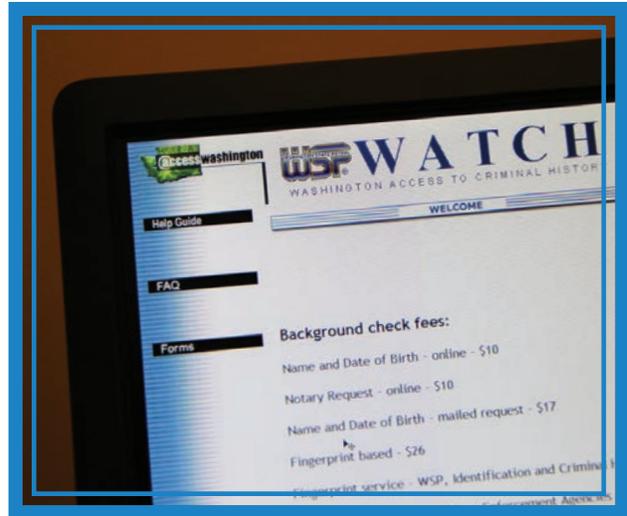


GETTING AND READING CRIMINAL HISTORY REPORTS IN WASHINGTON



This guide is designed to help people get, understand, and correct criminal history reports. It provides general information about these records in Washington state. Different states have different laws on criminal records. This guide is not meant to provide legal advice.

For more information, see the ACLU of Washington's Guide to Criminal Records and Employment, available at www.aclu-wa.org/secondchances

**SECOND
CHANCES**

**Seeking Fair Treatment
for People with
Criminal Records**

February 2013

GETTING A CRIMINAL HISTORY RECORD

•How do I know if I have a criminal record?

If you have ever been arrested and fingerprinted, you have a criminal history record. A written summary of your criminal history is called a criminal history report, “WATCH” report or a “rap sheet.”

•Who creates my criminal history reports?

Many different government agencies and private companies produce criminal history reports.

Law enforcement agencies create criminal history reports. The Washington State Patrol (WSP) collects and distributes criminal history reports for Washington state. WSP gets its information from local and county law enforcement agencies and courts. The FBI also maintains a database of all federal criminal history reports and collects information from all states.

Washington courts also create and maintain a record of your criminal history related to court proceedings. These records are separate from the WSP record.

In addition, hundreds of private companies purchase information from the courts and law enforcement, and compile that information into background check reports. The reports produced by each company look different and may contain different information.

•Why is it important to see my criminal history report?

Criminal records can be used by employers, housing providers, volunteer organizations, and other groups deciding whether to accept or approve an application, or take other action.

Any person who has a criminal history should know exactly what is on his or her criminal record before applying for housing or employment. Getting a copy of your criminal history report is crucial so that you can:

- (1) Make sure that everything on the report is accurate and correct mistakes
- (2) **Ensure that your answer to any application question about your criminal history is accurate.** Washington employers are allowed to ask about arrests and convictions and are legally permitted to fire a person who gives inaccurate information about criminal history. This is true even if you thought you were giving a correct answer. You could also face eviction if your landlord finds out that you provided misleading information on your rental application.

•How do I get a copy of my criminal history report?

There are several ways to get a criminal history report.

