

Communities We Live and Work In

Working with Individuals that have a Criminal Background



LEARNING OBJECTIVES







- To gain a broad understanding about criminal justice in Minnesota and its impact on people who have criminal records.
- To understand impacts of racial disparities in criminal justice systems.
- To deepen understanding about criminal background checks and the laws that govern them
- To gain skills that will enable you to coach individuals in discussing their record.
- To obtain related resources that will help you in your work moving forward.







How would your life be different if you were convicted of crimes you weren't caught for?















Collateral Consequences of Having a Criminal Record – MN Revisor of Statutes identified appx. 150 Collateral Effects in MN

"Collateral consequences are the additional penalties tied to a conviction that greatly impact an individual's capacity to engage politically, economically and socially upon their reentry to society."

National Employment Law Project, Legislative Update (2012). *State Reforms Reducing Collateral Consequences for People with Criminal Records:* 2011-2012 Legislative Round-Up. Retrieved from: http://nelp.org/content/uploads/2015/03/StateCollateralConsequencesLegislativeRoundupSept2012.pdf



The Criminal Justice System + Racial Equity



- Anti Racism Leadership Team started 2005
 - Coordinate and direct effort in becoming an anti-racist and multicultural organization
 - 25 year strategic plan to dismantle institutional racism in Ramsey County
- Workforce Solutions Racial Equity Action Team (REAT)
 - Government Alliance on Race and Equity
 - Developing Racial Equity Action Plan for WFS
 - Organizational and professional development
 - Community Partners and Relationship Building
 - Programs and services
 - Policies and practices



-2.17 million incarcerated, 95% return

- -4.6 million under community supervision
- -1 in 4 people have a criminal record

-Majority from chronically poor neighborhoods and disproportionately persons of color

-Ex-felons comprise **7.5%** of adult population, **33.4%** of the Black male population

-1 in 37 people under some form of correctional control

-1 in 11 Blacks, 1 in 45 whites -MN 6th highest in the nation for probation

-Only a few years ago (2011), MN had the highest recidivism rate, hovered around 40%







The Impact of a Criminal Record

A Proxy for Racism...

-2011: MN Highest Racial Jobs Gap in the Country

-Devah Pager's research

Influences on Employment...

-1 in 4 People have a criminal record in MN, 30% of MFIP cases identified.

-90% of employers run record checks, 2/3 would not knowingly hire an exoffender.

27% Black Unemployment, 3% White Unemployment in MN

RACIAL DISPARATIES











LOW-LEVEL ARRESTS BY RACE: Jan. 1, 2012-Sept. 30, 2014



Rovner. 2016. *Racial Disparities in Youth Commitments and Arrests.* Washington D.C. The Sentencing Project.











High school students graduating on time by racial and ethnic group

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Minnesota, 2016





Percent (age 25+) with a bachelor's degree or higher

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By detailed racial and ethnic group, Minnesota, 2010-2012









Individuals below the poverty level by racial and ethnic group

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Minnesota, 2015









Employment gap (White - U.S.-born Black)

Rank of states, 2010-2014

Rank	States (1=smallest gap)	2010-2014	
1	Hawaii	1.1%	
2	North Dakota	1.7%	
3	Alaska	3.6%	
4	Kentucky	4.6%	
5	New Hampshire	5.3%	
6	West Virginia	5.9%	
7	New Mexico	6.4%	
8	Tennessee	6.5%	
9	Virginia	6.9%	
10	Arizona	7.2%	
11	Utah	7.3%	
12	Maryland	7.6%	
13	Oklahoma	7.6%	
14	Texas	7.7%	
15	Delaware	7.7%	
16	Georgia	7.8%	
17	Washington	8.2%	
18	South Dakota		
19	Alabama 2	nd Wo	ors
20	North Carolina		
21	South Carolina	9.0%	

30	CallOffia	12.070
36	New Jersey	12.6%
37	Maine	12.9%
38	Ohio	13.3%
39	Kansas	13.6%
40	Rhode Island	14.2%
41	Nebraska	14.4%
42	Massachusetts	14.9%
43	New York	15.8%
44	Michigan	16.8%
45	Pennsylvania	17.2%
46	Wyoming	17.9%
47	lowa	18.2%
48	Illinois	19.1%
49	Minnesota	21.3%
50	Wisconsin	22.7%

Chlamydia Rates by Race/Ethnicity Minnesota, 2006-2016



* Persons of Hispanic ethnicity can be of any race

Gonorrhea Rates by Race/Ethnicity Minnesota, 2006-2016



* Persons of Hispanic ethnicity can be of any race

Primary & Secondary Syphilis Rates by Race/Ethnicity Minnesota, 2006-2016



Number of Cases and Rates (per 100,000 persons) of HIV Diagnoses* by Race/Ethnicity⁺– Minnesota, 2016

Race/Ethnicity	Cases	%	Rate
White, non-Hispanic	119	41%	2.7
Black, African-American	60	21%	31.3
Black, African-born	70	24%	90.3**
Hispanic	24	8%	9.6
American Indian	1	0.3%	#
Asian/Pacific Islander	12	4%	5.6
Other^	4	1%	#
Total	290	100%	5.5

* HIV or AIDS at first diagnosis; 2010 U.S. Census Data used for rate calculations.

