Removing Barriers and Restoring Hope: The Basics of Expungements and Certificates of Relief

Daniel Bowes
Supervising Attorney
Second Chance Employment Project
Legal Aid of North Carolina
Part 1: Barriers to Opportunity

Have you ever been convicted of a felony?

14. HAVE YOU EVER BEEN CONVICTED OF A CRIME? The question includes any conviction for which you have been released. Check one: _______YES _______NO
In answering this question, you need not disclose: (a) convictions for traffic offenses; (b) convictions for which probation has been successfully completed; and (c) convictions concerning referral to or participation in any pre-trial or post-trial diversion program. Your answer may be checked with law enforcement agencies. Each case will be given individual consideration.

List Conviction Date(s)  City/State
A Criminal Record in North Carolina

1.6 million North Carolinians have criminal records

What is on a criminal record?

- Conviction Offenses
- Charging Offenses
  - Dismissed Charges
  - Charges Disposed “Not Guilty”
  - Charges Pled to Lesser Offenses

Exacerbators in NC

- Juvenile Jurisdiction Ends After Age 15
- “Waived by Clerk” Offenses
- “Civilian-initiated” Warrants
Collateral Consequences Explained

Civil Disabilities (imposed by statute)
- Attach at the time of conviction
- Direct (incarceration, probation, fine) v. Collateral
- Imposed by hundreds of state and federal statutes
- Often unknown to defendants at plea
- Impacts are severe, far-reaching, and long-lasting

Private Biases
- Individuals with criminal records are often treated as second class citizens
- Questions of arrest and conviction asked in applications for private employment and housing

Impact
These collateral consequences isolate individuals from gainful employment, affordable housing, and the resources essential to productive citizenship, and thereby contribute to high rates of recidivism.
# Civil Disabilities in NC

The UNC School of Government has catalogued each of the civil disabilities triggered by a criminal record in North Carolina. There are approximately 1000.

The Collateral Consequences Assessment Tool (CCAT) is publicly available at:

http://ccat.sog.unc.edu

- Immigration
- Housing
- [Foster Care/Adoption](#)
- Jury Duty
- [Occupational License](#)
- Public Office
- Financial Aid
- Public Benefits
- Public Employment
- Drivers License

- **Hunting License**
- Child Custody
- Child Support
- Termination of Parental Rights
- Workers Compensation
- Unemployment Insurance
- License plate
- Voting
- Military Service
- Firearm Permit
Promulgation of Automatic Bars Based on Statutory Grants of Discretion

Statute (NCGS 90D)

§ 90D-12. Disciplinary action.
The Board may deny, suspend, revoke, or refuse to license an interpreter or transliterator or applicant for any of the following:

... (2) Having been convicted of or pled guilty or no contest to a crime that indicates the person is unfit or incompetent to perform interpreter or transliterator services or that indicates the person has deceived or defrauded the public.

Administrative Rule (21 NCAC 25)

21 NCAC 25 .0302 CRIMINAL CONVICTIONS

(a) Except as provided in Paragraph (c) of this Rule, a person shall not be eligible to seek a license if the person has been convicted of:

(1) Two or more felonies, regardless of the dates of conviction;
(2) Three or more misdemeanors, regardless of the dates of conviction;
(3) A combination of a single felony and two or more misdemeanors, regardless of the dates of conviction;
(4) A single felony within the 5 years next preceding the date the person applies for a license;
(5) A single misdemeanor within the 2 years next preceding the date the person applies for a license.