SUMMARY OF WAYS TO GET CRIMINAL RECORDS

WHO MAKES THE REPORT	WHAT IT CONTAINS	WHAT YOU NEED TO GET IT	HOW LONG IT TAKES	WHAT IT COSTS
Washington State Patrol (online)	<ul style="list-style-type: none"> * Washington state information only * Both adult and juvenile records 	<ul style="list-style-type: none"> * Credit Card * Name and Birth Date 	Immediate	\$10
Washington State Patrol (in Olympia)	<ul style="list-style-type: none"> * Washington state information only * Both adult and juvenile records 	<ul style="list-style-type: none"> * Identification (possibly fingerprints) 	½ hour if you go to Olympia; 2-3 weeks at local law enforcement agency	Free to review the record; possible charge of \$7-\$15 for fingerprints and possible charge for copies
Washington Courts	<ul style="list-style-type: none"> * Separate files for each case related to you in that court 	<ul style="list-style-type: none"> * Case numbers for each case 	Varies	<ul style="list-style-type: none"> *Small fee for copies * Additional fees for archived files
FBI	<ul style="list-style-type: none"> * Information from all states * Federal convictions * Will not include all juvenile records * Will include convictions that have been vacated under Washington law 	<ul style="list-style-type: none"> * Credit Card or Money Order * Application Form (available online) * Full set of fingerprints 	2-3 weeks	<ul style="list-style-type: none"> \$18 for application \$7-15 for fingerprints -or- \$50 to \$70 for an expedited request
Consumer Reporting Agency	<ul style="list-style-type: none"> * May include adult and juvenile information from all states * May include federal convictions 	<ul style="list-style-type: none"> * Usually just a name and birth date 	Varies	\$50 to \$70
LexisNexis or Hire Right Full File Disclosure	<ul style="list-style-type: none"> * Information from all states * Both adult and juvenile records * Will only include a criminal background check report if an employer has asked the company to prepare one. 	<ul style="list-style-type: none"> * Application * Copy of specified form of personal identification * Copy of specified form of address verification 	Varies	Free, if you make only one request per year

How do I get a criminal history record from WSP?

The Washington State Patrol runs a program called WATCH, which stands for Washington Access to Criminal History. **WATCH does not report convictions from out of state, but will report all Washington convictions, including juvenile adjudications.** There are three primary ways to obtain a WATCH report.

- (1) **ONLINE.** The easiest way to get a WATCH report is to search online by name and date of birth online. The web address is <https://fortress.wa.gov/wsp/watch/>. You will need to create an account linked to your credit card. The cost is \$10.00, and the record will be produced immediately. You can also save a copy.
- (2) **BY MAIL for Conviction Records.**
 - a) You can send in a written Request for a Conviction Criminal History Record. The form can be found online at: http://www.wsp.wa.gov/crime/docs/misc/240569_request_for_chri-convicted_criminal.pdf. The cost for a mail request is \$17.00. It will take between one and two weeks to get the record.
 - b) You can also submit a request based on full fingerprints. The cost for a fingerprint background check is \$26.00. You will also have to pay your local law enforcement agency to take the fingerprints (the cost for fingerprints varies, but is between \$5 and \$15.) It will take between one and two weeks to get the record.
- (3) **IN PERSON.**

Every person has a right to review his or her personal criminal history record. You may also request a copy of the record.

 - a) In Olympia. You may inspect your criminal history record at the Washington State Patrol Office in Olympia. To make an appointment, call 360-634-2000. The Washington State Patrol may require you to submit fingerprints for identification, and may charge \$13 for fingerprinting. WSP staff will help explain the information on the WATCH report to you.
 - b) At your local police office. If you cannot get to Olympia, you can ask to access your criminal history record at your local law enforcement agency. Law enforcement may charge you a fee to take your fingerprints. WATCH will then send your criminal history file to the local law enforcement agency. It usually takes around two weeks to get the file.

HOW DO I GET A COPY OF MY FINGERPRINTS?

You should probably have a law enforcement agency take fingerprints for you. Your local law enforcement agency may charge a small fee for this service.

•How do I get criminal records from the Washington courts?

Each court will keep records of cases filed in that court only. The Washington Courts website (www.courts.wa.gov) permits you to search an online index of cases by name. **The website will not give you a complete and accurate criminal history.** It will identify any record of any person with the name entered, and there may be many people in Washington who share that name. It will not show you whether there was a judgment or conviction in each case. In addition, some older records do not show up on the Washington Courts webpage.

If you know the date of an offense, county, and type of offense, the Washington Courts webpage may help you to identify specific case numbers. With case numbers, you can go directly to the court and ask to review and copy individual case records. Case records are public information and can be reviewed by other people. To get copies of case records, you will need to pay a small fee.