⁺ "African-born" refers to Blacks who reported an African country of birth; "African American" refers to all other Blacks.

⁺⁺ Estimate of 77,557 Source: 2010-2012 American Community Survey. Additional calculations by the State Demographic Center.

^ Other = Multi-racial persons or persons with unknown or missing race

Number of cases too small to calculate reliable rate





Pre-Design Racial Equity Questions

- What racial/ethnic groups may be most affected by program?
- What stakeholders from different racial/ethnic groups are missing and how can they be engaged?
- What groups are most advantaged/disadvantaged about the issue?
- How did the inequalities arise and does the program address root causes?
- What groups could be negatively impacted or could benefit from program?
- How will impacts be documented and evaluated?



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• Daily Structure: Peer-led Goal Check-In \rightarrow Topic/Activity \rightarrow Break \rightarrow Evaluation



Career Readiness: Job Seeking, Soft Skills Building, Placement & Retention

Decreasing Isolation: Pro-social peer support, collaboration between professionals and personal supports. Provides accountability benefit.

Life Skills: Executive skills and cog-skill building, goal setting, navigating the legal system, budgeting.

• Weekly Check-in on Goals • Guest Speakers • Transportation Assistance • Incentives • Graduation



Why Pathways?

• Leverages the specific needs of clients with criminal histories, and stakeholders including service providers, employers, and wider community.

• Capitalizes on **wider system goals** including dismantling racial disparities, providing meaningful, costeffective services as a public safety benefit, reducing long-term reliance on public assistance.



Offender Workforce Development

OWDS

- Collaboration
- Building Effective Programming Locally
- GCDF Certification







HIGH COSTS OF CORRECTIONS

-\$50 billion/year

-\$9 of every \$10 committed to prison

-Most of costs for correctional staff

-2nd highest expenditure next to Medicaid \$420 to put someone through *The Pathways Project*

-\$25K/per inmate

JUSTICE REINVESTMENT



The Pathways Project - Curriculum Highlights

- SMART Goal Setting and Goal Action Plans
- Break down negative thinking patterns
- Provide resources and professional support to get you a job
- Interviewing Preparation and Portfolio Building
- Networking with a record
- How to talk about your record
- Legal Seminars; expungements, background checks, understanding rights as you go through the CJS, EEOC Guidelines
- Labeling & Empowerment
- Entrepreneurship
- Social Media & Voicemail
- Career and talent identification



<u>Pathways Graduation Regairements</u>

IMPORTANT: You are responsible for completing the following activities prior to your graduation. Please have placement staff, pathways staff, your employment counselor or workforce center staff sign off on each activity once complete.

IN CLASS ACTIVITIES (Note: these activities may also take out of class time to complete)

Task	Staff Signature
My Pathway	
Resume	
References	
Elevator Pitch (must be memorized)	
Work Appropriate Email Address	
Work Appropriate Voicemail Message	
ARM Speech (must be memorized)	
Letter of Explanation (for housing and/or employment)	

OUT OF CLASS ACTIVITIES (to be completed with any of the staff listed above)

Task	Staff Signature
Email Proficiency (includes: composing an email, attaching a document, saving emails or documents to folders)	
Master Application	
Cover Letter	
Thank You Letter	
Appropriate Interview Attire	

BONUS ACTIVITIES (For each completed task below you will receive an additional \$10 incentive)

Task	Staff Signature
Letter of Recommendation	
Out of Class Mock Interview	
Informational Interview	
BCA Record	
MNCIS Record (http://pa.courts.state.mn.us/default.aspx)	



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Average Age by Race

Black or African American	33
Asian	31
White	35
Multi-Race	36
"Blank"	45
All Participants	34

Demographics of All Pathways Participants


















"Since Pathways, I have been on my job for 3 years." - Pathways Participant

"My confidence has shot way up just from being able to wow them in an interview and being able to walk about of their with my head held high and a smile on my face." - Pathways Participant







Number of Education Hours Completed by All Cohorts Before/After Pathways





Number of All Participants per Cohort that had **Worked**...

