



JOB DEVELOPMENT FOR PEOPLE WITH CRIMINAL HISTORIES

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What is the Issue?

- ◆ Just like people in general population, most people with intellectual and/or developmental disabilities are law-abiding citizens
- ◆ Nonetheless, individuals with I/DD can become involved as defendants accused of crimes, and as victims or witnesses to crime.

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According to CareerBuilder.com:

- ◆ 65 million Americans have some variety of criminal offense record. Over 5.6 million Americans—nearly 1 in 40 adults—were in prison or had served time there, and almost 4 million other Americans were under supervision in the community— probation or parole.
- ◆ 51 % of employers have hired someone with criminal record when legally able to do so.
- ◆ Businesses that have hired ex-offenders have been pleased with their work and have found them to be good productive employees.

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- ◆ While the use of criminal background checks has soared, the share of the U.S. population with criminal records has risen to over one in four adults.
- ◆ The National Employment Law Project reported that over 90% of companies use background checks in their hiring decisions.
- ◆ This impacts people with I/DD even more.

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Criminal Justice Advocacy Program

- ◆ Program identifies and outlines community based services which can be incorporated into probation conditions for defendants with developmental disabilities.
- ◆ The goal is to increase success in the community.
- ◆ The CJAP serves as the liaison between the criminal justice and human service systems.
- ◆ Experience with people with I/DD and criminal involvement.

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Overview of Offender w/ I/DD

- ◆ Male
- ◆ Mild to Moderate Intellectual Disability or Autism Spectrum Disorder most common
- ◆ Unemployed
- ◆ Aware of and try to hide disability
- ◆ Ages 20 – 40
- ◆ Sex Offenses

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More Obstacles than non-I/DD

- ◆ Offenders w/ I/DD more likely to plead guilty to original charges than non-disabled cohorts
- ◆ More likely to spend more time incarcerated
- ◆ More likely to be denied parole

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Definitions

- ◆ **Felony** – Crimes punishable by at least one year of prison time. In New Jersey, indictable offense or crime.
- ◆ **Misdemeanors** – Less severe charges punishable by a fine or jail time less than one year. In New Jersey a disorderly persons or petty d.p. offense.
- ◆ **Pre-Trial Intervention (PTI)**- A program that diverts certain offenders from the ordinary criminal justice process.

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Pre-Trial Intervention (PTI)

- ◆ Must be first indictable offense
- ◆ Facts of the case are taken into consideration individually
- ◆ Desire of victim to forgo prosecution
- ◆ During PTI supervision charges are “inactive”
- ◆ After successful completion of PTI the complaint, indictment or accusation will be dismissed with prejudice

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Conditional Dismissal Program

- ◆ Municipal Courts also have a PTI program called the Conditional Discharge program
- ◆ For first offenders charged with certain disorderly persons offenses

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Convictions Only

- ◆ Employer should only be considering matters that result in a conviction
- ◆ At least one-third of felony, or indictable, arrests do not result in a conviction
- ◆ Background checks often include inaccuracies

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Expungement

- ◆ Expunging- the extraction and isolation of all records on file concerning a person's detection, apprehension, arrest, detention, trial or disposition of an offense within the criminal justice system.
- ◆ A full guide describing how to expunge your criminal record is available on-line at www.judiciary.state.nj.us or www.njcourtsonline.org

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Eligibility for Expungement

- ◆ Indictable offense- crimes punishable by 6 months jail time or more.
- ◆ Disorderly persons offense- Crime punishable by less than 6 months of jail time. (Municipal court)
- ◆ Violation of municipal ordinance
- ◆ May only have 1 indictable offense in any state. Must wait 10 years from the conviction (**Now 5**)
- ◆ May not have more than 2 disorderly persons convictions after the indictable offense
- ◆ Must wait 5 years from d.p. conviction (**Now 3**)
- ◆ Municipal Ordinances – 2 years from conviction or completion of probation/parole, and payment of fines.
- ◆ PTI – 6 months from completion

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New Expungement Statute eff. 4/18/16

- ◆ Intent is to expand availability of expungement to make it easier for people to expunge convictions
- ◆ Give Court more discretion in waiving fines and penalties, waiving fees and in granting petitions for expungement

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New Expungement Statute

- ◆ Reduces the waiting period for **disorderly persons** offenses (misdemeanors) from 5 to 3 years
- ◆ Reduces the waiting period from 10 to 5 years for **Crimes**
 - When everything is complete except the 10 year time, including penalties and fees are paid
 - At least 5 years have gone by
 - Person unable to pay fines due to compelling circumstances

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Not Eligible for Expungement

- ◆ Not Guilty by Reason of Insanity (NGRI)
- ◆ Convictions which may not be expunged
 - Murder
 - Perjury
 - Kidnapping
 - False Swearing
 - Aggravated Sexual Assault
 - Human Trafficking (new)
 - Selling or Mfg. child pornography (new)
 - Robbery
 - Conspiracies or attempts to commit such crimes
 - No Motor Vehicle including DUI

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Arrests

- ◆ Arrest information can always be expunged
- ◆ Ensure that people do expunge arrest information that did not result in a conviction.
- ◆ Contact County Clerk's Office or go on njcourtonline.org to check. Never assume that the dismissal is enough.

