



COMMUNITY LEGAL SERVICES  
OF PHILADELPHIA

*Maximizing the Enforcement of the Employment Rights of People with Criminal Records*  
Materials to Accompany October 23, 2014 Training

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**EEOC CHARGE – COVER LETTER**  
**REJECTION BASED ON CRIMINAL CONVICTION**

DATE

Equal Employment Opportunity Commission  
\_\_\_\_\_ District Office

Re: \_\_\_\_\_ v \_\_\_\_\_

To Whom It May Concern:

Enclosed is a charge of race discrimination, which my client, CLIENT, would like to file against EMPLOYER (“EMPLOYER”) on behalf of herself and all of those similarly situated. I am representing Ms. \_\_\_\_\_ in this matter and this letter should serve as my entrance of appearance.

**Introduction**

The basis of Ms. \_\_\_\_\_’s claim is that EMPLOYER failed to hire her as a personal care aide based solely on her criminal record—a 2005 guilty plea for attempted theft by unlawful taking, a misdemeanor. EMPLOYER has an apparent policy of automatically barring from employment individuals with certain criminal convictions, regardless of how old the conviction is. Ms. \_\_\_\_\_ is surely not the only individual who has been denied a job because of this policy, which is why she files this charge on behalf of those similarly situated.

**The 2012 EEOC Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII**

As I am sure you are aware, criminal records exclusions from employment is an enforcement priority for the EEOC. Emphasizing its priority on this area, the EEOC recently released new guidance on the use of criminal records in employment. See “Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq” (April 25, 2012) (hereinafter “2012 EEOC Enforcement Guidance”).

The guidance states that an employer’s policy or practice of excluding individuals from employment on the basis of their criminal records may violate Title VII because such exclusion has a disparate impact on minorities. The guidance emphasizes several factors that weigh in any business necessity defense, including the nature and gravity of the offense, the time passed since the offense, and the nature of the job held or sought. A blanket exclusion for all applicants with a criminal record for certain crimes or classes of crimes is illegal.

In cases where an employer has not performed a validation study on its criminal background screen (which EMPLOYER has not claimed to have done), under the 2012 EEOC Enforcement Guidance, the EEOC should look for compliance with the following analysis:

The employer develops a targeted screen considering at least the nature of the crime, the time elapsed, and the nature of the job (the three Green factors), and then provides an

opportunity for an individualized assessment for people excluded by the screen to determine whether the policy as applied is job related and consistent with business necessity.

(2012 EEOC Enforcement Guidance, p. 14).

As for individual assessment, the 2012 EEOC Enforcement Guidance identifies the following relevant factors.

- The facts or circumstances surrounding the offense or conduct;
- The number of offenses for which the individual was convicted;
- Older age at the time of conviction, or release from prison;
- Evidence that the individual performed the same type of work, post-conviction, with the same or a different employer, with no known incidents of criminal conduct;
- The length and consistency of employment history before and after the offense or conduct;
- Rehabilitation efforts, e.g., education/training;
- Employment or character references and any other information regarding fitness for the particular position;
- Whether the individual is bonded under a federal, state, or local bonding program.

(2012 EEOC Enforcement Guidance, p. 18 (footnotes omitted)).

In addition to the newly released guidance, the EEOC recently approved its 2013-2016 Strategic Enforcement Plan (SEP) which prioritizes issues relating to criminal records and employment. <http://www.eeoc.gov/eeoc/plan/sep.cfm> . The SEP lists five priorities, the first of which is systemic barriers in recruitment and hiring, including background screens that adversely impact protected groups. This screen falls squarely within that strategic priority.

### **Title VII as Applied to EMPLOYER's Hiring Process**

EMPLOYER employs over \_\_\_\_\_ individuals in the \_\_\_\_\_ field, reaching over \_\_\_\_\_ people in \_\_\_\_\_, in such sensitive areas as \_\_\_\_\_. It claims to be the largest \_\_\_\_\_ in the country.

