

STATE OF NEVADA PRIVATE INVESTIGATORS LICENSING BOARD

WORK CARD PROCESS & CALIFORNIA PENAL CODE 1203.4

Presenters:

Lori Irizarry – Chief of Operations

Rosalie Bordelove – Deputy Attorney General



Topics to be Discussed

- **Work Card Application Processing**
 - Online vs In Person
 - Supplemental Documentation
- **Initial Background**
- **Arrest History**
 - Failure to Disclose
 - Pending Charges, Probation and Warrants
- **Fingerprint Process**
- **Timeframes**
- **Firearms**
- **CA Penal Code 1203.4**



Work Card Application



In Person

- Explain the process in detail
- Notify if certain arrests would disqualify them
- Copies made when submitted
- **EXAM**
- Money order or Cashier's check only
- Able to expedite
- Fingerprints after payment received



Online

- Login problems – need to contact us to fix.
- The arrest history section is vague
- Must have the ability to scan their supporting documents (ID, Photo, FP form, etc.)
- **EXAM**
- Credit card accepted
- Expedite not available
- Fingerprints after payment received

Work Card Application

- **Assigned to an investigator**
 - Once payment received
- **Could be missing Supplemental Documents**
 - 2 forms of ID
 - Proof of Citizenship
 - Fingerprints
 - Photo
 - Exam
 - Court Docs (if needed)
 - Expedite form
- **Delays Processing**

704 W. Nye Lane, Suite 203
Carson City, NV 89703
Telephone: (775) 687-3223
Fax: (775) 687-3226

RECEIVED
Stamp here
NOV 13 2017
STATE OF NEVADA
PRIVATE INVESTIGATORS BOARD

For office use only
A# : _____ R# : _____
Missing: FP Photo SSC/BC PO
Notes: _____

Please write legibly and be sure to answer every question to prevent p
Incomplete packets will be returned. If a question is not applical

Applicant Information

Delays Seen With Supplemental Documents

- **2 forms of ID**
 - Provides 1 ID only
- **Proof of citizenship**
 - Expiration dates
 - Unaware if applying online we need proof (PRC, Passport, EAC, etc.)
- **Fingerprints**
 - Fingerprint forms not turned in until days after paying (if at all)
- **Photo**
 - Not in correct format
- **Exam**
 - Online Exam cumbersome
 - PPO employees unaware they must complete exam
- **Court Docs (if needed)**
 - Pending cases, wobblers, egregious offenses require additional documentation
- **Expedite form**
 - Only available in our office



When in office we notify applicant immediately. When done online investigator follows up

Initial Background Process

1. Processed from date paid
2. Review application for completeness
 - a) All Supplemental Documents received
 - b) Employment history
 - Require past 5 years employment
 - Verifying if on licensee roster
 - Unlicensed activity
 - c) Arrest history
3. Run SCOPE, NCJIS and DMV
 - a) Search Court Records

If application is not **complete** office staff or investigator will email/call applicant for missing docs



If questions regarding **employment history** - office staff or investigator will contact licensee/applicant

Arrest Records

- **Disclose all arrests?**
 - Applicant notified (email/phone)
 - Applicant given a second chance to report
 - Arrest History Form emailed to them or can fill out in office
 - Requires a second review
- **Any active warrants, probation, pending charges?**
 - Applicant notified (email/phone)
 - No open or active cases
 - Requires a second review
- **Wobblers**
 - Applicant notified (email/phone)
 - Court docs required before proceeding
- **Denials**
 - Applicant notified (email/phone/certified mail/regular mail)
 - Licensee notified (email/phone)
 - Court docs/police reports required if appealing

Arrest History section causes most delays. An investigator must contact applicant, courts, law enforcement and possibly licensees to clear someone's **initial** background



**EXPECT
DELAYS**

Provisional Background Processing Times

Regular Processing (\$85)

July 2017 taking 5-10 business days

Expedited Processing (\$44)

July 2017 taking 1-2 business days

Avoid Delays

- Online or In Person
 - Turn in a complete application with all supplemental documentation in correct format
- Disclose all arrests
- No pending warrants/charges
- Provide Court docs up front