***Based on passage of S.L. 2013-24, occupational licensing boards may no longer automatically disqualify applicants based on criminal records. Instead, they must consider 8 statutorily specified factors before denying licensure based on a criminal record.
## A Survey of NC Housing Authorities' Criminal Exclusion Policies

<table>
<thead>
<tr>
<th>Housing Authority</th>
<th>Violent Crime Exclusion Period</th>
<th>Drug-related Activity Exclusion Period</th>
<th>Other Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asheville</td>
<td>5 years</td>
<td>5 years</td>
<td></td>
</tr>
<tr>
<td>Chapel Hill</td>
<td>10 years</td>
<td>15 years</td>
<td>Crime indicating threat or negative influence- 5 years</td>
</tr>
<tr>
<td>Charlotte</td>
<td>7 years</td>
<td>7 years</td>
<td></td>
</tr>
<tr>
<td>Durham</td>
<td>3-5 years</td>
<td>3-5 years</td>
<td></td>
</tr>
<tr>
<td>Fayetteville</td>
<td>5 years</td>
<td>5 years</td>
<td></td>
</tr>
<tr>
<td>Greensboro</td>
<td>5 years</td>
<td>5 years</td>
<td></td>
</tr>
<tr>
<td>Greenville</td>
<td>5 years</td>
<td>5 years</td>
<td>Felony conviction- 5 years</td>
</tr>
<tr>
<td>Raleigh</td>
<td>5 years</td>
<td>5 years</td>
<td>Felony charge- 7 years</td>
</tr>
<tr>
<td>Wake County</td>
<td>5 years</td>
<td>5 years</td>
<td>Felony charge involving drugs or violence- 5 years</td>
</tr>
<tr>
<td>Wilmington</td>
<td>5 years</td>
<td>5 years</td>
<td>Felony charge involving drugs or violence- 5 years</td>
</tr>
<tr>
<td>Winston-Salem</td>
<td>5 years</td>
<td>5 years</td>
<td></td>
</tr>
</tbody>
</table>
Employer Survey: Does your organization, or an agency hired by your organization, conduct criminal background checks for any job candidates?

73%

19%

7%


Employer Survey: How much influence does a criminal record have on your decision to NOT extend a job offer?

Violent Felony Conviction

Non-violent Felony Conviction

Violent Misdemeanor Conviction

Non-violent Misdemeanor Conviction

Arrest that did not result in conviction

Not at all influential    Not very influential    Somewhat influential    Very influential

0% 10% 20% 30% 40% 50% 60% 70% 80% 90% 100%
Racial Disparities in the Impact of a Criminal Record

The Mark of a Criminal Record, Devah Pager

Findings: The ratio of callbacks for white applicants with no felony convictions to white applicants with single felony convictions was 2:1. This same ratio for black applicants is nearly 3:1. The impact of a criminal record is thus 40% larger for blacks than for whites.

http://www.princeton.edu/~pager/pager_ajs.pdf
Part II: Tools of Relief

○ Expunctions
  ▪ Offense Committed before 18/22 years of age
  ▪ Charge not resulting in conviction
  ▪ 1st Time Nonviolent Offense

○ Certificates of Relief
  ▪ Low-level 1st time felony or misdemeanor
Barriers to Pro Se Access to Relief

A. Obtaining and Interpreting an Accurate Criminal Record

B. Determining Eligibility for Expunction

Expunction statutes are complicated—even for attorneys!

C. Selecting, Completing, and Submitting Petition Form
Mobile Reentry Clinics

- Mobile Clinic
- Standing Clinic
- Mobile Clinic (Field Office Initiated)
- Proposed Public Defender Referral Site
- Partner Law Schools
Please use this summary of North Carolina expunctions as an initial guide to understanding the criteria and filing requirements of the various expunctions in North Carolina. This summary is intended to provide accurate, general information. However, this summary does not fully address the provisions of each expunction statute. In addition, laws and legal procedures are subject to frequent change and differing interpretations, and the North Carolina Justice Center cannot ensure the information in this summary is current, particularly beyond 2014.
In North Carolina, an expunction is the destruction of a criminal record by court order. An expunction (also called an “expungement”) of a criminal record restores the individual, in the view of the law, to the status he or she occupied before the criminal record existed. With rare exception, when an individual is granted an expunction, he or she may truthfully and without committing perjury or false statement deny or refuse to acknowledge that the criminal incident occurred.