•What if I have a record in other states?

In most states, you can get a criminal history report directly from that state's law enforcement agencies. To get information about each individual state, visit the National H.I.R.E. Network's resource guide at <http://www.hirenetwork.org/resource.html>. Click on the state, and then scroll down to the "Criminal Record Repository" section.

If you would like to get a record with information from more than one state, you can contact either the FBI or a private background check company.

•How do I get a criminal history report from the FBI?

The FBI maintains criminal history records for all 50 states and the District of Columbia. The FBI gets its records from the states, so if a state has not reported information to the FBI, it will not be in the FBI databases. An FBI record will usually include state convictions that have been vacated. It does not include all juvenile records, and is usually limited to juvenile crimes that are violent felonies or involve drug distribution.

The FBI gets its records from the states; state and county law enforcement agencies report their records to the FBI. If the state has not reported information to the FBI, it will not be in the FBI's databases. The FBI will not report state convictions that have been expunged or sealed. It does, however, report convictions that have been vacated under Washington law.

There are two ways to get an FBI record.

A. **FROM THE FBI BY MAIL.** To get your record directly from the FBI, you must:

- (1) Complete an FBI standard fingerprint form. You can get a copy of the fingerprint form at <http://www.fbi.gov/about-us/cjis/background-checks/standard-fingerprint-form-fd-258>

(2) Complete an Applicant Information Form. The form is available at <http://www.fbi.gov/about-us/cjis/background-checks/applicant-information-form>

(3) Obtain a money order or cashier's check for \$18.00, made payable to the Treasury of the United States OR complete a credit card authorization form. The credit card form is available at <http://www.fbi.gov/about-us/cjis/background-checks/credit-card-payment-form>

(4) Send the above items to
FBI CJIS Division --- Record Request
1000 Custer Hollow Road
Clarksburg, WV 26306

(5) If you need to contact the FBI about a background check request, you can reach them by phone at (304) 625-5590.

- B. FROM AN FBI-APPROVED CHANNELER.** The FBI has contracted with a few private companies that expedite fingerprint requests and provide electronic copies of the results. You can go through these companies to get a copy of your FBI record. These companies charge fees of around \$50.00-\$75.00. Some FBI-approved channelers are:

Accurate Biometrics: www.accuratebiometrics.com

Axiom Information Security Services, Inc.: www.axiom.com

Eid Passport, Inc.: www.eidpassport.com

Fieldprint, Inc.: www.fieldprint.com/FBI

National Background Check, Inc.: www.fastfingerprints.com

•How do I get a criminal history report from a private company?

There are thousands of companies that perform background checks for a fee, usually ranging from \$20 to \$50. They are also called “consumer reporting agencies” (CRAs). Companies that specialize in background checks for landlords also call themselves “tenant screeners.”

Many CRAs purchase court records and maintain those records in their own databases. Federal and state laws require these companies to take steps to ensure that the information they report is accurate and up to date. Still, many people complain that some CRAs rely on outdated databases and report inaccurate information.

Under the Fair Credit Reporting Act, CRAs are required to disclose to consumers all information in the consumer's file at the time of request. This includes “all information on [the] consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.” Unfortunately, it is almost impossible to know the names of all CRAs who have information regarding your criminal history. This can make it challenging to completely correct inaccurate information.

Two of the largest CRAs have set up ways to get a full disclosure of your file with the company. Here

are instructions for each.

A. LexisNexis Full File Disclosure. LexisNexis will provide one “full file disclosure” per year. For more information about this service, you can call (866)312-8075. To get the report, you must:

(1) Complete an application form (available at https://personalreports.lexisnexis.com/pdfs/CD107_CP-File-Disclosure-Request-Form_pg-3.pdf)

(2) Make a copy of one of the following documents as proof of identity

- i. Non expired driver’s license
- ii. Non-expired state issued ID
- iii. Social Security Card
- iv. Military ID Card
- v. Passport

(3) Make a copy of one of the following documents (**no more than 2 months old**) as proof of mailing address

