is thanks to a 2019 change in the State's Human Rights Law.

EXCEPTIONS

If you're applying for a job or license that requires fingerprinting, an open ACD could show up. Ask your lawyer.

3. Did you get a violation conviction?

Marijuana possession convictions for less than 2 ounces are now violation convictions and are automatically PRIVATE.

Loitering for prostitution convictions are also automatically PRIVATE, even for misdemeanors.

Almost all other violation convictions (for things like disorderly conduct or trespass) are also PRIVATE.

However, if you're applying for a job or license that requires fingerprinting, a recent violation conviction could show up. Ask your lawyer.



This is thanks to decriminalization laws that passed in 2019 and 2021. If marijuana possession or loitering for prostitution cases are showing up on your background check, call your lawyer.

If none of those apply to you, then you can figure out if your case is PUBLIC or PRIVATE by asking how old you were when you got arrested.*

- * We say “how old you were when you got arrested” as a quicker way to say “the age you were when the alleged crime happened.” If they say the thing happened when you were 16, but you were arrested when you were 17, it goes by when the thing happened!

If you were 15 or younger when you got arrested:

You were probably charged as a Juvenile Delinquent (JD), which means your case is PRIVATE.

What's a JD?

Your case was in family court.

You were found guilty of something that would have been a crime if committed by an adult.

But you aren't getting an adult conviction because of how old you were.

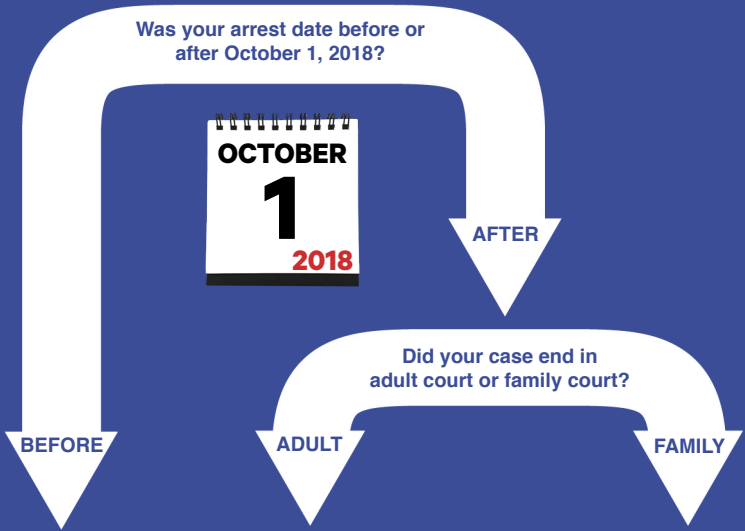
All JD cases are automatically PRIVATE, even while you are still in court.



EXCEPTIONS

If you were charged in adult court, go to page 20.

If you were 16 when you got arrested:



There is a chance your case is PRIVATE if your case was dismissed, you got a violation, or you got something called Youthful Offender Status (YO). Read pages 17 and 18 to learn about YO.

You were probably charged as a Juvenile Delinquent, which means your case is PRIVATE.

If none of those apply to you, your case might be PUBLIC. Go to page 20.



This is thanks to Raise the Age, a law passed in New York State in 2017.

If you were 17 when you got arrested:



There is a chance your case is PRIVATE if your case was dismissed, you got a violation, or you got something called Youthful Offender Status (YO). Read pages 17 and 18 to learn about YO.

You were probably charged as a Juvenile Delinquent, which means your case is PRIVATE.

If none of those apply to you, your case might be PUBLIC. Go to page 20.



This is thanks to Raise the Age, a law passed in New York State in 2017.

If you were 18 when you got arrested:

Did you get a criminal conviction for a felony or misdemeanor? Then your case is probably PUBLIC.



PUBLIC

Was your case dismissed? Did you get a violation? Did you get something called Youthful Offender Status (YO)? Then your case is PRIVATE.



