



UNDERSTANDING JUVENILE & CRIMINAL RECORDS AND THEIR  
IMPACT ON EMPLOYMENT IN NEW YORK STATE



225 Varick Street  
New York, NY 10014  
(212) 243-1313

[www.lac.org](http://www.lac.org)



UNDERSTANDING JUVENILE & CRIMINAL RECORDS  
AND THEIR IMPACT ON EMPLOYMENT IN NEW YORK STATE

## **Acknowledgments**

This booklet was written by Laurie Parise, a former Equal Justice Works Fellow and founder of the Legal Action Center's Youth Reentry Project, and revised by other Legal Action Center staff. We would like to thank Equal Justice Works for its generous support of the Youth Reentry project and the New York State Division of Criminal Justice Services for funding the publication of this third edition.

We express our sincerest gratitude to Rick Hill for his wonderful illustrations and for freely donating his time and talent. In addition, we would like to acknowledge Jimmy Nicholas, owner of TanaSeybert Printing Company for his generosity to this project and for being a fair and open-minded employer. For over 20 years, Mr. Nicholas has hired people with criminal records. We would also like to thank all at Grandstand Design for their creativity and for so generously giving their time to this project.

## **About the Illustrator**

Rick Hill was born and raised in Brooklyn, NY. He has been drawing and creating since his toddler days, entering and displaying his work in many contests, benefits and exhibitions.

Raised in a good, close-knit family structure, the middle child of three boys, he was wonderfully nurtured and encouraged to pursue his creativity. He has loving parents, two great brothers, beautiful children and a host of loving family and friends who continue to support and encourage him.

Rick attended Boston University College of Engineering, the City College of New York and the Academy of Aeronautics and continues to aspire to be an inventor and an engineer, as well as a successful artist. He has worked in several different fields, including computer technology and the college test-prep industry. He hopes to one day make his creativity the centerpiece of his life.

Life has not always been easy for Rick. He served 10 years in prison. However, he believes his experiences while incarcerated have made him a better person and have finally guided him to his calling – pencil drawings.

It is his strong belief that any and all parts of one's life can be used to become the person one wants to be.

First edition © 2005

Second edition © 2007

Third Edition © 2009

Copyright © 2009 by the Legal Action Center. All Rights Reserved.

## **TABLE OF CONTENTS**

INTRODUCTION	Page 1
BEFORE YOU BEGIN YOUR JOB SEARCH Overview of things to know and do	Page 2
CONVICTIONS, ADJUDICATIONS, ARRESTS What does it all mean when I go on a job interview?	Page 5
JUVENILE DELINQUENCY, YOUTHFUL OFFENDER, JUVENILE OFFENDER What's the difference? What does it all mean when I go on a job interview?	Page 11
RAP SHEETS AND CONSUMER REPORTING AGENCY BACKGROUND CHECKS What's the difference? Who is allowed to request a copy?	Page 19
SEALING What records can be sealed? What do I need to do to get them sealed?	Page 29
CERTIFICATES OF REHABILITATION What are they? Why should I apply for them?	Page 37
JOB INTERVIEWS AND APPLICATIONS Sample questions and answers	Page 41
GLOSSARY	Page 47

## APPENDICES

<b>Appendix #1:</b> Factors an Employer Must Consider to Determine if Your Conviction History is Job-Related.	Page 50
<b>Appendix #2:</b> Violations that can be Sealed.	Page 51
<b>Appendix #3:</b> Sample Letter to Court Requesting Sealing of Record.	Page 52
<b>Appendix #4:</b> Sample Letter to Request Correction on Your Rap Sheet.	Page 53
<b>Appendix #5:</b> Sample letter to Employer Requesting Copy of Your Background Check and Reason for Denial of Employment.	Page 54
<b>Appendix #6:</b> List of Employers Who Can Obtain Your Rap Sheet through the Division of Criminal Justice Services or the FBI.	Page 55
<b>Appendix #7:</b> How to Obtain a Copy of Your Criminal History through the Office of Court Administration.	Page 56
<b>Appendix #8:</b> Examples of Rap Sheet Requests if You are Not Incarcerated or Incarcerated for under 45 Days.	Page 57
<b>Appendix #9:</b> Example of Rap Sheet Request if You are Incarcerated for Over 45 Days.	Page 60
<b>Appendix #10:</b> Certificates of Rehabilitation – Eligibility and How to Apply.	Page 61
<b>Appendix #11:</b> Addresses of NYC Family, Criminal and Supreme Courts.	Page 64
<b>Appendix #12:</b> Felonies and Misdemeanors That Can be Sealed.	Page 65

## Introduction

Established by the Legal Action Center, the National HIRE Network (**H**elping **I**ndividuals with criminal records **R**eenter through **E**mployment) is both a national clearinghouse for information and an advocate for policy change to promote policies and employment practices that enable qualified people who have criminal records to obtain and retain employment. In 2004, HIRE created a Youth Reentry project that provides technical assistance, information and advocacy tools to youth and those who work with them to address the unique employment barriers faced by young people with conviction records.

With this in mind, this booklet was written to educate young people like yourself who have been involved in the New York State juvenile or criminal justice system. It explains some of the challenges you might face when you look for a job and what you can do to lessen, or in some cases remove, some of those barriers. The booklet highlights some of New York's laws that you should know about when looking or applying for a job, such as what type of employers can get your rap sheet, how to get and correct your rap sheet, what you must legally disclose about your criminal history on a job application or in an interview, and what type of criminal records can be sealed. Our hope is that this information will give you and those who work with you some of the tools you need to successfully enter and remain in the workforce.

## BEFORE YOU BEGIN YOUR JOB SEARCH

### Overview of things to know and do

#### WHAT SHOULD I DO BEFORE I BEGIN MY JOB SEARCH?

- Get a copy of your rap sheet from the N.Y.S. Division of Criminal Justice Services (DCJS). DCJS is the state agency that keeps all N.Y.S. criminal record information.
- If at all possible, try to obtain a copy of your criminal record through the Office of Court Administration (OCA).

*See pages 20-27 for more information on background checks. See Appendix #7 for how to get a copy of your criminal record from OCA, and Appendices #'s 8 and 9 for how to get a copy of your rap sheet.*

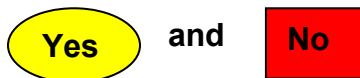
#### WHY SHOULD I GET A COPY OF MY RAP SHEET?

- To make sure there are no errors on it.
- To give you time to **correct any errors** before applying for a job.
- To prepare for a job interview.

**You may have to explain your cases in detail on a job application or at an interview so be prepared and know what is on your rap sheet! Under New York law, not knowing what is on your rap sheet is not an excuse for providing incorrect information on a job application.**

*See pages 20-24 for more information about rap sheets and how to obtain a copy of your personal rap sheet.*

#### IF I HAVE A RECORD FROM MY YOUTH, WILL IT APPEAR ON A BACKGROUND CHECK REQUESTED BY AN EMPLOYER?



Yes

- Juvenile Offender (JO) convictions **will** be released to an employer.

No

- Juvenile Delinquency (JD) or Youthful Offender (YO) adjudications should not be released to an employer even if you were fingerprinted at the time of arrest or served time in a juvenile facility, jail or prison.

*See pages 12-17 for more information on JDs, YOs and JOs.*

## **IS THERE ANYTHING I CAN DO IF I AM NOT HIRED BECAUSE OF MY CONVICTION HISTORY?**

Yes

### **New York State law prohibits employers from unfairly denying jobs to or firing individuals with past convictions.**

- Under New York State law, you have the right to ask an employer for a letter stating why you were denied the job. Employers are required to respond to your request within 30 days.
- Under federal law, if an employer uses a consumer reporting agency background check, you are entitled to a copy of that report and a reasonable amount of time to review the report before the employer denies you employment. **MAKE SURE YOU REQUEST A COPY** to ensure that there are no errors on it. (*For information about consumer reporting background checks, see pages 25-27*)
- Even if the criminal record information used is correct, the job denial might be illegal.

*See Appendix #5 for a sample letter to an employer requesting a copy of your background check and the reason for denial of employment.*

## ARE THERE LAWS THAT WILL PROTECT ME FROM DISCRIMINATION IF I AM DENIED EMPLOYMENT BECAUSE OF MY CRIMINAL RECORD?

Yes

- New York State law makes it **illegal to deny any person** with a criminal record a job or **to fire** that person **unless**:
  1. The conviction(s) are directly related to the duties of the job.  
**Example:**  
An employer may deny you a job for a Driving While Intoxicated (DWI) conviction if you are applying for a job as a driver, but should not deny you a job as a store clerk with no driving duties just because of your DWI.
  2. Employing that person would be a risk to the safety of people or property.  
**Example:**  
An employer may be allowed to deny you a job because of a burglary conviction if the job requires you to work in people's homes.
- This law **applies to** all New York State employers with more than 10 employees.
- This law **does not apply** to jobs in law enforcement.
- It is also **illegal** in New York State for an employer to **ask** if you have ever been **arrested but not convicted**, have **sealed violations**, or **youthful offender** (YO) adjudications. It is also illegal for an employer to **consider** this information when making any employment decisions.

