Danger! Roadblocks Ahead – The Real Consequences of Your Client’s Criminal Record

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Coming Home: Georgia Justice Project's Civil Justice Restoration Program

THE NEED

Both in Georgia and in the nation, an increasing percentage of our population has been arrested and/or incarcerated. It is important to understand that a criminal record is basically any contact with the judicial system. Any individual, who is ever arrested, even if no charges are ever officially brought against them in court, will still have a criminal record. An examination of the prison population by race and economic status reveals alarming numbers. Currently, one out every six African-American or Hispanic males can be expected to go to prison at some point in their lives. The current trend will see this number increase to almost one out of three over the next thirty years. Currently, 80% of those incarcerated are classified as indigent at the time of their arrest.

Any criminal record creates barriers to employment, housing, public assistance and even the right to vote. These often harsh consequences stand as substantial impediments to people who want to return to lives as contributing members of society. In fact, these barriers may be so substantial that they are counter-productive, causing some of those released from incarceration to return to criminal activity in order to support their livelihood. The overall impact of these roadblocks for ex-offenders constitutes a social and economic drain on our communities, our state, and the nation as a whole. The Legal Action Center in Washington ranked Georgia the third worst state, behind only Mississippi and Louisiana for barriers to successful reentry for individuals with a criminal record.

COMPONENTS OF THE PROGRAM

The Coming Home program seeks to provide justice to a group of people often overlooked within our system: those who are facing barriers to re-entry into society after an arrest or conviction. This program offers an innovative approach to the administration of justice for a population in dire need. Many individuals who relapse and return to the cycle of poverty and crime do so out of desperation with the multitude of structural barriers that wait them upon their release from prison particularly in the areas of housing, employment, public assistance, and voting rights, amongst others.

Coming Home directly responds to the call in Georgia for comprehensive reentry planning and the removal of legal and social barriers through three distinct tiers: direct representation, education and policy.

**Direct Representation:** Coming Home enhances and expands services previously provided by GJP staff attorneys and is supported by volunteer lawyers from Atlanta-area law firms who play a pivotal role in the representation of clients through expungements, correcting criminal histories and advocating for sentence modifications.

**Education:** GJP presents reentry issues to affected individuals, attorneys, judges and community partners to build awareness of these issues and advocate for necessary legislative changes.

**Policy:** GJP is currently working with other non-profits as well as individual legislators to continue efforts to obtain administrative and legislative change in Georgia.

The individuals targeted in this program have had contact with the criminal justice system and deserve the justice it promises. Justice means removing impediments that block an individual’s attempts to provide for themselves and their family. Justice means being able to find a place to live and a job when trying to start your life over. Justice means not having to suffer consequences for a wrongful arrest. Justice means not paying time and time again after serving a full sentence for a crime. Coming Home offers hope for a new criminal justice system that moves beyond harsh and punitive sentencing and instead focuses on a more purposeful objective—building capacity in our nation’s underserved criminal and criminally accused population. By empowering those who encounter the criminal justice system, we believe that, with the help of those who share ideologies and passion for change, GJP can stem the tide and move Georgia in a positive direction.
ATTENTION COMING HOME APPLICANTS:

IMPORTANT: Coming Home assists people who have criminal records in Georgia. The primary service we provide is a criminal history review by an attorney. The attorney will review your record and determine whether expungement or correction is a possibility for you under Georgia law. For some applicants we can assist with the expungement process or making corrections. In some cases we may explain your criminal history to potential employers or advocate to housing authorities. If you would like assistance through the Coming Program please read the following information carefully before filling out the application (Note: Completing this application does not create an attorney/client relationship or imply we can assist you in anyway).

Coming Home may be able to assist you in the following situations:

1) **Do you have charges that were dismissed or didn’t reach a conviction?** – You may be eligible for expungement.

2) **Are there mistakes on your criminal history? Were you the victim of identity fraud?** - If there are errors on your criminal history you may be eligible for assistance through Coming Home.

3) **Did you receive First Offender treatment but it still shows up on your record?** - You may be eligible for assistance through Coming Home, if you were not revoked.

Coming Home will not be able to assist you in the following situations:

1) **Do you want a conviction off your record?** – Georgia law **DOES NOT** allow convictions to be expunged or sealed so there is nothing we can do to get convictions off your record (this does not include First Offender cases).

2) **Are you concerned about charges outside of Georgia?** – Coming Home deals with Georgia charges only. We cannot assist you with any issues regarding charges in another state.

REQUIRED: A recent copy of your Georgia criminal history (within the last year) - If you do not have a copy we can request one for $5.00 (the fee will be waived for homeless applicants who provide documentation from a shelter). Submit the fee with your application.

Please complete both sides of the attached application and consent form and give them to the receptionist.

***If the above information is unclear, please let us know and we will make an appointment to assist you.

If you have not heard from Coming Home within three weeks please follow up at 404.827.0027, ext. 238.

Coming Home
Georgia Justice Project
438 Edgewood Ave. NE
Atlanta, GA 30312
Fax: 404.827.0026

Tear Off This Front Page And Keep!
Reasons COMING HOME May Not be Able to Assist:

Note: Georgia Justice Project is a very small organization with limited resources and unfortunately we cannot assist everyone with a criminal record.

1) **Incomplete Application** – It is very important to complete all sections of the application and explain your issues and how you would like Georgia Justice Project to assist you. Incomplete applications will not be considered.

2) **Outside the Metro-Atlanta Area** – Due to our limited resources, Coming Home is able to provide limited assistance for charges outside of Fulton and DeKalb counties.

3) **Convictions** – Georgia does not allow for the expungement or sealing of convictions. If you are concerned about charges that you pled guilty to or were found guilty of by a judge or jury, Georgia law does not allow convictions to be removed from your criminal history. If you paid a fine or received “time served” you were convicted.

4) **Appeals** – We understand you may feel you were forced to plead guilty or didn’t have a good lawyer, but we cannot appeal an old case for you. Many times the deadline to appeal has passed and Georgia Justice Project does not handle appeals.

5) **Multiple Convictions** – If you have multiple convictions, getting one or two charges expunged from your criminal history might not make a big difference for you, unless those charges are very serious. Ask the receptionist for a handout of job search tips and list of organizations that assist job seekers who have convictions. For felony convictions, Coming Home recommends you obtain a pardon from the State Board of Pardons and Paroles if you are eligible. Please ask the receptionist for a pardon application.

6) **We will assist with two expungements or two issues per person** – We receive many requests for assistance but due to our limited staff and resources we generally only assist individuals with up to two top priorities on their criminal history. Depending on the situation, exceptions can and will be made.

*An attorney is not required to request an expungement. We can provide you with general instructions and an expungement application so that you can submit it on your own.*
COMING HOME APPLICATION *PLEASE COMPLETE BOTH SIDES – INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED

Full Name ___________________________________________ Today’s Date: __________________________

Alias(es) ___________________________________________ Race: __________ Gender: _________________

Date of Birth: ___________________________ Social Security Number ____________________________

Address: ___________________________ City: ___________________________ State: _______ Zip: _______

Phone Numbers: Home ___________________________ Cell ____________________________

Email Address: ____________________________________________

Referral Information:

Were you referred to GJP by another agency? Yes/No

If yes, complete the following:

Agency Name: ____________________________

Person Who Made Referral: ____________________________

How long have you received services from this agency? ____________________________

What service do you receive from this agency? ____________________________________________

Can you afford to hire an attorney? Yes/No

Are you seeking assistance for charges that occurred outside of Georgia? Yes/No

*If you answered yes to either of the above, you are not eligible for assistance – DO NOT continue the application as it will be denied

Do you have a recent copy of your criminal history? Yes/No

We cannot assist you until we have a copy of your history. If you have a copy, submit it with this application. Do not leave your original. Please ask the receptionist to make a copy.

Would you like Coming Home to get a copy of your criminal history for you? Yes/No

If you do not have a copy, we can request one for a fee of $5.00 (waived if homeless with documentation from a shelter). You may also obtain a copy at any local law enforcement agency.

NOTE: If we do not receive the $5.00 fee, documentation of homelessness or a copy of your criminal history within 60 days of today’s date, your file will be closed and you will need to reapply.

Applicants Interested in Expungement:

Did you plead guilty to any of the charges you would like expunged? Yes/No

Did you plead nolo contendre (no contest) to any of the charges you would like expunged? Yes/No

Were you found guilty at trial of any of the charges you would like expunged? Yes/No

Do you have a pending case (unresolved arrest, active warrant, etc.)? Yes/No

Are you currently on probation or parole? Yes/No

*If you answered yes to any of the above, that case is not eligible for expungement. If you have a pending case or are probation or parole, you are not eligible to apply for the expungement of any charges until your case is resolved.
Have you been denied employment or another opportunity because of your criminal history? Yes/No
If yes, please explain: ________________________________________________________________

Are you currently employed? Yes/No
Employer Name: ________________________________________________________________
How long have you worked with this employer: ________________________________

Have you previously requested assistance from the Georgia Justice Project? Yes/No
When? __________________ What assistance did you request? ____________________________

Have you ever received First Offender Treatment Yes/No
If yes, in what year for what charge(s)? __________________________________________

Have you ever had any charges expunged from your criminal record? Yes/No
If yes, what charges? ____________________________________________________________

How many times have you been arrested? ________ Convicted? ________

Why Are You Seeking Assistance? [Check all that apply]
Correcting Criminal History ☐
Which charges: ________________________________________________________________

Victim of Identity Fraud ☐
Which charges: ________________________________________________________________

Expungement ☐

Please identify the two arrests on your history you are most concerned about, keeping in mind that
Georgia law does not allow convictions to be expunged or sealed.
1) __________________________________________________________
2) __________________________________________________________

Your signature ___________________________________________ Today’s date __________________________

SUBMIT THIS APPLICATION WITH CONSENT FORM AND FEE TO:
Attn: Coming Home Intake
Georgia Justice Project
438 Edgewood Ave NE
Atlanta, GA 30312
Fax: (404) 827-0026
Eligibility Questionnaire

Our agency has a contract with the Georgia Department of Human Services (DHS) to receive supplemental funds. These funds, based on the number of people served, will help to supplement the cost of operating this program. The program participants must meet certain eligibility requirements. Please take a moment to complete this questionnaire. We are required to have this document completed in order to receive the funds from DHS.

*You will not be denied services by this agency based on the requirements in this form.*

<table>
<thead>
<tr>
<th>Part One</th>
</tr>
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| **Personal Information:**
| Name: [ ]
| Social Security Number: [ ]
| **Phone Number:**
| Home: [ ]
| Cell: [ ]
| Work: [ ]
| **E-mail address:** [ ]
| **Mailing address:** [ ]

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<th>Part Two</th>
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<tr>
<td>Are you a Georgia resident? [ ] Yes [ ] No</td>
</tr>
<tr>
<td>Are you a U.S. citizen or an alien who is legally allowed to work in the U.S.? [ ] Yes [ ] No</td>
</tr>
<tr>
<td>Do you have at least one minor child; under age 18 living with you? [ ] Yes [ ] No</td>
</tr>
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</table>

If answer to any of these questions is NO, you are not required to continue. You may complete “Certification”, sign and date the form.

(over)
Part Three

If you answered YES to all questions in Part Two, please complete this section:

Are you currently receiving Food stamps, TANF, Medicaid or SSI?  ☐ Yes  ☐ NO

If your answer to this question is YES, Skip Part Four.

If your answer to this question is NO, then complete section Four.

You must sign the certification below to complete this questionnaire.

Part Four

How many people live with you at this address? ________

What is the total household income? Total household means you, your spouse, children and any other person who lives with you at this address? ______________

Certification

I, the undersigned, certify that the information shown above is true and accurate to the best of my knowledge.

Signed: ____________________________  Date: __________

Please do not write below this line.

For Agency Use Only

- Match the gross household income with the family size on the table below.
- Does the household income fall within the guidelines?  Yes ☐ No ☐
- If the total gross income of the household is at or less than the Federal Poverty Level (FPL) for the household size, the client is considered eligible.

_________________________  ____________________________
Agency's signature          Date
CHAMBLEE POLICE DEPARTMENT
CRIMINAL HISTORY CONSENT FORM

I hereby authorize Georgia Justice Project to receive any Georgia criminal history record information pertaining to me which may be in the files of any state or local criminal justice agency in Georgia.

Full Name (print)

Address

Sex        Race        Date of Birth        Social Security Number

Signature

Date

Special employment provisions (check if applicable):

☐ Employment with mentally disabled (Purpose code ‘M’)
☐ Employment with elder care (Purpose code ‘N’)
☐ Employment with children (Purpose code ‘W’)

One of the following must be checked:

☒ This authorization is valid for 90/180 (circle one) days from date of signature.

I, __________________________________________ give consent to the above named to perform periodic criminal history background checks for the duration of my employment with this company.