Expect Delays

- Online or In Person
- Missing supplemental documentation
 - Formatting issues
- Failure to disclose all arrests
- Time waiting to clear warrants/charges
- Court docs needed for unknown dispositions

Special Events

- **March - July**
 - Festival Season
 - Conventions
 - End of Fiscal Year
 - Licensee Renewals
- **Provisional Processing Times Expended (2-3 weeks)**
 - Expedite option not available last 2 weeks of June

Great rapport with licensees to meet deadlines

- **2017**
 - Approx. 500 – 650 new PAPER applications
 - 2 Investigators
 - EVERYONE was processed 2 weeks before events



Fingerprint Results and Complete Card

- **Fingerprint results received from Criminal Repository**
 - Delivered US Postal Service
 - PILB receives 3-4 weeks from when fingerprints SUBMITTED by fingerprint company
- **Requires Manual Inputting by staff**
 - Approx. 5-7 day process:
 - Each applicant inputted on spreadsheet
 - Scan and archived (Per DPS and FBI security standards)
 - Divided into Negative and Positive Results



Fingerprint Results and Complete Card

- **Negative Prints**

- Manually made complete in 2-4 days

- **Positive Prints**

- Divided among Investigators
 - **Simple** rap sheet – made complete 2-3 days
 - **Complex** rap sheet – applicant notified 3- 4 days

What Causes Delays

1. Not disclosing all arrests at time of application
2. Warrants, pending charges or on probation
3. Wobblers
4. Dispositions unknown/ court docs needed

- **Completed Registered Work Cards**

- Print ~500 cards at a time
- Requires manually stuffing and stamping envelopes
- Printed and Mailed every 5-7 days

Delays at this point in the process mainly fall on the applicants ability to provide us additional paperwork.

Right now the average time it is taking an applicant to get back to an investigator is 2-4 weeks.

Many applications also are withdrawn at this stage due to non-compliance

Time Frame Summary

* Timeframes expressed are on the **lower** end of the average

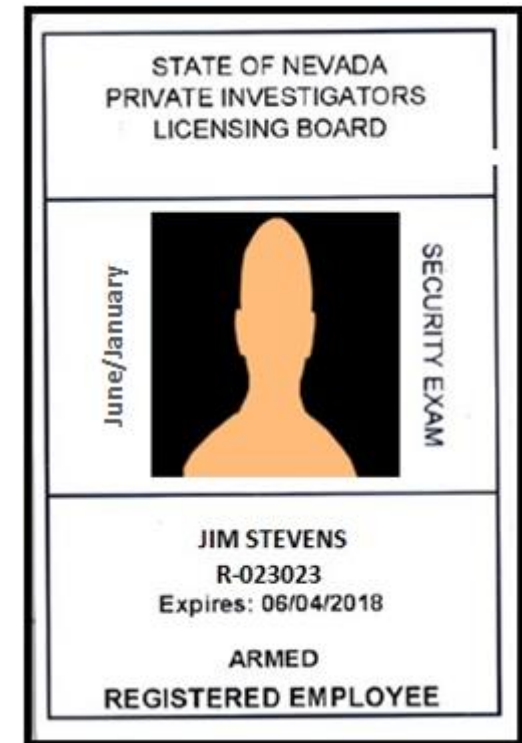
Step within Process	Complete (Timeframe in Business Days)	Items Missing (Timeframe in Business Days)
Provisional Process		
Review Application	1 Day	1 Day
Input Application	1 Day	2 Days
Initial Background, Provisional emailed	5 Days	10 Days
Total	7 Days	13 Days
Complete Process		
Fingerprints received from DPS & FBI	21 Days	21 Days
Archiving Fingerprints	5 Days	5 Days
Rap Sheet Reviewed and made Complete	1 Day	3 Days
Completed and Card mailed	5 Days	5 Days
Total	39 Days	54Days

Days vary depending on applicant's ability to provide missing documents

Firearm Process and Timeframes

Only eligible with an active permanent registered work card
(not provisional)

