



Getting People with Criminal Records Hired: What Employment Specialists Need to Know

Cabrini Green Legal Aid

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Three Components:

1. Know Their Rights
2. Know Their Criminal History
3. Know What They Should Say



Know Their Rights

People with criminal records have rights under three statutes:

- Illinois Human Rights Act
- Fair Credit Reporting Act
- Title VII of the Civil Rights Act

Know Their Rights

Illinois Human Rights Act

Employers cannot:

- Refuse to hire or promote based on “mere arrests.”
- Ask questions about arrests, in writing or orally.
 - Can only ask about convictions but may consider cases where there was a finding of guilt or cases they learn about from sources other than the background check.

Know Their Rights

Illinois Human Rights Act

Employers cannot:

- Ask questions about records that have been expunged or sealed.
 - Applications are required by law to contain a statement that cases that have been expunged or sealed do not need to be disclosed.

Know Their Rights

Fair Credit Reporting Act

- Applicants must authorize a background check.
 - The authorization must be in writing.
 - Employer must disclose its intent to use the background check for employment purposes in a separate document that makes the disclosure “clear and conspicuous.”

Know Their Rights

Fair Credit Reporting Act (continued)

- There are things employers must do:
 - They must give applicants a copy of the background check report before they deny them a job or promotion.
 - If the applicant applied online, the employer has 3 days to give them the name and contact info for the reporting agency.
 - They cannot deny applicants a job or promotion because of their criminal background without giving them notice (“pre-adverse action notice”).
 - In Illinois, they have to wait *at least 7 days* before they actually take adverse action.

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Know Their Rights

Fair Credit Reporting Act (continued)

- There are things background check companies must do:
 - They have to use “fresh” information.
 - They have to correct inaccurate information.
 - They have to inform applicants of a process to dispute and correct inaccurate information.
 - They have to give applicants a free copy of their background check report if they ask for it within 60 days of receiving notice that they were not hired.

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Know Their Rights

Title VII of the Civil Rights Act

- Prohibits blanket exclusions based on criminal records (e.g., Employers are not allowed to have policies such as “Convicted felons need not apply.”)
- The EEOC presumes criminal record exclusions have a disparate impact based on national statistics that show African-Americans and Hispanics have disproportionate contact with the criminal justice system.

Know Their Rights

Title VII of the Civil Rights Act

- If there is disparate impact, it is the employer’s burden to show the exclusion is job-related and consistent with business necessity.
- Employers must apply a “Balancing Test”:
 - Relationship of the conviction to the job
 - Relevant individual factors
 - Whether less discriminatory alternatives are available

Know Their Rights

Title VII of the Civil Rights Act

- Prohibits practices that are fair in form, but discriminatory in operation.

Griggs v. Duke Power Company (U.S. Supreme Court, 1971)

An unlawful employment practice based on disparate impact is established...[if] an employer uses a particular employment practice that causes a disparate impact on the basis of race...and the respondent fails to demonstrate that the challenged practice is job related for the position in question and consistent with business necessity.

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Know Their Rights

Title VII of the Civil Rights Act

- Pre-adverse Action Notices:
 - Must be in writing and include:
 - A copy of the background check that will influence their decision;
 - A copy of *A Summary of Your Rights Under the Fair Credit Reporting Act*.
 - Applicants can respond in writing with evidence of their rehabilitation as a “mitigating factor.”

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Know Their Rights

Title VII of the Civil Rights Act

- Post-adverse Action Notices:
 - May be in writing or made orally but must provide the following information:
 - The name, address and phone number of the background check company providing the report;
 - A statement that the background check company did not make the adverse action decision and cannot give specific reasons for the adverse action;
 - A notice of the applicant's right to dispute the accuracy or completeness of the report;
 - A notice of their right to additional free consumer reports from the background check company within 60 days.