CH CLERK: ___________________________ DATE: ____________
Thursday, August 09, 2012

Response Key: 2704.C

AX-031776694 GA-CCH 20120809 18:12:17 20120809 18:12:17 219618F3CE

Georgia Crime Information Center
3121 Panthersville Road
Decatur, GA 30037
(404) 244-2639

********************** CRIMINAL HISTORY RECORD **********************

Produced on
2012-08-09

********************** Introduction **********************

This rap sheet was produced in response to the following request:

FBI Number 100161E
State Id Number GA00228664 (GA)
ARN GEORGIA JUSTICA PROJ
Purpose Code E
Attention KATHERINE LANGLEY/DLB

The information in this rap sheet is subject to the following caveats:

**THIS RESPONSE IS BEING PRODUCED FOR YOUR REQUEST SENT: 2012-08-09 (GA; 2007-08-11)

Important: Criminal history record information is obtained one of two ways: 1) by conducting an inquiry using personal identifiers such as name and date of birth (name search), or 2) by submitting fingerprint cards to the Georgia Crime Information Center (GCIC). When conducting a name search for criminal history record information, there is a possibility that the information returned belongs to a different person with the same, or similar, identifiers. In this case, a positive match of the person whose criminal history record is sought requires submission of fingerprint cards to GCIC. When conducting a fingerprint search for criminal history record information, the information returned does, in fact, belong to the individual. In this case, conducting a name search using the individual's personal identifiers would be the same information. (GA; 2007-08-11)

When the information contained in a criminal history report causes an adverse employment or licensing decision the individual, business or agency making the decision must inform the applicant of all information pertinent to the decision. The disclosure must include information that a criminal history record check was conducted, the specific contents of the record and the effect the record had upon the decision. Failure to provide all such information to the person subject to the adverse decision is a misdemeanor offense under Georgia law. Additionally, any unauthorized dissemination of this record or information herein also violates Georgia law. The plea of nolo contendere may be considered a conviction for some purposes; however, except as otherwise provided by law, it shall not be used against the defendant in any other court as a conviction or admission of guilt or for the purpose of effecting any civil disqualification of the defendant to hold public office, to vote, to serve upon any jury, or any other civil disqualification imposed upon a person convicted of any offense under the laws of this state. (GA; 2007-08-11)

In the event that identifiers are not clearly associated to a specific cycle, the information is most likely non-fingerprint based information
received from the Department of Corrections at the time of release from incarceration. (GA; 2007-08-11)

************************** IDENTIFICATION **************************

Subject Name(s)

JOE (2007-08-08)
(AKA) (2007-08-08)

Subject Description

FBI Number
100161E

State Id Number
GA00228664

DOC Number
D27250

Social Security Number
(2007-08-08)
(2007-08-08)

Sex
Male (1992-08-28)

Race
Black (1992-08-28)

Height
6'00" (1992-08-28)

Weight
180 (1992-08-28)

Date of Birth
1942- (2007-08-08)

Hair Color
Black (1992-08-28)

Eye Color
Brown (1992-08-28)

Place of Birth
GEORGIA (1992-08-28)

Miscellaneous Information

III Record
SSO

Comment
CONVICTED FELON (GA)

************************** CRIMINAL HISTORY **************************

================================= OTN 99000650022 (Cycle 1 of 2) ===============

Offender Tracking Number (OTN)
99000650022

Earliest Event Date
1975-07-01

Offense Date
1975-07-01

Arrest SRF
21692273

Judicial SRF
21750225

Corrections SRF
21750225

=================================

Arrest
(Cycle 1), ...

Arrest Date
1975-07-01

Case Number

Arresting Agency
GAAPD0000 ATLANTA POLICE DEPARTMENT

Subject's Name
JOE

Arrest Type
Adult

Charge
Charge Tracking Number
99000650022-1
Charge Literal: BURGLARY
Statute: 16-7-1; GA
State Offense Code: 2203
Severity: Felony

Charge Tracking Number: 99000650022-2
Charge Literal: BURGLARY
Statute: 16-7-1; GA
State Offense Code: 2203
Severity: Felony

Court Disposition: (Cycle 1)
Case Number: 
Court Agency: GAOIUNKN
Subject's Name: JOE

Charge Tracking Number: 99000650022-1
Charge Literal: BURGLARY
Charge Description: 2 CTS
Statute: 16-7-1; GA
State Offense Code: 2203
Severity: Felony
Disposition: GUILTY (CONVICTED / ADJUDICATED) (1975-07-01; Convicted)

Charge Tracking Number: 99000650022-2
Charge Literal: BURGLARY
Statute: 16-7-1; GA
State Offense Code: 2203
Severity: Felony
Disposition: GUILTY (CONVICTED / ADJUDICATED) (1975-07-01; Convicted)

Charge Tracking Number: 99000650022-3
Charge Literal: FORGERY (FREE TEXT)
Charge Description: 1ST DEG
Statute: NOT FOUND; GA
State Offense Code: 2599
Severity: Unknown
Disposition: GUILTY (CONVICTED / ADJUDICATED) (1975-07-01; Convicted)

Sentencing: (Cycle 1)
Case Number: 
Sentence Date: 1975-07-01
Sentencing Agency: GAOIUNKN GEORGIA CRIME INFORMATION CENTER

Charge Tracking Number: 99000650022-1
Sentence: CONFINEMENT 5 YEARS
OTHER SENTENCE TYPE
--OTHER SENTENCE CONDITION CC

Charge Tracking Number: 99000650022-2
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<td>GA018015C GEORGIA DIAGNOSTIC AND CLASSIFICATION CENTER</td>
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<td>5404</td>
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**INDEX OF AGENCIES**

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<td>ATLANTA POLICE DEPARTMENT; GAAPD0000; CHIEF OF POLICE</td>
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Address

3493 DONALD LEE HLOWLELL PKWY
ATLANTA, GA 30331

Agency

GEORGIA CRIME INFORMATION CENTER; GAORIUNK;
CCH HELPLINE

Address

PO BOX 370808
DECATUR, GA 30037-0808

* * * END OF RECORD * * *
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<th>Cycle</th>
<th>Date</th>
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<th>Arresting Charge(s) and Severity (felony or misdemeanor)</th>
<th>Result on GCIC (note severity of any convictions)</th>
<th>Notes</th>
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<td>Convicted (4 felonies)</td>
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AX-03096375 GA-CCH 20120613 18:16:37 20120613 18:16:36 21961853C9

Georgia Crime Information Center
3121 Panthersville Road
Decatur, GA 30037
(404) 244-2639

*************** CRIMINAL HISTORY RECORD ****************************

Produced on
2012-06-13

*************** Introduction ****************************

This rap sheet was produced in response to the following request:

FBI Number 393235CA2
State Id Number GA00924913 (GA)
ARN GEORGIA
Purpose Code E
Attention LULU LONDERGAN/SD

The information in this rap sheet is subject to the following caveats:

** THIS RESPONSE IS BEING PRODUCED FOR YOUR REQUEST SENT: 2012-06-13
(GA; 2007-08-11)

Important! Criminal history record information is obtained one of two ways: 1) by conducting an inquiry using personal identifiers such as name and date of birth (name search) or 2) by submitting fingerprint cards to the Georgia Crime Information Center (GCIC). When conducting a name search for criminal history record information, there is a possibility that the information returned belongs to a different person with the same, or similar, identifiers. In this case, a positive match of the person whose criminal history record is sought requires submission of fingerprint cards to GCIC. When conducting a fingerprint search for criminal history record information, the information returned does, in fact, belong to the individual. In this case, conducting a name search using the individual's personal identifiers would be the same information. (GA; 2007-08-11)

When the information contained in a criminal history report causes an adverse employment or licensing decision the individual, business or agency making the decision must inform the applicant of all information pertinent to the decision. The disclosure must include information that a criminal history record check was conducted, the specific contents of the record and the effect the record had upon the decision. Failure to provide all such information to the person subject to the adverse decision is a misdemeanor offense under Georgia law. Additionally, any unauthorized dissemination of this record or information herein also violates Georgia law. The plea of no contest may be considered a conviction for some purposes: however, except as otherwise provided by law, it shall not be used against the defendant in any other court as a conviction or admission of guilt for the purpose of effecting any civil disqualification of the defendant to hold public office, to vote, to serve upon any jury, or any other civil disqualification imposed upon a person convicted of any offense under the laws of this state. (GA; 2007-08-11)

In the event that identifiers are not clearly associated to a specific cycle, the information is most likely non-fingerprint based information
received from the Department of Corrections at the time of release from incarceration. (GA: 2007-08-11)

********************************* IDENTIFICATION *********************************

Subject Name(s)
Fred (2007-08-08)
Fred Jr. (aka) (2007-08-08)

Subject Description
FBI Number State Id. Number
393235CA2 GA00924918

Social Security Number (2007-08-08)

Miscellaneous Numbers
FC9359318 Originating Agency Police ID ADAP741521D
Originating Agency Police ID
Sex Male (2002-09-24)
Race Black (2002-09-24)

Height Weight Date of Birth
5'09" (2002-09-24) 190 (2002-09-24) 195 (2007-08-08)

Hair Color Eye Color
Place of Birth
GEORGIA (2002-09-24)

III Record SSO

********************************* CRIMINAL HISTORY *********************************

====================================== OTN 99009388365 (Cycle 1 of 12) ==================
Offender Tracking Number (OTN) 99009388365
Earliest Event Date 1981-06-30
Offense Date 1981-06-30
Arrest SRF 00072781
Judicial SRF 27222523

Arrest (Cycle 1)
Arrest Date 1981-06-30
Case Number 53918
Arresting Agency GA0613300 FULTON COUNTY POLICE DEPARTMENT
Subject's Name Fred
Arrest Type Adult
Charge
Charge Tracking Number 99009388365-1
Charge Literal CONTEMPT OF STATE COURT FOR FINGERPRINTABLE CHARGE - MISDEMEANOR
Statute 15-7-4 (3)
State Offense Code 5025 (3)
Severity Misdemeanor
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<th>(Cycle 1)</th>
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<td>Subject's Name</td>
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**Charge**

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**Offender Tracking Number (OTN)** 00003360556 (Cycle 2 of 12)

| Earliest Event Date | 1983-09-30 |
| Offense Date       | 1983-09-30 |
| Arrest SRP         | 27502593   |
| Judicial SRV       | 28163395   |

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**Charge**

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<td>Charge Literal</td>
<td>CARRYING DEADLY WEAPONS TO OR AT PUBLIC GATHERINGS</td>
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<tr>
<td>Statute</td>
<td>16-11-127; GA</td>
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<td>State Offense Code</td>
<td>5267</td>
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<tr>
<td>Statute</td>
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<td>Charge Literal</td>
<td>PURCHASE, POSSESSION, MANUFACTURE, DISTRIBUTION, OR SALE OF MARIJUANA</td>
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<tr>
<td>Statute</td>
<td>16-13-30(j); GA</td>
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<tr>
<td>State Offense Code</td>
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<td>Felony</td>
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<th>Court Disposition</th>
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<tr>
<td>Case Number</td>
<td>415210</td>
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<tr>
<td>Court Agency</td>
<td>GA060081J</td>
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<td>Subject's Name</td>
<td>FRED</td>
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**Charge**

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<tr>
<td>Charge Literal</td>
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Charge Description: IN PUBLIC GATHERING
Statute: 16-11-126; GA
State Offense Code: 5223
Severity: Unknown
Disposition: DISMISSED (1983-11-30; Dismissed)

Charge
Charge Tracking Number: 0000360556-3
Charge Literal: PURCHASE, POSSESSION, MANUFACTURE, DISTRIBUTION, OR SALE OF MARIJUANA
Statute: 16-13-30(J); GA
State Offense Code: 3517
Severity: Felony
Disposition: DISMISSED (1983-11-30; Dismissed)

Charge
Charge Tracking Number: 0000360556-4
Charge Literal: CARRYING A CONCEALED WEAPON
Statute: 16-11-126; GA
State Offense Code: 5223
Severity: Unknown
Disposition: DISMISSED (1983-11-30; Dismissed)

Offender Tracking Number (OTN): 00015036316 (Cycle 2 of 12)

Earliest Event Date: 1990-12-16
Offense Date: 1990-12-16
Arrest SRF: 38172083

Arrest
Arrest Date: 1990-12-16
Case Number: 2810307
Arresting Agency: GAORIUNK GEORGIA CRIME INFORMATION CENTER
Subject's Name: FRED
Arrest Type: Adult

Charge
Charge Tracking Number: 00015036313-1
Charge Literal: PURCHASE, POSSESSION, MANUFACTURE, DISTRIBUTION, OR SALE OF MARIJUANA
Statute: 16-13-30(J); GA
State Offense Code: 3517
Severity: Felony

Charge
Charge Tracking Number: 00015036313-2
Charge Literal: CARRYING A PISTOL W/O LICENSE
Statute: 16-11-128; GA
State Offense Code: 5229
Severity: Unknown

Offender Tracking Number (OTN): 00033154030 (Cycle 4 of 12)