Before Pathways



After Pathways





Number of "Working" Hours Completed by All Cohorts Before/After Pathways









Reunion Pathways Participants: Current Employment by Sector





Corrections Collaboration

- Improve Service Delivery to Women in Ramsey County Correctional Facility Women's
- Connecting incarcerated women to public assistance programs prior to release
- Staff from MFIP, SNAP, and WIOA collaborate to provide career counseling in RCCF





EVALUATION and Q & A

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Criminal Backgrounds



Criminal Justice in Minnesota: QUIZ!!!









Minnesota's crime rate vs. Minnesota's incarceration rate

Even as the rate of major crimes committed in Minnesota has declined, the rate at which the state puts people in prison has risen.



Sources: Crime rate: Uniform Crime Reports; Incarceration rate: Minnesota Department of Corrections



Crime down, incarceration up in Minnesota. WHAT GIVES?

- In 1965 Criminal Code was 32 pages long, in 2013 it was 228. More crimes, more enhanced penalties with each legislative session.
- Methamphetamine Epidemic & associated harsher penalties.
- MN "heavy-handed" in its approach to punishment of drug offenders.
- Between 2000 and 2013, prison numbers grew from 6200 to 9450, 42% increase, 2nd sharpest rise in the country!
- 10% increase in incarceration associated with a 2-4% drop in crime (Schmitt, Warner & Gupta, 2010)
- Using jails to manage overcrowding



Employment, Training, Coaching!!!

"Nothing stops a bullet like a job!"

(Greg Boyle, largest gang intervention program in US, Jobs for a Future)

- 1. Reflect and affirm participant strengths.
- 2. Provide training and education opportunities accompanied by peer supports.
- 3. Collaborate with personal and professional supports.
- 4. Be aware of current laws and policies
- 5. Understand how to read criminal background reports
- 6. Coach individuals on how and when to discuss their record.



CRIMINAL RECORDS

- 1. **Court Records:** criminal charges & convictions; typically most complete (includes arraignments, trials, pleas, and other dispositions)
- 2. LE & Corrections Agencies: Arrests, complaints, indictments, incarceration, etc.
- 3. State Criminal Record Repositories: BCA in Minnesota; BCA practice is to disclose all convictions and unresolved arrests within the previous year. Data is public for 15 years following completion of the sentence. Arrests, juvenile records, and court information and convictions are private if more than 15 years old.
- 4. Federal: Interstate Identification Index (III): most comprehensive
- 5. Private Data Miners



INACCURACY of RECORDS

- 2011 Study by the Department of Justice: many state repositories had not recorded final dispositions.
- Private companies do not necessarily purge or update information
- Misspellings, clerical errors
- Internet searches
- Look back periods for consumer reporting agencies (governed by FCRA) can report convictions indefinitely





https://www.youtube.com/watch?v=Sg Fadg0Y3wE

Commissioner Lindsey on Ban the Box





Current Laws & Policies

Ban the Box & Fair Hiring (MN)

-Removes the criminal history question from employment applications

-Criminal history of an applicant for employment may not be considered until after the applicant has been selected for an interview or until a conditional offer has been extended

-May not consider arrest or expunged data

-Consider evidence of rehabilitation, nature & gravity of offense, time elapsed, nature of the job

-Individual must receive notice of reasons for rejection, grievance procedure,

and when the applicant can reapply.

-Gets tricky with negligent hiring and liability laws





Understand How to Read a Criminal Background Report



-Obtaining a Copy of Your Criminal Record from the BCA -Why?

-most complete & accurate

-need for seeking expungement

-use for disputing errors

What is considered public information?

Data on criminal convictions is public for 15 years following the completion of the sentence. Public information includes: offense, date of the offense, court of conviction, date of the conviction, sentence, level of conviction and probation agency or place of confinement. The public information does not include an individual's arrest history.

What is considered private information?

Private data includes all arrest information, all juvenile records*, all court information and convictions more than 15 years old.