<table>
<thead>
<tr>
<th>Convictions</th>
<th>Non-Convictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Misdemeanor Under 18 NCGS 15A-145</td>
<td>Dismissal or Not Guilty NCGS 15A-146</td>
</tr>
<tr>
<td>Gang Offense Under 18 NCGS 15A-145.1</td>
<td>Identity Theft NCGS 15A-147</td>
</tr>
<tr>
<td>Controlled Substance Offense Under 22 NCGS 15A-145.2</td>
<td>DNA Records NCGS 15A-148</td>
</tr>
<tr>
<td>Toxic Vapor Offense Under 22 NCGS 15A-145.3</td>
<td>Pardon of Innocence NCGS 15A-149</td>
</tr>
<tr>
<td>Non-violent Felony Under 18 NCGS 15A-145.4</td>
<td>Juvenile Record NCGS 7B-3200</td>
</tr>
<tr>
<td>First-time Nonviolent Offense NCGS 15A-145.5</td>
<td></td>
</tr>
</tbody>
</table>
## Estimates of Costs and Benefits of Expungements Per Client in Year One

<table>
<thead>
<tr>
<th>COSTS</th>
<th>BENEFITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expungement Processing</td>
<td>Increased Income*</td>
</tr>
<tr>
<td>$59</td>
<td>$6,190</td>
</tr>
<tr>
<td>Court costs</td>
<td>Increased GDP*</td>
</tr>
<tr>
<td>$242</td>
<td>$1,153</td>
</tr>
<tr>
<td>Legal Services Costs</td>
<td>Increased Tax Revenues*</td>
</tr>
<tr>
<td>$3,412</td>
<td>$750</td>
</tr>
<tr>
<td>Filing Fees</td>
<td>Filing Fees</td>
</tr>
<tr>
<td>$44</td>
<td>$44</td>
</tr>
<tr>
<td>Employers’ Costs</td>
<td>Reduction in Government Assistance</td>
</tr>
<tr>
<td>$0</td>
<td>$1,380</td>
</tr>
<tr>
<td></td>
<td>Reduction in Recidivism^</td>
</tr>
<tr>
<td></td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>Additional Benefits to Society and Individual^</td>
</tr>
<tr>
<td></td>
<td>--</td>
</tr>
<tr>
<td>Total Costs:</td>
<td>Total Benefits:</td>
</tr>
<tr>
<td>$3,757</td>
<td>$9,517</td>
</tr>
</tbody>
</table>

### Net Benefits Year One: $5,760

<table>
<thead>
<tr>
<th>Expunction Type/Statute</th>
<th>Criteria</th>
<th>Filing Requirements/Open Questions of Law</th>
</tr>
</thead>
</table>
| **Charge Not Resulting in Conviction**  
**NCGS 15A-146** | 1. Felony charge or misdemeanor charge was disposed of by a dismissal, finding of not guilty, or finding of not responsible. **Multiple charges may be expunged if each alleged offense occurred within the same 12 month period OR all the charges were resolved in the same session of court.**  
2. Petitioner has not been convicted of a felony.  
3. Petitioner has not previously received an expunction under §§ 15A-145, -145.1, -145.2, -145.3, -145.4, -145.5, or -146. | Form: **AOC-CR-264**  
Cost: $0, unless dismissal occurred as the result of the completion of a diversionary program, then $175 (but may file indigent status fee waiver)  
Note: New form requires you to “opt out” of fee  
Required Affidavit: None  
Open question: Whether an individual who is charged with one offense but pleads guilty to a lesser offense is eligible for an expunction of the original charge offense as a dismissed charge? (F) Poss WITSD → GL → (M) Poss |
<table>
<thead>
<tr>
<th>Expunction Type/ Statute</th>
<th>Criteria</th>
<th>Filing Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Misdemeanor Under 18</td>
<td></td>
<td>Form: AOC-CR-269</td>
</tr>
<tr>
<td>NCGS 15A-145</td>
<td></td>
<td>Cost: $175 (but may file indigent fee waiver)</td>
</tr>
<tr>
<td></td>
<td>1. Misdemeanor conviction committed before age 18 OR misdemeanor possession of alcohol (18b-302(b)(1)) committed before age 21. <strong>Both violent and nonviolent offenses are eligible.</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. No previous misdemeanor or felony convictions, other than traffic violations.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. No subsequent misdemeanor or felony convictions, other than traffic violations, within 2 year waiting period.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. At least 2 years have passed since the date of conviction.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. The individual has fully completed his or her sentence (incarceration, probation, etc).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Required Affidavits:</td>
<td>Notice: petition must be served on DA.</td>
</tr>
<tr>
<td></td>
<td>a. Petitioner affidavit stating:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>i. Has been on good behavior for the 2-year waiting period and has not been convicted of any felony or misdemeanor other than a traffic violation.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ii. Petition is a motion in the cause in the case wherein the petitioner was convicted.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>iii. No restitution orders or civil judgments representing amounts ordered for restitution against him are outstanding.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>a. 2 affidavits confirming good character from 2 individuals not related to client (or each other) who are familiar with the clients reputation in the community.</td>
<td></td>
</tr>
</tbody>
</table>
NOTE: If applying for expunction of a misdemeanor conviction under 18, complete this section.