*See page 9 for more information on arrests that did not lead to conviction. See Appendix #1 for the eight factors an employer must consider to determine if a person's conviction history is job-related.*



**CONVICTIONS, ADJUDICATIONS, ARRESTS**

## CONVICTIONS, ADJUDICATIONS, ARRESTS

### What does it all mean when I go on a job interview?

Before you fill out a job application, you should understand the meaning of a “conviction,” an “adjudication,” and a “favorable” outcome to an arrest because it makes a difference in what you have to tell employers about your conviction history.

### IN NEW YORK, WHAT IS CONSIDERED A CONVICTION?

- A **conviction** is a guilty plea or a court’s finding of **guilt for a crime or an offense**.

### WHAT IS THE DIFFERENCE BETWEEN A CRIME AND AN OFFENSE?

- Only misdemeanors and felonies are crimes.

#### Crimes are:

- **Felonies:** Class – A, B, C, D or E
- **Misdemeanors:** Class – A, B or U

#### Offenses are:

##### 1) Violations

- Violations are non-criminal offenses and are less serious than misdemeanors or felonies.
- Common violations include loitering, disorderly conduct and trespass.

##### 2) Traffic infractions

- Traffic infractions are often charged in the form of a ticket and do not usually involve an arrest.

*See page 34 for information on sealing violations. See Appendix #2 for a list of violations that can be sealed and Appendix #12 for a list of misdemeanors and felonies that can be conditionally sealed.*

**IF I HAVE A FELONY OR MISDEMEANOR CONVICTION AND AN EMPLOYER ASKS ME IF I HAVE EVER BEEN CONVICTED OF A CRIME, HOW MUST I ANSWER?**

**Yes**

- Felonies and misdemeanors are considered criminal convictions (unless the conviction has been conditionally sealed as described on page 34).

**IF I ONLY HAVE A VIOLATION CONVICTION AND AN EMPLOYER ASKS ME IF I HAVE BEEN CONVICTED OF A CRIME, HOW SHOULD I ANSWER?**

**No**

- A violation is not a crime. It is a non-criminal conviction.

**IF I HAVE A VIOLATION CONVICTION AND AN EMPLOYER ASKS ME IF I HAVE EVER BEEN CONVICTED OF AN OFFENSE, HOW MUST I ANSWER?**

**No**

- If you only have a sealed violation. Even though violations are considered offenses, it is illegal for employers to ask about (or consider) sealed violations.

**Yes**

- If your violation is not sealed. It is legal for employers to ask about unsealed violations.
- If you also have a felony or a misdemeanor conviction (unless the conviction has been conditionally sealed as described on page 34).

**IF I ONLY HAVE A VIOLATION AND AN EMPLOYER ASKS ME IF I WAS EVER CONVICTED, HOW MUST I ANSWER?**

**No**

- If you only have a sealed violation. It is illegal for employers to ask about (or consider) sealed violations.

**Yes**

- If your violation is not sealed. It is legal for employers to ask about unsealed violations.

## IS IT STILL CONSIDERED A CONVICTION EVEN IF I NEVER SERVED JAIL TIME?

Yes

- **You can have a conviction even though you never served time in jail or prison.**  
If you received probation, paid a fine, did community service or received a conditional or unconditional discharge, you have a conviction.

## IS A GUILTY PLEA CONSIDERED A CONVICTION?

Yes

- A guilty plea to **any offense or crime is considered a conviction** (unless you are later adjudicated a youthful offender - *see page 15*).

## IF I PLED GUILTY TO A CRIME OR AN OFFENSE AND AN EMPLOYER ASKS ME IF I HAVE EVER BEEN CONVICTED OF A CRIME, HOW MUST I ANSWER?

Yes

AND

No

Yes

- If you pled guilty to a misdemeanor or felony (unless the conviction has been conditionally sealed – *see page 34*).

No

- If you pled guilty to a violation, because a violation is a non-criminal conviction, or you were adjudicated a youthful offender after your guilty plea – *see page 15*.

## WHAT IS CONSIDERED A FAVORABLE DISPOSITION (CASE THAT THAT ENDED IN YOUR FAVOR) TO AN ARREST?

- Dismissal
- Acquittal
- Dismissal by a Grand Jury
- District Attorney Declines to Prosecute
- Dismissals following an Adjournment in Contemplation of Dismissal (ACD)

## IF AN EMPLOYER ASKS IF I HAVE EVER BEEN ARRESTED, DO I HAVE TO TELL ABOUT ANY ARRESTS THAT WERE TERMINATED IN MY FAVOR AND DID NOT LEAD TO CONVICTIONS (FAVORABLE DISPOSITIONS)?

No

- In New York State, it is illegal for an employer to ask if you have been arrested (or to ask about sealed convictions). So if an employer asks about your arrests, you only need to tell them about arrests that led to a conviction that has not been sealed.

**Exception:** If you apply for a job in law enforcement, you must list all of your arrests even if you were never convicted, as well as any traffic tickets.

## IF I AM SENTENCED AS A JUVENILE DELINQUENT (JD) OR A YOUTHFUL OFFENDER (YO), IS IT CONSIDERED A CONVICTION?

No

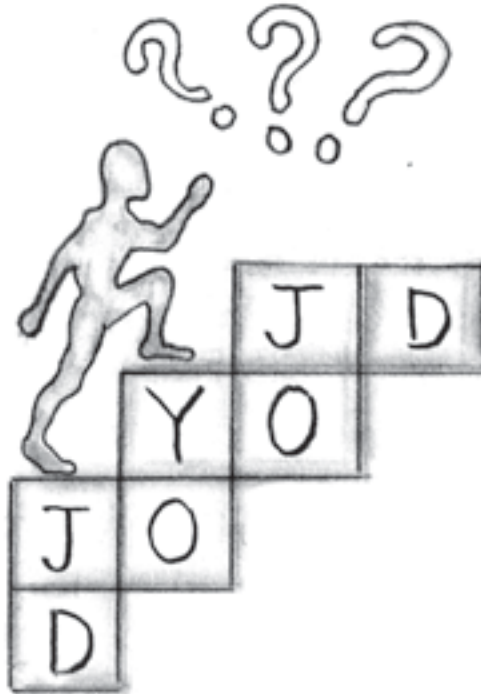
- By law, JD and YO adjudications **are not** considered convictions.

**IF I AM SENTENCED AS A JUVENILE OFFENDER (JO), IS IT CONSIDERED A CONVICTION?**

**Yes**

- A JO is considered a criminal conviction.

*See pages 12-17 for information on JDs, YOs and JOs. See pages 43-45 for more sample questions and answers that may be asked on an employment application or on a job interview regarding adjudication and conviction histories.*



**JUVENILE DELINQUENT, YOUTHFUL OFFENDER, JUVENILE  
OFFENDER**

## JUVENILE DELINQUENT, YOUTHFUL OFFENDER, JUVENILE OFFENDER

### What's the difference? What does it all mean when I go on a job interview?

Below you will find very specific information on how youth under the age of 19 are treated under New York's juvenile and criminal justice systems. This section also provides information on how to answer questions about your juvenile/criminal record on a job application depending on whether you were designated a juvenile delinquent (JD), youthful offender (YO), or juvenile offender (JO).

## Overview

### WHAT HAPPENS WHEN A PERSON IS ARRESTED BETWEEN THE AGES OF 7 AND 16?

- In general, a person between the ages of 7 and 16 who commits a crime will be charged in Family Court, and, if found guilty, will be adjudicated (found to be) a **Juvenile Delinquent**.
- For certain designated violent felonies, a person 13, 14 or 15 years of age may be tried in Criminal or Supreme Court as a **Juvenile Offender**.
- If fingerprinted, the records will be sent to DCJS.