Although it is possible to make hiring decisions based on a criminal record and stay in compliance Title VII, EMPLOYER did not do so. Specifically, according to the 2012 EEOC Enforcement Guidance, in order to comply with Title VII a targeted exclusion must:

- 1) Be well tailored to the specific job involved
- 2) Be based on fact-based evidence
- 3) Take into account relevant and available studies on this issue

*See 2012 EEOC Enforcement Guidance, 17-18.*

EMPLOYER excluded Ms. \_\_\_\_\_ for hire because of a seven year old guilty plea for attempted theft by unlawful taking, a misdemeanor. This was communicated to Ms. \_\_\_\_\_ by two different individuals at EMPLOYER. Unfortunately, Ms. \_\_\_\_\_ was never questioned about her criminal record nor given a chance to explain the circumstances surrounding her record. Without the relevant information, EMPLOYER could not have had a justifying business necessity for excluding Ms. \_\_\_\_\_ on the basis of her criminal record. This is true for a number of reasons:

- Ms. \_\_\_\_\_'s record contains only one conviction, for a seven year old misdemeanor.
- The misdemeanor was an isolated incident and a very minor crime.
- Ms. \_\_\_\_\_ also has had a long and very positive work history in personal care. Since 2006, she has been working in the health care field, with five of those years spent working specific with adults and children with mental illness and mental disabilities.
- Ms. \_\_\_\_\_ is also currently enrolled in college and is working towards getting her bachelor's degree in behavior health and human services.

EMPLOYER may also argue that it is precluded from hiring Ms. \_\_\_\_\_ based on a state law such as the Older Adult Protective Services Act ("OAPSA") or the Child Protective Services Law ("CPSL"). Neither law should bar Ms. \_\_\_\_\_. OAPSA only bars individuals who have been convicted of felony theft or two misdemeanor theft offenses; the CPSL has no bar for theft offenses. As well, Ms. \_\_\_\_\_ has extensive work history which would allow her to bypass those laws even if they were applicable, under the state's policies.

The importance of this case cannot be understated in the context of the EEOC's recent focus on this issue. Not only does this case fall squarely within one of the major case priorities of the EEOC, but it involves a major employer in \_\_\_\_\_, touching the lives of more than 10,000 employees and 50,000 clients daily. The scope of the problem makes this case appropriate for a nationwide "class action" handling of this case, helping not just Ms. \_\_\_\_\_, but all those similarly situated.

If I can be of any help to you as you process and investigate this claim, please contact me at \_\_\_\_\_ or by email at \_\_\_\_\_.

Sincerely,

ATTORNEY

**EEOC CHARGE – DECLARATION**  
**REJECTION BASED ON CRIMINAL CONVICTION**

**DECLARATION OF CHARGING PARTY**

I, CLIENT, believe that EMPLOYER (“EMPLOYER”), discriminated against me on the basis of my race when they failed to hire me for a job as a personal care aide. I also believe that others similarly situated have been discriminated against on the basis of race by EMPLOYER. In support of this charge, I allege the following:

1. I am a twenty-seven (27) year old African-American female. I reside at \_\_\_\_\_ . My phone number is \_\_\_\_\_ .
2. My complaint is against EMPLOYER, \_\_\_\_\_ (address). EMPLOYER can be reached at \_\_\_\_\_ .
3. EMPLOYER provides care and services to people with special needs. According to its 2012 annual report, EMPLOYER, through its subsidiaries, is the largest \_\_\_\_\_ organization in the country. It employs more than \_\_\_\_\_ staff, who provide services to \_\_\_\_\_ adults and children in \_\_\_\_\_. EMPLOYER provides care in the areas of \_\_\_\_\_ .
4. I first applied to EMPLOYER in \_\_\_\_\_, for a position as a personal care aide.
5. I was applying to work at a position in \_\_\_\_\_. This facility cares for people with \_\_\_\_\_ .
6. I was told by an EMPLOYER representative in \_\_\_\_\_, that I was being conditionally hired, subject to the results of a background and medical screening.
7. At EMPLOYER request, I submitted to a physical examination.