NOTE: If applying for expunction of a dismissed charge(s), complete this section.

NOTE: If applying for expunction of dismissed charge, mark this box unless the charge was dismissed due to completion of a diversionary program.
<table>
<thead>
<tr>
<th>Expunction Type / Statute</th>
<th>Criteria</th>
<th>Additional Information</th>
<th>Filing Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Nonviolent Misdemeanor or Felony (Any Age)</strong></td>
<td><strong>NCGS 15A-145.5</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. One nonviolent felony or nonviolent misdemeanor conviction*</td>
<td></td>
<td><strong>The term nonviolent misdemeanor or nonviolent felony means any misdemeanor or felony EXCEPT:</strong></td>
<td><strong>Form: AOC-CR-281</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Multiple convictions may be treated as one conviction ONLY if convictions occurred in the same session of court.</strong></td>
<td>A. a Class A - G felony or a Class A1 misdemeanor</td>
<td><strong>Cost: $175 (but may file indigent status fee waiver)</strong></td>
</tr>
<tr>
<td>2. No other misdemeanor or felony convictions, other than traffic violations.</td>
<td></td>
<td>B. An offense that includes assault as “an essential element of the offense”</td>
<td>Required Affidavits:</td>
</tr>
<tr>
<td>3. At least 15 years have passed since the date of conviction. **</td>
<td></td>
<td>C. An offense that requires sex offender registration (Article 27A, Chapter 14)</td>
<td>a. Petitioner affidavit stating:</td>
</tr>
<tr>
<td>4. The individual has fully completed his or her sentence (incarceration, probation, etc).</td>
<td></td>
<td>D. Specified stalking offenses (see 15A-145.5(a)(4)</td>
<td>i. Has good moral character since date of conviction</td>
</tr>
<tr>
<td>5. The petitioner has no outstanding warrants or pending criminal cases</td>
<td></td>
<td>E. Any felony offense in Chapter 90 that involves methamphetamines, heroin, or poss with intent to sell or deliver cocaine</td>
<td>ii. No convictions (other than traffic violations) since conviction</td>
</tr>
<tr>
<td>6. No previous expunctions under 15A-145, -145.1, -145.2, -145.3, -145.4, -145.5</td>
<td></td>
<td>F. Specified hate crimes (see 15A-145.5(a)(6)</td>
<td>iii. Petition is a motion in the cause</td>
</tr>
<tr>
<td></td>
<td><strong>In drafting the petition form, AOC has interpreted the statute to require a waiting period of 15 years from the date the sentence is completed. I firmly believe this is incorrect.</strong></td>
<td>G. Any felony offense in which a commercial motor vehicle was used in the commission of the crime</td>
<td>iv. No outstanding restitution order</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>In drafting the petition form, AOC has interpreted the statute to require a waiting period of 15 years from the date the sentence is completed. I firmly believe this is incorrect.</strong></td>
<td>a. 2 affidavits confirming good character from 2 individuals not related to client (or each other) who are familiar with the clients reputation in the community</td>
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<tr>
<td></td>
<td></td>
<td><strong>In drafting the petition form, AOC has interpreted the statute to require a waiting period of 15 years from the date the sentence is completed. I firmly believe this is incorrect.</strong></td>
<td>Notice: must provide notice to DA.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Judge has discretion whether or not to grant expunction for eligible individuals. If court denies petition, the order must include a finding as to the reason for the denial.</td>
</tr>
</tbody>
</table>
## Certificate of Relief