- i. Major credit card billing statement
- ii. Major bank statement
- iii. Major gas company credit card billing statement
- iv. Major department store credit card billing statement
- v. Utility bill
- vi. Telephone bill
- vii. Insurance declaration page

(4) Mail form and verification documents to LexisNexis Consumer Center, Attn. Full File Disclosure, PO Box 105108, Atlanta, GA 30348-5108

B. HireRight. You can access HireRight’s online report request at <https://www.hireright.com/Disputes/Report.aspx>.

The file disclosures provided by CRAs **will not include an employment-related background check** unless an employer has asked the company to prepare one. If an employer decides to take a negative action against you because of information in a background check, the employer is required by law to provide you a copy of the background check before it takes negative action.

•Are there any other ways to get this information?

If you can’t get a criminal history report in the ways discussed above, there may be other ways to get that information.

When you go to court for a criminal case, your lawyer should get a criminal history report. This should stay in your lawyer’s file, and you can ask for a copy.

If you have a probation or community corrections officer, he or she should have a summary of your criminal history, usually compiled by the courts. You can ask to see it.

If you applied for a job or employment license and were denied on account of a background check, the employer is required by law to provide you a copy of the background check.

READING A WASHINGTON CRIMINAL HISTORY (WATCH) REPORT

It can be very difficult to interpret a criminal history record. Every criminal history report looks different, and each agency and company uses its own format. This section summarizes how to read and interpret a Washington State Patrol criminal history record or WATCH report.

If you are trying to understand a criminal history record before applying for employment or housing, you will be looking for 5 main pieces of information.

- 1) **When** the event occurred
- 2) **Which county** the event occurred in
- 3) What **the charge** was (or if charges were never filed). The “charge” is the crime that was involved, usually listed by the statute or law number.
- 4) The **status** of the case. The status should tell you if there was a conviction or if the case is still pending.
- 5) **The disposition** of the case. A disposition is the final result--- for example, a conviction, or that the case was dismissed

Many times, this information will be listed in multiple places on a WATCH report. Here is an explanation of the layout of a WATCH Report and some examples of the information contained in each section, then a discussion of common errors in these reports.

•How is a WATCH report organized?

There are several sections in a WATCH Report.

A. Personal Information Section

This section includes **personal information** about the subject of the report and will look something like this.

This is your identification number with the Washington State Patrol. It will appear on every WATCH for you.

Any names or aliases associated with the SID number.

```
*****
SID NUMBER   NAME           FBI NUMBER   DOC NUMBER
WA12345678   Doe, Jane B.

=====
                                PERSONAL INFORMATION
=====
SEX  RACE  HEIGHT  WEIGHT  EYES  HAIR  PLACE OF BIRTH  CITIZENSHIP
F    W    5 04    155    BRO  BLK    CA

NAMES USED   DATES OF   SOC SEC   MISC NUMBER
              BIRTH     NUMBER
Doe, Janet B  6/20/1965
```

B. Conviction or Adverse Finding Summary

This section summarizes all convictions or cases that ended with a negative finding. It is organized by level of offense. This section **will NOT** give you complete information on the offenses—the details will be in the “Criminal History Information” section.

CONVICTION AND/OR ADVERSE FINDING SUMMARY			
1	FELONY (S)		DISPOSITION DATE
	BURGLARY -2	CLASS B FELONY	08/02/1993
2	GROSS MISDEMEANOR (S)		
	ASSAULT- 4		10/10/2001
	OBSTRUCTING A LAW ENFORCEMENT OFFICER		03/12/1986
1	CLASSIFICATION (S) UNKNOWN		
	VUCSA – POSS MARIJ		12/29/1997

Annotations:

- Here, “Burglary” is the type of crime, and “2” is the degree. First degree crimes are the most serious.
- This means that there is a conviction, but there is no information in the report about whether the crime was a felony or misdemeanor. To find out, you will need to get the records on file with the court.
- Here, “Burglary” is the type of crime, and “2” is the degree. First degree crimes are the most serious.
- The disposition date is when a conviction or guilty plea was entered.