8. In addition, I agreed that EMPLOYER could run a criminal background check on me and prepare a background screening.
9. On or about \_\_\_\_\_, I received a call from \_\_\_\_\_, an employee of EMPLOYER. Mr. \_\_\_\_\_ told me that I would not be hired because of my criminal record.
10. Later, I spoke with \_\_\_\_\_'s boss, \_\_\_\_\_. \_\_\_\_\_ also told me that EMPLOYER couldn't hire me because of my criminal record.
11. Neither Mr. \_\_\_\_\_ nor \_\_\_\_\_ gave me a copy of my criminal record nor did they explain further why my criminal record barred me from employment with EMPLOYER. \_\_\_\_\_ did tell me that a company called \_\_\_\_\_ had run the criminal background check on me.
12. On my own, I got in contact with \_\_\_\_\_ and requested a copy of the background report that they prepared for me for my employment with EMPLOYER.
13. When I received the report, I noticed a number of errors. First, the report said that I had been convicted of tampering with records/identity, but that was not true. Second, the report did not have the proper disposition for my actual conviction, attempted theft by unlawful taking or disposition.
14. Upon receiving the incorrect report, I sent records to both EMPLOYER and \_\_\_\_\_ correcting the errors on the report. The records I sent included a copy of my court docket sheet showing the charges and disposition from my 2004 arrest.
15. Despite correcting the record on this issue with \_\_\_\_\_ and EMPLOYER, EMPLOYER did not contact me again.
16. I have attached my actual criminal record to this document, as Exhibit 1.
17. A hiring/employment policy that automatically excludes individuals based on their

criminal record without regard to the specific circumstances around the crime is a violation of Title VII of the Civil Rights Act of 1964, as amended, as race discrimination.

See also, "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq" (EEOC, April 25, 2012).

18. EMPLOYER's policy, as applied to me and those similarly situated is impermissible race discrimination.
19. Had EMPLOYER looked at my situation specifically they would have seen that I would have made a model employee.
20. My criminal record is very short: I was arrested in 2004 and pled guilty to attempted theft by unlawful taking or disposition in 2005 for which I served two years of probation.
21. My work history is excellent. From 2006 to 2007, I worked with mentally handicapped and mentally ill adults and children at \_\_\_\_\_. From 2008 through 2010, I worked as a home health care aide with \_\_\_\_\_. From 2010 through 2012, I worked with mentally ill adults at \_\_\_\_\_.
22. All of these jobs are very similar to the job that I applied for with EMPLOYER.
23. In addition to my positive work history, I am currently in school to get a bachelors in behavior health and human services. I have been attending school for the last year and a half and hope to graduate in the coming year.
24. When I was told that I was being conditionally hired by EMPLOYER, pending my background screening and physical exam, I put in two weeks' notice with \_\_\_\_\_, my

then current employer. Since EMPLOYER improperly denied me a job, I have not been able to find work.

25. I have suffered great financial hardship during my unemployment after EMPLOYER failed to hire me. I am seeking back pay for the time that I have not been working at EMPLOYER. I would also like to be hired by EMPLOYER. I would also like punitive and compensatory damages for the discrimination as well as attorneys' fees. Finally, I would like EMPLOYER to change their criminal record policy used for hiring, to ensure that EMPLOYER is individually evaluating each applicant and employee rather than using a blanket policy, as required by the EEOC's guidance on this issue.

I declare under penalty of perjury that the foregoing is true and correct.

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Date

**DEMAND LETTER –**  
**PROHIBITION AGAINST REJECTIONS FOR ARREST RECORDS**

DATE

APPROPRIATE EMPLOYER REPRESENTATIVE  
EMPLOYER'S ADDRESS

Re: CLIENT

Dear EMPLOYER:

\_\_\_\_\_ has sought my assistance in connection with his employment problem caused by his arrest on charges for which he was not convicted. Mr. \_\_\_\_\_ is seeking an expungement of this arrest. In the meantime, he also is seeking employment. His application should not be rejected based on this arrest.