PRIVATE

EXCEPTIONS

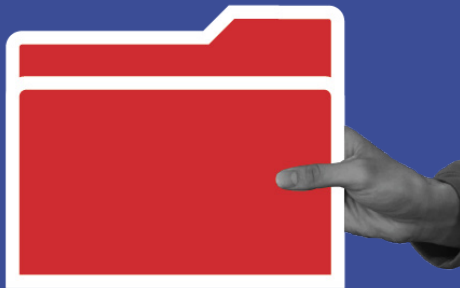
For a small number of cases, your criminal conviction for a felony or misdemeanor is PRIVATE if you successfully applied for sealing under CPL 160.59 or 160.58. If you got a conviction for marijuana possession under 2 ounces (PL 221.10) or loitering for prostitution (PL 240.37), it's now PRIVATE.

What is Youthful Offender (YO) Status?

What's YO?


This is a special status that means your case is PRIVATE.

If you were convicted in adult court but you were 18 or younger at the time of arrest, your conviction may have been replaced by YO.



YO sounds good, how do I know if I got it?

- To find out if you got YO, ask your lawyer or contact Youth Represent at (646) 759-8088 or youthrepresent.org/legalhotline
- You can also go to the clerk in the court where your case ended. At the clerk's office, ask:



Did I get YO?

- If you think you were eligible for YO and you didn't get it, call Youth Represent about that, too!

NOTE

Remember that your case could also be PRIVATE if it was dismissed or you got a violation. See more info on pages 8 to 11.

How to talk about your case if it is PRIVATE:

DON'T

Don't talk about PRIVATE cases!

EXCEPTIONS

If you thought a case was PRIVATE but something came up, it might be an error. Talk to your lawyer.

A small number of employers can see and ask about PRIVATE cases, including law enforcement, banks (FDIC), the military, or federal employers. Immigration Court can also see all arrests, including cases that have been sealed.

If nothing on the previous pages applies to you, your case is probably PUBLIC. (At least for now.)

Read to the end 

Even if your case is PUBLIC, you have protections.

Go to page 29 

If you were 19 or older when you got arrested:



Did you get a criminal conviction for a felony or misdemeanor?
Then your case is probably **PUBLIC**.

PUBLIC



Was your case dismissed?
Did you get a violation?
Then your case is **PRIVATE**.



Sometimes, these happen when you complete a program.

PRIVATE

EXCEPTIONS

For a small number of cases, your criminal conviction for a felony or misdemeanor is **PRIVATE** if you successfully applied for sealing under CPL 160.59 or 160.58. If you got a conviction for marijuana possession under 2 ounces (PL 221.10) or loitering for prostitution (PL 240.37), it's now **PRIVATE**.

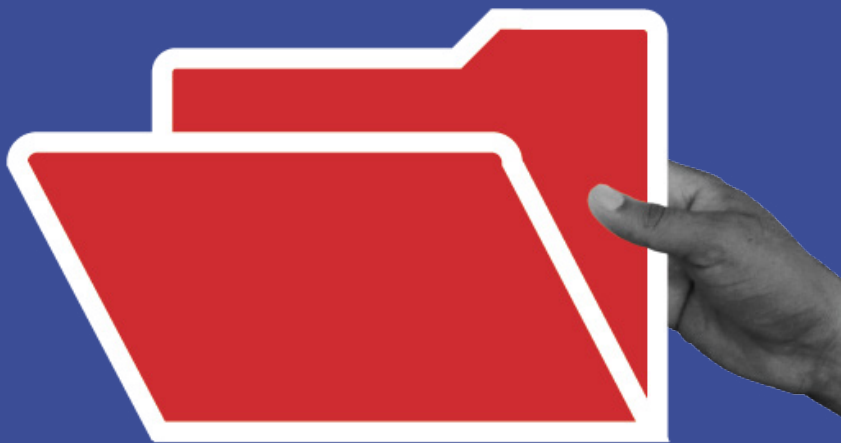
**If you are still going to
court dates in adult court,
that means your case is
still open.**

Keep reading



If your case is still open:

Your case is most likely PUBLIC. Almost all open adult court cases are PUBLIC.