Know Their Criminal History

- Misdemeanor vs. Felony
- Non-conviction vs. Conviction
- Date of Offense vs. Date of Conviction vs. Date Sentence Completed
- Expunge vs. Seal

Know Their Criminal History

Misdemeanor vs. Felony

- Misdemeanor: A criminal offense that carries a penalty of incarceration in county jail for up to a year.
- Felony: A criminal offense that carries a penalty of incarceration in prison for a year or more.
- What matters is the FINAL disposition (charges can go up or down)

Know Their Criminal History

Non-conviction vs. Conviction

- Non-Convictions
 - Stricken off with Leave to Reinstate (SOL)
 - Nolle Prosequi
 - Finding of No Probable Cause (FNPC)
 - Finding of Not Guilty (FNG)
 - Non-Suit
 - Dismissed with Prejudice (DWP)
 - Leave to File Denied (LFD)
 - Released without Charging (RWOC)
 - Supervision, 710-1410 Probation, or TASC Probation Satisfactorily Completed

Know Their Criminal History

Non-conviction vs. Conviction (continued)

- Convictions
 - Supervision, 710-1410 Probation, or TASC Probation Unsatisfactorily Completed.
 - Probation
 - Conditional Discharge
 - Time Considered Served
 - Jail (CCDOC) or Prison Time (IDOC)
 - Fines (for ordinance violations, not in connection with supervision)

Know Their Criminal History

Date of Offense vs. Date of Conviction vs. Date Sentence Completed

- The date of offense is the date the person was charged or arrested.
- The date of conviction is the date the person was found guilty. In most cases, the sentence is pronounced the same day.
- The date the person completed his or her sentence is the date discharged from parole, the last date held in county jail, or the date probation was terminated.

Know Their Criminal History

Expunge vs. Seal

- Expungement is only available if the person has never, ever been convicted ANYWHERE.
 - Every case in the person's criminal history must be a dismissed case, an acquittal, a supervision, a 710-1410 probation that was satisfactorily completed, or a TASC probation that was satisfactorily completed.
 - Not all supervisions are eligible to be expunged (DUI, Reckless Driving, Sex Offense that involved a minor).

Know Their Criminal History

Expunge vs. Seal (continued)

- If there is even ONE conviction, sealing may be an option.
 - All acquittals and dismissals are eligible to be sealed.
 - Most misdemeanors are eligible to be sealed EXCEPT:
 - Crimes of Violence
 - Sex Crimes (excluding prostitution)
 - DUI and Reckless Driving
 - Cruelty to Animals and Dogfighting
 - Felonies that are eligible to be sealed:
 - Class 4
 - Possession of a Controlled Substance
 - Possession of Cannabis
 - Prostitution
 - Possession of Burglary Tools
 - Class 3 and 4
 - Theft, Retail Theft, Deceptive Practices, Forgery
 - Class 3 Possession with Intent to Deliver

Know Their Criminal History

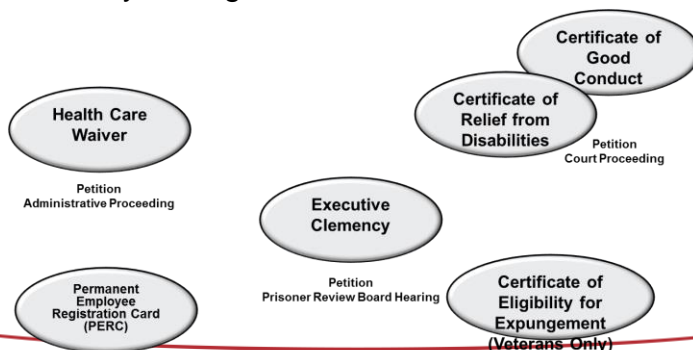
Expunge vs. Seal (continued)

- No employer can see a record that has been expunged.
- No employer can see a misdemeanor that has been sealed.
- Most employers cannot see a felony that has been sealed.
 - Only employers who use a fingerprint-based background check can see felony records that have been sealed.

Know Their Criminal History

Alternative Forms of Relief

A person who has convictions that are ineligible to be sealed may be eligible for waivers or certificates.



Know What They Should Say

Remember: An employer can only ask about convictions.

- The interview is not a re-trial. This is not the time for the applicant to assert innocence.
- The applicant should:

Own it.

Be ready to explain what happened.