Earliest Event Date: 1990-12-16
Offense Date: 1990-12-16
Arrest SRF: 38292765

Arrest
Arrest Date: 1990-12-16
Case Number: 053918
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<tr>
<td>Wednesday, June 13, 2012</td>
<td>GA0600000 Fulton County Sheriffs Office</td>
<td>FRED</td>
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**Charge**
- **Type**: MARIJUANA
- **Statute**: 16-13-30(J); GA
- **State Offense Code**: 3517
- **Severity**: Felony

**Offender Tracking Number (OTN)**: 99009388376

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**Charge**
- **Type**: MARIJUANA
- **Statute**: 16-13-30(J); GA
- **State Offense Code**: 3517
- **Severity**: Felony

**Offender Tracking Number (OTN)**: 99009388376

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<td>FRED</td>
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**Charge**
- **Type**: MARIJUANA
- **Statute**: 16-13-30(J); GA
- **State Offense Code**: 3517
- **Severity**: Felony

**Offender Tracking Number (OTN)**: 00056617492
Subject's Name: FRED
Arrest Type: Adult

Charge
Charge Tracking Number: 00056617492-1
Charge Literal: CARRYING A CONCEALED WEAPON
Statute: 16-11-126; GA
State Offense Code: 5223
Severity: Unknown

Charge
Charge Tracking Number: 00056617492-2
Charge Literal: CARRYING A PISTOL W/O LICENSE
Statute: 16-11-128; GA
State Offense Code: 5229
Severity: Unknown

Charge Tracking Number: 00056617492-1
Charge Literal: CARRYING A CONCEALED WEAPON
Statute: 16-11-126; GA
State Offense Code: 5223
Severity: Unknown
Disposition: DEAD DOCKET (1995-11-08; Deferred)

Charge
Charge Tracking Number: 00056617492-2
Charge Literal: CARRYING A PISTOL W/O LICENSE
Statute: 16-11-128; GA
State Offense Code: 5229
Severity: Unknown
Disposition: DEAD DOCKET (1995-11-08; Deferred)

Offender Tracking Number (OTN): 00051924891 (Cycle 7 of 12)
Earliest Event Date: 1996-11-03
Offense Date: 1996-11-03
Arrest SRF: 59520971
Judicial SRF: 61540433, 61540433, 61540433, 61540433

Arrest
Arrest Date: 1996-11-03
Case Number: 96021656
Arresting Agency: GA0310200 FOREST PARK POLICE DEPARTMENT
Subject's Name: FRED
Arrest Type: Adult

Charge
Charge Tracking Number: 00051924891-1
Charge Literal: POSSESSION OF FIREARM OR KNIFE DURING COMMISSION OF OR ATTEMPT TO COMMIT CERTAIN FELONIES.
Statute: 16-11-106; GA
State Offense Code: 5254
Severity: Felony
Charge Tracking Number: 00051924891-2
Charge Literal: VIOLATION GA CONTROLLED SUBSTANCE ACT
Statute: 16-13-30; GA
State Offense Code: 3593
Severity: Unknown

Charge Tracking Number: 00051924891-3
Charge Literal: CARRYING A PISTOL W/O LICENSE
Statute: 16-11-129; GA
State Offense Code: 5229
Severity: Unknown

Charge Tracking Number: 00051924891-4
Charge Literal: CARRYING A CONCEALED WEAPON
Statute: 16-11-126; GA
State Offense Code: 5223
Severity: Unknown

Court Disposition: (Cycle 7)
Case Number: 238689
Court Agency: GA031015J
Subject's Name: FRED

Charge Tracking Number: 00051924891-1
Charge Literal: POSSESSION OF FIREARM OR KNIFE DURING COMMISSION OF OR ATTEMPT TO COMMIT CERTAIN FELONIES
Statute: 16-11-106; GA
State Offense Code: 5254
Severity: Felony
Disposition: DISMISSED (1997-01-28; Dismissed)

Charge Tracking Number: 00051924891-2
Charge Literal: VIOLATION GA CONTROLLED SUBSTANCE ACT
Statute: 16-13-30; GA
State Offense Code: 3593
Severity: Unknown
Disposition: FIRST OFFENDER ACT (O.C.G.A. 42-8-60) (1997-02-27; Deferred)
FIRST OFFENDER ACT REVOKED (1997-02-27; Convicted)

Charge Tracking Number: 00051924891-4
Charge Literal: CARRYING A CONCEALED WEAPON
Statute: 16-11-126; GA
State Offense Code: 5223
Severity: Unknown
Disposition: DISMISSED (1997-01-28; Dismissed)

Charge Tracking Number: 00051924891-5
Charge Literal: MARIJUANA-POSSESS LESS THAN 1 OZ.
Charge Description: SRP/71741134
Statute: 16-13-2(B); GA
State Offense Code: 3514
Severity: Misdemeanor
Disposition FIRST OFFENDER ACT (O.C.G.A. 42-8-60)  
(1997-02-27; Deferred);  
FIRST OFFENDER ACT REVOKED (1997-02-27;  
Convicted)

Court Disposition (Cycle 7)
Case Number 238669
Court Agency GA061015J
Subject's Name FRED

Charge
Charge Tracking Number 00051924891-3
Charge Literal CARRYING A PISTOL W/O LICENSE
State Offense Code 5229
Severity Unknown
Disposition DISMISSED (1997-01-28; Dismissed)

Sentencing (Cycle 7)
Case Number
Sentence Date 1997-02-27
Sentencing Agency GA031015J CLAYTON COUNTY SUPERIOR COURT

Charge
Charge Tracking Number 00051924891-5
Sentence PROBATION 6 MONTHS  
OTHER SENTENCE TYPE  
--OTHER SENTENCE CONDITION 0  
FINE $100

Offender Tracking Number (OTN) 00067742183  (Cycle 8 of 12)
Earliest Event Date 1997-04-11
Offense Date 1997-04-11
Arrest SRF 62232081
Judicial SRF 63202249, 63202249

Arrest (Cycle 8)
Arrest Date 1997-04-11
Case Number 415210
Arresting Agency GAAPD0000 ATLANTA POLICE DEPARTMENT
Subject's Name FRED
Arrest Type Adult

Charge
Charge Tracking Number 00067742183-1
Charge Literal DISORDERLY CONDUCT
State Offense Code 5311
Severity Misdemeanor

Charge
Charge Tracking Number 00067742183-2
Charge Literal PURCHASE/POSSESS/CONTROL - DRUG NAME MUST BE ENTERED IN
STATE OFFENSE CODE
Charge Description CRACK
State Offense Code 3512
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Sentencing (Cycle 9)
Case Number
Sentence Date 1997-09-27
Sentencing Agency GA031015J CLAYTON COUNTY SUPERIOR COURT

Charge
Charge Tracking Number 00060280942-1
Sentence CONFINEMENT 6 MONTHS
OTHER SENTENCE TYPE --OTHER SENTENCE CONDITION PROB REVOKED CONF
SUSP ON PMT OF FINE FINE $625

Offender Tracking Number (OTN) 00065427972 (Cycle 10 of 12)
Earliest Event Date 1996-02-05
Offense Date 1996-02-05
Arrest SRF 65591802

Arrest (Cycle 10)
Arrest Date 1998-02-05
Case Number 9805218
Arresting Agency GA0600000 FULTON COUNTY SHERIFFS OFFICE
Subject's Name FRED
Arrest Type Adult

Charge
Charge Tracking Number 00065427972-1
Charge Literal PURCHASE/POSSESS/CONTROL - DRUG NAME MUST BE ENTERED IN
CHARGE COMMENT FIELD
State Offense Code 3512
Severity Felony

Offender Tracking Number (OTN) 00074545881 (Cycle 11 of 12)
Earliest Event Date 1998-10-24
Offense Date 1998-10-24
Arrest SRF 68990500

Arrest (Cycle 11)
Arrest Date 1998-10-24
Case Number 415210
Arresting Agency GAAP0000 ATLANTA POLICE DEPARTMENT
Subject's Name FRED
Arrest Type Adult

Charge
Charge Tracking Number 00074545881-1
Charge Literal AGGRAVATED ASSAULT
Statute 16-5-21; GA
State Offense Code 1318
Severity Felony

Charge
Charge Tracking Number 00074545881-2
Charge Literal POSSESSION OF SAWED-OFF SHOTGUN, SAWED-OFF RIFLE, MACHINE
GUN, DANGEROUS WEAPON, OR SILENCER
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<td>POSS COC</td>
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<tr>
<td>Statute</td>
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**INDEX OF AGENCIES**

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<th>Agency</th>
<th>CLAYTON COUNTY SHERIFFS OFFICE; GA0310000; SHERIFF</th>
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| Agency                        | FULTON COUNTY STATE COURT; GA060013J; JUDGE    |
Address
185 CENTRAL AVENUE
ATLANTA, GA 303030000

Agency
FULTON COUNTY SUPERIOR COURT; GA060035J;
JUDGE
Address
136 Pryor ST SW ROOM 606
ATLANTA, GA 303030000

Agency
ATLANTA MUNICIPAL COURT; GA060081J;
JUDGE
Address
150 Garnett ST
ATLANTA, GA 303030000

Agency
FULTON COUNTY POLICE DEPARTMENT; GA0601300;
CHIEF
Address
130 Peachtree ST SW
ATLANTA, GA 303030000

Agency
GILMER COUNTY SUPERIOR COURT; GA061015J;
JUDGE
Address
1 Broad ST
Ellijay, GA 305400000

Agency
ATLANTA POLICE DEPARTMENT; GA0100900;
CHIEF OF POLICE
Address
3493Donald Lee Hollowell pkwy
ATLANTA, GA 30331

Agency
GEORGIA CRIME INFORMATION CENTER; GA0910K;
CCH HELPLINE
Address
PO BOX 370808
Decatur, GA 30037-0808

* * * END OF RECORD * * *
<table>
<thead>
<tr>
<th>Cycle</th>
<th>Date</th>
<th>Arresting Agency</th>
<th>Arresting Charge(s) and Severity (felony or misdemeanor)</th>
<th>Result on GCIC (note severity of any convictions)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cycle 1</td>
<td>6/30/1981</td>
<td>Fulton County Police Dept.</td>
<td>Contempt of State Court for Fingerprintable Charge (misd)</td>
<td>No Bill</td>
<td></td>
</tr>
<tr>
<td>Cycle 2</td>
<td>9/30/1983</td>
<td>Atlanta Police Department</td>
<td>Carrying Deadly Weapons to or at Public Gatherings (misd); Carrying Concealed Weapon (unknown); Purchase, Possession, Manufacture, Distribution, or Sale of Marijuana (felony)</td>
<td>Dismissed (all charges)</td>
<td></td>
</tr>
<tr>
<td>Cycle 3</td>
<td>12/16/1990</td>
<td>GCIC</td>
<td>Purchase, Possession, Manufacture, Distribution, or Sale of Marijuana (felony); Carrying a Pistol Without License (unknown)</td>
<td>Missing Disposition</td>
<td></td>
</tr>
<tr>
<td>Cycle 4</td>
<td>12/16/1990</td>
<td>Fulton County Sheriff’s Office</td>
<td>Purchase, Possession, Manufacture, Distribution, or Sale of Marijuana (felony)</td>
<td>Missing Disposition</td>
<td></td>
</tr>
<tr>
<td>Cycle 5</td>
<td>4/7/1991</td>
<td>Atlanta Police Department</td>
<td>Purchase, Possession, Manufacture, Distribution, or Sale of Marijuana (felony)</td>
<td>Dead Docket</td>
<td></td>
</tr>
<tr>
<td>Cycle 6</td>
<td>11/15/1994</td>
<td>Atlanta Police Department</td>
<td>Carrying a Concealed Weapon (unknown)</td>
<td>Dead Docket</td>
<td></td>
</tr>
<tr>
<td>Cycle 7</td>
<td>11/3/1996</td>
<td>Forest Park Police Department</td>
<td>Possession of Firearm or Knife During Commission of or Attempt to Commit Certain Felonies (felony); Violation GA Controlled Substance Act (unknown); Carrying a Pistol Without License (unknown); Carrying a Concealed Weapon (unknown)</td>
<td>First Offender Act (2 misd) – Revoked</td>
<td></td>
</tr>
<tr>
<td>Cycle 8</td>
<td>4/11/1997</td>
<td>Atlanta Police Department</td>
<td>Disorderly Conduct (Occupy a Dive) (misd) Purchase/Possession/Control –Crack (felony)</td>
<td>Dismissed (all charges)</td>
<td></td>
</tr>
<tr>
<td><strong>Cycle</strong></td>
<td><strong>Date</strong></td>
<td><strong>Jurisdiction</strong></td>
<td><strong>Offense</strong></td>
<td><strong>Disposition</strong></td>
<td></td>
</tr>
<tr>
<td>-----------</td>
<td>-------------</td>
<td>-----------------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>--------------------</td>
<td></td>
</tr>
<tr>
<td>Cycle 9</td>
<td>9/12/1997</td>
<td>Clayton County Sheriff’s Office</td>
<td>Probation Violation (unknown)</td>
<td>Convicted (misd)(probation revoked)</td>
<td></td>
</tr>
<tr>
<td>Cycle 10</td>
<td>2/5/1998</td>
<td>Fulton County Sheriff’s Office</td>
<td>Purchase/Possession/Control (felony)</td>
<td>Missing Disposition</td>
<td></td>
</tr>
<tr>
<td>Cycle 11</td>
<td>10/24/1998</td>
<td>Atlanta Police Department</td>
<td>Aggravated Assault (felony); Possession of Sawed-Off Shotgun, Sawed-Off Rifle, Machine Gun, Dangerous Weapon, or Silencer (felony)</td>
<td>Missing Disposition</td>
<td></td>
</tr>
<tr>
<td>Cycle 12</td>
<td>9/24/2002</td>
<td>Fulton County Sheriff’s Office</td>
<td>Probation Violation (Possession of Cocaine) (unknown)</td>
<td>Missing Disposition</td>
<td></td>
</tr>
</tbody>
</table>
This rap sheet was produced in response to the following request:

