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Lawsuit Filed Against California DMV for Unlawfully Reporting and Maintaining Criminal Records of One Million State Drivers

DMV Policies Violate Californians' Constitutional Rights and Jeopardize Employment Opportunities, according to the East Bay Community Law Center & Social Justice Law Project

Oakland, Calif., February 24, 2016 — A new lawsuit filed today charges the California Department of Motor Vehicles (DMV) with a widespread practice of illegally retaining and reporting the criminal history records of upwards of 1 million Californians.

The lawsuit, filed jointly by the East Bay Community Law Center and Social Justice Law Project, asks the court to order the DMV to immediately halt its unlawful practices and purge records retained in violation of the law.

“DMV’s routine reporting of confidential—and often inaccurate and obsolete—criminal records to employers and background check companies is a grave breach of Californian’s privacy and consumer rights,” said Sarah Crowley, an attorney at the East Bay Community Law Center in Berkeley.

According to the lawsuit, filed in Alameda County Superior Court, the unlawfully reported records include: arrests not leading to conviction, dismissed convictions, successfully completed diversions, and other records most employers are barred from considering in employment decisions. The DMV’s reporting of these records violates the Labor Code, the California Constitutional Right of Privacy, and the Vehicle Code. The lawsuit charges that the DMV further violates state law by retaining criminal records long after the Information Practices Act and Vehicle Code allow.

Further, the DMV fails to provide a workable procedure for people to request correction of inaccurate records and a purging of outdated records, in violation of the Information Practices Act and consumers’ due process rights. Plaintiffs and other consumers calling the DMV to request correction of their records routinely encountered wait times of 30 minutes or more, and called upwards of 10 times before reaching a representative.

Even when consumers reach a live representative, their correction requests are most often denied, and these denials are often in violation of the law.

One plaintiff was denied a job for which he was well qualified after the DMV reported an arrest not resulting in conviction to a background check company, which reported that arrest to the employer. Another plaintiff was denied a job after the DMV notified the prospective employer about a 19 year-old conviction that had been judicially dismissed.

California law bars employers from asking about or considering arrests not leading to conviction and dismissed convictions in employment screening, but the DMV illegally enables employers to skirt those restrictions, as the plaintiffs' cases illustrate.

"This lawsuit raises critically important racial justice, privacy, and consumer rights issues," said Tirien Steinbach, executive director of the East Bay Community Law Center. "The DMV's unlawful record-reporting practices have a disproportionate impact on people from poor communities. These groups are disproportionately arrested on driving and drug charges, and employers are unfairly harsher on job applicants with any criminal record, even an arrest that never resulted in conviction."

The East Bay Community Law Center (EBCLC) provides free legal services to eligible East Bay clients. Since its founding in 1988 by law students at UC Berkeley School of Law, EBCLC has become the largest provider of free legal services in the East Bay. To learn more, go to www.ebclc.org.

The Social Justice Law Project provides free legal assistance to eligible individuals in cases challenging broad governmental restrictions on employment opportunities, including arrest or conviction records.