



JOB DEVELOPMENT FOR PEOPLE WITH CRIMINAL HISTORIES

What is the Issue?

According to CareerBuilder.com:

65 million Americans
have some variety of criminal offense record.

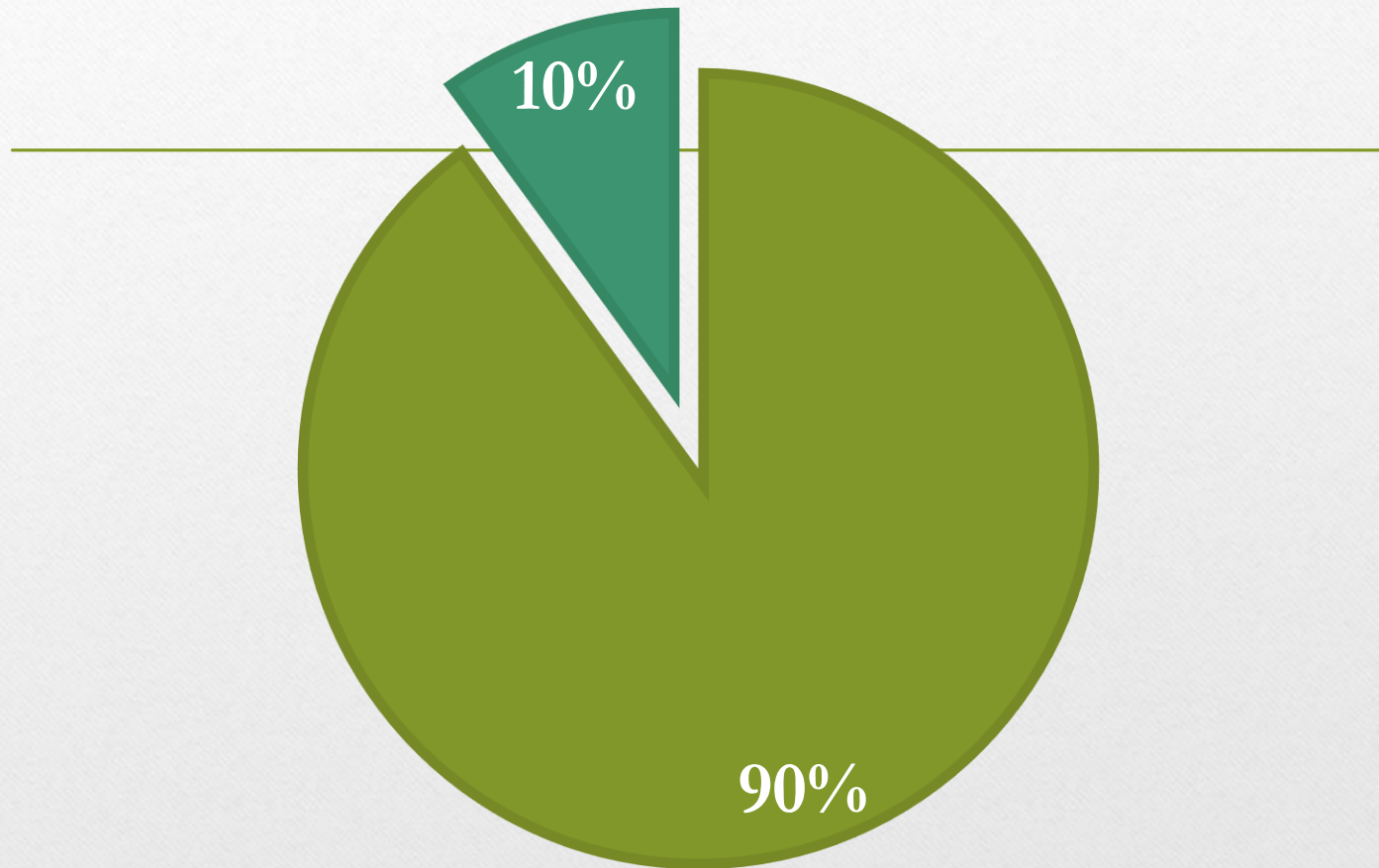
Over 5.6 million Americans—nearly 1 in 40 adults
were in prison or had served time there

Almost 4 million
were under supervision in the community— probation or parole.