**THIS RESPONSE IS BEING PRODUCED FOR YOUR REQUEST SENT: 2012-03-28 (GA; 2007-08-11)**

Important: Criminal history record information is obtained one of two ways: 1) by conducting an inquiry using personal identifiers such as name and date of birth (name search), or 2) by submitting fingerprint cards to the Georgia Crime Information Center (GCIC). When conducting a name search for criminal history record information, there is a possibility that the information returned belongs to a different person with the same, or similar, identifiers. In this case, a positive match of the person whose criminal history record is sought requires submission of fingerprint cards to GCIC. When conducting a fingerprint search for criminal history record information, the information returned does, in fact, belong to the individual. In this case, conducting a name search using the individual's personal identifiers would be the same information. (GA; 2007-08-11)

When the information contained in a criminal history report causes an adverse employment or licensing decision the individual, business or agency making the decision must inform the applicant of all information pertinent to the decision. The disclosure must include information that a criminal history record check was conducted, the specific contents of the record and the effect the record had upon the decision. Failure to provide all such information to the person subject to the adverse decision is a misdemeanor offense under Georgia law. Additionally, any unauthorized dissemination of this record of information herein also violates Georgia law. The plea of nolo contendere may be considered a conviction for some purposes; however, except as otherwise provided by law, it shall not be used against the defendant in any other court as a conviction or admission of guilt or for the purpose of effecting any civil disqualification of the defendant to hold public office, to vote, to serve upon any jury, or any other civil disqualification imposed upon a person convicted of any offense under the laws of this state. (GA; 2007-08-11)

In the event that identifiers are not clearly associated to a specific cycle, the information is most likely non-fingerprint based information.
received from the Department of Corrections at the time of release from incarceration. (GA: 2007-08-11).

********************** IDENTIFICATION **********************

Subject Name(s)

<table>
<thead>
<tr>
<th>HARVEY</th>
<th>(2007-08-08)</th>
</tr>
</thead>
<tbody>
<tr>
<td>HARVEY (AKA)</td>
<td>(2007-08-08)</td>
</tr>
</tbody>
</table>

Subject Description

PBI Number: 929058RA6
State Id Number: GA1837314T

Social Security Number: (2007-08-08)

Sex: Male (1992-10-29)
Race: Black (1992-10-29)

Height: 5'10" (1992-10-29)
Weight: 165 (1992-10-29)
Date of Birth: 197_ (2007-08-08)

Hair Color: Black (1992-10-29)
Eye Color: Brown (1992-10-29)

Place of Birth: OHIO (1992-10-29)

Miscellaneous Information

III Record: SSO
Comment: CONVICTED FELON (GA).

************************** CRIMINAL HISTORY **************************

Offender Tracking Number (CCN): 00040963462
Cycle 1 of 2

Earliest Event Date: 1992-01-27
Offense Date: 1992-01-27
Arrest SRF: 42230003
Judicial SRF: 46871184

Arrest Date: 1992-01-27

Arresting Agency: GA0640600 UNION CITY POLICE DEPARTMENT
                      HARVEY

Charge Tracking Number: 00040963462-1
Charge: THEFT BY TAKING
Statute: 16-8-2; GA
State Offense Code: 2382
Severity: Unknown
Wednesday, March 28, 2012

Charge
Charge Tracking Number: 00040963462-2
Charge Literal: POSSESSION OF TOOLS FOR COMMISSION OF A CRIME
Statute: 16-7-20; GA
State Offense Code: 0014
Severity: Felony

Charge
Charge Tracking Number: 00040963462-3
Charge Literal: OBSTRUCTION POLICE/PUBLIC ADMINISTRATION
Statute: NOT FOUND; GA
State Offense Code: 4899
Severity: Unknown

Court Disposition: DEAD DOCKET (1992-03-19; Deferred)
Case Number: 20514
Court Agency: GA0603715
Subject’s Name: HARVEY

Charge
Charge Tracking Number: 00040963462-1
Charge Literal: THEFT BY TAKING
Statute: 16-8-2; GA
State Offense Code: 2382
Severity: Unknown
Disposition: DEAD DOCKET (1992-03-19; Deferred)

Charge
Charge Tracking Number: 00040963462-2
Charge Literal: POSSESSION OF TOOLS FOR COMMISSION OF A CRIME
Statute: 16-7-20; GA
State Offense Code: 0014
Severity: Felony
Disposition: DEAD DOCKET (1992-03-19; Deferred)

Charge
Charge Tracking Number: 00040963462-3
Charge Literal: OBSTRUCTION POLICE/PUBLIC ADMINISTRATION
Statute: NOT FOUND; GA
State Offense Code: 4899
Severity: Unknown
Disposition: DEAD DOCKET (1992-03-19; Deferred)

Offender Tracking Number (OTN): 00049137896
Hardest Event Date: 1992-10-29
Offense Date: 1992-10-29
Arrest SRF: 46880402
Judicial SRF: 64462870, 64462870

Arrest: (Cycle 2)
Arrest Date: 1992-10-29
Case Number: 609619
Arresting Agency: GRAPD0000 ATLANTA POLICE DEPARTMENT
Subject’s Name: HARVEY
Arrest Type: Adult

Charge
Charge Tracking Number: 00049137896-1
Charge Literal: SODOMY
Wednesday, March 28, 2012

Statute 16-6-2; GA
State Offense Code 1118
Severity Felony

Charge
Charge Tracking Number 00049137896-2
Charge Literal PANDER/IDLING/LOITERING FOR SEX/UNDER 18
Statute 16-6-12; GA
State Offense Code 4042
Severity Unknown

Court Disposition (Cycle 2)
Case Number
Court Agency GA060081J
Subject's Name HARVEY

Charge
Charge Tracking Number 00049137896-1
Charge Literal SODOMY
Statute 16-6-2; GA
State Offense Code 1118
Severity Felony
Disposition AMENDED TO A NON-FINGERPRINTABLE CHARGE (2008-03-03; Unknown)

Court Disposition (Cycle 2)
Case Number 228366495
Court Agency GA060021J
Subject's Name HARVEY

Charge
Charge Tracking Number 00049137896-1
Charge Literal SODOMY
Statute 16-6-2; GA
State Offense Code 1118
Severity Felony
Disposition GUILTY (CONVICTED / ADJUDICATED) (1997-10-23; Convicted)

Charge
Charge Tracking Number 00049137896-2
Charge Literal PANDER/IDLING/LOITERING FOR SEX/UNDER 18
Statute 16-6-12; GA
State Offense Code 4042
Severity Unknown
Disposition DISMISSED (1997-10-23; Dismissed)

Sentencing (Cycle 2)
Case Number
Sentence Date 1997-10-23
Sentencing Agency GA060021J ATLANTA TRAFFIC COURT

Charge
Charge Tracking Number 00049137896-1
Sentence FINE $200
SUSPENDED SENTENCE 20 DAYS

******************************************************** INDEX OF AGENCIES ********************************************************
<table>
<thead>
<tr>
<th>Agency</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>ATLANTA TRAFFIC COURT; GA060021J; JUDGE</td>
<td>150 GARNET STREET ATLANTA, GA 303030000</td>
</tr>
<tr>
<td>UNION CITY POLICE DEPARTMENT; GA060060D; CHIEF</td>
<td>5060 UNION STREET UNION CITY, GA 302910000</td>
</tr>
<tr>
<td>ATLANTA MUNICIPAL COURT; GA060081J; JUDGE</td>
<td>150 GARNETT STREET ATLANTA, GA 303030000</td>
</tr>
<tr>
<td>UNION CITY MUNICIPAL COURT; GA060371J; JUDGE</td>
<td>5047 UNION STREET UNION CITY, GA 302910000</td>
</tr>
<tr>
<td>ATLANTA POLICE DEPARTMENT; GA0000000; CHIEF OF POLICE</td>
<td>3493 DONALD LEE HOLLOWELL PKWY ATLANTA, GA 30331</td>
</tr>
</tbody>
</table>

*** END OF RECORD ***
<table>
<thead>
<tr>
<th>Cycle</th>
<th>Date</th>
<th>Arresting Agency</th>
<th>Arresting Charge(s) and Severity (felony or misdemeanor)</th>
<th>Result on GCIC (note severity of any convictions)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cycle 1</td>
<td>1/27/1992</td>
<td>Union City Police Department</td>
<td>Theft by Taking (unknown); Possession of Tools for Commission of a Crime (felony); Obstruction Police/Public Administration (unknown)</td>
<td>Dead Docket (all charges)</td>
<td></td>
</tr>
<tr>
<td>Cycle 2</td>
<td>10/29/1992</td>
<td>Atlanta Police Department</td>
<td>Sodomy (felony); Pander/Idling/Loitering for Sex/Under 18 (unknown)</td>
<td>Convicted (felony)</td>
<td>Says amended to a non-fingerprintable charge but convicted of a felony in traffic court??</td>
</tr>
</tbody>
</table>
CHAMBLEE POLICE DEPARTMENT
CRIMINAL HISTORY CONSENT FORM

I hereby authorize to receive any Georgia criminal history record information pertaining to me which may be in the files of any state or local criminal justice agency in Georgia.

Full Name (print)

Address

Sex | Race | Date of Birth | Social Security Number

Signature

Date

Special employment provisions (check if applicable):

☐ Employment with mentally disabled (Purpose code ‘M’)
☐ Employment with elder care (Purpose code ‘N’)
☐ Employment with children (Purpose code ‘W’)

One of the following must be checked:

☒ This authorization is valid for 90/180 (circle one) days from date of signature.
☐ I, __________________________ give consent to the above named to perform periodic criminal history background checks for the duration of my employment with this company.

CH CLERK: ___________________ DATE: __________
§ 42-8-63.1. Discharges disqualifying individuals from employment

(a) A discharge under this article may be used to disqualify a person for employment if:

(1) The offender was discharged under this article on or after July 1, 2004; and either

(2) The employment is with a public school, private school, child welfare agency, or a person or entity that provides day care for minor children or after school care for minor children and the defendant was discharged under this article after prosecution for the offense of child molestation, sexual battery, enticing a child for indecent purposes, sexual exploitation of a child, pimping, pandering, or incest;

(3) The employment is with a nursing home, personal care home, or a person or entity that offers day care for elderly persons and the defendant was discharged under this article after prosecution for the offense of sexual battery, incest, pimping, pandering, or a violation of Code Section 30-5-8; or

(4) The request for information is an inquiry about a person who has applied for employment with a facility as defined in Code Section 37-3-1 or 37-4-2 that provides services to persons who are mentally ill as defined in Code Section 37-1-1 or developmentally disabled as defined in Code Section 37-1-1, and the person who is the subject of the inquiry to the center was prosecuted for the offense of sexual battery, incest, pimping, or pandering.

(b) Any discharge under this article may be used to disqualify a person from acquiring or maintaining a peace officer certification as provided for in Chapter 8 of Article 35 and also may disqualify a person from employment in a certified position with a law enforcement unit where the discharge under this article pertained to a felony offense or a crime involving moral turpitude.


NOTES: EFFECTIVE DATE. --This Code section became effective July 1, 2004.

The 2006 Amendment, effective April 18, 2006, designated the previously existing provisions of this Code section as subsection (a); and added subsection (b).
Date Requested 2/29/12
Attorney Brenda
Full Name Malcolm        Alias
DOB 1/968  Social Security Number 317

<table>
<thead>
<tr>
<th>Cycle</th>
<th>Date of Arrest</th>
<th>Agency</th>
<th>Charges (severity)</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>2/7/2008</td>
<td>Atlanta Police Department</td>
<td>Possession of Cocaine (mgy)</td>
</tr>
</tbody>
</table>

x Certified ___ Plain

Result on GCIC - Yes / No

Resolving Agency/Court from GCIC (try here first)

Results from computer searches:

Case Number:

Notes

Checked
☐ Superior Court
☐ State Court
☐ Municipal
☐ Other

□ FOUND  Initials_____

Completed in File 3/15/12.
IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

v.