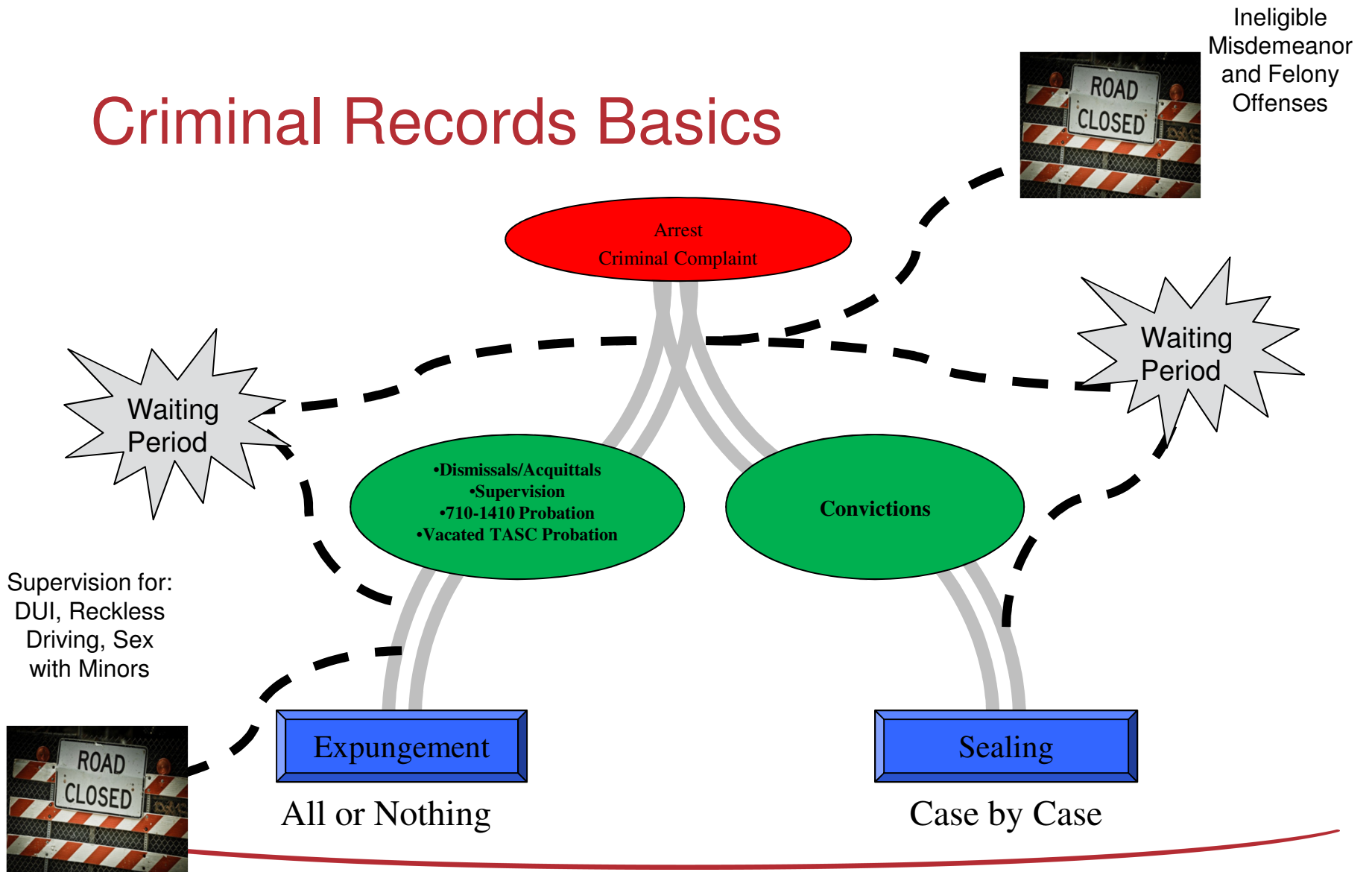
“Just the facts, ma’am.”

Know What They Should Say

- What’s happened has happened. It’s in the past.
- They have changed their lives for the better.
- They should describe how the experience has motivated them to make the most of this job opportunity.
- They should focus on the present and on all of the positive things they’ve done to rebuild their lives.
 - They should be specific about details of their journey to sobriety, if applicable.

Questions?