**Statute**

NCGS 15A-173

### Criteria

1. Convicted of no more than two Class G, H, or I felonies or misdemeanors in one session of court.
2. No other convictions for a felony or misdemeanor other than a traffic violation.
3. At least 12 months have passed since the individual completed his or her criminal sentence (including probation).
4. Individual is either:
   a. Engaged in, or seeking to engage in, a lawful occupation or activity, OR
   b. Has a lawful source of support.
5. No criminal charges are currently pending against the individual.
6. No previous petition for a certificate of relief has been filed, or at least 12 months have passed since the denial of the previous petition.
7. Granting the petition would not pose an unreasonable risk to the safety or welfare of the public or any individual.

### Filing Requirements

- **Form:** AOC-CR-273
- **Cost:** $0
- Required Affidavits: None, but petitioner may submit additional materials to support the claims made in this petition at the hearing.
- Notice: must provide notice to DA at least 3 weeks prior to hearing

A certificate of relief is not an expunction but may provide several types of significant relief, including:

a. A petitioner’s employer protection from negligent hiring liability.
b. A petitioner’s landlord protection from negligent leasing liability.
c. Override automatic sanctions—allow opportunity for discretion
d. Viewed favorably in discretionary decisions.
Expungement Eligibility Overview

**Previous Conviction**
15A-145 - 15A-145.5: no prior conviction
15A-145.6: no prior “violent offense” conviction
15A-146: no prior (F) conviction
15A-147 - 15A-149: no restriction

**Subsequent Conviction**
15A-145,15A-145.4: no conviction during waiting period
15A-145.2, 15A-145.3: no (M) conviction involving drugs; no (F) conviction
15A-145.5: no subsequent (M) or (F) conviction
15A-145.6: no subsequent (M) or (F) conviction
15A-146: no subsequent (F) conviction

**Waiting Period**
Immediate: 15A-146, 15A-147, 15A-148, 15A-149
1 year: 15A-145.2, 15A-145.3
2 years: 15A-145, 15A-145.1
3 years: 15A-145.6 (if human trafficking victim, waiting period waived)
4 years: 15A-145.4
15 years: 15A-145.5

Waiting periods are from the date of conviction—however, if at the expiration of the waiting period, the person has not completed his or her sentence, then he or she is ineligible until sentence is complete. The exception is 15A-145.2 & 3—no requirement the sentence be complete.

**Prior Expungement**
15A-145: statute is silent as to effect of prior expunction
15A-145.2, 15A-145.3: ineligible if previous expunction under 145.2 or 145.3; statute is silent as to effect of prior expunction under other statutes
15A-146: no prior expunction

**Automatic/Discretionary**
Discretionary: 15A-145.4, 15A-145.5  Automatic: All Other
**ACIS: Automated Criminal/Infractions System**

**FILE NUMBER:**

<table>
<thead>
<tr>
<th>FILE NUMBER:</th>
<th>MODE: G</th>
</tr>
</thead>
</table>

**NAME/SID/CKN/LID/ARR/COM/INCID:**

Bowers, Christopher, Daniel

**PF1 - ICA/FILE NUMBER INQUIRY**

**PF2 - NAME/SID/LID/CKN/ARR/COM/INCID**

**PF3 - DEFENDANT RECORD CHECK**

**PF4 - PROCESS INQUIRY**

**PF5 - CITATION INQUIRY**

**PF6 - SUPPLEMENTAL INQUIRY**

**PF7 - WITNESS I/P/D/BLANK**

**PF8 - DISPOSITION INQUIRY**

**PF9 - UNUSED**

**PF10 - COURTROOM SCHEDULE SUMMARY**

**PF11 - INFRINGEMENTS INQUIRY**

**PF12 - CANCEL**

(A = ADD, I = INQUIRY, U = UPDATE)