EMPLOYERS USING BACKGROUND CHECKS

■ Use Checks

■ Don't Use Checks



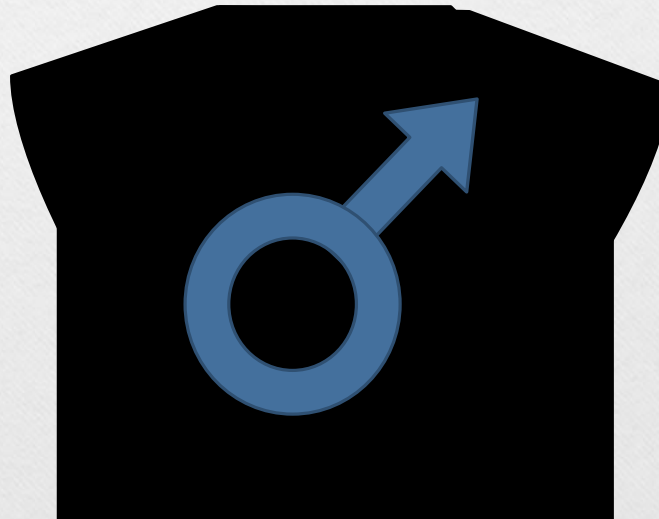
Overview of Offender w/ I/DD

Mild to Moderate
ID or Autism
Spectrum Disorder

20-40

Aware of and try
to hide disability

Unemployed



Sex Offenses

More Likely To....

Plead guilty to original charges

Spend more time incarcerated

Be denied parole

Laws & Lingo

ADA

- Americans with Disabilities Act provides civil rights protections for individuals with disabilities in employment, public accommodation, government services and transportation
- Title I provides protection in employment practices of private employers with more than 15 employees

ADA

- Employee still has to be qualified for the job
- Employer does not have to give preference over another applicant
- Applies to private and public employers

Definitions

Felony – Crimes punishable by at least one year of prison time. In New Jersey, indictable offense or crime.

Misdemeanors – Less severe charges punishable by a fine or jail time less than one year. In New Jersey a disorderly persons or petty d.p. offense.

Pre-Trial Intervention (PTI)- A program that diverts certain offenders from the ordinary criminal justice process.

Pre-Trial Intervention (PTI)

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

Conditional Dismissal Program

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

Expungement-NEEDS UPDATE

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

New Expungement Statute eff. 3/2017

New Expungement Statute

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

Eligibility for Expungement

Conviction

Indictable
Offence
 ≥ 6 months jail
time

D.P.
 < 6 months jail
time

Municipal
Ordinance

Ineligible
after

1 in ANY
state

> 2 after the
Indictable Offense

1st
Offence

Wait to
Apply

5
Years

6 months
from PTI
end

3 Years

2 years

Not Eligible for Expungement

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

Arrests

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

Getting criminal records

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



Convictions Only

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

BAN THE BOX

- Refers to statutes which seek to “ban” the “box” found on job applications for applicants to check if they have a criminal conviction
- More than 14 states and many municipalities have passed similar bans since first passage in 1998

-
- Statutes only prohibit a private employer from inquiring about criminal history UNTIL a conditional job offer has been made
 - Offer can be revoked if the offense is deemed relevant to the job

In New Jersey

- On March 15, 2016, Opportunity to Compete Act was passed
- Applies to any employer employing 15 or more employees
- Intent of the statute is to give employees a fair shot at an initial interview without having to reveal criminal history
- Employer can ask about criminal background, just not on the application or during initial interview