MALCOLM

Atlanta Police Department
Case No. 080381419

DECISION OF DISTRICT ATTORNEY TO
DECLINE TO PROSECUTE DEFENDANT

Comes now Paul L. Howard, Jr., District Attorney of the Atlanta Judicial Circuit, State of Georgia, and shows this honorable Court the following:

The facts of this case have been reviewed with the arresting officer and, although it appears that probable cause existed for the defendant’s arrest, it is the decision of the District Attorney at this time NOT TO PROSECUTE the above named defendant for charges arising from Atlanta Police Department Case No. 080381419.

FILING OFFICE

FEB 6 2008

Leetra Harris
Assistant District Attorney
Atlanta Judicial Circuit
Date Requested: 10/26/11
Attorney: Brenda Smarson
Full Name: Jack B.
DOB: 1955
Social Security Number: 253-1

<table>
<thead>
<tr>
<th>Cycle</th>
<th>Date of Arrest</th>
<th>Agency</th>
<th>Charges (severity)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>5/27/1978</td>
<td>Atlanta Police</td>
<td>Crimes Against Person/Interruption of Lawful Occupation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Department</td>
<td>Police Officer (unknown)</td>
</tr>
</tbody>
</table>

Certified: Yes / No

Result on GCIC: Yes / No
Resolving Agency/Court from GCIC: Unknown

Case Number: A022361?

Checked: Superior Court
State Court
Municipal
Other

To: Superior Court, 11/2/11
To: Municipal Court, 11/2/11
To: Complete in File 11/14/11

Found: Initials

Alias: ___
To Whom It May Concern:

05/27/1978–CRIMES AGAINST PERSON (INTERFER W/LAWFUL OCCUP OF POLICE OFFICER–JACK

Please be advised that in accordance with the “Common RecordsRetention Schedules for Courts” issued by the Secretary of State of Georgia, our court does not keep disposed citations once all requirements have been met and citations reach the end of the retention period. We regret therefore, that we are unable to provide you with certified copies of the final disposition.

If you have any questions or need further assistance, please feel free to contact our office at (404) 954.6709 OR shonjohnson@atlantaga.gov.

Sincerely,

[Signature]

J. S. Johnson
Court Clerk
Date Requested: 6/5/12
Attorney: Brenda Smeeton
Full Name: Valerie N
DOB: 5/14/1960

Fulton County
DeKalb County
Other County

Alias: Valerie Michelle

<table>
<thead>
<tr>
<th>Cycle</th>
<th>Date of Arrest</th>
<th>Agency</th>
<th>Charges (severity)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>01/01/1996</td>
<td>APD</td>
<td>Aggravated Assault (felony)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Simple Battery (misdemeanor)</td>
</tr>
</tbody>
</table>

Certified: Yes

Result on GCIC: Yes

Resolving Agency/Court from GCIC: All Municipal Court (try here first)

Results from computer searches:

Case Number:

Notes:

Checked:
- Superior Court
- State Court
- Municipal
- Other

6/5/12 dropped 511 at municipal

Completed in file 8/15/12

[ ] FOUND

Initials: __________
THE MUNICIPAL COURT OF ATLANTA

Hon. Crystal Gaines, Chief Judge

Robenna Bosch, Court Operations Manager
404-589-3256

STATE OF GEORGIA )
) THE MUNICIPAL COURT OF ATLANTA
COUNTY OF FULTON )

DEFENDANT'S NAME: Valeri

DATE OF BIRTH: 03/17/1960 SOC. SECURITY: xxx-x

<table>
<thead>
<tr>
<th>Date</th>
<th>Charge</th>
<th>Disposition</th>
</tr>
</thead>
<tbody>
<tr>
<td>03/16/1996</td>
<td>Simple Battery</td>
<td>Dismissed: Motion of Prosecution</td>
</tr>
</tbody>
</table>

THIS CASE HAS BEEN CLOSED AND IS FINALIZED

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT STATEMENT OF THE DOCKET, ACCUSATION, AND JUDGMENT RENDERED BY THE MUNICIPAL COURT OF ATLANTA, ATLANTA, GEORGIA.

Given under my hand and official signature this 14th day of June 2012.

Court Clerk, The Municipal Court of Atlanta, Atlanta, Georgia.
## Coming Home – Disposition Finder

**Date Requested:** 6/13/12

**Requested By:** Kristin Halladay

**Attorney:** Brenda

**Full Name:** Jamel

**DOB:** 1/7/60

**Social Security Number:** 425

<table>
<thead>
<tr>
<th>Cycle</th>
<th>Date of Arrest</th>
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<th>Charges (severity)</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>12/17/2008</td>
<td>APD</td>
<td>Aggravated Assault (felony)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Battery-family violence (misd)</td>
</tr>
</tbody>
</table>

**Certified:** Yes

**Name Arrested Under (if different from above):** Jamel Vasno

**Result on GCIC:** Yes / No

**Resolving Agency/Court from GCIC:** Not in DeKalb according to OIS

**Case Number:** 09 SC 77317

**Notes:** 6/18 dropped off at Fulton Superior

**Checked:**
- Superior Court
- State Court
- Municipal
- Other

**FOUND** Initials ______
IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

VS

Jamal Vash

FILED IN OFFICE
JUN 19 2009
DEPUTY CLERK SUPERIOR COURT
FULTON COUNTY, GA

PLEA

NEGOTIATED

GUILTY ON COUNT(S)

NOLO CONTENDERE ON COUNT(S)

NOT TO LESSEr INCLUDED OFFENSE(S)

SIMPLE ASSAULT

ON COUNT(S) 1

VERDICT

JURY

GUilty ON COUNT(S)

NON-JURY

GUilty ON COUNT(S)

NOLLE PROSEQUI ORDER

ON COUNT(S)

OTHER DISPOSITION

DEAD DOCKET ORDER ON

COUNT(S)

DEFENDANT ADVISED OF HIS HER RIGHT TO HAVE SENTENCE REVIEWED BY THE SUPERIOR COURT'S SENTENCE REVIEW PANEL

FELONY SENTENCE

MISDEMEANOR SENTENCE

WHEREAS, the above named defendant has been found guilty of the above stated offense. WHEREUPON, it is ordered and adjudged by the Court that:

The said defendant is hereby sentenced to confinement for a period of

Twelve (12) Months

Commuted to served as to each.

credit for time served

Sentenced per penalty enhancement

In the State Penal System or such other institution as the Commissioner of the State Department of Corrections or Court may direct, to be computed as provided by law.

HOWEVER, it is further ordered by the Court:

1) THAT the above sentence may be served on probation.

2) THAT the above sentence be suspended.

3) THAT upon service of of the above sentence, the remainder of

may be (suspended) (served on probation), PROVIDED that the said defendant complies with the following general and other conditions herein imposed by the Court as a part of this sentence.

GENERAL CONDITIONS OF PROBATION/SUSPENSION

The defendant, having been granted the privilege of serving all or part of the above stated sentence on probation, hereby is sentenced to the following general conditions of probation:

1. Do not violate the criminal laws of any governmental unit.

2. Avoid use of alcohol and narcotics and other dangerous drugs unless lawfully prescribed – and avoid persons or places of disreputable or harmful character.

3. Report to the Probation Officer as directed and do not change your address, move outside Fulton County, or leave the state without prior permission of the Probation Officer. (Probated Sentence Only)

4. Maintain employment and support your legal dependants. Submit to evaluations and testing and complete any program as directed by theProbation Officer.

5. Submit to a search of your person, residence, papers and/or effects, anytime of the day or night, with or without a search warrant, whenever requested to do so by a Probation Officer or any law enforcement officer upon reasonable cause to believe that you are in violation of the law. You further specifically consent to the taking of anything seized as a result of a search as evidence in judicial proceedings.

6. Upon oral or written request by any Probation Officer, provide a breath, urine and/or blood specimen for analysis for the possible presence of a substance prohibited or controlled by any law of the State of Georgia or of the United States. (Probated Sentence Only)
IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

VS

Jamel Voshon

□ OTHER CONDITIONS OF PROBATION/SUSPENSION

IT IS FURTHER ORDERED that the defendant pay a FINE of $__________. Plus all applicable fees as set by law. Plus $50.00 IDAF (a fee waived). Plus pay $__________ for Probation/Misdemeanor Probation Fee.

RESTITUTION to the victim in the amount of $__________

RESTITUTION to the Court Administrator for ATTORNEY FEES in the amount of $__________________

OTHER $__________

□ SPECIAL CONDITIONS OF PROBATION/SUSPENSION (O.C.G.A 42-8-34.1)

□ Stay away from victim
□ Stay away ________ yards from victim.
□ ________ Hours of Community Service
□ Drug/Alcohol Assessment/must complete any treatment required by the probation department
□ Must successfully complete Intensive Probation Program
□ Must successfully complete Drug Court Program
□ Obtain GED

________________________

IT IS THE FURTHER ORDER of the Court, and the defendant is hereby advised that the Court may, at any time, revoke any conditions of this probation/suspension and/or discharge the defendant from probation/suspension. The defendant shall be subject to arrest for violation of any general condition of probation, special condition of probation or suspension herein granted. If such probation/suspension is revoked, the Court may revoke a portion of the sentence which was originally imposed in the manner provided by law after deducting there from the amount of time the defendant has served on probation/suspension. If a special condition of probation is violated, the Court may revoke the entire balance of the probated sentence.

The defendant was represented by Loretta Bayah

Attorney at Law

So ordered this 19 day of June 20 09

Judge, Fulton Superior Court
Atlanta Judicial Circuit

Court Reporter: Evelyn Potter

CERTIFICATE OF SERVICE

This is to certify that a true & correct copy of this Sentence of Probation has been delivered in person to the defendant & he/she has been instructed regarding the above conditions.

This ______ day of _______ 20______ Probation Officer ________ Probationer

Filed in Office this 19th day of June ______ 20______ Deputy Clerk

White – Clerk  Canary – Sheriff  Pink – Probation Office  Goldenrod – Defendant

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<td>Probation 12 Months</td>
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</table>
July 9, 2012

Georgia Crime Information Center
CCH/Identification Services
P.O. Box 370748
Decatur, GA 30037
Fax: 404-270-8417

RE: Incorrect Final Disposition on the Criminal Record of

To Whom It May Concern:

I am an attorney with the Georgia Justice Project, and I write on behalf of my client [NAME]. On February 1, 2003, Ms. Stewart was arrested by the Dade County Sheriff’s Office for Marijuana Possession Less Than One Ounce, a misdemeanor.

On April 1, 2003, [NAME] pleaded guilty to this charge and was sentenced to twelve months of probation.

Currently, [NAME]'s criminal history incorrectly states that she was convicted of a felony in this case. [NAME] requests that her criminal history be corrected to reflect the proper final disposition of the case, a misdemeanor sentence.

Enclosed is a copy of the final disposition of the case.

If you have any questions, please call me at (404) 827-0027 ext. 235.

Respectfully,

Brenda J. Smeeton
Staff Attorney
The magistrate court of Dade County

Case No.

State

VS

Defendant

Plea:

Guilty on No(s)

No No(s)

Verdict:

Non-Jury

Guilty on No(s)

Jury

Not guilty on No(s)

Misdemeanor sentence

Whereas, the above-named defendant has been convicted of the above-stated offense(s): it is ordered and adjudged by the Court that the defendant is sentenced to confinement for a period of

However, it is further ordered by the Court:

(1) That the above sentence may be served on probation.

(2) That upon service of the above sentence, the remainder may be served on probation.

General conditions of probation

The defendant, having been granted the privilege of serving all or part of the above sentence on probation, is hereby sentenced to the following general conditions of probation:

1) Do not violate the criminal laws of any governmental unit.
2) Avoid persons or places of disreputable or harmful character.
3) Work faithfully at suitable employment insofar as may be possible.
4) Support your legal dependents to the best of your ability.
5) From time to time, upon oral or written request by the Probation Officer, produce a breath, urine, and/or blood specimen for testing for the presence of any substance prohibited or controlled by the laws of any governmental unit.
6) Avoid injurious and vicious habits—especially alcoholic intoxication, narcotics and other dangerous drugs unless prescribed lawfully.

SPECIAL CONDITIONS OF PROBATION

It is further ordered that the defendant pay:

Total fines, court costs, and mandatory surcharges:
Reimbursement for Attorney's fees
Restitution to

Probation supervision fee to GSP of $ per month.
State crime victims fund of $ per month.

Payments are to be made as directed by the Probation Officer. Total fines, costs, mandatory surcharges and restitution are to be paid within

( ) It is a further condition that the defendant perform hours of community service work as directed by the Probation Officer.

( ) It is a further condition that the defendant shall complete a drug/alcohol assessment at a facility approved by the Probation Officer and shall complete any recommended course of treatment.

( ) It is a further condition that the defendant shall serve (consecutive) weekends in jail.

( ) It is a further Ordered that upon successful completion of all special conditions of probation, provided no other conditions have been violated, the balance of the sentence shall be suspended.