### WHAT HAPPENS WHEN A PERSON 16 YEARS OR OLDER IS ARRESTED:

- These cases will be heard in Criminal or Supreme Court.
- A person 16 years or older is **considered an adult** and may be **tried as an adult**, or granted **Youthful Offender** status.
- YO status may also be granted to a youth 13, 14 or 15 charged as a **Juvenile Offender**.
- These records will be sent to DCJS and will appear on a rap sheet that you request. (*See pages 20-24 for more information about rap sheets and how to obtain a copy of your personal rap sheet.*)

## Juvenile Delinquency

### WHO IS CONSIDERED A JUVENILE DELINQUENT?

- A JD is a child over the age of 7 and under the age of 16 who committed an act which would be regarded as a crime if committed by an adult.
- A hearing will be held to determine whether a child is a juvenile delinquent.
- A juvenile delinquency is considered an adjudication (finding), not a conviction.

### IS A JUVENILE DELINQUENCY HEARING HELD IN FAMILY COURT?

Yes

- JD hearings are held in Family Court, **NOT** in Criminal or Supreme Court.

### WILL THE POLICE TAKE MY FINGERPRINTS AFTER AN ARREST IF I AM UNDER 16?

Yes

and

No

Yes

- If you are under the age of 16 and are alleged to be a JD, you will be fingerprinted if you are:
  - 11 years or older and are arrested for an A or B felony.
  - 13 years or older and are arrested for any felony.

No

- If you are under the age of 16 and do not fall into the two categories listed above.

**IF I AM FINGERPRINTED BUT NOT ADJUDICATED A JD (THE COURT FINDS THAT I AM NOT GUILTY OR DISMISSES MY CASE), WHAT WILL HAPPEN TO MY FINGERPRINTS?**

- If you are **not adjudicated a JD**, the Family Court will order DCJS, the police department, and any other law enforcement agencies to destroy your fingerprints.

**IF I AM NOT FINGERPRINTED BUT ADJUDICATED A JD, WHAT WILL HAPPEN TO MY RECORD?**

- Your records will remain at the **Family Court** and will not be sent to DCJS.

**IF I AM FINGERPRINTED AND ADJUDICATED A JD, WHAT WILL HAPPEN TO MY RECORDS?**

- If you were fingerprinted, your records **will be sent to DCJS** by the court where your case was heard, but JD status is **confidential**.
- At the **age of 16** you can file a motion to have your JD adjudication **sealed**.

*See pages 30-32 for more information on the difference between confidentiality and sealing and on how to seal JD records.*

**IS A JD CONSIDERED A CONVICTION?**

**No**

- A JD should not disqualify you from public or private employment or occupational licensing even if you served time in a detention center.

**IF I HAVE A JD AND I AM ASKED ON AN EMPLOYMENT APPLICATION IF I WAS EVER CONVICTED, HOW SHOULD I ANSWER?**

**No**

- A juvenile delinquency is considered an adjudication, not a conviction.

## Youthful Offender

### WHO IS CONSIDERED A YOUTHFUL OFFENDER?

- A YO is a special status granted by a judge to a youth who is at least 16 years of age but less than 19 years old and who would otherwise be charged as an adult for committing a crime, or to a youth who is 13, 14 or 15 and is charged as a juvenile offender for certain designated felonies.
- A YO is considered an adjudication, not a conviction.
- If your case is heard in a local criminal court and you plead guilty or are found guilty after a trial, and if you have no previous criminal convictions or youthful offender adjudications, the court **MUST grant you** YO status.
- YO status **is not an automatic right in any other situation** and a judge will consider factors like the type of crime committed and past offenses before granting YO status.

### IS A YO HEARING HELD IN FAMILY COURT?

No

- YO hearings are held in Criminal or Supreme Court.

### WILL YO RECORDS BE SENT TO DCJS?

Yes

- Your record **will be sent to DCJS** by the court where your case was heard, but YO status is considered **confidential**.
- DCJS **must release your** YO information to the criminal justice system if you are arrested again.

## IS A YO CONSIDERED A CONVICTION?

No

- A YO is considered an adjudication, not a conviction.

## IF I HAVE A YO AND I AM ASKED ON AN EMPLOYMENT APPLICATION IF I WAS EVER CONVICTED, HOW SHOULD I ANSWER?

No

- A YO should not disqualify you from public or private employment or occupational licensing even if you served time in a detention center or were incarcerated.

### Juvenile Offender

## WHO IS CONSIDERED A JUVENILE OFFENDER?

- Juvenile Offender status is for youth aged 13, 14 or 15 who are charged with committing certain serious criminal acts.
- 13-year-olds can be tried as JOs for murder.
- 14 and 15-year-olds can be tried as JOs for murder and other violent felonies such as kidnapping, arson, rape and robbery.

## ARE JO CASES HEARD IN FAMILY COURT?

No

- They are heard mostly in Supreme Court.

## WHAT ARE SOME OF THE MAIN DIFFERENCES BETWEEN JO, YO, AND JD DESIGNATIONS?

- A JO is **considered a conviction and is never sealed.**
- YO and JD adjudications are not considered convictions and the records are kept confidential.
- You must disclose a JO conviction if an employer asks about your conviction history.
- You do not have to disclose a JD or YO to an employer if asked about your conviction history.

## ARE THERE ANY DIFFERENCES BETWEEN BEING CONVICTED AS AN ADULT OR AS A JO?

- The incarceration facility and sentencing may be different depending upon your age.

## IS A JO CONVICTION SENT TO DCJS?

Yes

## IF I HAVE A JO AND I AM ASKED ON A JOB APPLICATION IF I WAS EVER CONVICTED, HOW MUST I ANSWER?

Yes

- A JO is considered a conviction, not an adjudication.

*See pages 43-45 for more sample questions and answers that may be asked on an employment application or on a job interview regarding adjudication and conviction history.*



**DON'T GET WRAPPED UP – GET YOUR RAP SHEET!**



**RAP SHEETS AND CONSUMER REPORTING AGENCY  
BACKGROUND CHECKS**

Illustration Concept: Joseph Feliciano

## RAP SHEETS AND CONSUMER REPORTING AGENCY BACKGROUND CHECKS

What's the difference?  
Who is allowed to request a copy?

### HOW DO I KNOW IF I HAVE A RAP SHEET?

- In New York State, if you have ever been arrested and fingerprinted, **even if you were never found guilty of the charges**, you have an arrest record on permanent file at the Division of Criminal Justice Services (DCJS).
- These records are your Record of Arrest and Prosecution (RAP) sheet, and they cannot be destroyed or expunged.

### IF I HAVE A JD ADJUDICATION, WILL I HAVE A RAP SHEET AT DCJS?

Yes

and

No

Yes

- If you are fingerprinted at the time of arrest, no matter what your age, you will have a DCJS rap sheet. The JD adjudication will appear on your own record review, but may not be made public to any person or public or private agency or employer.

No

- If you were not fingerprinted, DCJS will not have a record of your JD.

## IF I HAVE A YO OR A JO, OR IF I WAS TRIED AS AN ADULT, WILL I HAVE A RAP SHEET AT DCJS?

Yes

- A JO or adult conviction will appear on the rap sheet you request. **A JO will also appear** on a rap sheet that an employer gets from DCJS, **as will any adult convictions that were not sealed.** (The rap sheet that an employer receives is different from the version that you receive if you get a copy of your own record. The employer's version will not include any information that is either sealed or confidential.)

## WHO CAN LEGALLY REQUEST A COPY OF MY RAP SHEET FROM DCJS?

**Four categories** of people and agencies are allowed to see your rap sheet.

### 1. You

- First and most importantly, you have a right to see your own rap sheet.
- Before applying for any job, you should obtain your rap sheet to check for errors and to understand your criminal history.

*See page 23 for how to get a copy of your DCJS rap sheet.*

### 2. Criminal justice and law enforcement agencies

- This includes police departments, courts, district and defense attorneys, parole and probation departments and the Department of Corrections.

### 3. **Certain employers**

- New York State allows certain employers to obtain copies of your rap sheet as part of the hiring process.
- BUT most employers do NOT have the right to see your DCJS rap sheet. Most employers conduct background checks using commercial background check companies or through the Office of Court Administration web site.

*See Appendix #6 for a list of some of the employers who are allowed to obtain your official DCJS rap sheet.*

### 4. **Occupational licensing agencies**

#### **WHAT IS AN OCCUPATIONAL LICENSE?**

- An occupational license is a license that you need to work in some kinds of jobs. Jobs that require licenses include barbering, taxi driving, nursing, and working as a security guard. States and cities issue these licenses.
- Many occupational licenses may not be issued to individuals with certain types of criminal convictions, or to individuals who do not have “good moral character.” This “good moral character” requirement often works to disqualify people with conviction records. These restrictions are often called “occupational licensing bars.”
- In some cases, a person can overcome these licensing bars by obtaining either a Certificate of Relief or a Certificate of Good Conduct.

**IMPORTANT:** Occupational licensing bars do not apply to individuals with JD or YO adjudications because they are not considered convictions. Therefore, no certificate would be required.