(R = REQUEST ARCHIVE PF1, PF2 )

(A = ARREST, C = COMPLAINT, )

(S = SID, K = CKN, L = LID, N = INCID )

(* * * NAME INQUIRY * * *)

(P = PENDING, U = UNSERVED, )

(D = DISPOSED, BLANK = ALL )
Local and Statewide ACIS Searches from Courthouse Terminals

**CIS INQUIRY MENU**

- **FILE NUMBER:**
- **NAME/SID/CKN/LID/ARR/COM/INCID:** Bowes, Christopher, Daniel

**PF1** - ICA/FILE NUMBER INQUIRY
**PF2** - NAME/SID/LID/CKN/ARR/COM/INCID
**PF3** - DEFENDANT RECORD CHECK
**PF4** - PROCESS INQUIRY
**PF5** - CITATION INQUIRY
**PF6** - SUPPLEMENTAL INQUIRY

**PF7** - WITNESS I/P/D/BLANK
**PF8** - DISPOSITION INQUIRY
**PF9** - UNUSED
**PF10** - COURTROOM SCHEDULE SUMMARY
**PF11** - INFRACTIONS INQUIRY
**PF12** - CANCEL

**STATEWIDE NAME SEARCH REQUEST**

REQUIRED NAME (LAST, FIRST, MIDDLE): Bowes, Christopher, Daniel

THE FOLLOWING CHOICES WILL NARROW THE SEARCH DISPLAY:

- **DIVISION(S)/COUNTY(S):** ALL
- **FILE NO. BEGIN YEAR:**
- **FILE NO. END YEAR:**
- **CASE TYPE:** 
  - C = CRIMINAL, I = INFRACTION, R = ARCHIVES
- **CASE OFFENSE(S):**
  - F = ANY OFFENSE PENDING, D = ALL OFFENSE(S) DISPOSED
- **CHARGED OFFENSE TYPE(S):**
  - F = FELONY, M = MISDEMEANOR, T = TRAFFIC, I = INFRACTION
- **CONVICTED OFFENSE TYPE(S):**
  - F = FELONY, M = MISDEMEANOR, T = TRAFFIC, I = INFRACTION
- **CVR:**
- **RACE:**
  - A = ASIAN, B = BLACK, H = HISPANIC, I = INDIAN,
  - W = WHITE, X = NOT PERSON
- **SEX:**
  - F = FEMALE, M = MALE, X = NOT PERSON
- **AGE/DOB:** 06181985

ANY OF THE FOLLOWING: N Y = ANY OF THE FOLLOWING OR SELECT INDIVIDUALLY
- **CALLED & FAILED:**
- **ORDER FOR ARREST:**
- **PROBATION VIOLATION:**
- **UNSERVED:**
- **DISMISSED WITH LEAVE:**
- **FAILURE TO COMPLY:**

010214 12:04:09

F1 = HELP  2 = NAME  3 = EXIT  5 = REFRESH  6 = DIVISION/COUNTY LIST 12 = CNCL
Basic Steps to Reading a Criminal Record for Expunction Eligibility

Charge 1: What was the charge and what was its disposition?

A. If disposed guilty:
   i. What age was the person on the date of offense?
      i. Birth Date → Offense Date
      ii. Under Age 18/22 v. Any Age
   ii. What were the elements of the offense?
      i. Violent v. Nonviolent
         ii. Controlled Substance
   iii. How long has it been since the individual was convicted?
      i. Conviction Date → Current Date
      ii. Relevant Waiting Period Satisfied?
   iv. Does the individual have a prior or subsequent disqualifying conviction?