Parole Supervision for Life

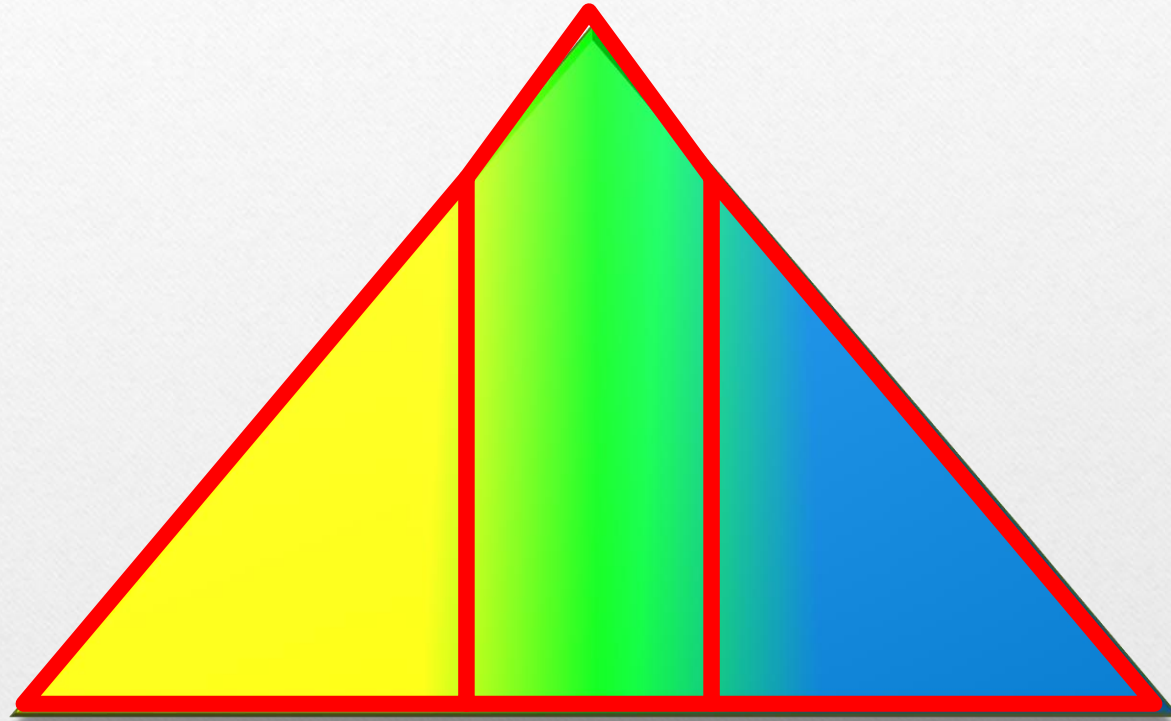
- In addition to registration and notification
- Mandatory sentence for some offenders convicted of certain sex offenses—**Not all persons subject to registration and notification are on PSL**
- Does not apply to juveniles

Parole Supervision for Life

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

Development

Employer



Consumer

Developer



Know your Jobseeker



Know the Barriers



Choose the Direction



Have Patience

Discussing Criminal History with the Jobseeker

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

Tips during the Interview

Make a good First Impression

Know the Culture

C.P.R.

C.P.R.

C: Provide **Contrast**

P: Stay **Positive**

R: **Redirect** to Benefits

C: Provide Contrast

- When someone asks about a criminal history:
 - Focus on what you've learned
 - Include any actions taken toward rehabilitation
 - Classes, earned a degree, other experiences that make you an asset to the business

P: Stay Positive

Anticipate Doubts and Judgements

(Mis)Perception > Reality

R: Redirect to Benefits

Employers usually have three concerns when hiring:

Will this hire fit in with my **people**?

Will this hire fit our existing **processes**?

Will this hire increase our **productivity**?

The Application

What can they ask?

Arrests and Criminal Convictions

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

True or False?

On an initial Application

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

Have you ever been
convicted of a
Felony?

Do you have a
criminal record?

Do you have a parole
officer?

But, I Still Get These Questions!

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

ADA COMPLAINTS

- Complaints can be filed with federal agencies such as the Division of Civil Rights, US Department of Justice
- Complaints can be filed with state agencies such as the Division of Civil Rights, NJ Department of Law and Public Safety

Other Complaints

- Complaints of possible violations of the statute can be made to the Department of Labor and Workforce Development
- There is a complaint form at their website
- The statute does not provide for a private right to sue-recourse is to file complaint with Department of Labor

Tax Credits

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

www.nj.gov/labor/

Manager Feedback

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

Resources

- NELP.org

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

QUESTIONS ??

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