

I received a call from a friend - let's call her Ann - seeking advice. She's been looking for a job for months and finally found a position that's perfect for her background and experience. She's interviewed with a few people – they liked her and she liked them. Now, she's being asked to complete an application before her final round of interviews.

One question on the employment application asks if the applicant has ever been convicted of a felony. Ann was convicted of a felony more than 15 years earlier while residing in a different state. She was also recently arrested, though charges were later dismissed. She wanted to know if I thought she would be “found out” if she answered no to the question. Another friend had advised her to lie on the application because CORI information only captures convictions in Massachusetts.

My grandmother would have said, “Oh what a wicked web we weave, when we first practice to deceive.” One untruth tends to give rise to another. So, not needing any details about her past conviction, recent arrest or prospective employer, I advised her to answer the application question **completely and honestly**. First, it's “the right thing to do,” but it's likely that the company can and will learn the truth.

Let's define some terms:

- **CORI** stands for Criminal Offender Record Information. It's a record of your Massachusetts criminal history. It may include info on arraignments in court on a criminal charge, no matter what the final outcome of the charge was.
- At a minimum, a **Background Check** will verify your social security number. At most, it can include an analysis of your work history, the people you know, along with a full credit report. It can also include your credit payment records, driving records or criminal history.
- **Employment Verification:** All employers are required to verify that you are who you say you are and that you are legally allowed to work in the United States.

There's a chance that Ann's prospective employer doesn't conduct CORIs or background checks. But if they do and Ann has chosen not to disclose her conviction after having been asked about it, the company will immediately disqualify her from further consideration. Not because of the conviction, but because she lied on her application. If the background check is done after she starts work, which often happens, she will be terminated.

Alternatively, by answering yes on the application and providing an explanation, she gives the prospective manager an opportunity to consider whether her past conviction is important enough to disqualify her. If a company is concerned about a past history of theft and the conviction has nothing to do with that, they may excuse it as irrelevant.

With that said, there are some automatic disqualifiers depending on the type of company and the job she's applying to.

You do have some rights to privacy. There's no need to volunteer potentially harmful information that's not requested. There is some information that companies have no legal right to:

- Arrests, detentions, or any violations of law from which no conviction resulted – *some* employers are able to see charges and open cases on CORI reports
- Misdemeanors where the date of conviction or end of incarceration, whichever is later, happened five or more years ago, with no convictions since then
- Criminal records that have been sealed
- Delinquency cases or cases in which you were a "Child in Need of Services" (CHINS), as long as the case was not transferred to Superior Court for criminal prosecution

A company is also required to get your written consent before conducting a background. Similarly, if you are denied a job because of information provided by either report, you have the right to request details. You may also request a copy of your CORI at any time from Criminal History Systems Board, which operates within the Massachusetts Executive Office of Public Safety.

Unlike a CORI, the background check is conducted by private companies or an employee of the company you're applying to, so it's nearly impossible to request in advance. However, since it reports out on public records, you can do your own background check by knowing what on your credit report, DMV records, school records, military records, etc. You can also get more information about background checks by visiting the website of the Privacy Rights Clearinghouse at [privacyrights.org](http://privacyrights.org).

If you feel like you've been unfairly denied employment because of information provided by a CORI or background check you should try to get the advice of an employment attorney.