Criminal Records Basics



Sealing Exclusions – Misdemeanors

Crimes of Violence

- Battery, assault, domestic battery, reckless conduct, violations of order of protection.

Sex Crimes Under Article 11

- Solicitation of Prostitute, Patronizing a Prostitute, Public Indecency, and many others that are less common.

Other offenses against public morals

- DUIs, reckless driving*, dog fighting, animal cruelty. (*Exception: Youthful offenders defined under 20 ILCS 2630/5.2(a)(3)(A).)

Sealing Eligibility- Felonies

- Class 4 felony convictions:
 - Possession of Cannabis (30-500 grams)*
 - Possession of Controlled Substance*
 - Prostitution
- Class 3 and 4 felony convictions:
 - Possession with Intent to Manufacture or Deliver a Controlled Substance*
 - Theft
 - Retail Theft
 - Forgery
 - Deceptive Practices
 - Possession of Burglary Tools

* *Requires proof of clean drug test taken within 30 days of filing to be attached to the petition.*

Expungement Help Desk

Daley Center (50 W. Washington), Room 1006

MONDAY – WEDNESDAY
9:00A.M. - 12:00 P.M

THURSDAY
9:00A.M. – 12:00 P.M. AND 1:00 P.M. TO 4:00 P.M.

CLOSED FRIDAY

PLEASE NOTE: The Expungement Help Desk operates on a first come, first served basis. Help Desk staff are able to assist the first twenty-five (25) individuals that sign-in at the Desk each day, per shift (only the first fifteen (15) on Thursday afternoons). Doors open at 8:30 a.m for morning hours and sign in begins at 12:00p.m. for afternoon hours.

Must have Chicago RAP sheet to receive legal assistance

The Expungement Help Desk:

- Provides information on how to clear a criminal record in Illinois through expungement, sealing, and clemency
- Assists individuals with completing the forms necessary for relief if eligible for expungement or sealing and meet the income guidelines for free legal assistance

*RAP sheets are available from the Chicago Police Department's Access and Review Division, located at 3510 S. Michigan Ave. Access and Review is open from 8:00-12:00, Monday through Friday. The cost is \$16.00.

The Expungement Help Desk is run by Cabrini Green Legal Aid (CGLA) with space provided by the Office of the Clerk of the Circuit Court of Cook County and support from the Chicago Bar Foundation (CBF) & Illinois Equal Justice Foundation (IEJF).



Expungement Help Desk

**District 6 - Markham Courthouse
16501 S. Kedzie Parkway**

Room 102J

Wednesdays

10:00 a.m. – 2:00 p.m.

*If you have been arrested by the Chicago Police Department, you must have a copy of the Chicago RAP sheet to receive legal assistance. RAP sheets are available from the Chicago Police Department's Access and Review Division at 3510 S. Michigan Ave. Access and Review is open from 8:00-12:00, Monday through Friday and the cost is \$16.00.

The Expungement Help Desk:

- Provides information on how to clear a criminal record in Illinois through expungement, sealing, and clemency
- Assists individuals with completing the forms necessary for relief if eligible for expungement or sealing

PLEASE NOTE: The Expungement Help Desk operates on a first come, first served basis. Help Desk staff are able to assist the first twenty (20) individuals that sign-in at the Desk each day.

Myth Busters & True/False re: Hiring Ex-Offenders

1. About 5% of the U.S. population has a criminal record.
 True False

2. Cook County Jail is the nation's second largest single site jail.
 True False

3. Cook County Jail discharges approximately 10,000 people annually.
 True False

4. One in 50 children in the U.S. has a parent behind bars. That number is one in 30 for African American children.
 True False

5. According to an Illinois study that followed 1,600 individuals who were recently released from state prison, 8% of those who were employed for a year committed another crime, compared to the state's 54% average recidivism rate.
 True False

6. Criminal background checks are regulated by the Fair Credit Reporting Act.
 True False

7. So long as an employer applies the same background check to persons of any race, sex, age, national origin, or other characteristic, an employer can avoid liability under federal anti-discrimination laws.
 True False

8. By age 23, approximately 1/3 of Americans have been arrested.
 True False

9. Approximately one in every 100 adult men is now confined in an American jail or prison.
 True False

Myth Busters & True/False re: Hiring Ex-Offenders

10. 21% of all crime is violent in nature.