C. DOC Summary

DOC stands for Department of Corrections. When a person is incarcerated in state prisons, DOC takes a fingerprint card and then reports information on the incarceration to the WSP. DOC does not collect information on commitment to local or county jails, and does not collect information on federal prisons.

This section is just a summary of the times a person has been committed to state prison. Details will be found in the “Department of Corrections Information” section below.

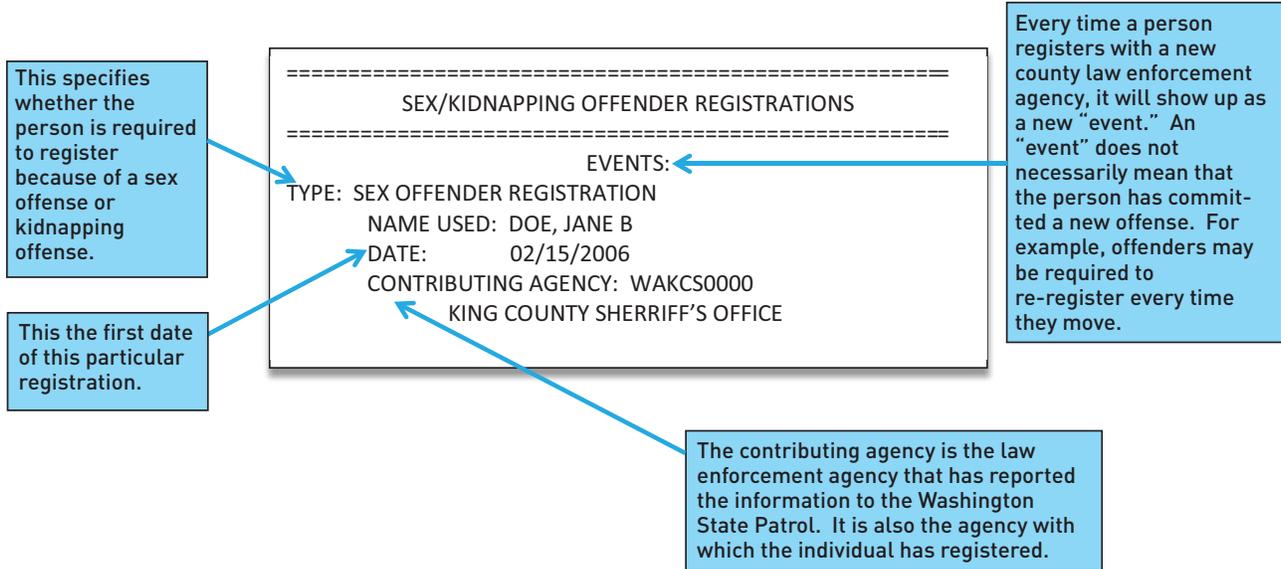
DOC SUMMARY			
	FIREARM POSSESSION UNLAWFUL-1	COMMITMENT	08/12/2003
	ASSAULT-2	COMMITMENT	03/01/1998

Annotations:

- The crime for which the person was incarcerated.
- The date commitment began. It may or may not be the same as the date of offense.

D. Sex or Kidnapping Offender Registration

Under state and federal law, individuals who have committed certain sex offenses or kidnapping offenses need to register with local law enforcement. This section shows where an individual is or has been registered.



Here is another example of an entry in the criminal history information section. This time, the case was **dismissed** after a deferred disposition, deferred sentence, or other probation period.

ARREST 2	DATE OF ARREST: 1/11/2000

NAME USED:	DOE, JOHN C.
CONTRIBUTING AGENCY:	WASPD0000 SEATTLE POLICE DEPT
LOCAL ID: 123456	PCN: 987654321

ARREST OFFENSES	DISPOSITION
	CONTRIBUTOR OR RESPONSIBLE AGENCY:
	WA018041J BAINBRIDGE ISLAND
	MUNICIPAL CT.
	COURT CASE NO: C000001111
	STATUS: GUILTY
	01134 ASSAULT 4
	RCW: 9A.36.041
	DOMESTIC VIOLENCE
	GROSS MISDEMEANOR
	STATUS DATE: 03/10/2000
	COMMENT: 03/15/2001 DISMISSED

Here, the status date is when the person was found or pled guilty.