PERSONAL INFORMATION

NAME: DOE, JOHN A. DATE OF BIRTH: 093058 STATE ID NUMBER: MN7000001 FBI NUMBER: OFFENDER STATUS; SEX: M RACE: WHITE HEIGHT: 5 FEET 10 INCHES WEIGHT:170 POUNDS SKIN: FAIR EYES: BROWN HAIR: BROWN PLACE OF BIRTH: Minnesota PHOTO AVAILABLE: Y COUNTRY OF CITIZENSHIP: USA (United States of America) NCIC FINGERPRINT CLASS: DO TT 09 CO 10 18 10 16 14 04

HIGHEST CONVICTION LEVEL: MISDEMEANOR

REPORTED ALIAS NAMES: DOES, JOHN A DOE, JAY ALAN

REPORTED DATES OF BIRTH: 093058 093059

SCARS, MARKS, AND TATTOOS: TAT R HND TAT LF ARM TAT RF ARM



LEVELS OF OFFENSES

- Petty Misdemeanor Not technically a crime
 - -most traffic violations, fine up to \$300
- Misdemeanor
 - -1st DWI, theft < \$500, Simple assault
- **Gross Misdemeanor**
- -Theft btwn \$500 and \$1000, Domestics, 2nd DWI
- Felony
 - -Murder, sex crimes, theft > \$1000



ARREST & CONVICTION INFORMATION

-Be mindful of dates

- -Arrest Disposition is not the actual sentence
- -Case number is associated with arrest number





ARREST & CONVICTION INFORMATION

ARREST AND CONVICTION INFORMATION ARREST: 1 DATE OF ARREST: 111297 ARRESTEE NUMBER: 0 CONTROLLING AGENCY: MN0620900 ST PAUL PD LOCAL ID#: INTERSTATE TRANSFER:

ARREST COUNT: 1 CASE NUMBER: 97000001 STATUTE: 609.52 MOCIUOC: T2059 CHARGE: THEFT DISPOSITION: NOT PROS DATE OF OFFENSE: 111297 SJIS NUMBER: 311119003102 COMMENTS:

ARREST: 2 DATE OF ARREST: 121397 ARRESTEE NUMBER: 0 CONTROLLING AGENCY: MN027013A HENNEPIN CO LOCAL ID#: INTERSTATE TRANSFER:

ARREST COUNT: 1 CASE NUMBER: 97000002 STATUTE: 256.98 MOCIUOC: U1132 CHARGE: WRONGFULLY OBTAINING ASSISTANCE THEFT DISPOSITION: HELD DATE OF OFFENSE: 111297 SJIS NUMBER: 2711X001102 COMMENTS: WARRANT



COURT INFORMATION

COURT DATE: 111398 mn027015J HENNEPIN CO DIST COURT CONFINEMENT AGENCY: PROBATION AGENCY: MN027013G HENNEPIN CO PROBATION OFFICE

COURT COUNT: 1 CASE NUMBER: 97000002 STATUTE: 256.98.1 CHARGE: Wrongfully Obtaining Assistance Theft

DISPOSITION: CONVICTED PLEA: Guilty SJIS NUMBER: 2711X001102 COURT FILE NUMBER: CONVICTION LEVEL: Misdemeanor

SENTENCE

PRONOUNCED SENTENCE: 30 D EXEC SENT STYD PROBATION :1 Y FINED :\$200 COMMENTS:



Types of Dispositions

Continued: Case was continued for further action

Convicted: Individual found guilty of the charge

Dismissed: Charge dismissed

Deferred: Disposition deferred to a later date

Aquitted: Individual found not guilty



Types of Pronounced Sentences

Executed Sentence: Required to serve prison/jail term specified by sentencing judge

Stay of Execution: Court imposes a sentence and stays the execution—criminal record will reflect actual offense for which convicted.

Stay of Imposition: Individuals plead guilty to a felony offense, if probation is successfully completed, the conviction drops to a misdemeanor.

Stay of Adjudication: Pleas guilty to an offense, but judge doesn't "accept" the guilty plea. Not a conviction; an individual is given probation and case is considered pending during that time. If probation



Expungement:

- 1. Full: Court Records, BCA, Police Departments, Corrections, other agencies
- 2. Court Records Only





FULL: Petty, Misdemeanors, Gross Misd., Some felonies

- 1. Some first time drug possession offenses
- 2. Offenses committed as a juvenile & prosecuted as an adult
- 3. Case resolved in your favor (found not guilty/case was dismissed).
- 4. Some others.



If you have a conviction on your record, you may qualify for a full expungement in the following circumstances:

You successfully completed the terms of a diversion program or stay of adjudication **and** you have **not been charged** with a new crime for at least **one year** since you completed the diversion program or stay of adjudication;

You were convicted of or received a stayed sentence for a petty misdemeanor or misdemeanor **and** you have **not been convicted** of a new crime for at least **two years** since the discharge of the sentence;

If you were convicted of or received a stayed sentence for a gross misdemeanor **and** you have **not been convicted** of a new crime for at least **four years** since the discharge of the sentence;

You were convicted of or received a stayed sentence for a <u>qualifying felony</u> and you have not been convicted of a new crime for at least five years since the discharge of the sentence for the crime.