_____ True _____ False

11. Six to seven years after their last contact with the criminal justice system, those with a juvenile criminal record have a probability of being arrested nearing that of persons without a prior criminal record.

_____ True _____ False

12. The United States incarcerates more people than any other country on earth.

_____ True _____ False

13. FBI background checks are inaccurate or out of date 50% of the time.

_____ True _____ False

14. Arrests that do not result in convictions will not appear on a criminal background check.

_____ True _____ False

15. A person who successfully completes a sentence of supervision does not have a criminal conviction.

_____ True _____ False

16. When using criminal background checks in employment decisions, employers should use bright line rules rather than making individualized determinations.

_____ True _____ False

17. Employers can ask job applicants about sealed, but not expunged criminal records.

_____ True _____ False



PRE-ADVERSE ACTION NOTICE

03/11/2014

[REDACTED]

The purpose of this letter is to advise you that ARAMARK or one of its affiliates or subsidiaries, has obtained the enclosed consumer report from the following consumer reporting agency:

Truescreen, Inc.
PO Box 541
Southampton, PA 18966
(1-800-260-1680)

Because we may use this report to make an adverse employment decision, we are required by law to provide a copy of the report to you along with a summary of your rights under the Fair Credit Reporting Act. If you believe that you were not correctly identified in this report or that the information provided in the report is otherwise not accurate, or if there is any other information related to the report that you would like for us to consider, please contact Rosalie Leonard 215-409-7672 within five (5) business days of receipt of this letter. We will not make a final decision regarding your employment until 03/21/2014.

ARAMARK, not the consumer reporting agency, will make the relevant employment decision. Accordingly, the consumer reporting agency that provided the enclosed report will be unable to explain any adverse decision that we may make based in whole or in part on the report. Please read the enclosed summary of your rights for important additional information.

Sincerely,

Rosalie Leonard
Unit Human Resources Manager
ARAMARK PD - Parks

Enclosure



CHICAGO POLICE DEPARTMENT
 3510 South Michigan Avenue/Chicago, Illinois 60653
 Identification Section



CRIMINAL HISTORY REPORT

GPD-31903C (REV. 7/04)

>>> **CONVICTED FELON** <<<

DOE, JOHN

IR # **1234567**

SID #

FBI #

IDOC #

Current Arrest Information:

Date of Birth:

Age: 50 years

Place of Birth: ILLINOIS

SSN #:

Drivers License #:

Drivers Lic. State:

Scars, Marks & Tattoos:

Key Historical Identifiers:

Alias or AKA used	Date Used	Dates of Birth Used	Social Security Numbers Used
Doe, John	20-MAR-2009	18-FEB-1959	Not Available
Doe, John D	03-JUL-2008	18-FEB-1958	Not Available
Doe, Johnnie	04-MAR-2008	18-FEB-1959	324-58-3632
Doe, Jerry	13-FEB-1996	28-FEB-1959	324-58-3632
Doe, John	10-JAN-1996	15-FEB-1959	324-58-3632
Doe, John	23-SEP-1995	28-FEB-1959	324-58-3632
Doe, John	04-DEC-1991	28-FEB-1954	Not Available
Doe, John	28-AUG-1985	28-FEB-1959	Not Available
Doe, John	23-OCT-1976	Not Available	Not Available

Criminal Justice Summary: Total arrests: 13 (4 Felony, 7 Misdemeanor)

Total convictions: 5

ARREST

Arrest Name: **Doe, John**

Arrest Date: **20-MAR-2009**

Holding Facility: CPD - DISTRICT 002 MALE

Date of Birth: **1-JAN-1960**

Arrest Address:

DCN or CB: **111111111**

Residence:

Officer: **SAVICKAS**

Officer Badge#: **5991**

Arresting Agency: CPD

Count	Class	Type	Statute	Arrest Charge Description	Inchoate
[1]	4	F	720 ILCS 570.0/402-C	Pcs - Possession - Less Than 15 Grms - Heroin	OFFENSE AS CITED