B. If disposed not guilty or dismissed:
   i. Were the charges “drug charges” occurring before the age of 22?
   ii. Does the individual have a felony conviction?
      i. Are multiple charges eligible for expunction (dates of offenses within same 12 month period or same date of dispositions)?
      ii. If multiple charges not within same 12 month period, what is client’s preference for expunction?

Charge 2: Rinse & Repeat
Submitting A Petition for Expunction

1. Petition must be submitted in county where offense occurred.

2. Statute requires presiding judge to authorize SBI background check and, in some cases, provide service to DA.
   1. Procedures for doing this vary by county.
      a. In some counties (ex. Wake, Durham, Chowan), clerks will procure signature of Judge (and DA if required) and then send the completed petition to the SBI.
      b. In other counties, (ex. Vance, New Hanover) petitioner or attorney must obtain signature from Judge (and DA if required), and then mail the petition directly to the SBI.

3. Upon obtaining petition for expunction, SBI will conduct state and national criminal background checks—process currently takes 4 months.

4. After background checks are completed, SBI sends petition to AOC. AOC determines whether petitioner has previously received an expunction.

5. AOC returns petition to clerk of court.

6. Upon receipt of the petition from the SBI/AOC, procedures for reviewing the petition vary by county.
   a. In some counties (Wake, Durham), the petition is reviewed in chambers—there is no formal hearing.
   b. In some counties, there is a formal hearing on each petition.
   c. In other counties, the procedure depends on the type of expunction.

7. If order for expunction is granted, clerk deletes the relevant entry from the ACIS database and then sends petition to designated arresting agency. Arresting agency will then send petition to SBI.
CLINIC PROCEDURES
Restoring Opportunities, Uplifting Communities

Helping individuals move beyond their criminal records in order to obtain gainful employment, affordable housing, and the many other opportunities essential to productive citizenship creates stronger families and more inclusive, safe, and prosperous communities.
John

Birth Date 7/19/1967

A. Charge Offense: (M) Larceny
   Disposition: Guilty
   Offense Date: 1/11/1991
   Disposition Date: 4/13/1991

B. Charge Offense: (M) Simple Assault
   Disposition: Guilty
   Offense Date: 10/9/1994
   Disposition Date: 12/10/1994

C. Charge Offense: (M) Drug Paraphernalia
   Disposition: Dismissed
   Offense Date: 2/4/2013
   Disposition Date: 3/5/2013

D. Charge Offense: (M) Assault on a Female
   Disposition: Dismissed
   Offense Date: 12/2/2013
   Disposition Date: 1/15/2014

E. Charge Offense: (F) PWISD Cocaine
   Disposition: Not Guilty
   Offense Date: 6/14/2001
   Disposition Date: 12/1/2002
Practice Exercises

**Brett,** Birth Date 8/11/1960

A. Charge Offense: (M) Larceny  
   - Offense Date: 1/2/1987  
   - Disposition: Guilty  
   - Disposition Date: 6/18/1987

B. Charge Offense: (M) Larceny  
   - Offense Date: 1/2/1987  
   - Disposition: Guilty  
   - Disposition Date: 6/18/1987

C. Charge Offense: (F) Embezzlement  
   - Offense Date: 12/10/2005  
   - Disposition: V.D.  
   - Disposition Date: 1/11/06

D. Charge Offense: (M) DUI  
   - Offense Date: 1/14/2009  
   - Disposition: Guilty  
   - Disposition Date: 4/14/2009

**Megan,** Birth Date 10/1/1990

- Charge Offense: (F) Embezzlement  
  - Offense Date: 1/11/2012  
  - Disposition: GL  
  - Disposition Date: 4/12/2012

- Charge Offense: (M) AWDW  
  - Offense Date: 8/12/2008  
  - Disposition: Guilty  
  - Disposition Date: 1/12/2009

- Charge Offense: (M) Unauthorized Use of a Motor Vehicle  
  - Offense Date: 1/7/2013  
  - Disposition: Not Guilty  
  - Disposition Date: 4/12/2013