*See pages 38-39 for more information on Certificates and Appendix #10 on how to apply for one.*

## IF I HAVE A CONVICTION RECORD, ARE THERE ANY LICENSES THAT THE STATE WILL NOT LET ME GET?

Yes

Different types of occupational licenses have different types of restrictions. See the Legal Action Center's Occupational Licensing Survey at [http://lac.org/doc\\_library/lac/publications/Occupational%20Licensing%20Survey%202006.pdf](http://lac.org/doc_library/lac/publications/Occupational%20Licensing%20Survey%202006.pdf) for a list of agencies that will review your rap sheet when you apply for a license and the kinds of criminal record restrictions that apply for each type of license.

## WHY IS IT IMPORTANT TO GET A COPY OF YOUR RAP SHEET?

- To make sure there are no errors.
- To give you time to correct any errors before applying for a job.
- So you can prepare for a job interview and know how to answer questions about your criminal history truthfully and accurately.

## HOW DO I GET A COPY OF MY RAP SHEET?

**If you are not currently incarcerated or will be incarcerated for less than 45 days:**

- You must fill out a form called a "Request for Review."
- You can get this form by writing to DCJS.
- Once you fill out the form, return it to DCJS with a copy of your fingerprints.
- There is a fee, but if you are on public assistance or do not have a job the fee may be waived.

*See Appendix #8 for sample letters to DCJS requesting a copy of your rap sheet if you are not incarcerated or will be incarcerated for less than 45 days.*

**If you are in a juvenile facility, prison or jail:**

- If you are in a New York State prison, a county or city jail, or in placement in a juvenile facility for more than 45 days, you must request a copy of your rap sheet from DCJS.
- When DCJS gets the request, it will mail you a copy free of charge.

*See Appendix #9 for a sample letter to DCJS requesting a copy of your rap sheet if you are incarcerated.*

**WHERE CAN I GET MY FINGERPRINTS TAKEN?**

- You can get fingerprinted at your local police precinct or at One Police Plaza in New York City. The charge is approximately \$15.
- You can call the Legal Action Center and make an appointment to be fingerprinted and obtain a copy of your rap sheet. If you are on public assistance, receiving Medicaid or are not currently working, the rap sheet will be free. If you are currently working, New York State charges a fee for the rap sheet.

*For an appointment to be fingerprinted, please call the Legal Action Center at (212) 243-1313.*

**WARNING: OUTSTANDING WARRANTS**

- If you think there may be an outstanding warrant for your arrest, you should clear it up **before** you contact DCJS or go to the police by calling a private attorney or a local public defender.

## CAN AN EMPLOYER GET MY CRIMINAL HISTORY FROM ANYWHERE ELSE BESIDES DCJS?

Yes!!!

- More and more employers who are not allowed to get your rap sheet are finding other ways to do a background check.

### HOW?

1. Through a **consumer reporting agency**.
  - There are currently hundreds of companies that provide this service for employers. If an employer runs a consumer background check on you, it will include a section on your criminal history.
2. Through the website of the **Office of the Court Administration (OCA)**, the central administrative office for all New York State courts.

*See Appendix #7 for OCA contact information.*

## DOES AN EMPLOYER NEED MY PERMISSION TO OBTAIN MY BACKGROUND CHECK?

### Consumer Reporting Agency Background Check

Yes

- Both Federal and New York State Fair Credit Reporting laws require that an employer get your permission before they run a background check on you from a consumer reporting agency.

## Office of Court Administration Background Check

No

- An employer or any individual can get a copy of your criminal record through OCA **without your permission**. These reports will reveal your criminal convictions, but not your violations.

## WILL MY JD OR YO ADJUDICATION APPEAR ON A CONSUMER BACKGROUND CHECK?

No

## WILL MY JO OR ADULT CRIMINAL CONVICTION RECORD APPEAR ON A CONSUMER BACKGROUND CHECK?

Yes

## WILL A BACKGROUND CHECK DONE THROUGH OCA OR A CONSUMER REPORTING AGENCY HAVE DIFFERENT OR MORE INFORMATION THAN MY DCJS RAP SHEET?

Yes

## Office of Court Administration

- OCA is not required to seal violations under New York State law. But, in 2007, OCA stopped providing information regarding all violations on the reports that it sells. Therefore, if an employer runs a background check through OCA, it should not include any information regarding violation convictions, whether these convictions have been sealed or not. However, criminal convictions, including JO's, will still appear on a background check done through OCA.
- JD and YO adjudications should not appear on an OCA report.

## Consumer Reporting Agencies

- Consumer reporting agencies, also known as credit check companies, are prohibited by New York State law from reporting cases that did not lead to conviction and from reporting violations, but these agencies sometimes make mistakes and report this information. They are permitted to report JOs and adult criminal convictions.
- JD and YO adjudications should not appear.

## WHAT SHOULD I DO IF I AM DENIED EMPLOYMENT BECAUSE OF MY CRIMINAL RECORD?

- Ask the employer for a letter stating why they denied you the job. Under New York State law, the employer must give you this letter within 30 days of your request.
- If the employer used a consumer reporting agency background check, under federal law, you are entitled to a copy of that report and a reasonable amount of time to review it before the employer denies you employment.
- If you believe the employer illegally discriminated against you when it denied you employment, contact the Legal Action Center.

*See Appendix #5 for a sample letter to an employer requesting a copy of your background check and the reason for denial of employment.*

## SHOULD I GET MY CONSUMER REPORT AND OFFICE OF COURT ADMINISTRATION BACKGROUND CHECK BEFORE APPLYING FOR A JOB?

- If possible, **yes**. These reports may contain mistakes that are not on your rap sheets because these reports are based only on name, date of birth, etc.
- Currently there is a fee to get your consumer report, which includes criminal record information. However, you can get one free copy per year from both Choicepoint and USIS, two big consumer reporting agencies. To do so, visit <http://www.usis.com/Consumers/default.aspx> or [http://www.choicepoint.com/consumer/all\\_products.html](http://www.choicepoint.com/consumer/all_products.html)
- An OCA background check costs \$52.

*See Appendix #7 for information on how to get a copy of your background check from OCA.*





**SEALING**

## SEALING

### What records can be sealed? What do I need to do to get them sealed?

In New York State certain records are or can be sealed. Once sealed, they are generally not available to the public or private sector. Below is information on which records can be sealed, how to get them sealed, and under what circumstances a sealed record can be disclosed.

#### WHAT DOES IT MEAN TO HAVE A CASE SEALED?

- Fingerprints, palm prints and photographs in the record are destroyed.
- Information about the sealed arrest is removed from the version of the DCJS rap sheet that will be sent to an employer.
- You do not need to disclose information about sealed cases to an employer.
- Sealed cases will always appear on a rap sheet you request.

#### IF I HAVE A CONVICTION, CAN IT EVER BE COMPLETELY ERASED FROM MY RECORD?

No

- In New York, you cannot have your record erased or expunged (destroyed), **BUT** certain types of records can be and are sealed.

## IF I HAVE A JD ADJUDICATION, WILL IT BE AUTOMATICALLY SEALED?

Yes

and

No

Yes

- A JD is automatically sealed to the public, to private agencies and to employers.
- If you were fingerprinted, your JD will appear only on a rap sheet you request.

No

- A JD is not automatically sealed to the criminal justice system (including courts, parole, probation, and District Attorneys).

## CAN I HAVE MY JD SEALED TO THE CRIMINAL JUSTICE SYSTEM?

Yes

- If you have not committed certain designated felonies, when you reach the age of 16, you can file a motion with the court to request that your JD be sealed.
- The judge will look at the time that has elapsed since you were adjudicated a JD, the seriousness of the act you committed, and whether you have had further involvement with the juvenile or criminal justice system.
- Sometimes these motions are not granted. You can file again, but you may want to wait a year before doing so.
- **IMPORTANT:** If your JD is not sealed and you are convicted of a subsequent crime, the judge can consider the records and information on file with the Family Court when imposing your sentence.

### IF I AM NOT ADJUDICATED A JD, WILL MY RECORD BE SEALED?

Yes

- If your delinquency petition was either withdrawn or dismissed, the court will order all records with regard to your JD hearing **automatically sealed**.
- You do not need to file a motion to have these records sealed.
- **These records should never be available to another court, even if you commit a subsequent crime.**

### IF I HAVE A YO ADJUDICATION, WILL MY RECORDS BE SEALED?

Yes

and

No

- Your record **will be sent to DCJS**, but will be **considered confidential**. **You do not have to file a sealing motion.**
- A YO will appear on a rap sheet you request, but not on one requested by an employer.
- A YO **may not be made public to any person or public or private agency** other than to school officials where you are enrolled.
- DCJS **must release your** YO information to the criminal justice system if you are arrested again.