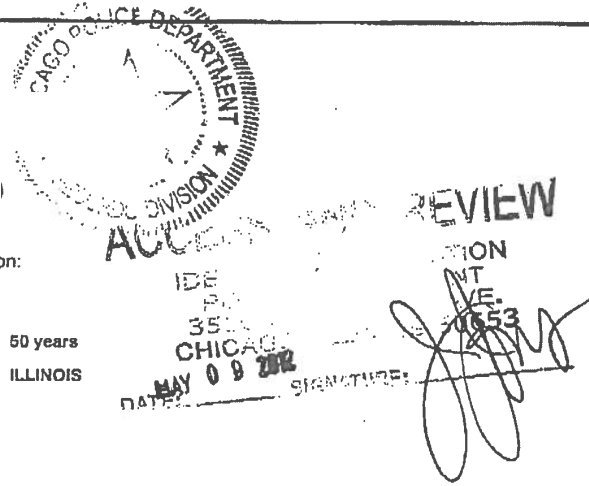
COURT CHARGES/DISPOSITION

Statute	Charge	Class	Case#
720-570/402(c)	POSS AMT CON SUB EXCEPT(A)/(D)	F	09111111101

P. 02/07

DCC

MAY-14-2012 11:34



Disposition: SENTENCED/ILLINOIS DEPARTMENT OF CORRECTIONS
Sentence: DOC 002 YEARS 00 MONTHS 000 DAYS

Disposition Date: 05-AUG-2009
Sentence Date: 05-AUG-2008

CONVICTE

ARREST

Arrest Name: Doe, John
Date of Birth: 1-JAN-1960
DCN or CB: 22222222
Officer: CARRIERE III
Arrest Date: 03-JUL-2008
Arrest Address: 45
Residence: 47
Officer Badge#: 12472
Holding Facility: CPD - DISTRICT 003
Arresting Agency: CPD

Count Class Type Statute Arrest Charge Description Inchoate
[1] A M 720 ILCS 5.0/21-2 Criminal Trespass To Vehicles OFFENSE AS CITED

COURT CHARGES/DISPOSITION

Statute Charge Class Case#
720-5/21-2 CRIMINAL TRESPASS TO VEHI M 0822222201

Disposition: STRICKEN FROM DOCKET WITH LEAVE TO REINSTATE
Sentence Date: 25-JUL-2008

ARREST

Arrest Name: Doe, John
Date of Birth: 1-JAN-1960
DCN or CB: 33333333
Officer: GORDON
Arrest Date: 04-MAR-2008
Arrest Address: 75
Residence: 47
Officer Badge#: 5977
Holding Facility: CPD - DISTRICT 002 MALE
Arresting Agency: CPD

Count Class Type Statute Arrest Charge Description Inchoate
[1] 4 F 720 ILCS 570.0/402-C Pcs - Possession - Less Than 15 Grms - Heroin OFFENSE AS CITED

COURT CHARGES/DISPOSITION

Statute Charge Class Case#
720-570/402(c) POSS AMT CON SUB EXCEPT(A)/(D) F 08CR333301

Disposition: SENTENCED/PROBATION
Sentence: PROBATION 000 YEARS 24 MONTHS 000 DAYS
Disposition Date: 17-APR-2008
Sentence Date: 17-APR-2008

CONVICTE

ARREST

Arrest Name: Doe, John
Date of Birth: 1-JAN-1960
DCN or CB: 44444444
Officer:
Arrest Date: 05-DEC-1997
Arrest Address:
Residence:
Officer Badge#:
Holding Facility:
Arresting Agency:

COURT CHARGES/DISPOSITION

Statute Charge Class Case#
625 5/6-101 T7282173 T 9744444401

Disposition: NOLLE PROSEQUI
Sentence:
Disposition Date: 29-JAN-1998
Sentence Date:

COURT CHARGES/DISPOSITION

Statute Charge Class Case#
720-570/402(C) POSS AMT CON SUB EXCEPT(A) 0 98CR4444401

Disposition: PROBATION - TERMINATED - SATISFACTORY
Disposition Date: 10-JUN-1999

CITY OF CHICAGO / DEPARTMENT OF POLICE 1121 South State Street Chicago, Illinois 60605
IDENTIFICATION SECTION

CRIMINAL HISTORY OF **DOE, John**
DATE **23 Jul 1973**
DATE OF BIRTH **1956**

M/N

IR# 7654321



15 12
013 U 000
118 U 001

I.R. NO. 216071
FBI NO.