EXCEPTIONS

If your top charge is a violation, your case is PRIVATE even while it's open.

If you're in adult court and you were 18 or younger when you got arrested, then your case might be PRIVATE even while it's open.

If you have an open case as an Adolescent Offender (AO) or a Juvenile Offender (JO):

Your case is PUBLIC.



What's an AO?

You were 16 or 17 when you were arrested but you're being treated as an adult and being charged in adult court.

Adolescent Offender charges are only for felonies and usually for serious crimes.

What's a JO?

You were 15 or younger when you were arrested but you're being treated as an adult and being charged in adult court.

These charges are for the most serious crimes, like arson, armed robbery, rape, or murder.

For YO cases:



PUBLIC

If you're still going to court dates, your case is probably PUBLIC but check with your lawyer.



PRIVATE

If you're not going to court dates anymore, and you got a YO, your case is PRIVATE. This is true even if you are still on probation.

What's YO?

See page 17

How to talk about your case if it's PUBLIC:

I see you have a record...

I was convicted of _____.

Here's what I learned from the experience:
_____.

Tell me the backstory.

Actually, I'd love to tell you about all the good things I've done since then.

NOTE

Remember, most employers in NYC can't ask you about your criminal record before making a job offer. See the next section for more.

Tips for talking about a PUBLIC case:

- Make sure you know what's actually PUBLIC on your record, and only talk about PUBLIC cases.
- Don't spend a lot of time talking about the thing you were arrested for or its backstory.
- Talk about your conviction directly and accurately.
- Say that the conviction exists and then move the conversation forward. The case doesn't define you.
- If they ask you about an open case, make sure you say that the case is still open and you have not been convicted of any crime.

**Even if your case is
PUBLIC, you have rights.**

**You are protected from
discrimination by New
York State and City laws.**

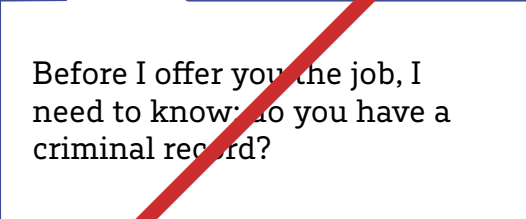
Keep reading 

**And you may be able to
get your case sealed in
the future!**


Go to page 32 

When you apply for jobs, you are protected!

In New York City, most employers can only ask about your record if they've made you a job offer. That means they can't ask you during an interview or in an application that you fill out.



Before I offer you the job, I need to know: do you have a criminal record?



If they ask before making you an offer, contact Youth Represent right away at (646) 759-8088 or youthrepresent.org/legalhotline

WE
FOUGHT

FOR
THIS!

You are not defined by your criminal history! This protection is thanks to the Fair Chance Act, a law that passed in New York City in 2017.

After you get a job offer, you are protected!

If your record comes up after you get a job offer, your employer has to give you a form showing how they considered the good things you've done since your arrest; the seriousness of your offense; how long ago you were arrested; how old you were; if you got a certificate of relief; and how connected the job is to the conviction.

Then they have to give you at least three days to respond.

Dear employer:

The conviction doesn't have anything to do with the job that I would be doing for you.

It happened a long time ago, and I was very young.

And I'd be great at this job!

Here are documents that show the good things I've done.



You are not defined by your criminal history. This protection is thanks to 23-A of New York State Correction Law.

If you are denied the job, you are protected!

- If they deny you the job, they have to give you paperwork explaining why.
- You get to respond and show all the good things you've done.
- They'll make a decision based on your response.
- If you are still denied the job, they have to explain their reasoning.

Contact Youth Represent at (646) 759-8088 or youthrepresent.org/legalhotline at any point in this process if you need help.

YOU are not
your cases!