Because the use of arrest records as an absolute bar to employment has a disparate impact on African Americans, a rejection of a job applicant for such a reason can constitute race discrimination in violation of Title VII of the Civil Rights Act of 1964. The Guidance of the Equal Employment Opportunity Commission (the EEOC) on this subject states that “an exclusion based on an arrest, in itself, is not job related and consistent with business necessity.” Guidance at 12, available at: [http://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm) .

Should you wish for further information, please feel free to contact me at PHONE or EMAIL. Thank you for your consideration of Mr. \_\_\_\_\_.

Very truly yours,

ATTORNEY

**DEMAND LETTER –**  
**“CLEAN RECORD” POLICY/EVALUATING PERSON WITH CONVICTIONS**

DATE

APPROPRIATE EMPLOYER REPRESENTATIVE  
EMPLOYER’S ADDRESS

Re: CLIENT

Dear EMPLOYER:

I am pleased that you have offered my client CLIENT a job at the WORKSITE as a Building Engineer, on call. However, I am concerned about the part of the offer letter which states, “EMPLOYER requires that no one with a criminal record be permitted to work on our projects.” Mr. CLIENT does have a minor and old criminal record. However, we believe that rejecting him for this reason would violate federal law.

As you will see from the enclosed Court Summary, Mr. CLIENT has two convictions for which he was arrested within a month of each other almost ten years ago. On August 17, 2004, he was arrested in a case in which he pled guilty to Possessing Instruments of Crime and Knowing/Intentional Possession of a Controlled Substance. On September 24, 2004, he was arrested in a case in which he pled guilty to retail theft. These are his only convictions, and all three counts are misdemeanors for which he served no jail time.

In April 2012, the U.S. Equal Employment Opportunity Commission (EEOC) released a new guidance on employers’ consideration of arrest and conviction records under Title VII, the federal law prohibiting race discrimination. This guidance, which is applicable in this case, is available at: [http://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm) .

Notably, the guidance concludes that ***“an automatic, across-the-board exclusion from all employment opportunities because of any criminal conduct is inconsistent with the Green factors [that is, is illegal] because it does not focus on the dangers of particular crimes and the risks in particular positions.”*** Guidance at 16. Thus, EMPLOYER’s policy of not permitting anyone with a criminal record to be employed violates the law.

The EEOC guidance summarizes the law to require an employer “to link specific criminal conduct, and its dangers, with the risks inherent in the duties of a particular position.” Guidance at 14. It suggests that for employers to properly evaluate convictions, they should look at the following factors:

- 1) The nature of the crime;
- 2) The time elapsed; and
- 3) The nature of the job.

If the employer is inclined to reject an applicant after assessing those factors, it should then provide an individualized assessment of the person's circumstances. Guidance at 14.

In looking at the three factors, we believe they weigh in favor of Mr. CLIENT being hired despite his convictions. Most notably, over 8 years have elapsed since his arrests, without further conviction.<sup>1</sup> His offenses were relatively minor, as they were misdemeanors for which he served no jail time.

If you feel that consideration of these factors alone is not enough to permit Mr. CLIENT to hold the job, you should then move on to perform an individual assessment of him. The factors identified by EEOC for such an assessment are on page 18 of the guidance. We suggest that the following facts, explained in his pardon application, are particularly relevant in this case.

- His strong work history since his convictions on his 2004 offenses;
- His vocational training to become a skilled building engineer, so that he can better provide for his family;
- His work with his learning disabled younger brother, his children, and the kids that he coaches;
- His excellent character reference letters.

Finally, I should note that the position for which Mr. CLIENT has applied is with the City of Philadelphia's WORKSITE. The City has been a leader in urging the employment of persons with criminal records that do not present unacceptable risks, as it showed by having enacted its "Ban the Box" ordinance. Surely it would not wish for EMPLOYER to apply an illegal across-the-board policy and reject such a deserving candidate.

In sum, we believe that despite his convictions, Mr. CLIENT remains an exceptional candidate for the position for which he has been considered. We request that his condition offer of hire not be withdrawn.