It is further ordered the Court may, at any time, revoke any condition of this probation and/or discharge the defendant from probation. The probationer is subject to arrest for violation of any condition of probation. If such probation is revoked, the Court may order the probationer incarcerated for the balance of the sentence which was originally imposed or any portion thereof in the manner provided by law. The defendant was represented by the Honorable , Attorney at Law, by (Employment) (Appointed).

SO ORDERED, this day of , 2003.

Judge

Certificate of Service

This is to certify that a true and correct copy of this Sentence of Probation has been delivered in person to the defendant and he/she was instructed regarding the conditions as set forth, this day of , 2003.

Probation Officer

I acknowledge receipt of a copy of my sentence and instructions as to the terms of my sentence, this day of , 2003.

Defendant

White - Clerk Canary - Probation Officer Pink - Defendant

Copyright 1995, Georgia Probation Services, Inc.
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<th>Charge</th>
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<td>16-5-60(B); GA</td>
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**Court Disposition**

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<td>DEAD DOCKET (2005-08-15; Deferred)</td>
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March 5, 2012

Ms. Cynthia Lee
Atlanta Police Department-Central Records
Atlanta Public Safety Annex
3493 Donald Lee Hollowell Pkwy NW
Atlanta, GA 30331

VIA HAND DELIVERY

RE: Request to Purge Incorrect Charge on the Criminal Record of... (B/F, DOB:
SSN: )

Dear Ms. Lee,

I am writing on behalf of our client... to request that an inaccurate charge on her
criminal history be purged, and that all records stating the incorrect and misleading charge be purged,
and that the record be corrected with the Georgia Crime Information Center. ... a record
inaccurately indicates that she was charged with killing her child, although her child was never harmed
in any way. I make this request to correct her record pursuant to O.C.G.A. § 35-3-37. I realize that
according to the statute your agency has 30 days to complete this request before we may appeal, but we are hopeful that you can update her record sooner. ... has had to withdraw from... College, based on the presence of this incorrect charge on her record, and she is
fearful that she will not be able to pursue a career as a Certified Nursing Assistant if this charge appears
on any background check.

On May 16, 2002... was arrested by the Atlanta Police Department and charged with three
things: Reckless Abandonment of Child Under One Year Old Resulting in Death (O.C.G.A. § 16-5-72);
Cruelty to Children-1st Degree (O.C.G.A. § 16-5-70); and Reckless Conduct (O.C.G.A. § 16-5-60). What
happened in this incident is that... was accused of leaving her young son home alone (she
maintains that she left him in a relative’s care). I have attached a copy of the police report of this
incident which states that her son was not injured in anyway. Therefore, there was no basis for the
officer to charge her with Reckless Abandonment of a Child Under One Year Old Resulting in Death; it
was clearly a mistake. The charge was dismissed at Municipal Court by motion of the prosecutor. I have
attached a copy of the disposition from Municipal Court. When we spoke to someone at APD they
requested that we provide a copy of the “Green Ticket,” however, municipal court no longer has that
record as they are destroyed after a certain number of years.
The other two charges were bound over to Fulton County State Court, where an accusation for misdemeanor Reckless Conduct was issued, but the case was eventually dead docketed. I have enclosed a copy of this record as well.

[Redacted] record with GCIC lists the felony Reckless Abandonment Leading to Death charge. She has been denied jobs as a result of this charge on her record. As I stated above, she is currently in school and trying to get this inaccurate and misleading charge removed from her record so that she can complete her required clinical field placement. For these reasons I am requesting that [redacted] record be updated and the Reckless Abandonment of a Child Under One Year Old Resulting in Death charge be removed from the police report of the incident and all records in the custody of the Atlanta Police Department, and that the charge be removed from her GCIC record.

Again, I understand how busy you are, but would really appreciate it if you can expedite this request. [Redacted] would like to reenroll for the summer semester and has to do that this month. Please don't hesitate to contact me with any questions at 404-827-0027, ext. 235 or Brenda@GJP.org.

Respectfully,

[Brenda's signature]

Brenda Smeet
Staff Attorney

[Lauren's signature]

Lauren Travis
Volunteer Attorney
THE CITY OF ATLANTA MUNICIPAL COURT
STATE OF GEORGIA

February 27, 2012

City of Atlanta

vs.

RESPONDENT'S NAME:
RESPONDENT'S ADDR:

DATE OF BIRTH:

CASE#: 

TICKET#: 

OFFENSE DATE: 05/16/2002

Charge: 16-5-72 RECKLESS ABANDONMENT OF CHILD
16-5-70 CRUELTY TO CHILDREN
16-5-60.B RECKLESS CONDUCT

Disposition: 05/17/2002 DISMISSED - MOTION OF PROSECUTION
08/22/2002 BOUND OVER TO FULTON STATE COURT
08/22/2002 BOUND OVER TO FULTON STATE COURT

Amount Due: 0.00

THIS CASE HAS BEEN CLOSED AND FINALIZED

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT STATEMENT OF THE DOCKET, COMPLAINT, ACCUSATION, AND JUDGMENT RENDERED BY THE MUNICIPAL COURT OF ATLANTA, ATLANTA, GEORGIA.

Given under my hand and official signature this 27 February 2012.

Court Clerk

THE LENWOOD A. JACKSON SR. JUSTICE CENTER
150 Garnett St., S.W. Atlanta, GA, 30303-3612  404. 658 6767
## Incident Report

### Incident Information
- **Incident Date:** 05/16/2002
- **Time:** 07:24
- **Location:** Home
- **Officer Involved:** Beat 403
- **County:** Fulton
- **Location Type:** Residence

### GA Codes:
- **UCR Class:** 3806:2000 Child Neglect
- **Family Violence:** No
- **Gang Related:** No
- **Temperature:** Warm
- **Weapon Or Tool:** None
- **Appears Drug Related:** No
- **Security Devices:** No

### Relationship of the Parties
- **Primary Aggressor Identified By:** Police
- **Police Action Taken:** Reason No Arrest Made
- **# Of Previous Complaints:**

### Subject 1
- **Codes (Primary/Secondary):**
- **Type:** Adult
- **Name / Business Name:**
- **Home Phone:**
- **Temp. Phone:**
- **Permanent Address:**
- **Temp. Address:**
- **Race:**
- **Sex:**
- **DOB:**
- **Age:**
- **Height:**
- **Weight:**
- **Eye Color:**
- **Hair Color:**
- **Sobriety:** Sober
- **Notified Of Rights?** Yes
- **Involved Injury?** No
- **Who ID'd This Person:** Police
- **Relation To Offender:** Brother/Sister
- **Prosecute/Testify?** Yes
- **Hand Use:** Unknown

### Subject 2
- **Codes (Primary/Secondary):**
- **Type:** Adult
- **Name / Business Name:**
- **Home Phone:**
- **Temp. Phone:**
- **Permanent Address:**
- **Temp. Address:**
- **Race:**
- **Sex:**
- **DOB:**
- **Age:**
- **Height:**
- **Weight:**
- **Eye Color:**
- **Hair Color:**
- **Sobriety:** Unknown
- **Who ID'd This Person:** Police
- **Court Appointment Date/Time:** 05/17/2002 09:30
- **Arrest Location:**
- **Arrest Type:** Physical Arrest
- **Involved Injury?** No
- **Arrest Date/Time:** 05/16/2002 07:45
- **Charges:** 16-5-60.b Reckless Conduct; 16-5-72 Reckless Abandonment Of Child; 16-5-70d Cruelty To Children-dv
- **Weapon Used/Possessed:** None

### Subject 3
- **Codes (Primary/Secondary):**
- **Type:** Juvenile
- **Name / Business Name:**
- **Home Phone:**
- **Temp. Phone:**
- **Permanent Address:**
- **Temp. Address:**
- **Race:**
- **Sex:**
- **DOB:**
- **Age:**
- **Height:**
- **Weight:**
- **Eye Color:**
- **Hair Color:**
- **Sobriety:** Sober
- **Notified Of Rights?** No
- **Involved Injury?** No
- **Who ID'd This Person:** Police
- **Relation To Offender:** Child
- **Prosecute/Testify?** No
On listed date and time I was dispatched to the above residence that a 2 year old child had been left home alone by himself. Upon arrival I met with the child's uncle, stated that he checks on his sister every morning before he goes to work because there have been several occasions when she had left her son home alone. Stated when he arrived at the residence the front door was left open and the child was in his crib in the back bedroom. I then followed as he took the child to his father's house at. Upon arrival stated that his sister was in the house. I questioned the child's mother about the situation. Stated she left the child with her Uncle while she went to get money for bus fare and her Georgia Power bill from the children's father. Stated she left when the sun came up and her Uncle was at the house. Stated that when she came to his house and asked for money but she did not tell him what she wanted the money for. was charged as listed and transported to pre-trial detention. The child was left with his father.
Georgia Justice Project – Coming Home

GCIC Arrest Challenge Procedures

In Person:

To contest the accuracy of information in your criminal history record, or if your identification data was used in another individual’s criminal history record, fingerprints must be submitted to GCIC for comparison. A $20.00 fee (includes $3.00 for the inspection and $17.00 rolling fee) payable by certified check or money order to the Georgia Crime Information Center, is required. Contact GCIC to schedule an appointment (404) 244-2639 (Opt. 2).

By Mail:

If you are unable to come in person, the following information is required:

- A signed written request with a brief explanation for the request to include the specific data that is being challenged and a complete return mailing address.

- Each request must contain two completed applicant fingerprint cards with all of the applicant’s personal information (name, date of birth, place of birth, etc.) and a current set of 10 rolled fingerprints and eight flat fingerprint impressions. Fingerprints and impressions must be taken by a local law enforcement agency; please include a photocopy of the applicant’s identification that was presented to the law enforcement agency that did the printing and provide their address and telephone number so that GCIC may contact them if there are any questions.

  o Nearest Location to GJP: Fulton County Police Department
    130 Peachtree Street
    Atlanta, GA 30303
    (404) 613-5700
    Cost: $60.00 (includes the fingerprint cards)

- A $3.00 fee, payable by certified check or money order to the Georgia Crime Information Center, is required.

- Information should be mailed to the address listed in the contact information. Your request will be processed and a certificate (letter) with the results will be mailed back to you.
August 24, 2011

Criminal History Expungements (Central Records)
Atlanta Public Safety Annex
3493 Donald Lee Hollowell Parkway, NW
Atlanta, GA 30331

Re: Expungement Application of Lisa L. (nee F) (DOB _______ and _______)
Social Security 2

To Whom It May Concern:

I write on behalf of my client, Ms. Lisa who is seeking an expungement of the following charges from her criminal history: Criminal Damage to Property-1st Degree and Carrying a Concealed Weapon (arrest date 1/29/1989).

Enclosed is the necessary paperwork for the expungement, which includes the three-page application, a copy of Ms. _______’s identification, and a $25 money order made payable to the Atlanta Police Department. Also included is a certified copy of the disposition in the case.

If you have any questions please do not hesitate to call me at 404-827-0027, ext. 235. Thank you for your assistance.

Sincerely,

Brenda J. Smeeton
Staff Attorney
REQUEST TO EXPUNGEMENT ARREST RECORD
O.C.G.A. 35-3-37(6)

One (1) Date of Arrest Only Per Request and
A non-refundable $25.00 Fee
(Money Order or Certified Check payable to “Georgia Bureau of Investigation”) per Request
The local agency may also require a fee up to $25.00

SECTION ONE - APPLICANT INFORMATION
(To be completed by Applicant)

O.C.G.A. 35-3-37(d)(1) provides in part that “An individual who was: (A) Arrested for an offense under the laws of this state but subsequent to such arrest is released by the arresting agency without such offense being referred to the prosecuting attorney; or (B) After such offense referred to the proper prosecuting attorney, and the prosecuting attorney dismisses the charges without seeking an indictment or filing an accusation may request the original agency in writing to expunge the records of such arrest...”

<table>
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<tr>
<th>Name:</th>
<th>Lisa L.</th>
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<tr>
<td>Date of Birth:</td>
<td>64</td>
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<tr>
<td>Race:</td>
<td>Black</td>
</tr>
<tr>
<td>Sex:</td>
<td>Female</td>
</tr>
<tr>
<td>Social Security Number:</td>
<td>259</td>
</tr>
<tr>
<td>Telephone Number:</td>
<td>404-997-</td>
</tr>
<tr>
<td>Email:</td>
<td>@yahoo.com</td>
</tr>
<tr>
<td>Street Address:</td>
<td>c/o Georgia Justice Project 108 Edgewood Ave. SE</td>
</tr>
<tr>
<td>City:</td>
<td>Atlanta</td>
</tr>
<tr>
<td>State:</td>
<td>GA</td>
</tr>
<tr>
<td>Zip Code:</td>
<td>30312</td>
</tr>
<tr>
<td>Arresting Agency:</td>
<td>Atlanta Police Dept.</td>
</tr>
<tr>
<td>Date of Arrest:</td>
<td>January 29, 1989</td>
</tr>
<tr>
<td>Offense(s) Arrested For:</td>
<td>Criminal Damage to Property - 1st Degree, Carrying a Concealed Weapon</td>
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</tbody>
</table>

Sections One and Two of this form must be completed in their entirety before request may be submitted to the Prosecuting Attorney’s Office.