COURT RECORDS ONLY:

-Doesn't fit into categories for full expungement -Public Records will likely still exist and are likely to show up on background checks



There is no guarantee of expungement!

- 1. Nature & Severity of the crime
- 2. Risk to specific people/society
- 3. Length of time since the offense occurred.
- 4. Mitigating factors
- 5. Rehabilitation steps
- 6. Complete criminal record
- 7. Recommendations of LE professionals/victims
- 8. Restitution still owed
- 9. Other factors deemed relevant by the court.

HOW TO TALK ABOUT YOUR RECORD

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THE A.R.M. METHOD

ACKNOWLEDGE – REMORSE – MOVE ON



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ACKNOWLEDGE

- "Own it" do not make excuses.
- Avoid telling "your side of the story"
- Avoid going into detail, lengthy explanations lead to trouble
- Emphasize how many years ago it was, especially if it was a long time ago
- ◆ Do not lie, understate or overstate. Honesty is important.
- ♦ Be creative
- ♦ Use eye contact



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ACKNOWLEDGE

◆I understand that as an employer (or landlord, manager, decision maker) there are circumstances you must consider, and I want to be completely honest with you from the beginning.

◆ I know that trust is the most important thing in making a decision to hire me (or rent to me, or consider me for volunteering), and you have a right to know about my background.



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ACKNOWLEDGE

_____ years ago, in "year" OR Between "year" and "year", as a result of immaturity, drug/alcohol addiction, personal crisis, hanging out with the wrong crowd, financial desperation,



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DRUG SALES/THEFT/FRAUD

I MADE A VERY POOR DECISION (OR A SERIES OF MISTAKES) TO TAKE SOMETHING THAT WASN'T MINE/SELL DRUGS, AND WAS CONVICTED OF A FELONY/GROSS MISD/MISD(S). DRUG SALES/POSSESSION

I MADE A VERY POOR DECISION (OR A SERIES OF POOR CHOICES) THAT RESULTED IN ME HAVING A CRIMINAL BACKGROUND/GETTING ARRESTED/BEING INCARCERATED.

BURGLARY

I MADE A VERY POOR DECISION (OR A SERIES OF POOR CHOICES) THAT RESULTED IN ME HAVING A CRIMINAL BACKGROUND/GETTING ARRESTED/BEING INCARCERATED.

ASSAULT/MURDER

I MADE (A) VERY POOR DECISION(S) THAT RESULTED IN A PHYSICAL ALTERCATION/IN SOMEONE LOSING THEIR LIFE/GETTING HURT FOR WHICH I SERVED TIME FOR/AM OR WAS ON PROBATION FOR.

PROSTITUTION

FOR A PERIOD OF TIME IN MY LIFE, UP UNTIL 10 YEARS AGO, I MADE A SERIES OF POOR DECISIONS BASED ON HOW I KNEW HOW TO SURVIVE THAT LED TO FELONY CONVICTIONS.



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REMORSE

This section of your speech is where you take responsibility for what happened.
Show remorse, explain how your actions hurt others without playing the blame game, denying your part in what happened (even if you feel you got the raw end of the deal)
Do not dwell on what went wrong, or make light of the situation.



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REMORSE

Example:

♦ I feel bad for the negative effect that my actions had on my family, friends and community. This incident hurt people I trust, took time away from my children, and I truly regret what happened.



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MOVE ON

Tips:

◆ This is the bulk of your speech, where you spend the most time talking about what positive things you have done since the event(s) happened.

◆ This is where you make your case to the employer (or landlord/decision maker) by showing how your criminal behavior is separate from your true character.

♦ Things to include in this section are: paid debt to society (prison/jail time), education, training, employment, volunteer work, completion of treatment, completion of probation, career readiness programming, any certificates you achieved, gaining custody of your children, etc.



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MOVE ON

Examples:

Since this/these event(s), I have successfully completed the terms of my probation,
 I have completed training in culinary arts, received a career readiness certificate, and
 I am actively volunteering with a local organization that helps homeless youth.

♦ My number one objective since has been to turn my life around. I have completed treatment, anger management, obtained my GED, and I have been working for a temp service for the last three months.



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Resources

Instructions: To retrieve document, click on each title



- Answering Background Questions
- Ban the Box Overview
- Ban the Box FAQ
- Criminal Background Checks Overview
- Criminal Expungement Workshops in St. Paul
- DHS Job Disqualification Fact Sheet
- Expungement of Criminal Records
- How to Obtain and BCA Record
- Letter of Explanation
- Pathways Project Flyer
- Sample BCA Report and Common Terms
- Statute Regarding Qualifying Felonies for Expungement
- Quiz