This is the date the person completed the requirements of the deferred sentence and the case was dismissed.

F. Department of Corrections Information

This section is organized by commitments and will show each time a person has been incarcerated in state prison, even if they were incarcerated on multiple charges. Here, there is only one commitment, even though the person was incarcerated on two counts arising out of a single incident.

CUSTODY HISTORY	
* COMMITMENT *	DATE: 02/18/2004
NAME USED:	DOE, JOHN B.
CONTRIBUTING AGENCY:	WA023025C WA DOC-SHELTON CORRECTIONS
COURT CASE NO:	031234567 COUNTY/STATE: KING
CHARGE:	07346 VUCSA-POSS HEROIN OR SCHED 1 OR 2 NON NARC-CLASS C FELONY 69.50.401 (D)
DOO:	2/18/2004
COURT CASE NO:	031234567 COUNTY/STATE: KING
CHARGE:	0054300 FIREARM POSSESSION UNLAWFUL CLASS B FELONY 9.41.040(1)(B)
DOO:	2/18/2004

The date the offense was committed.

The date incarceration began.

The second charge for which the person was incarcerated.

The statute violated.

H. Other Sources of Information

If something in your criminal history record is confusing, you can contact the Washington State Patrol. The Criminal History Information Section has staff available to answer your questions. Their contact information is:

Phone: (360) 534-2000 and press option 5
Email: crimhis@wsp.wa.gov
Mail: Washington State Patrol
Identification and Criminal History Section
PO Box 42633
Olympia WA 98504-2633

WHAT ARE SOME COMMON ERRORS ON WATCH REPORTS?

1) No Disposition Reported

Sometimes, a criminal history report will show an arrest but will not show how the case ended. This mistake can hurt your chances of getting a job or housing because employers and landlords might assume that the charges are still open, or that you were found guilty of all of the original

arrest charges (when instead the case might have been dismissed, or you might have been convicted of different or lesser charges).

2) No Information on the Type or Level of the Offense (“Classification Unknown”)

If the clerk who reported the incident did not provide information on the specific statute that was violated, or did not report whether the arrest was for a misdemeanor or felony, that will show up on your WSP report as “classification unknown.” This can hurt your chances of getting a job because an employer might assume that the crime is worse than it actually is, or might not know what crime was involved.

3) Traffic Infractions Reported as Criminal Convictions

If you were charged with a traffic crime, the court may have found only that you committed a traffic infraction, for which you have to pay a fine but do not need to serve any jail or probation time. Occasionally, the WSP will report traffic infractions as “guilty” or “convictions” when they are not crimes.

4) Typing Errors

Any system is open to human error, and criminal history records may include typing errors. For example, one Washington man discovered that his misdemeanor conviction was entered into the court’s computer system as a felony conviction.

5) Pre-Trial Diversions or Similar Cases Reported as Convictions

For some juvenile offenses and minor adult offenses, the court may agree to dismiss the case without finding the defendant guilty, so long as the defendant successfully completes court-ordered conditions. Sometimes these cases are called pre-trial diversions or stipulated continuances.

Another variation of this type of case is a bail forfeiture. In some courts, after a person is arrested and posts bail, the prosecutor agrees to have a defendant give up the bail in exchange for an agreement not to pursue the case in court. Sometimes, a person can get a bail forfeiture without pleading guilty to a crime.

Occasionally, even though there is no guilty finding in these types of cases, they are reported as guilty convictions. This can hurt your chances of getting a job or home because others might assume that you were found guilty of something when that is not the case.