### IF I HAVE A JO CONVICTION, CAN I HAVE IT SEALED?

No

- Your JO conviction can never be sealed.

## **WILL MY RECORDS BE SEALED IF MY CASE WAS TRANSFERRED FROM CRIMINAL OR ANOTHER COURT TO FAMILY COURT?**

**Yes**

- The records from both courts should be sealed.
- The criminal court or other court action will still appear on a rap sheet you request, but will not appear on a rap sheet requested by your employer.

## **IF I WAS ARRESTED BUT NOT CONVICTED (FOR EXAMPLE, THE CASE WAS DISMISSED) WILL MY RECORD BE SEALED?**

**Yes**

- However, ONLY arrests that did not lead to conviction AND ended in your favor are sealed. Charges that were dismissed because of a conviction on another charge or that were dismissed because of mental health reasons cannot be sealed.

## **IF MY ARREST ENDED FAVORABLY, IS MY RECORD AUTOMATICALLY SEALED?**

**Yes**

and

**No**

**Yes**

- After November 1991, if your arrest ended favorably, your record should be automatically sealed.
- If the record was not sealed automatically, you will have to go to the court where the case was heard to get an official disposition slip and send a letter with the disposition slip to DCJS requesting that they seal your record.

**No**

- If the arrest occurred before 1991, you must apply to have your record sealed.

*See pages 35-36 for more information about how to get a record sealed. See page 9 for arrests that are considered ended in your favor.*

## IF I HAVE A MISDEMEANOR OR FELONY ON MY RAP SHEET, CAN I HAVE IT SEALED?

**No**

- **Most** arrests that led to misdemeanor or felony convictions cannot be sealed.

**Yes**

- As of October 2009, certain misdemeanors and felonies can be conditionally sealed after completing a drug treatment (or other judicial diversion program) ordered by the court as an alternative to incarceration.

*See Appendix #12 for more information.*

## IF I WAS CONVICTED OF A NON-CRIMINAL OFFENSE (A VIOLATION), WILL MY RECORD BE SEALED?

**Yes**

and

**No**

### **Most violations can be sealed, but there are four exceptions:**

1. Driving while ability impaired;
2. Loitering in a sexually deviant manner;
3. Possession of less than 7/8 of an ounce of marijuana will only be sealed three years after the offense occurred, and if you have no further drug convictions during that three-year waiting period; and
4. The judge orders that your violation not be sealed.

**Note:** Although the law seals violations on official DCJS rap sheets, the law does not seal them at the court level. Until August 2007, the Office of Court Administration (OCA) routinely gave information about sealed violations to anyone (such as a potential employer) who paid a fee for a criminal background check. But in 2007, OCA stopped including information about violations in the records it sells to the public.

*See pages 26-27 for more information on OCA background checks. See Appendix #2 for violations that can be sealed.*

## **IF MY RECORD IS SEALED, CAN ANYONE SEE IT?**

**Yes**

**- But only in very limited circumstances.**

- When you apply for a job as a law enforcement or peace officer. Any employer in this area will have access to your sealed and confidential information from DCJS.
- If you are arrested while on parole or probation, your probation or parole officer can get information on the case even if it was sealed.
- Prosecutors and other law enforcement officials may get sealed records by showing that “justice requires” it.

## **IF I REQUEST MY OWN RAP SHEET, WILL IT INCLUDE MY SEALED RECORDS?**

**Yes**

## **WHEN I LOOK AT MY DCJS RAP SHEET, HOW CAN I TELL THAT MY RECORDS ARE SEALED AND WILL NOT BE ON A RAP SHEET REQUESTED BY AN EMPLOYER?**

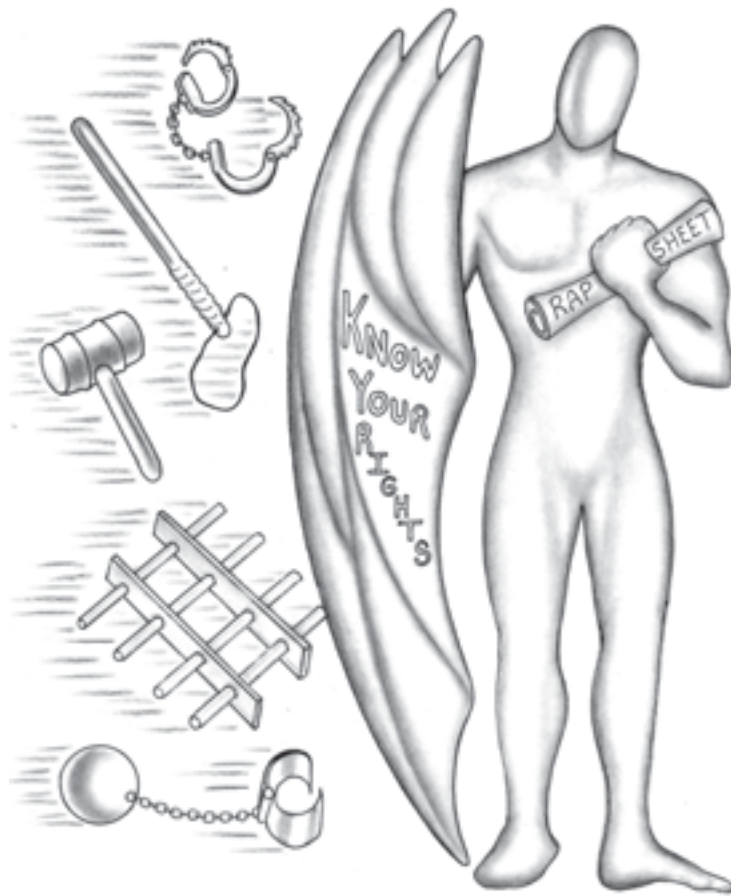
- Your personal rap sheet will have a notation that will say “sealed 160.50” or “sealed 160.55” in the disposition section. This means that your records are sealed to an employer who receives your background check from DCJS.
- Youthful offender adjudications will be noted as such but will not say sealed. They are, however, “sealed” to public and private agencies and employers. This means that your records are sealed to an employer who receives your background check from DCJS.

## **IF MY RECORD SHOULD HAVE BEEN SEALED, BUT IT DOES NOT APPEAR AS SEALED ON MY RAP SHEET, WHAT SHOULD I DO?**

**Every court sets up its own process for sealing cases so here are some first steps to take:**

1. Call the court clerk where your case was heard and ask what the procedure is to get a case sealed in that court.
2. If the clerk says you need to write a letter to have the case sealed, ask the clerk:
  - How and to whom you should address the letter; and
  - Whether you need to send a copy to the District Attorney.
3. If a letter is not enough, you may have to file a sealing motion.
4. Manhattan Criminal Court requires no letter or motion.
  - All you have to do is go to the court with your ID and docket number (if you know it) and tell the court clerk that you have a case that you want sealed.
  - The court clerk or staff will fill out the paperwork for you and file it with the District Attorney's office.

*See Appendix #3 for a sample sealing request letter. Call the Legal Action Center at (212) 243-1313 to get information on filing a motion.*



**CERTIFICATES OF REHABILITATION**

## CERTIFICATES OF REHABILITATION

**What are they?  
Why should I apply for them?**

### WHAT IS A CERTIFICATE OF REHABILITATION?

If you have an adult conviction for a felony or misdemeanor or a JO conviction, you can apply for either a Certificate of Relief from Disabilities or a Certificate of Good Conduct and it may help you when you are looking for a job or applying for an occupational license.

**REMEMBER: You do not need a certificate if you only have a JD or YO because these are not convictions. You also do not need a certificate if you only have violation convictions.**

### WHY SHOULD I APPLY FOR ONE?

- When you apply for a job or a license and you have a Certificate, an employer must consider it as evidence that you are rehabilitated.
- This means that your conviction cannot be used as the sole reason for denying you employment or refusing you a license. There must be other evidence that you are not qualified.
- A certificate can also be used to lift criminal record-related occupational licensing bars in New York.

*See the Legal Action Center's Occupational Licensing Survey at [http://lac.org/doc\\_library/lac/publications/Occupational%20Licensing%20Survey%202006.pdf](http://lac.org/doc_library/lac/publications/Occupational%20Licensing%20Survey%202006.pdf) for a list of agencies that will review your rap sheet if you apply for a license and the kinds of criminal record restrictions that apply for each type of license.*

## **WILL A CERTIFICATE COMPLETELY PROTECT ME FROM BEING DENIED A JOB OR LICENSE BECAUSE OF MY CRIMINAL RECORD?**

**No**

- Even with a certificate, the law permits an employer or licensing agency to refuse to hire or to license you if your convictions are job-related or if hiring/licensing you would create an “unreasonable risk” to the safety of people and property.
- A certificate is not a pardon and does not erase your conviction.
- You still have to list your convictions on a job application if asked about them by an employer.
- Your convictions will remain on your rap sheet.