I request the arrest record information (Date of Arrest and associated charges) described above pertaining to me be expunged from the record(s) of the arresting agency pursuant to the provisions of O.C.G.A. 35-3-37(d).

Signature: Lisa L. Date: 8-11-11
SECTION TWO - ARREST INFORMATION
(To be completed by Arresting Agency)

O.C.G.A. 35-3-37(d)(1) provides in part that "An individual who was: (A) Arrested for an offense under the laws of this state but subsequent to such arrest is released by the arresting agency without such offense being referred to the prosecuting attorney for prosecution; or (B) After such offense referred to the proper prosecuting attorney, and the prosecuting attorney dismisses the charges without seeking an indictment or filing an accusation may request the original agency in writing to expunge the records of such arrest."

Date Request Received: _____________________________

Applicant's State Identification Number (SID): GA _____________________________

Offender Tracking Number: _____________________________

Arresting Agency Name: _____________________________

Arresting Agency ORI Number: GA _____________________________

Case / Citation / Docket Number: _____________________________

Date of Arrest: _____________________________

Arrest appears on Georgia and/or FBI criminal history record? ☐ Yes ☐ No

If arrest does not appear on either state or federal record, expungement cannot be processed and, therefore, there is no need to forward request to GCIC.

Arrest Charge Tracking Number(s) and Charges: _____________________________

Disposition of Arrest: _____________________________

Disposition appears on Georgia criminal history record? ☐ Yes ☐ No

If No, official documentation containing disposition information is attached for processing. If official documentation is not available, please provide explanation and request for exception in Prosecutor's Comments. (Without a disposition on file, official documentation, or request for exception, this request cannot be processed. GCIC fee will not be refunded.)

Prosecuting Attorney/Court Case Referred To: _____________________________

Official Completing Form:

Title: _____________________________

Name: _____________________________ Telephone Number: _____________________________

Signature: _____________________________ Email: _____________________________
SECTION THREE – PROSECUTING ATTORNEY
(To be completed by Prosecuting Attorney)

O.C.G.A. 35-3-37(d)(1) provides in part that "An individual who was: (A) Arrested for an offense under the laws of this state but subsequent to such arrest is released by the arresting agency without such offense being referred to the prosecuting attorney for prosecution; or (B) After such offense referred to the proper prosecuting attorney, and the prosecuting attorney dismisses the charges without seeking an indictment or filing an accusation may request the original agency in writing to expunge the records of such arrest..."

Date Request Received: ____________________________________________

Judicial Circuit / County: __________________________________________

Prosecuting Agency ORI Number: GA

District Attorney / Solicitor General: _________________________________

Prosecutor Assigned to Case: _______________________________________

Case / Citation / Docket Number: __________________________________

Please select one of the following actions:

_____ Expungement Meets Statutory Requirements

_____ No Information Available; Expungement Forwarded Without Objection

_____ No Information Available at Prosecutor's Office; Returned to Arresting Agency for Further Research. DO NOT FORWARD EXPUNGEMENT FORM TO GCIC.

_____ Expungement Does Not Meet All Statutory Requirements

DO NOT FORWARD EXPUNGEMENT FORM TO GCIC.

If additional Charges from same Arrest Date, other than those identified on Page 2, are also approved for expungement, list the Arrest Charge Tracking Number(s) and Charges in Prosecutor Comments.

Prosecutor Comments: ____________________________________________

________________________________________

________________________________________

________________________________________

Prosecutor Completing Form:

Name: __________________________________________ Telephone Number: _______________

Signature: ________________________________ Email: __________________________

Effective Date: 08/01/2009
March 28, 2011

To Whom It May Concern:

RE: Lisa ...
DOB: 1
MISC # 8406300

This is to advise the charges of CRIMINAL DAMAGE TO PROPERTY, and CARRYING CONCEALED WEAPON was NOT PRESENTED to the Fulton County Grand Jury on April 4, 1989.

Sincerely,

Mary Dardy
Record Room Supervisor
MD/ms

Subscribed to and sworn by me
This 28th Day of March 2011

Gloria K. Robinson
Notary Public
Clerk of Court
Clayton County, Georgia
<table>
<thead>
<tr>
<th>Serial Number</th>
<th>Year, Month, Day</th>
<th>Post Office</th>
<th>Amount</th>
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<tr>
<td>18852198928</td>
<td>2011-08-15</td>
<td>303071</td>
<td>$25.00</td>
<td>0003</td>
</tr>
</tbody>
</table>

**POSTAL MONEY ORDER**

Pay to: APO - City of Atlanta

Address: 3405 Donald Lee Hollowell
Atlanta, GA 30331

Memo: Expense

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SEE REVERSE WARNING - NOT NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS

18852198928
August 9, 2012

Georgia Crime Information Center
Expungements
P.O. Box 370808
Decatur, GA 30037-0808

Re: Approved Expungement Application of John Doe (DOB 12/31/1977) and Social Security #

To Whom It May Concern:

Enclosed is the original approved expungement application for Mr. John Doe. Also enclosed is a $25.00 money order, made payable to Georgia Bureau of Investigation.

The date of arrest was September 22, 1992 and the charge was Simple Battery.

If you have any questions please do not hesitate to call me at 404-827-0027, ext. 235.

Thank you for your assistance.

Sincerely,

Brenda J. Smeeton
Staff Attorney
May 21, 2012

Georgia Justice Project
Brenda J. Smeeton
438 Edgewood Ave
Atlanta, GA 30312

Re: Request to Expunge for Jac

Criminal History arrest date: 09/22/1992

Dear Sir or Madam:

The Atlanta Police Department, Identification Unit, on receipt of your request for an expungement of criminal history information on file with our Department, forwarded your request to the Solicitor/District Attorney of the court of final jurisdiction of your charges(s).

The Solicitor/District Attorney has approved your request and the criminal arrest(s) approved for expungement will be purged from the criminal history files in the Atlanta Police Department Identification Unit.

In order to complete your expunge request, you must hand deliver or mail Section 1,2, 3, the final disposition, PTI completion form and a $25 non-refundable fee (money order or certified check payable to GBI, only) to the Georgia Bureau of Investigations. Incomplete and or missing information will not be processed by the GBI.

Georgia Bureau of Investigation address and telephone number is listed below:
3121 Panthersville Rd, Decatur, GA 30034, (404)-244-2639. To check the status of your expunge request contact the GCIC/CCH Identification Services at (404) 270-8396 or by e-mail, gacriminalhistory@gbigga.gov.

In the event that additional information is required, please contact The Atlanta Police Department, Identification Unit at 404-546-4396.

Sincerely,

Atlanta Police Department/Identification Unit
REQUEST TO EXPUNGE ARREST RECORD
O.C.G.A. 35-3-37(d)

One (1) Date of Arrest Only Per Request and
A non-refundable $25.00 Fee
(Money Order or Certified Check payable to “Georgia Bureau of Investigation”) per Request
The local agency may also require a fee up to $25.00

SECTION ONE - APPLICANT INFORMATION
(To be completed by Applicant)

O.C.G.A. 35-3-37(d)(1) provides in part that “An individual who was: (A) Arrested for an offense under the laws of this state but subsequent to such arrest is released by the arresting agency without such offense being referred to the prosecuting attorney for prosecution; or (B) After such offense referred to the proper prosecuting attorney, and the prosecuting attorney dismisses the charges without seeking an indictment or filing an accusation may request the original agency in writing to expunge the records of such arrest...”

Name: Jack A.

Date of Birth: 53 Race: Black Sex: Male

Social Security Number: 253-8

Telephone Number: (478) 328-0769 Email:

Street Address: Georgia Justice Project 438 Edgeware Ave SE

City: Atlanta State: GA Zip Code: 30312

Arresting Agency: Atlanta Police Dept.

Date of Arrest: 9/22/1992

Offense(s) Arrested For: Simple Battery

Sections One and Two of this form must be completed in their entirety before request may be submitted to the Prosecuting Attorney’s Office.

I request the arrest record information (Date of Arrest and associated charges) described above pertaining to me be expunged from the record(s) of the arresting agency pursuant to the provisions of O.C.G.A. 35-3-37(d).

Signature: Jack A. Date: 10-20-2011

Page 1 of 3
2009-36 Attachment A

Effective Date: 09/01/2009

File #: 12-32-70 Re 837113
SECTION (2) – ARREST INFORMATION

(To be completed by arresting agency)

Date Request Referred: OCTOBER 25, 2011

Applicant's State Identification Number (SID) GA00472599
Arresting Agency Name: Atlanta Police Dept
ORI Number: GAAD0007

Case/Citation/Docket Number: APD#N/A
Date of Arrest: 09/22/1992

Arrest appears on Georgia and/or FBI Criminal history record? YES X NO
If arrest does not appear on either state or federal record, expungement can not be processed and therefore there is no need to forward request to GCIC

Arrest Charges: BATTERY /DV

Disposition of Arrest: 1. DEAD DOCKET 05/11/93

Disposition appears on Georgia criminal history record? Yes X, No, if No, official document containing disposition information is attached for processing. If official document is not available, please provide explanation and request for exception in Prosecutor’s Comments. (Without a disposition on file, official documentation, or request for exception request cannot be processed)

Prosecuting Attorney/Court/Case Referred to: FULTON COUNTY SOLICITOR’S OFFICE

Name and Title of official Completing Form M. Cain/Cus. Svc. Rep. Sr.

Signature of Official Completing Form
SECTION (3) THREE - PROSECUTING ATTORNEY
(to be completed by prosecuting attorney)

Date Request Received: 8 November 2011

Judicial Circuit/County: Atlanta

Prosecuting Agency ORI Number: GA060033A

District Attorney/Solicitor General: Fulton County Solicitor General

Prosecutor Assigned to Case:

Case/Citation/Docket Number: Accusation No.: 92-CR-125976

Please select one of the following actions

_____ X _____ Expungement Meets Statutory Requirements

_____ _____ No Information Available; Expungement Forwarded Without Objection

_____ _____ No Information Available at Prosecutor’s Office; Returned to Arresting Agency for Further Research. DO NOT FORWARD EXPUNGEMENT FORM TO GCIC

_____ _____ Expungement Does Not Meet All Statutory Requirements. DO NOT FORWARD EXPUNGEMENT FORM TO GCIC.

Prosecutor Comments:

The accusation in this matter was placed on the trial court’s dead docket.

________________________________________

________________________________________

________________________________________

________________________________________

E. DUANE COOPER
DEPUTY SOLICITOR GENERAL

Date: 14 May 2012
STATE COURT OF FULTON COUNTY
CRIMINAL DIVISION

Sheila A. Shah, Chief Deputy Clerk
160 Pryor Street, SW
Suite J-150
Atlanta, Georgia 30303
(404) 612-5085

CERTIFICATION

I hereby certify that the within and foregoing is a true complete and correct copy of the original misdemeanor sentence as appears by the original on file and of record in the Criminal Division of the Fulton County State Court Clerk’s Office.

Page 1 of 3 pages

State of Georgia

vs.

Jack

Accusation # 125976

Witness my hand and seal of said Court,

This the 25 day of July, 2011.

Deputy Clerk
IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

VS.

ACCUSATION NO. 125976

ORDER OF COURT PLACING CASE ON THE

DEAD DOCKET

For good and sufficient cause, the Court is of the opinion that the above stated case should be now placed on the dead docket of this Court.

Therefore, it is the order of the Court that said above stated case be placed on the dead docket of this Court.

This, the 11th day of May 1993.

JUDGE
STATE COURT OF FULTON COUNTY
IN THE STATE COURT OF FULTON COUNTY, GEORGIA
CRIMINAL DIVISION

State of Georgia

vs.

JACK

Defendant.

Accusation No. 125076

BATTERY/DV

I, James L. Webb, in the name and behalf of the citizens of Georgia, charge and accuse

JACK

with the offense of MISDEMEANOR,

for that the said accused, in the County of Fulton, on the 22nd day of September, 1992, did intentionally cause visible bodily harm to the person of Patricia Sheppard,

contrary to the laws of this State, the good order, peace and dignity thereof.