Should you have any questions, please contact me at PHONE or EMAIL.

Very truly yours,

ATTORNEY

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<sup>1</sup> In footnote 118, the Guidance references several social science studies indicating that the risk of recidivism decreases over time and that, after around 7 years, the risk of a new offense approximates that of a person who has never been arrested.

**DEMAND LETTER –**  
**FIRING EXISTING WORKER/EVALUATING PERSON WITH CONVICTIONS**  
**FCRA VIOLATION/LACK OF PRE-ADVERSE ACTION NOTICE**

DATE

APPROPRIATE EMPLOYER REPRESENTATIVE  
EMPLOYER'S ADDRESS

Re: CLIENT

Dear EMPLOYER:

CLIENT has sought my assistance regarding his recent termination by EMPLOYER. Despite working with EMPLOYER for six months without problem and previously for two years without problem, Mr. CLIENT was told that he could not work with EMPLOYER because of his decade old criminal record. I am writing to request that you reinstate Mr. CLIENT to his position immediately.

Mr. CLIENT most recently worked for EMPLOYER as a maintenance technician from December 2011 through June 2012, at the WORKSITE. Previously, Mr. CLIENT worked with EMPLOYER in from 2003-2005 at PREVIOUS WORKSITE. During both of those time periods, Mr. CLIENT worked without any serious disciplinary problems. Indeed, that he was rehired in 2011 shows that EMPLOYER thought that he was a good employee during his first stint with EMPLOYER. His manager in 2012 recently complimented him by telling Mr. CLIENT that he was one of the best maintenance techs that he had ever seen.

When Mr. CLIENT was hired in December 2011, a pre-employment background screening was prepared by SCREENER on behalf of EMPLOYER. Mr. CLIENT was hired at that point and completed his 90 day probationary period without incident.

As a part of the onsite tech application process, EMPLOYER ran another background check on Mr. CLIENT. Shortly after this background check was conducted, Mr. CLIENT was called into a meeting with a regional manager and his manager. During this meeting, Mr. MANAGER told my client that he could no longer work at EMPLOYER because had a felony on his criminal record. Mr. MANAGER then gave Mr. CLIENT the SCREENER's phone number and told him to call SCREENER if he wanted a copy of his background report. Mr. MANAGER did not give my client a copy of his background report nor did he tell my client that he could clear up any inaccuracies on the report. Mr. MANAGER did not give my client an opportunity to explain his criminal record in any way.

Mr. CLIENT called SCREENER and received a copy of his criminal background report a week later. His report included offenses that had been expunged from his record. The only conviction on Mr. CLIENT's record and the only conviction that Mr. CLIENT has is an open lewdness violation from 2001, a 3<sup>rd</sup> degree misdemeanor.

Mr. CLIENT is no dangerous lifetime criminal—he good person who made a small mistake in 2001 and received a conviction for a minor crime. What more, Mr. CLIENT made this mistake prior to starting work with EMPLOYER in 2003. From 2003 through 2005, Mr. CLIENT worked without problem for EMPLOYER. When he filled out his application in 2011, he was honest about his criminal record. He was given work and was highly praised by his manager. EMPLOYER was rewarded with a hard worker who intended to stay with the company for many years. His excellent work experience and solid record with your company should belie any concerns that you may have about his prior conviction.

## **TITLE VII VIOLATION**

In April 2012, the U.S. Equal Employment Opportunity Commission (EEOC) released a new guidance on employers' consideration of arrest and conviction records under Title VII, the federal law prohibiting race discrimination. This guidance, which is applicable in this case, is available at: [http://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm).

The EEOC guidance summarizes the law to require an employer “to link specific criminal conduct, and its dangers, with the risks inherent in the duties of a particular position.” Guidance at 14. It suggests that for employers to properly evaluate convictions, they should look at the following factors:

- 1) The nature of the crime;
- 2) The time elapsed; and
- 3) The nature of the job.