## **WHAT IS THE DIFFERENCE BETWEEN A CERTIFICATE OF RELIEF FROM DISABILITIES AND A CERTIFICATE OF GOOD CONDUCT?**

- The major difference is who is eligible to apply for each one.
- You should only apply for the certificate that you are eligible for. Eligibility is determined by the number and type of convictions on your record.
- Your criminal record will determine which certificate you can apply for, but also check and see the type of certificate the licensing agency requires. For example, to be licensed as a school bus driver you need a Certificate of Relief, not a Certificate of Good Conduct.

*See Appendix #10 to determine which type of certificate you should apply for and how to apply.*





## JOB INTERVIEWS AND APPLICATIONS

## JOB INTERVIEWS AND APPLICATIONS

### Sample questions and answers

#### Overview

#### Most Important:

1. Only answer the question that is being asked. Be careful not to give more information than an employer asks for or has a right to know.
2. Since you may have to explain your cases in detail at an interview, make sure you review your record and understand the charges for which you were convicted or adjudicated.
3. Do not forget to highlight your successes and accomplishments.
4. Provide any evidence of rehabilitation (including certificates of rehabilitation, if you have them).
5. Take responsibility for mistakes made in the past.
6. If an employer asks about your convictions, **NEVER LIE ABOUT YOUR CRIMINAL RECORD.**

#### WHY?

- If you do not tell the truth about your convictions, the employer can use that reason alone to not hire you or to fire you once the lie is revealed.
- If you do tell the truth, an employer can only use your conviction as one factor in determining whether to hire you.

## Sample Questions and Answers on Job Applications

### Q. HAVE YOU EVER BEEN CONVICTED?

A. **Yes**

- If you have been convicted of an unsealed felony, unsealed misdemeanor, or unsealed violation, or if you have a JO conviction.

A. **No**

- If **ALL** your felonies, misdemeanors, and violations are sealed. (*See page 34 for information about sealed felonies and misdemeanors.*)
- If you **ONLY** have a JD or YO adjudication.

### Q. HAVE YOU EVER BEEN CONVICTED OF A CRIME?

A. **Yes**

- If you have been convicted of an unsealed felony, unsealed misdemeanor or if you have a JO conviction.

A. **No**

- If **ALL** your felonies and misdemeanors are sealed. (*See page 34 for information about sealed felonies and misdemeanors.*)
- If you have **ONLY** been convicted of a violation, because violations are not crimes.
- If you **ONLY** have a JD or YO adjudication.

### Q. HAVE YOU EVER BEEN CONVICTED OF A CRIME OR OFFENSE OF THE LAW? IF SO, EXPLAIN.

A. **Yes**

- If you have been convicted of an unsealed felony, unsealed misdemeanor, or unsealed violation, or if you have a JO conviction.

A. **No**

- If **ALL** your felonies, misdemeanors, and violations are sealed. (*See page 34 for information about sealed felonies and misdemeanors.*)
- If you **ONLY** have a JD or YO adjudication.

**Q. HAVE YOU EVER PLED GUILTY OR BEEN FOUND GUILTY OF A CRIME OR AN OFFENSE? IF SO, EXPLAIN.**

A.

Yes

- If you have pled guilty or been found guilty of an unsealed felony, unsealed misdemeanor, or unsealed violation or if you have a JO conviction.

A.

No

- If **ALL** your felonies, misdemeanors, and violations are sealed. (See page 34 for information about sealed felonies and misdemeanors.)
- If you **ONLY** have a JD or YO.

**Q. HAVE YOU EVEN BEEN ARRESTED? IF SO, EXPLAIN.**

A.

Yes

- If you have arrests that led to a conviction for an unsealed felony, unsealed misdemeanor, or unsealed violation, or if you have a JO conviction.

A.

No

- If you **ONLY** have arrests that did not lead to conviction.
- If **ALL** your felonies, misdemeanors, and violations are sealed. (See page 34 for information about sealed felonies and misdemeanors.)
- If you **ONLY** have a JD or YO adjudication, which are not considered convictions.

**Q. HAVE YOU EVER BEEN CHARGED WITH A CRIME? IF SO, EXPLAIN.**

A.

Yes

- If you were convicted of an unsealed felony or an unsealed misdemeanor.
- If you were charged with a felony or a misdemeanor AND then convicted of an unsealed violation.
- If you have a JO conviction.

A.

No

- If you **ONLY** have a JD or a YO adjudication, which by law are not considered convictions.
- If you were **ONLY** charged with a violation because violations are not crimes.
- If **ALL** your felonies, misdemeanors, and violations are sealed. (See page 34 for information about sealed felonies and misdemeanors.)

## HAVE YOU BEEN CONVICTED OF A CRIME IN THE PAST SEVEN YEARS?

A.

Yes

- If you have been convicted of an unsealed felony, unsealed misdemeanor, or JO during the past seven years.

A.

No

- If **ALL** of your felony, misdemeanor or JO convictions are more than seven years old.
- If you **ONLY** have a JD adjudication, YO adjudication, or violation conviction.
- If **ALL** your felonies and misdemeanors are sealed. (*See page 34 for information about sealed felonies and misdemeanors.*)



# GLOSSARY

- Adjudication:** A formal finding issued by the court after a hearing. Juvenile delinquencies and youthful offender findings are considered adjudications. Adjudications are not convictions.
- Arrest:** Being detained, processed and charged of committing an offense or crime. Depending on your age and the severity of the crime, fingerprints and photos are often taken which will generate a criminal record entry at the Division of Criminal Justice Services.
- Conviction:** A finding of guilt or a guilty plea for a crime or offense.
- Crime:** A felony or misdemeanor offense.
- Disposition:** The final decision or outcome of a case that has been filed in a court against a defendant.
- Division of Criminal Justice Services:** Located in Albany, this is the state agency that maintains a complete history of New York State criminal justice information.
- Felony:** A crime punishable by one year or more of incarceration or by no less than five years of probation. A felony is almost never sealed and will almost always appear on a rap sheet requested by an employer.
- Juvenile Delinquent:** A youth between the ages of 7 and 16 who commits an act that would otherwise be considered a crime if committed by an adult. These cases are only heard in Family Court. A juvenile delinquency is not considered a conviction and should not appear on a rap sheet requested by an employer.

- Juvenile Offender:** A youth aged 13, 14 or 15 who is charged with committing certain serious criminal acts. These youth may be prosecuted as adults and, if convicted, the record(s) will appear on a rap sheet requested by an employer. JO convictions are treated the same as adult convictions for employment purposes.
- Misdemeanor:** A crime punishable by less than one year of incarceration or by no more than three years probation. A misdemeanor is almost never sealed and will almost always appear on a rap sheet requested by an employer.
- Violation:** An offense punishable by no more than fifteen days, a fine, and/or a conditional/unconditional discharge. It is not considered a crime but, rather, a non-criminal conviction. A violation is usually sealed by the Division of Criminal Justice Services and not available to an employer. The Office of Court Administration is legally allowed to give information about all violations to the public but it stopped doing so in 2007. Under New York State law, consumer reporting agencies are not allowed to report information regarding violation convictions.
- Youthful Offender:** A special status granted by a judge to 1) a young person, at least 16 years of age but less than 19, who would otherwise be charged as an adult, or to 2) a youth aged 13, 14 or 15 who is charged as a juvenile offender. Youthful offender adjudications are not considered convictions.

## **APPENDICES**

## **APPENDIX #1:**

### **Factors an Employer Must Consider to Determine if Your Conviction History is Job-Related.**

Article 23-A of the New York State Correction Law states that an employer must consider the following factors to determine if your conviction history is job-related:

1. The seriousness of the offense.
2. The amount of time that has passed since your criminal offense took place.
3. Your age at the time of the criminal offense.
4. The specific duties and responsibilities related to the job or license you are applying for.
5. Whether the criminal offense you were convicted of will affect your ability to perform any of the duties or responsibilities of your job.
6. Any information you can provide to show rehabilitation or good conduct.
7. The public policy of New York State to encourage the employment of people with conviction records.
8. The legitimate interest of the employer in protecting the property, safety and welfare of specific individuals or the general public.