NAME & ADDRESS	C.B. NO.	DATE OF ARREST	ARRESTING OFFICER & DIST.	CHARGE	DISPOSITION
John V. DOE 123 S. Wabash	1111111	-23 Jul 73	Off. Palenik 07thdist.		
John V. DOE 123 S. Wabash	2222222	- 9 Jun 74	Perry, CTA(3 Dist).		
John V. DOE 123 S. Wabash	3333333	28 Jun 74	Battery (38-12-3) 6 mos. Supv., Disord. Cond. (38-26-1a), Mob Action (38-25-1) S.O.L., Judge Higgins		
John V. DOE 123 S. Wabash	4444444	- 17 June 74	Off. Ware 3rd Dist.		
John V. DOE 123 S. Wabash	5555555	25 July 74	Minor Drinking (MCC) LFD., Judge Higgins		
John V. DOE 123 S. Wabash	6666666	-08 Mar 79	Off. Jones 003rd Dist. Theft of Lost or Misl. Prop.		
John V. DOE 123 S. Wabash	7777777	28 Mar 79	Theft (38-16-2) BFW, Judge Whitaker.		
John V. DOE 123 S. Wabash	8888888	-22 Nov 81	Off. Stepney 003rd Dist. Theft Wt.		
John V. DOE 123 S. Wabash	9999999	28 Jan 82	Theft Wrt, SOL, Judge Manning		
John V. DOE 123 S. Wabash	1010101	-18 Sept. 84	Off. Swanson, A#4 Y/D, (10th), Retail		
John V. DOE 123 S. Wabash	1101101	16 Oct 84	Ret Theft, (38-16a-3a), BF/SOL, Judge Reyna, (Dock# 8466666)		
John V. DOE 123 S. Wabash	1201201	-16 Aug 85	Off. Shelton, 08th Dist., Poss Marijuana		
John V. DOE 123 S. Wabash	dc	18 Sept 85	Poss cannabis (56 1/2 - 704) SOL Judge Murphy (857777)		
John V. DOE 123 S. Wabash		-30 Oct 85	Off. Durkin 8th dist Battery		
John V. DOE 123 S. Wabash		25 Feb 86	Crim Damg to Property (38-21-1) Battery (38-12-3) SOL Judge Bartkowicz Doc# (8618888801)		
John V. DOE 123 S. Wabash		-1 Feb. 89	Off. Garrett, 3rd Dist. Wrt. -cd-		
John V. DOE 123 S. Wabash		2 Feb 89	Burg. (Wrt.) BFW Judge Wood (Doc.# 89999999)		
John V. DOE 123 S. Wabash		-20 Dec. 89	Off. White, 3rd Dist. Theft		
John V. DOE 123 S. Wabash		09 Feb 90	THEFT (38-16-1), MS/SOL, JUDGE WILLIAMS Doc.# 90101010 (AMBAK) CU		
John V. DOE 123 S. Wabash		-24 May 94	Off. Braxton, Dist. 003, Retail Theft		
John V. DOE 123 S. Wabash		15 Jun 94	Retail Theft (38-16a-3a), MS/SOL, Jdgc Harris, Doc# 94111111 TEMP FLEET CB		
John V. DOE 123 S. Wabash		-04 May 96	Off. Hillman, 3rd Dist. Battery		
John V. DOE 123 S. Wabash		30 May 96	BATT simp. (38-12-3) PG/FG lyr sup Jdgc. Giannis Doc# 96121212 asimeh		

cts

ENTRIES PRECEDED BY AN ASTERISK REPRESENT INFORMATION SUPPLIED TO THIS DEPARTMENT BY THE F.B.I. OR OTHER GOVERNMENTAL AGENCIES. THESE ENTRIES ARE NOT SUPPORTED BY FINGERPRINTS IN THE FILES OF THE CHICAGO POLICE.