Process	Timeframe in Days
Firearm course with CFI	2 Days
CFI sends (mail) documents to Carson City	5 Days
Mail Times	1-2 Days
Carson City verifies and Processes	5-7 Days
Applicant mailed Firearm card	3-5 Days
Total	15-25 Days



Questions



California Penal Code 1203.4



Understanding California Penal Code 1203.4

- California Penal Code Section 1203.4 applies to individuals who have been convicted of a crime, whether by trial or by guilty plea, and who have completed the terms of their probation.
- The statute allows a qualifying defendant, at any time after the termination of the period of probation, to withdraw his or her guilty plea or have their guilty verdict set aside.
- It is an avenue for individuals convicted of a crime to restore some of their civil rights and otherwise be relieved of some of the repercussions of that crime, providing that they have fulfilled the conditions of their probation to the satisfaction of the court.
- However, it does not erase the conviction.



CHAPTER 1. The Judgment [1191 - 1210.5] *(Chapter 1 enacted 1872.)*

1203.4. (a) (1) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his or her probation papers, of this right and privilege and his or her right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by attorney, or by the probation officer authorized in writing. However, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.

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Understanding California Penal Code 1203.4

- California courts have further interpreted the statute and have repeatedly held that while use of the law is sometimes referred to as "expungement", section 1203.4 does not render the conviction a legal nullity. *People v. Chavez*, 5 Cal. App. 5th 110, 116 (2016); *Danser v. California Public Employees' Retirement System*, 240 Cal. App. 4th 885, 894-95 (2015).
- Section 1203.4 "was never intended to obliterate the fact that the defendant has been finally adjudged guilty of a crime." *Danser* at 895.
- Section 1203.4 does not alter an applicant's duty to disclose a conviction on PILB application forms, but continues to cause confusion among applicants.



CA PC 1203.4 Usually:

- **Not found using private background databases**
- **(Most) California employers cannot ask workers about expunged convictions:**
 - ...any conviction for which the record has been judicially ordered sealed, expunged, or statutorily eradicated . . . ; [or] any misdemeanor conviction for which probation has been successfully completed or otherwise discharged and the case has been judicially dismissed pursuant to Penal Code Section 1203.4.
2 Calif. Code of Regulations § 7287.4(d)(1)(B)
- **Often given misinformation from lawyers regarding responsibility to report**
 - A 1203.4 / 1203.4a dismissal withdraws a previous verdict or plea of guilt or nolo contendere. The court then dismisses the charges against the person, and the person “shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she was convicted.”
- **Misunderstanding of exceptions:**
 - Exceptions:** Applicants are not relieved from the obligation to disclose convictions in response to a direct question on an application for public office, for professional licensing by any state or local agency, or for contracting with the California State Lottery Commission.

CA Penal Code 1203.4

- **Current Work Card Application (paper)**

Arrest History

Failure to list ALL events could result in the denial of your registration application

Please note: Pursuant to NAC 648.339 The Board may deny an application for registration if the applicant has been convicted of a felony or a crime involving moral turpitude or the illegal use or possession of a dangerous weapon.

1. Have you <u>ever</u> been convicted of a felony charge ?	YES	NO
2. Have you <u>ever</u> been convicted of a crime involving the illegal use or possession of a dangerous weapon ?	YES	NO

If yes, list all arrests, indictments, or orders to appear in court for any felony charge(s), or any illegal use or possession of a weapon/CCW related arrests, criminal citations, indictments, and orders to appear in court. Regardless of the final disposition (outcome).

Arrest Date	City/State	Arresting Agency	Charge/Offense	Disposition (outcome)

3. In the chart below list ALL arrests, citations and orders to appear in court
Failure to list ALL events could result in the denial of your registration application

- List All charges and/or citations regardless if placed in handcuffs
- List All charges regardless if they were expunged, dismissed or denied
- List All charges regardless if dismissed under California PC 1203.4
- List All charges regardless of how long ago the incident occurred
- List All charges regardless of what State it occurred in
- **Do not** list parking or minor moving violations

CA Penal Code 1203.4

- **Current Work Card Application (paper)**
 - Mentions CA PC 1203.4
- **Not mentioned on online application**

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Questions

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