#### **TIP:**

- Within 30 days of your request you are entitled to a written statement as to why you were turned down by an employer or licensing agency.
- If an employer used a consumer reporting agency to perform your background check, you are also entitled to a copy of that report.

## APPENDIX #2

### Violations that Can Be Sealed Under §160.55 of the New York State Criminal Procedure Law (CPL).

<u>Name in Alphabetical Order</u>	<u>CPL §</u>
Appearance in Public Under the Influence of Narcotics or Drugs other than Alcohol	240.40
Criminal Solicitation in the Fifth Degree	100.00
Disorderly Conduct	240.20
Exposure of a Person	245.01
Failing to Respond to Appearance Ticket	215.58
Harassment in the Second Degree	240.26
Hazing in the Second Degree	120.17
Loitering*	240.35
Offensive Exhibition	245.05
Promoting the Exposure of a Person	245.02
Trespass	140.05
Unlawfully Posting Advertisements	145.30
Unlawful Possession of Marijuana (less than 7/8 of an ounce)**	221.05

\* Loitering in a sexually deviant manner or loitering involving prostitution will not be sealed.

\*\* Conviction for possession of less than 7/8 of an ounce of marijuana may only be sealed after successful completion of a three-year waiting period.

## APPENDIX #3:

### Sample Letter to the Court Requesting Sealing of a Record.

- You can use this same letter for sealing of a juvenile delinquency by addressing it to the appropriate Family Court.  
(Items in the square brackets should be replaced with your personal information.)

[Date]

Court Clerk's Office  
[Kings County Criminal Court]  
[120 Schermerhorn Street]  
[Brooklyn, NY 11201]

Dear Clerk of the Court:

I was tried in [King's County Criminal Court] on [May 8<sup>th</sup>, 1995] under docket number [P12-3577]. I pled guilty to the charge of [Trespass (PL140.05)] and [paid a fine of \$50].

I am contacting you now to request that the records of my [violation] conviction be sealed pursuant to Section [160.55] of the New York State Criminal Procedure Law. Please forward sealing orders to any agency that has a record of my arrest, including the Division of Criminal Justice Services and the [New York City] Police Department.

In addition, please send me notification of the outcome of my sealing motion request. Thank you for your attention.

Sincerely,  
[Your name and address]

Cc: [Brooklyn] District Attorney's Office

## APPENDIX #4

### Sample Letter to Request Corrections on Your Rap Sheet.

(Items in the square brackets should be replaced with your personal information.)

[Date]

New York State Division of Criminal Justice Services  
Record Review Unit  
4 Tower Place  
Albany, NY 12203-3764

Re: DCJS record of [your name] – NYSID#: [O664349L]

Dear Sir or Madam:

On [May 8, 2009], I reviewed a copy of my DCJS rap sheet and I discovered errors on my record and am writing to list the corrections that should be made. As required, I am enclosing certified disposition slips.

My challenges include:

1. My rap sheet reports that I was [convicted of Burglary on 8/16/02]. In fact I was [adjudicated a youthful offender on this charge, as documented by the attached disposition slip, docket #Y00012. Please correct my record as soon as possible.]
2. [No disposition is reported from my 3/24/03 arrest. The attached court transcript with docket #X3567 shows that all charges were dismissed following this arrest. Please add this information to your files.]

Please inform me of the changes that you have made to my rap sheet.

Sincerely,

[Your name and address]

## APPENDIX #5

### Sample Letter to Employer Requesting a Copy of your Background Check and the Reason for Denial of Employment.

(Items in the square brackets should be replaced with your personal information.)

[Date]

[Sender's name]  
[Street Address]  
[City, State Zip Code]

[Employer's Name]  
[Company's Name]  
[Street Address]  
[City, State Zip Code]

To Whom It May Concern:

[Name of company/firm/agency] denied me a job on [date] for the position of [job title] and I am requesting that within 30 days you provide me with a written statement listing the reasons for such denial. I am entitled to this statement under Article 23-A of the New York State Correction Law because I have (a/some) criminal conviction(s). Section 754 of the Correction Law States:

At the request of any person convicted of one or more criminal offenses who has been denied a license or employment, a public agency or private employer shall provide, within thirty days of a request, a written statement setting forth the reasons for such denial. Failure to provide a written statement may result in a complaint being filed with the NYS Division of Human Rights.

Also under federal law, if you used a consumer reporting agency background check to make your employment determination, I should have been given a copy of the report and a reasonable amount of time to review it before you denied my employment (15U.S.C. § 1681(b)(3)). Therefore, if you conducted a consumer agency background check, please enclose a copy with the letter requested above.

Thank you for your prompt attention to this matter.

Sincerely,

[Your Name]

## APPENDIX #6:

### Partial List of Employers Who by Law can Obtain Your Rap Sheet from DCJS or the FBI as Part of the Hiring Process.

- Public Employers in New York State  
Federal, state and local government agencies including:
  - All Law Enforcement Agencies such as:
    - Police Department;
    - Fire Department;
    - Immigration (U.S. Citizenship and Immigration Services);
    - Department of Correctional Services;
    - Department of Sanitation;
  - School Districts;
  - U.S. Postal Service;
- Child care agencies;
- Financial institutions, such as banks and brokerage houses;
- Home health care agencies;
- Hospitals;
- Museums;
- Nursing homes or mental health facilities;
- Schools and companies hiring school bus drivers and attendants;
- Security guard companies.

**REMEMBER:** Most employers do not have the right to see your DCJS rap sheet but they can run your criminal background check through the Office of Court Administration or by running a credit report.

## **APPENDIX #7:**

### **How to Obtain a Copy of your Criminal History from the Office of Court Administration.**

Effective July 14, 2003, the Office of Court Administration (OCA) of the State of New York expanded its program of making criminal history records available to the general public. The fee for these records is \$52.

#### **To request a copy of your criminal history records:**

Write to:

NYS Office of Court Administration  
Office of Administrative Services  
Criminal History Record Search  
25 Beaver Street (Room 840-Front Counter)  
New York, NY 10004

Call: (212) 428-2810

Or order it online at: [www.nycourts.gov/apps/chrs](http://www.nycourts.gov/apps/chrs)

**IMPORTANT:** If you find that this report has inaccurate results, you can call OCA Criminal History Search Unit at (212) 428-2943 between the hours of 10:00 a.m. and 4:00 p.m. The Legal Action Center may also be able to assist you with correcting inaccurate reporting. For assistance, please call LAC at (212) 243-1313.

## APPENDIX #8:

### Examples of Rap Sheet Requests.

If you are not Incarcerated or are Incarcerated for Less than 45 days.

- **Example #1:**

*If you need to have the fee waived because you are not working*

(Items in the square brackets should be replaced with your personal information.)

[Date]

New York State Division of Criminal Justice Services  
Record Review Unit  
4 Tower Place  
Albany, NY 12203-3762

Dear Sir or Madam:

This letter is being sent to request a copy of my criminal record and to confirm that, even though I am not on public assistance, I am not employed, am indigent and cannot afford the \$50 fee to obtain my criminal record. Enclosed is my full set of fingerprints. My notarized signature is below. Thank you.

Sincerely,

[Signature]

[Your name]

[Full Mailing Address]

[Date of Birth]

Sworn to me this \_\_\_\_\_ day

Of \_\_\_\_\_, 200\_\_

\_\_\_\_\_  
Signature of Notary Public

- **Example #2:**

*If you need to have the fee waived because you are on public assistance, you will need to send some form of proof that you are on public assistance such as a copy of your Medicaid card.*

(Items in the square brackets should be replaced with your personal information.)

[Date]

New York State Division of Criminal Justice Services  
Record Review Unit  
4 Tower Place  
Albany, NY 12203-3762

Dear Sir or Madam:

This letter is being sent to request a copy of my criminal record and to confirm that I am on public assistance and cannot afford the \$50 fee to obtain my criminal record. Enclosed please find a copy of my [Medicaid card/Public Assistance card] as proof of my indigence.

Also enclosed is a full set of fingerprints. Thank you.

Sincerely,

[Signature]

[Name]

[Full Mailing Address]

[Date of Birth]

- **Example #3:**

*If you are working, not on public assistance and do not need the fee waived.*

(Items in the square brackets should be replaced with your personal information.)

[Date]

New York State Division of Criminal Justice Services  
Record Review Unit  
4 Tower Place  
Albany, NY 12203-3762

Dear Sir or Madam:

I am requesting my criminal record. Enclosed please find a check or money order for the \$50 fee as well as a full set of my fingerprints. Thank you.

Sincerely,

[Signature]

[Name]

[Full Mailing Address]

[Date of Birth]

## APPENDIX #9:

### Example of Rap Sheet Request if you are incarcerated in a State or Local Facility for More than 45 Days.

(Items in the square brackets should be replaced with your personal information.)