**You may be able to get
PUBLIC cases sealed 10
years after the day you
were sentenced, the day
you started probation, or
the day you left jail.**

**That means they become
PRIVATE.**

**Use this chart to see if
you might be eligible,
but also check with
your lawyer.**

START HERE

TO SEE IF YOU MAY BE ELIGIBLE FOR SEALING.

You are not eligible

YES

Do you have more than two public convictions on your record?

NO

You are probably not eligible yet

YES

Do you have any public convictions within the past 10 years?

NO

You are probably not eligible

YES

Do you have any violent felonies on your record?

NO

You are probably not eligible

YES

Do you have two felonies on your record?

NO

YOU MAY BE ELIGIBLE FOR SEALING.

Get in touch with a lawyer for more.

NOTE

If you were convicted of a drug offense and successfully completed a drug treatment program, or if you were a victim of sex trafficking, you may be eligible for another kind of sealing. Call Youth Represent.

All this is thanks to “Raise the Age Sealing,” a part of the Raise the Age law that passed in NYC in 2017.

Vocabulary

Adjournment in Contemplation of Dismissal (ACD)

The case is kept open for a period of time, usually 6 months or a year. If the person is not re-arrested during that time, the case is automatically dismissed and PRIVATE. Most employers can't consider it, even while it's open.

Adolescent Offender (AO)

A 16- or 17-year-old who is being tried as an adult in New York.

Adult Court

In New York, anyone under 18 who is being tried as an adult and anyone 18 and over will have their case in Adult Court. Adult Court records are usually public. "Supreme Court" and "Criminal Court" are both adult courts.

Closed case

A case is closed if there are no future court dates.

Conviction

When a judge finds a person guilty of a crime or offense, or a person pleads guilty to a crime or offense.

Criminal Conviction

When a judge finds a person guilty of a felony or misdemeanor, or a person pleads guilty to a felony or misdemeanor.

Dismissal

All charges in the case are dropped and all information about the case is made private.

Felony

A more serious crime. All felonies carry a possible sentence of at least a year in prison. Felony convictions are public and will show up on a background check. Some non-violent felonies can be sealed.

Juvenile Delinquent (JD)

A person under 18 who is being tried as a youth in family court.

Juvenile Offender (JO)

A person under 16 who is being tried as an adult. In New York, youth under 16 can only be tried as adults for a small list of serious crimes including murder, rape, arson, and robbery with a deadly weapon.

Misdemeanor

A lower-level crime. The maximum sentence is one year in jail or up to three years probation. Misdemeanor convictions are public and will show up on a background check. Some can be sealed.

Offense

A term for the illegal act a person has been accused of. An offense can be a misdemeanor or felony (which are crimes), or just a violation (which is not a crime).

Open case

A case is open if there are future court dates.

Private

Most of the time private cases will not show up on a background check. There can be exceptions, so it's important to talk to a lawyer if you have questions.

Public

Public cases will show up on a background check.

RAP Sheet

RAP Sheets are like records or background checks: it's when someone runs your criminal record report.

Sealed case

Sealed cases are private, and won't show up on most background checks. There can be exceptions, so it's important to talk to a lawyer if you have questions.

Youthful Offender (YO)

This is a special status granted by a judge to a person under 19. Youthful Offender adjudications are not considered convictions. This means that they are private from most employers, but will be seen by law enforcement and your attorney if you are arrested again.

Summary

PUBLIC



Open case in adult court, including Adolescent Offender (AO) and Juvenile Offender (JO) cases

Criminal conviction in adult court that has not been sealed or replaced by Youthful Offender status (YO)

PRIVATE



Dismissal, including "Adjournment in Contemplation of Dismissal (ACD)"

Most violation convictions

Marijuana possession under 2 ounces

Loitering for the purpose of prostitution

Convictions that you got sealed

Juvenile Delinquent (JD)

Youthful Offender (YO)

Open case in family court

YOU

are not defined by your record.

Youth Represent is here on:



Your contact at Youth Represent is:



The person to talk to at your organization about Youth Represent is:



www.youthrepresent.org

www.youthrepresent.org/legalhotline

(646) 759-8088