6) Deferred Prosecution Reported as a Guilty Conviction when Pending

If you have ever been subject to a deferred prosecution, you may have been promised that, once you completed probation or treatment, the charges would be dismissed and would not appear on your record. In reality, criminal history reports may continue to report these charges.

If you are still working to complete probation or treatment, the charges may show up on your crimi-

nal history record with a disposition of “guilty.” So, if you have to complete three years of probation before the charges are dismissed, you will have a “guilty” verdict on your record for three years.

Once the WSP receives notice that you completed probation or treatment, it should add a “comment” stating that the charges were dismissed. The charges will continue to be reported on your WSP report, but it should be clear that there was no conviction.

7) Identity Theft

If another person gave your name to police officers or the court, your criminal history record may report incidents you were not involved in. The WSP has a special procedure for challenging identity theft, which will be discussed in the next section.

•How do I fix inaccurate information on a WATCH report?

Modification of Information in the Report

If something in your criminal history report is inaccurate, you may request that the WSP correct it. The WSP has a “Request for Modification of Record” form available online. You can access it at http://www.wsp.wa.gov/crime/docs/misc/modification_record_request.pdf.

To complete the form, you must:

- (1) Get a copy of the “SID” number from your WSP criminal history record. Page 8 of this guide shows where your SID number is located.
- (2) Identify the inaccurate information.
- (3) Write an accurate entry —what your record should say.
- (4) Attach court documents or other official records that show your record is inaccurate. You can get documents directly from the court involved in the case.

The WSP will not modify or correct information unless there is something official in the court record establishing the inaccuracy. In order to write an accurate entry, you will need to go to the court where the case was heard and get a copy of the court records from the clerk. If you have your case number, you can often pull up your case files on computers in the clerk’s office. The clerk will charge a small fee for copying the file – usually about 25 cents per page. You should submit copies of the accurate information with your request to the WSP.

Identity Theft (“Compromised Identity Claims”)

WSP has a special mechanism to assist victims of identity theft. It can:

- Provide you with a letter identifying your state identification (SID) number and verifying that the claimant is not the same person as the other individual(s) in the data base with similar name and date of birth descriptors.
- Provide you with a wallet card bearing your SID, photograph, and thumbprint.
- Note on your background check that a personal identification card has been submitted to WSP.

In order to submit a compromised identity claim you should:

- (1) Gather the following items:
 - a. The WSP “**Compromised Identity Claim Form.**” Complete the “Claimant’s Personal Information” section but **DO NOT SIGN THE FORM.** The form is available at:
http://www.wsp.wa.gov/crime/docs/misc/compromised_identity_claim.pdf.
 - b. A **passport photo.** The photo must be 2 inches by 2 inches, show your full face from a front view, and be in front of a plain white background.
 - c. An official government-issued **photo identification**
 - d. A **check or money** order for \$26, payable to the Washington State Patrol
- (2) Bring the items listed above to your local law enforcement agency. The law enforcement agency will then:
 - a. Verify your ID
 - b. Apply your fingerprints to the Personal Identification card and claim form. The law enforcement agency may charge a fee for fingerprints, usually between \$5 and \$15.
 - c. Have you sign the Compromised Identity Claim Form
 - d. Mail the form to the WSP for processing.

Once the WSP receives the form, it will take them between 2 and 4 weeks to process the information and act on the request.

What if there is inaccurate information on another type of report (i.e., FBI report or CRA report)?

If you discover inaccurate information on an FBI report, or a report prepared by a CRA, you should contact an attorney to assist you.

RESOURCES

For more information or to request assistance, please contact the ACLU of Washington. Due to limited resources, we are generally not able to provide representation in individual cases, but we may be able to provide you with some information. You can reach us at 206.624.2180 or through our Website: www.aclu-wa.org/secondchances.

Thank you to Columbia Legal Services, Legal Voice, and the Defender Association for their review of this guide; to the Legal Action Center, Ohio Justice & Police Center, H.I.R.E. Network, and the Michigan Reentry Law Wiki, whose guides on criminal records provided inspiration and information; and to the numerous ACLU clients who shared their records and information.