

## **SERVING INDIVIDUALS WITH A CRIMINAL RECORD**

### **~FREQUENTLY ASKED QUESTIONS~**

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*Working with clients who have a criminal record takes time, patience and an understanding of their circumstances and criminal record. Introduced in last year's legislative session, Public Act 93-210 began clarifying the process for expunging and sealing records. Following is a list of frequently asked questions about these processes, basic information about criminal records, and a list of resources that will be useful to those working with individuals who have a criminal record. For more information about current legislation or other Public Acts related to criminal records, visit [www.legis.state.il.us](http://www.legis.state.il.us) or contact members of the Criminal Records Collaborative.*

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#### **What is a “rap” sheet?**

A rap sheet is a record of arrest and convictions anywhere in Illinois for a person 17 years or older. Rap sheets are maintained by the Illinois Department of State Police, Bureau of Identification. Each time a person is arrested and fingerprinted, the police department sends a report of the arrest to the Bureau. A rap sheet contains information only for Illinois, but the Federal Bureau of Investigation (FBI) is notified of all arrests across the country.

Most people will get their records from a police department which will only provide you information about arrests in that county. For a complete rap sheet, its best that a person send their fingerprints to the Illinois State Police which will provide arrests throughout the state.

#### **Why should a client review their “rap” sheet?**

Rap sheets are available to the public, including employers. Therefore, individuals who have been arrested previously should review their rap sheet to:

1. Recall everything in their criminal history.
2. Check for mistakes.
3. Prepare for a job interview.
4. Determine if he or she qualifies to petition for expungement.

#### **What is expungement?**

Expungement is a court filing that erases (seals) an arrest and non convictions from a rap sheet. When a record is expunged, the court records are sealed and made available only in very limited circumstances (e.g., sentencing for new convictions). A person whose records are expunged should receive his/her record and mug shots from the State Police. State Police and employers can not see your client's record once it has been expunged. Expungement can not be used for convictions.

#### **What can be expunged?**

Only three types of records can be expunged:

1. An arrest that did not result in conviction (410 or 710 probation).
2. Sentences of supervision.
3. First-time offender possession of cannabis or a controlled substance.

**What is sealing?**

A sealed record is not available to employers. However, it can be viewed by law enforcement and criminal justice personnel (e.g. state police, State's Attorneys and public defenders).

**What is a conviction?**

A conviction occurs when a person pleads guilty to a crime or is found guilty by a judge or jury after a trial. A guilty plea also includes conditional discharge for any time served. Conviction information is considered public information in Illinois.

**What is a plea?**

A plea is a formal statement in court to answer the charge(s) the person is accused of committing.

**What is a plea agreement?**

A plea agreement is an agreement between the State and the defendant (person accused of a crime/charged) where the defendant ***pleads guilty*** under certain terms and conditions.

**What is a felony?**

A felony is a serious crime punishable by more than one year in sentence or a judgment of time served in a prison.

**What is a misdemeanor?**

A misdemeanor is less serious than a felony and usually involves imprisonment for less than a year. Time served is in jail.

**What is probation?**

Probation is a sentence in which conditional freedom is granted after a conviction or a guilty plea, with requirements for certain behaviors by the offender. When an offender violates any agreement/behavior while on probation, he/she may have their probation revoked and be required to serve out the rest of their time in a correctional facility.

**What is parole?**

Parole is the conditional release of a prison inmate after serving part (if not all) of his or her sentence, allowing the inmate to live in the community under supervision of the parole period. The decision to grant parole is the responsibility, in a majority of states, of a commission or board of parole. Violation of the conditions of parole results in revocation and re-imprisonment.

**What is a technical violation?**

A technical violation of probation or parole is misbehavior by an offender under supervision that is not by itself a criminal offense and generally does not result in arrest (e.g., failing to report for a scheduled office visit, missing a curfew, lack of employment or attendance at school, testing positive for drug or alcohol use, or contacting a victim or co-defendant). However, serious technical violations (e.g., escape or repeated failure to report, violent crime) or a pattern of misbehavior while on probation or parole can result in re-imprisonment.

**What is an acquittal?**

An acquittal is a legal judgment by a judge or jury that a person is not guilty of a crime with which he/she has been charged.

**What is an executive clemency?**

An executive clemency can be given by a Governor. The process takes more than a year and can be petitioned in cases which resulted in a conviction. Petitions are submitted to the Prisoner Review Board which will make a recommendation to the Governor. Once an executive clemency has been granted, your client will still have to file for an expungement. A **commutation** is a sentence reduction. A **pardon** is forgiveness of a criminal act. A **reprieve** is a delay in a death row sentence.

**Can an employer ask my client if he/she has ever been arrested?**

No. Employers in Illinois cannot ask if a person has been arrested. If your client is asked by a potential employer whether they have been arrested, please contact legal services.

**Can an employer ask my client if he/she has ever been convicted?**

Yes. Most applications also include a signature line which often gives a potential employer access to run a background check on the person. It is always best for a person to be honest about his or her convictions.

**Can an employer ask my client if he/she has had a criminal record expunged or sealed?**

No. Clients do not have to disclose whether they have had a criminal record(s) sealed or expunged.

**Where can an individual get a copy of his/her criminal record?**

**Police (CITY OF CHICAGO ONLY)**

Access and Review, Chicago Police Department, Records Division  
3510 S. Michigan Ave.  
8am-12pm (fingerprinting); 2:00pm-3:30pm (pick up records)  
\$16 fee

**Court/Clerk’s Office**

1006 Daley Center  
50 W. Washington  
2650 S. California Ave. (5<sup>th</sup> Floor)  
(773) 869-3147  
8:30am-4:30pm  
\$9 fee per year

**Illinois State Police (records in Illinois), Division of Administration, and Bureau of Identification**

260 North Chicago Street  
Joliet, Illinois 60431  
(815) 740-5160, ext. 2743  
\$12-14 fee

**Where can my client go to obtain legal services?**

**Cabrini Green Legal Aid Clinic**

206 W. Division Street  
Chicago, IL 60610  
312-266-1345

**First Defense Legal Aid**

3645 W. Chicago Ave., Suite 240  
Chicago, IL 60651  
773-826-6550

**Northwestern Children & Family Justice Center**

**(Juveniles ONLY)**  
357 E. Chicago Ave.  
Chicago, IL 60611  
(312) 503-3100

DUPAGE COUNTY

DuPage County Bar Association  
126 South County Farm Road  
Wheaton, IL 60187  
630-653-7779

ROCKFORD

Prairie State Legal Services  
975 North Main Street  
Rockford, IL 61103  
815-965-2134

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## CRIMINAL RECORDS COLLABORATIVE

*The Criminal Records Collaborative is a group of advocates and attorneys working to increase access to legal services and employment for individuals with a criminal record in Cook and DuPage Counties. For more information about the Collaborative or about this FAQ sheet, please contact one of the following Collaborative members:*

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