[Date]

New York State Division of Criminal Justice Services  
Record Review Unit  
4 Tower Place  
Albany, NY 12203-3762

Dear Sir or Madam:

I am currently incarcerated in a correctional facility and I am writing to request a copy of my DCJS criminal history record ("rap sheet").

The following information should assist you in locating my file:

Name and Aliases: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_  
Institutional #: (if you are in a local facility) \_\_\_\_\_  
DIN# (if you are in a state facility) \_\_\_\_\_  
NYSID#: \_\_\_\_\_

Please process my request at your earliest convenience.

Thank you for your attention.

Sincerely,  
[Signature]  
[Name]  
[Full Mailing Address]

# **APPENDIX #10:**

## **CERTIFICATES OF REHABILITATION**

### **Eligibility and How to Apply**

#### **Eligibility**

##### **Certificate of Relief from Disabilities**

You are eligible to apply for this Certificate if:

- You have been convicted of no more than one felony or JO and/or any number of misdemeanors. When counting your felonies, you must include any federal or out-of-state convictions.
- You have federal or out-of-state convictions (that total less than two felonies). If you are applying for a Certificate of Relief for non-New York convictions, you must be a resident of New York State at the time you apply for the Certificate.

##### **Certificate of Good Conduct**

You are eligible to apply for this Certificate if:

- If you have been convicted of two or more felonies and any number of misdemeanors. When counting your felonies you must include any federal or out-of-state convictions.
- The mandatory waiting period has passed.
- The mandatory waiting period will begin from either: the date of payment of any fines or restitution; date of release from prison to parole supervision; or suspension, commutation or termination of sentence.
- The length of waiting periods depends on your highest conviction. For:
  - Class A or B Felonies: 5 years
  - Class C, D, or E Felonies: 3 years
  - Misdemeanors: 1 year

#### **Remember:**

- You DO NOT NEED TO APPLY for a Certificate of Rehabilitation if you only have a youthful offender or juvenile delinquency adjudication because these are not considered convictions.

## How to Apply

### Certificate of Relief from Disabilities

1. **Things to know before you apply:**
  - Every court sets up its own procedures, so you should contact the court first to find out what the procedure is.
  - You must get a separate Certificate of Relief from Disabilities for each conviction.
2. **If you were convicted of a misdemeanor or if you were convicted of a felony but served no time in prison (sentenced to probation):**
  - You must apply for a Certificate at the court where you were sentenced.
  - The court can issue the Certificate anytime after sentencing.
3. **If you were convicted of a felony and served New York State time or were convicted by a Federal or out-of-state court and are currently a resident of New York State:**
  - You can request an application for a Certificate from:  
*State of New York – Executive Department*  
*Division of Parole*  
*Certificate Review Unit*  
*97 Central Avenue*  
*Albany, NY 12206*  
*(518) 485-8953*
  - Or you can download an application at: [www.parole.state.ny.us](http://www.parole.state.ny.us)
4. **If you are on probation or parole:**
  - You should make a request to your probation or parole officer.
  - You may be granted a temporary Certificate that becomes permanent when you complete your sentence.

## **Certificate of Good Conduct**

### **1. Things to know before you apply:**

- You will need only one certificate for all convictions.
- Only the Parole Board is authorized to issue a Certificate of Good Conduct.
- You cannot apply until the end of your mandatory waiting period.

### **2. Once the waiting period has ended:**

- If you are no longer under parole supervision, you can request an application for a certificate from:

*State of New York – Executive Department  
Division of Parole  
Certificate Review Unit  
97 Central Avenue  
Albany, NY 12206  
(518) 485-8953*

- Or you can download an application at: [www.parole.state.ny.us](http://www.parole.state.ny.us)

### **3. If you are still on parole:**

- You should make a request to your parole officer.
- If you are on parole, you may be granted a temporary Certificate that becomes permanent when you complete your sentence.

**IMPORTANT:** Please note that the entire process to obtain a Certificate could take from six months to one year. If you are in a hurry because a job or occupational license is at stake, mention this in your letter.

## APPENDIX #11:

### Contact Information for New York City Family, Criminal and Supreme Courts:

FAMILY COURT	CRIMINAL COURT	SUPREME COURT
<p><b>Bronx County</b> 900 Sheridan Avenue Bronx, NY 10541 (718) 618-2098</p>	<p><b>Bronx County</b> 215 East 161<sup>st</sup> Street Bronx, NY 10451 (718) 618-3100</p>	<p><b>Bronx County</b> 265 East 161<sup>st</sup> Street Bronx, NY 10451 (718) 618-3100</p>
<p><b>Kings County (Brooklyn)</b> 330 Jay Street Brooklyn, NY 11201 (347) 401-9600</p>	<p><b>Kings County (Brooklyn)</b> 120 Schermerhorn Street Brooklyn, NY 11201</p>	<p><b>Kings County (Brooklyn)</b> 320 Jay Street Brooklyn, NY 11201 (646) 386-4500</p>
<p><b>New York County (Manhattan)</b> 60 Lafayette Street New York, NY 10013 (646) 386-5206</p>	<p><b>New York County (Manhattan)</b> 100 Centre Street New York, NY 10013 (646) 386-4500</p>	<p><b>New York County (Manhattan)</b> 100/111 Centre Street New York, NY 10013 (646) 386-4000</p>
<p><b>Queens County</b> 151-20 Jamaica Avenue Jamaica, NY 11432 (718) 298-0197</p>	<p><b>Queens County</b> 125-01 Queens Boulevard Kew Gardens, NY 11415</p>	<p><b>Queens County</b> 125-01 Queens Blvd Kew Garden, NY 11415 (718) 298-1000</p>
<p><b>Richmond County (Staten Island)</b> 100 Richmond Terrace Staten Island, NY 10301 (718) 390-5460</p>	<p><b>Richmond County (Staten Island)</b> 67 Targee Street Staten Island, NY 10301</p>	<p><b>Richmond County (Staten Island)</b> 18 Richmond Terrace Staten Island, NY 10301 (718) 675-8760</p>
	<p><b>NYC Criminal Court Information Line</b> (212) 374-5880</p>	

For other court locations in New York State, visit [www.courts.state.ny.us](http://www.courts.state.ny.us) on the Internet.

## **APPENDIX #12:**

### **Felonies and Misdemeanors That Can be Sealed.**

Starting in October 2009, judges will be able to seal certain felonies and misdemeanors for people who have completed diversion programs.

#### **Eligibility**

To be eligible:

- You must have completed an alcohol/drug treatment program as an alternative to incarceration AND
- You must have completed any other sentence imposed following the completion of treatment.

You are not eligible if:

- During the preceding ten years (not including periods of incarceration), you were convicted of one or more:
  - Violent felonies;
  - Offenses for which you cannot get merit time (including certain A-I felony offenses, violent felony offenses and certain types of homicide and sex crimes);
  - Class A felonies.
- You have been adjudicated a:
  - Second violent felony offender; or
  - Persistent violent felony offender.

#### **Felonies that can be sealed include:**

- Burglary in the 3<sup>rd</sup> degree;
- Criminal mischief in the 3<sup>rd</sup> degree;
- Criminal mischief in the 2<sup>nd</sup> degree;
- Grand larceny in the 4<sup>th</sup> degree;
- Grand larceny in the 3<sup>rd</sup> degree (but not if the property at issue consists of one or more firearms, rifles or shotguns);
- Unauthorized use of a vehicle in the 2<sup>nd</sup> degree;

- Criminal possession of stolen property in the 4<sup>th</sup> degree;
- Criminal possession of stolen property in the 3<sup>rd</sup> degree (but not if the property at issue consists of one or more firearms, rifles or shotguns);
- Forgery in the 2<sup>nd</sup> degree;
- Criminal possession of a forged instrument in the 2<sup>nd</sup> degree;
- Unlawfully using slugs in the 1<sup>st</sup> degree;
- Or an attempt to commit any of the above offenses, if the attempt constitutes a class B felony; or
- Any class B, C, D or E controlled substance (drug) or marijuana felony offense.

Judges sealing these felonies may also seal up to three prior misdemeanors.

### **What does it mean to seal records?**

- The convictions should not appear on background checks. However, they will still be available for law enforcement purposes.
- You are not required to reveal the convictions to an employer, even when asked about your convictions.

### **What happens if I am arrested again after the cases are sealed?**

- If you are arrested again for a misdemeanor or felony offense, the cases will be unsealed.
- But if the charges against you are dismissed, you are acquitted, or the District Attorney declines to prosecute you, the cases will be resealed.