If the employer is inclined to reject an applicant after assessing those factors, it should then provide an individualized assessment of the person's circumstances. Guidance at 14.

One of the examples given by the Guidance of a Title VII violation is where an employer taking over a business fires an existing long-term employee with no performance issues when it learns of his criminal record when conducting background checks of the workforce. The Guidance indicates that “[t]he employer's conclusion that [the worker's] guilty plea demonstrates that he poses an elevated risk of dishonesty is not factually based given [the worker's] history of trustworthiness in the same job.” Guidance at 20 (Example 8). EEOC's example is comparable to the scenario in this case.

In looking at the three factors, we believe they weigh in favor of Mr. CLIENT being retained despite his conviction. Most notably, Mr. CLIENT's record contains only one conviction—an

open lewdness violation from 2001, over 12 years ago.<sup>1</sup> This was an isolated incident and a very minor crime. It does not reflect on Mr. CLIENT hard work since that time. Mr. CLIENT also has a long and very positive work history with your company since that time, including the time period from December through June 2012. This shows that it is not a risk of any kind to hire him. In fact, a worker with so much experience and knowledge of your company is exactly who you want to hire.

## **FCRA VIOLATION**

In addition to violating Title VII, EMPLOYER has also violated the Fair Credit Reporting Act, 5 U.S.C. § 1681 et seq (“FCRA”). Under section 615(a) of the FCRA, an employer that takes adverse action against an employee based on the information contained within a background report is required to provide the employee with a meaningful opportunity to review the criminal background report and correct any errors. This requires that the employer provide the employee with the report *before* any adverse action is take and give the employee time to make any corrections *before* any adverse action is taken.

In the case of Mr. CLIENT, EMPLOYER terminated Mr. CLIENT without any opportunity to review his report and correct the errors on it. Mr. CLIENT in fact tried to correct the record by submitting a copy of his criminal record to human resources, but his updated record was ignored. Even if it had been taken into consideration, it was taken into consideration *after* he was already terminated.

In light of the aforementioned violations of Title VII and the FCRA, we ask that you immediately reinstate Mr. CLIENT to a job with EMPLOYER and provide him with full back pay for the time that he was not working with your company. If you fail to reinstate Mr. CLIENT by DEADLINE, I will discuss with him the possibility of filing a charge of discrimination and a FCRA complaint against you organization.

If you would like to discuss this matter further, please contact me at PHONE or EMAIL.

Very truly yours,

ATTORNEY

cc: CLIENT

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<sup>1</sup> In footnote 118, the Guidance references several social science studies indicating that the risk of recidivism decreases over time and that, after around 7 years, the risk of a new offense approximates that of a person who has never been arrested.

<b>CHARGE OF DISCRIMINATION</b>		<b>AGENCY</b>	<b>CHARGE NUMBER</b>
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	
_____ and EEOC			S.S. No. _____
<i>State or local Agency, if any</i>			
<b>NAME (Indicate Mr., Ms., Mrs.)</b>		<b>HOME TELEPHONE (Include Area Code)</b>	
<b>STREET ADDRESS</b>		<b>CITY, STATE AND ZIP CODE</b>	
			<b>DATE OF BIRTH</b>
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME <i>(If more than one list below.)</i>			
<b>NAME</b>		<b>NUMBER OF EMPLOYEES, MEMBERS</b>	<b>TELEPHONE (Include Area Code)</b>
<b>STREET ADDRESS</b>		<b>CITY, STATE AND ZIP CODE</b>	
			<b>COUNTY</b>
<b>CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))</b>			<b>DATE DISCRIMINATION TOOK PLACE</b>
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> AGE <input type="checkbox"/> RETALIATION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)			<b>EARLIEST (ADEA/EPA)</b> <b>LATEST (ALL)</b>  <input type="checkbox"/> CONTINUING ACTION
<p>THE PARTICULARS ARE <i>(If additional paper is needed, attach extra sheet(s))</i>:</p> <p>I applied to _____ in _____ to work as a _____. I was conditionally hired and was put through a number of background tests, including a medical screening and a criminal background check.</p> <p>In _____, I was contacted by _____ who told me that my criminal background made me ineligible. I called the background screener, _____ and found that they had incorrect information on my background. I corrected the information by sending supporting information to _____; I sent the same information to _____. _____ never hired me or contacted me nor did they ever inquire about my criminal background beyond the background check. _____ was the one who called me to tell me that I wasn't being hired because of my criminal background.</p> <p>My criminal record consists of _____.</p> <p>I believe that I was discriminated against because of my race, African-American, in violation of Title VII of the Civil Rights Act of 1964 for the following reasons:</p> <p>a) A policy of excluding persons from employment based upon their conviction records has an adverse impact on African-Americans; and</p> <p>b) _____ cannot show a business necessity for rejecting me for my convictions.</p>			
<input checked="" type="checkbox"/>	I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		<b>NOTARY - (When necessary for State and Local Requirements)</b>
		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
I declare under penalty of perjury that the foregoing is true and correct.		<b>SIGNATURE OF COMPLAINANT</b>	
Date _____		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)	
Charging Party (Signature) _____			