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Getting criminal records

- ◆ Have the person sign a Release of Information
- ◆ Contact the municipal or county court where the offense occurred
 - Criminal Case Management
 - Contact Info at www.njcourtsonline.org
- ◆ Ask person you are working with for information on past history with: Pre-Trial Intervention, Expungement, Case Dismissal



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Megan's Law

Registration and Community Notification Laws

Convicted or Adjudicated Delinquent of a listed sex offense

All offenses that require Megan's Law Registration cannot be expunged

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Under Current Law

◆ Tier Determination made by the Court:

- Tier 1 low risk to reoffend
- Tier 2 Moderate risk to reoffend
- Tier 3 High risk to reoffend

Notification about Tier 3 offenders is made to employers by Prosecutor's Office

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Internet Registry

- ◆ Only some offenders end up on a registry that you can see
- ◆ All sex offenders register, but not all sex offender registrations are available on the internet registry
- ◆ All Tier 3s and some Tier 2s
- ◆ No tier 1 on internet

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Parole Supervision for Life

- ◆ In addition to registration and notification
- ◆ Mandatory sentence for some offenders convicted of certain sex offenses—**Not all persons subject to registration and notification are on PSL**
- ◆ Does not apply to juveniles

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Parole Supervision for Life

- ◆ Individual will have a parole officer
- ◆ List of conditions to be met
- ◆ Only aspect of “Megan’s Law” that impacts on a person’s living arrangements and employment situation

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Job Developing

- ◆ Know your Jobseeker
 - Make sure the person has the skills to do the job and the environment is supportive
 - Consider Criminal History
 - Job match is key!
- ◆ Use your Network and Build New Connections
 - Social Capital and Influential People
- ◆ Research employers and businesses
 - Do they hire people with a criminal past?
- ◆ Have patience
 - It may take some time and a lot of follow-up



Discussing Criminal History with the Jobseeker

- ◆ Have you ever been arrested before? If so, for what?
- ◆ Where did you go to court?
- ◆ Did you have a Probation Officer? Parole officer? Explain.
- ◆ Have you ever been to jail? If so, Where? Why? When? How long?
- ◆ Do you have any documentation?

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Tips during the Interview

- ◆ Make a good First Impression
 - Dress the part
 - Have a good strong handshake
 - Make eye contact
- ◆ Be honest
 - Don't try to hide anything or make promises you can't fulfill
 - Most employers will have you sign off on a background check
- ◆ Focus on strengths and positive attributes
 - What are some skills you have that sets you apart from other candidates?
- ◆ Community Involvement
 - Volunteering?
 - Social groups?
 - Religious groups?
 - Recreation?

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How do I Explain?

- ◆ When someone asks about a criminal history:
 - Focus on what you've learned
 - Include any actions taken toward rehabilitation
 - Classes, earned a degree, other experiences that make you an asset to the business
 - Stay positive
 - Bring the conversation back to how you are the best fit for the job



Ease Concerns

Employers usually have two things in common when they are hiring:

1. How will this help me make money?
 2. How will this help me cut costs?
- ◆ Describe what makes you an ASSET
 - ◆ Describe how you can help them cut costs

Always maintain the relationship with the employer



The Application

What can they ask?

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Arrests and Criminal Convictions

- ◆ After March 1, 2015, employer with 15 or more employees may not ask about an applicant's criminal history until after the initial interview
- ◆ Exceptions:
 - Job is in law enforcement, corrections, the judiciary, homeland security, or emergency management
 - Where a criminal record background check is required by law, rule, or regulation and where an arrest or conviction may preclude the applicant from holding the position
 - Position is part of an effort by the employer to hire persons who have been arrested or convicted of a crime



True or False?

On an initial Application

**An Employer can
ask me.....**



Have you ever been
convicted of a
Felony?



Do you have a
criminal record?



Do you have a parole officer?



But, I Still Get These Questions!

- ◆ Why?
- ◆ Report your finding to the EEOC, advocacy groups, the HR department for that Business
- ◆ If possible, do not answer it
- ◆ If you must answer, how do you answer it?
If legally they can't ask the question.....



Examples of Restricted Occupations

- Airport Screener
- Armored Car Crew
- Bank Teller
- Child Care
- Delivery Driver
- Public Safety Officer
- Residential installers



Take the long-term view

- ◆ An ex-offender needs to take the long view and have the faith and patience that the criminal matter will eventually be put behind them.
- ◆ A person must rebuild their résumé over time. And as time goes by, the criminal offense becomes less of a factor .
- ◆ Take some time to build skills that make you an attractive candidate to an employer.
- ◆ Some times the dream job isn't readily available, recognize the steps you can take to get there.

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Manager Feedback

- ◆ 31% of hiring managers recommended volunteering
- ◆ 68% percent of hiring managers recommended being up front and honest about the conviction and stress what was learned from it.
- ◆ 48% percent of hiring managers recommended being willing to work your way up.

Career Builder 2012

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Tax Credits

- ◆ The Work Opportunity Tax Credit (WOTC) is *a federal tax credit to reduce the federal tax liability of private for profit employers to be used as an incentive for employers to hire individuals from eight different targeted groups:* TANF recipients, veterans, **ex-felons**, high risk youth, summer youth, Food Stamp recipients, SSI recipients, and **vocational rehabilitation referrals.**

www.nj.gov/labor/

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Resources

- ◆ NELP.org
- ◆ DRNJ.org
- ◆ isseek.org
- ◆ hirenetwork.org/content/new-jersey
- ◆ Expungement -Legal Services of New Jersey
hotline: 1-888-LSNJ-LAW or 1-888-576-5529
- ◆ Expungement-Volunteer Lawyers for Justice
(973)645-1955
- ◆ EEOC: 1-800-669-4000 or nfo@eoc.gov



QUESTIONS ??

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