<b>CHARGE OF DISCRIMINATION</b>		<b>AGENCY</b>	<b>CHARGE NUMBER</b>
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input type="checkbox"/> EEOC	
_____ and EEOC			
<i>State or local Agency, if any</i>		S.S. No.	
<b>NAME</b> <i>(Indicate Mr., Ms., Mrs.)</i>		<b>HOME TELEPHONE</b> <i>(Include Area Code)</i>	
<b>STREET ADDRESS</b>	<b>CITY, STATE AND ZIP CODE</b>		<b>DATE OF BIRTH</b>
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME <i>(If more than one list below.)</i>			
<b>NAME</b>	<b>NUMBER OF EMPLOYEES, MEMBERS</b>	<b>TELEPHONE</b> <i>(Include Area Code)</i>	
<b>STREET ADDRESS</b>	<b>CITY, STATE AND ZIP CODE</b>		<b>COUNTY</b>
<b>CAUSE OF DISCRIMINATION BASED ON</b> <i>(Check appropriate box(es))</i>			<b>DATE DISCRIMINATION TOOK PLACE</b>
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> AGE <input type="checkbox"/> RETALIATION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER <i>(Specify)</i>			<b>EARLIEST (ADEA/EPA)</b> <b>LATEST (ALL)</b>  <input type="checkbox"/> CONTINUING ACTION
THE PARTICULARS ARE <i>(If additional paper is needed, attach extra sheet(s)):</i>			
<input checked="" type="checkbox"/> I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.	<b>NOTARY - (When necessary for State and Local Requirements)</b> I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.		
I declare under penalty of perjury that the foregoing is true and correct.  Date _____ Charging Party <i>(Signature)</i>	<b>SIGNATURE OF COMPLAINANT</b>  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)		

**EMPLOYMENT RIGHTS OF PEOPLE WITH  
CRIMINAL RECORDS:  
WHAT CAN EMPLOYERS CONSIDER?**

Employers who reject African Americans and Hispanics with criminal records may be committing a form of race discrimination.

- Employers generally **CANNOT** consider a record of arrest that did not lead to a conviction
- Employers can consider a **conviction**, but **MUST** take into account: 1) how minor the conviction is, 2) how long ago it happened, and 3) the nature of the job you are applying for
- Each case should be treated **individually!** An employer should consider “individualized evidence” including:
  - Facts and circumstances surrounding the offense
  - Number of offenses for which an individual has been convicted
  - Older age at the time of conviction
  - History of performing similar work since the conviction with no incidents of criminal conduct
  - Length and consistency of work history before and after conviction
  - Rehabilitation efforts, including education and training
  - Employment and/or character references

If you believe that you were rejected from a job in violation of these principles, file a race discrimination charge with the Equal Employment Opportunity Commission. [Insert local information.]

**If you were denied employment because of a criminal record, [Organization] may  
be able to help:  
[Insert contact information, hours.]**