Date Filed: DECEMBER 29, 1992

James L. Webb, Solicitor General

A:tdy C#: 151812
<table>
<thead>
<tr>
<th>A</th>
<th>Arresting Agency</th>
<th>Telephone #</th>
<th>Address</th>
<th>Requirements</th>
<th>Fee Waiver?</th>
<th>Hours</th>
<th>Contact Person</th>
<th>Comments</th>
<th>Last Update</th>
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<td>1</td>
<td>Albany Police Department</td>
<td>225-431-2100</td>
<td>201 W. Oglethorpe Blvd. Albany, GA 31701</td>
<td>~ Application ~ Final Disposition ~ $15.00 non-refundable fee</td>
<td>No</td>
<td>8am - 4pm</td>
<td></td>
<td></td>
<td>11/18/2010</td>
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<td>2</td>
<td>Alpharetta Police Department</td>
<td>678-297-6306</td>
<td>2565 Old Milton Parkway Alpharetta, GA 30034</td>
<td>~ Application ~ Final Disposition ~ $25.00 fee</td>
<td>No</td>
<td>8am - 6pm</td>
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<td></td>
<td>12/11/2009</td>
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<tr>
<td>3</td>
<td>Athens Clarke County Police Department</td>
<td>706-613-3330</td>
<td>303S Lexington Road Athens, GA 30605</td>
<td>~$50.00 fee (plus GCIC fee, not correct!) ~ Certified disposition ~ Copy of I.D. ~ Application Attn: Records need to challenge fee</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4/13/2011</td>
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<td>4</td>
<td>Athens Clarke County Sheriff’s Office</td>
<td>(706) 613-3250</td>
<td>Record Expungement 325 E. Washington Street Ste. 125 Athens, GA 30601</td>
<td>~ Application ~ $50.00 fee</td>
<td>No</td>
<td></td>
<td></td>
<td></td>
<td>10/21/2011</td>
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<td>5</td>
<td>Atlanta Police Department</td>
<td>(404) 546-4491</td>
<td>Central Records (Expungement) Atlanta Public Safety Annex 3493 Donald Lee Hollowell Pkwy, NW Atlanta, GA 30331</td>
<td>~ Application ~ Cert. Final Disposition ~ $25.00 fee; non-refundable MO or Cashier's Check ~ Copy of Valid ID</td>
<td></td>
<td>9am - 2:30pm</td>
<td>Client said they received letter and receipt approx. 3 weeks after submitting letter says 6 to 9 mos to process (July 7, 2010)</td>
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<td>6/10/2011</td>
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<tr>
<td>6</td>
<td>Avondale Police Department</td>
<td>(404) 294-5410</td>
<td>21 N. Avondale Plaza Avondale Estates, GA 30002</td>
<td>~ Application ~ $25.00 fee</td>
<td>No</td>
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<tr>
<td>7</td>
<td>Barrow County Sheriff’s Office</td>
<td>(770)307-3080</td>
<td>30 North Broad Street Winder, GA 30680</td>
<td>~ Application ~ Copy of Identification ~ $25.00 fee</td>
<td>No</td>
<td></td>
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<td>6/5/2012</td>
</tr>
<tr>
<td>8</td>
<td>Butts County Sheriff’s Office</td>
<td>(770) 775-8216</td>
<td>Attention: Amanda Nix 835 Ernest Biles Drive Jackson, GA 30233</td>
<td>~ Application ~ Certified final disposition ~ GCIC w/in 30 days ~ $25.00 fee</td>
<td>No</td>
<td>9:30-5pm M-H; Fri 7:30-5pm</td>
<td>Amanda Nix</td>
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<td>7/29/2011</td>
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<td>9</td>
<td>Chamblee Police Department</td>
<td>(770) 986-5005</td>
<td>3518 Broad Street Chamblee, GA 30341</td>
<td>~ Application ~ No</td>
<td>No</td>
<td>9:30-5pm M-H; Fri 7:30-5pm</td>
<td>Elaine Dempsey</td>
<td></td>
<td>12/11/2009</td>
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<tr>
<td>10</td>
<td>Cherokee County Sheriff’s Office</td>
<td>(678)493-6100</td>
<td>498 Chattin Dr. Canton, GA 30115</td>
<td>~No Fee ~ ID ~Cert. Disp. ~App</td>
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<td></td>
<td>Glenda Rector</td>
<td></td>
<td>8/5/2011</td>
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<td>(404) 292-9465</td>
<td>3921 Church Street Clarkston, GA 30021</td>
<td>~ Application ~ Certified Final Disposition ~ $50.00 fee</td>
<td>No</td>
<td>9am-5pm</td>
<td>Ms. Greene</td>
<td></td>
<td>12/11/2009</td>
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<tr>
<td>12</td>
<td>Clayton County Police Department</td>
<td>(770) 477-3747</td>
<td>7911 N. McDonough Blvd. Jonesboro, GA 30236</td>
<td>Clayton County Sheriff's Office handles the expungement apps</td>
<td></td>
<td></td>
<td></td>
<td>Write M.O out to Sheriff's Office. All Cases adjudicated in the Clayton County Courts are expunged by the Clayton County Sheriff</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Clayton County Sheriff’s Office</td>
<td>(770) 477-4413</td>
<td>9157 Tara Blvd Jonesboro, GA 30236</td>
<td>~ Application ~ $25.00 fee ~ Valid GA, ID Copy of Disposition</td>
<td>No</td>
<td>9am-5pm</td>
<td>Records Department</td>
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<td>12/11/2009</td>
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<td>15</td>
<td>Cobb County Police Department</td>
<td>140 N. Marietta Pkwy Marietta, GA 30060</td>
<td>~$25.00 fee MO or Cashier Check or Business Check ~Final Disposition No</td>
<td>8am - 4pm</td>
<td>Officer Fulenwider</td>
<td>12/11/2009</td>
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<td>16</td>
<td>Cobb County Sheriff's Department</td>
<td>Attn: Records &amp; Identification 1825 County Services Parkway Marietta, GA 30080</td>
<td>~Application ~$15.00 cash/MO ~ID reqd ~Final Disposition (GCIC) / or Cert. Copy No</td>
<td></td>
<td>Applications accepted 9am-5pm; but T /Th 9-10:30; 1-3pm are best times to come in to speak with officer in charge Offcer Tedford ext. 2305, Jennifer Lambert 404-761-3131, ext. 2304</td>
<td>6/8/2011</td>
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<td>College Park Police Department</td>
<td>3717 College Street, College Park, GA 30337</td>
<td>~Application ~Certified Disposition ~$25.00 Fee No</td>
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<td>11/30/2011</td>
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<td>18</td>
<td>Dade County Sheriff's Office</td>
<td>Attn: Capt. David Duvall 75 Case Avenue Trenton, GA 30752-2429</td>
<td>~Application ~copy of id ~send return envelope (they prefer in person, they ask that the client then forward to the prosecutor No</td>
<td></td>
<td></td>
<td>8/10/2010</td>
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<td>Decatur Police Department</td>
<td>420 W. Trinity Place Decatur, GA 30030</td>
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<td>8am-5pm</td>
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<td>12/11/2009</td>
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<td>Dekalb County Police Department</td>
<td>1960 W. Exchange Place Tucker, GA 30084</td>
<td>~app ~Valid GA. Picture ID ~$25.00</td>
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<td>9am - 7pm</td>
<td>6/10/2011</td>
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<td>Police (770) 455-1000 Court (770) 455-1001 4425 Memorial Drive Decatur, GA 30032</td>
<td>~Application ~Disposition ~No Fee ~I.D.</td>
<td>No</td>
<td>Best time 6am - 2pm; But applications accepted 24 hrs Ms. Roberts</td>
<td>August 27, 2010</td>
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<td>Doraville Police Department</td>
<td>3765 Park Ave. Doraville, GA 30340</td>
<td>~Application ~Certified Disposition ~$25.00 fee No</td>
<td>MWF 9am-5pm; TH 9am-12n Jennifer Graham, Court Clerk/Supervisor</td>
<td>12/11/2009</td>
<td></td>
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<td>Douglasville Police Department</td>
<td>6730 W. Church St. Douglasville, GA 30134</td>
<td>~Application ~$25.00 fee ~Copy of I.D. No</td>
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<td>1/6/2011</td>
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<td>East Point Police</td>
<td>Records and Identification 2727 East Point St. East Point, GA 30344</td>
<td>~Application ~Certified Disposition (unless the disposition is on GCIC) ~ $25.00 fee No</td>
<td>8am-4:45pm</td>
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<td>7/12/2012</td>
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<td>Eatonton City Police Department</td>
<td>214 West Marion St. Eatonton, GA 31024 or P.O. Box 3820 Eatonton, GA 31024</td>
<td>~Application ~Certified Disposition ~$25.00 Fee No</td>
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<td>5/17/2010</td>
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<td>26</td>
<td>Effingham County Sheriff's Office</td>
<td>Attn: Sargent Wallace P.O. Box 1015 Springfield, GA 31332</td>
<td></td>
<td>no</td>
<td>Sargent Wallace</td>
<td>3/3/2011</td>
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<td>27</td>
<td>Fairburn Police Department</td>
<td>26 W. Campbellton Street Fairburn, GA 30213</td>
<td></td>
<td>no</td>
<td>8am-5pm</td>
<td></td>
<td>12/11/2009</td>
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<td>28</td>
<td>Fayette County Sheriff's Office</td>
<td>Attn: Records 155 Johnson Avenue Fayetteville, GA 30214-2079</td>
<td></td>
<td>no</td>
<td>Records Window</td>
<td></td>
<td>7/9/2012</td>
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<td>29</td>
<td>Forest Park Police Department</td>
<td>320 Cash Memorial Blvd. Forest Park, GA 30297</td>
<td></td>
<td>no</td>
<td>8am-4pm</td>
<td></td>
<td>7/9/2012</td>
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<tr>
<td>30</td>
<td>Fort Valley Police Dept.</td>
<td>Attn: Karen Richardson 200 West Church Street Fort Valley, GA</td>
<td></td>
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<td></td>
<td>Karen Richardson</td>
<td>8/5/2011</td>
<td></td>
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<tr>
<td>31</td>
<td>Fulton County Marshal's Office</td>
<td>160 Pryor Street Ste. J-102 Atlanta, GA 30303</td>
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<td></td>
<td>6/10/2011</td>
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<td>32</td>
<td>Fulton County Police Department</td>
<td>Police (404) 730-5700. Public Safety Bldg. (404) 730-5702 (Where client must go to obtain application)</td>
<td></td>
<td>no</td>
<td></td>
<td>Capt. Darryl Halbert, Reports Section 404-613-5725 or 404-613-5789</td>
<td>12/11/2009</td>
<td></td>
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<tr>
<td>33</td>
<td>Fulton County Sheriff</td>
<td>185 Central Avenue Atlanta, GA 30303</td>
<td></td>
<td>no</td>
<td>8:30am - 5pm</td>
<td></td>
<td>12/11/2009</td>
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<td>34</td>
<td>Georgia State Police Department</td>
<td>15 Edgewood Avenue Atlanta, GA 30303</td>
<td></td>
<td>no</td>
<td>9am - 5pm</td>
<td></td>
<td>12/11/2009</td>
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<td>35</td>
<td>Georgia Tech Police Department</td>
<td>879 Hemphill Ave, NW Atlanta, GA 30332</td>
<td></td>
<td>no</td>
<td></td>
<td></td>
<td>1/6/2011</td>
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<tr>
<td><strong>Gwinnett County Police Department</strong></td>
<td>(770) 513-5000</td>
<td>770 Hi-Hope Road Lawerenceville, GA 30043 Records PO Box 602 Lawrenceville, GA 30046</td>
<td>&quot;Application&quot; ~ $25 fee (business check or cash/cashier's check drawn on a local bank) ~ Certified disposition (must be requested in person from clerk's office) ~ Criminal History (no older than 30 days) ~ Gwinnett County PD case number ~ Copy of L.D.</td>
<td>No</td>
<td>8am - 4pm</td>
<td></td>
<td>Police Dept case number comes from the police report; can obtain number at the office when dropping off the form or by calling the office in advance</td>
<td>5/24/2012</td>
<td></td>
</tr>
<tr>
<td><strong>Gwinnett County Sheriff's Office</strong></td>
<td>770-619-6500</td>
<td>Attention: Donna 2900 University Parkway Lawerenceville, GA 30043</td>
<td>&quot;Application&quot; ~ $25.00 fee ~ Criminal history (recent) ~ Certified copy of the disposition valid ID</td>
<td>No</td>
<td></td>
<td>Donna</td>
<td></td>
<td>5/17/2011</td>
<td></td>
</tr>
<tr>
<td><strong>Hapeville Police Department</strong></td>
<td>(404) 768-7171</td>
<td>ATTN: Denise Frantum PO BOX 286 Hamilton, Georgia 31811</td>
<td>&quot;Application&quot; ~ $10.00 Cash/MO</td>
<td>No</td>
<td>7:00 AM - 4:30 PM</td>
<td>Denise Frantum</td>
<td>Request for Certified Dispositions to State Court of Henry Co. by Fax: (770) 288-7776: NO FEE</td>
<td>6/14/2011</td>
<td></td>
</tr>
<tr>
<td><strong>Harris County Sheriff's Office</strong></td>
<td>(706) 628-4211</td>
<td>Records Division Henry County Police Dept. 108 South Zack Hinton Pkwy McDonough, GA 30253</td>
<td>&quot;Application&quot; ~ Cert. final disposition ~ ID/SS Card ~ $25.00 fee</td>
<td>No</td>
<td></td>
<td></td>
<td></td>
<td>8/5/2011</td>
<td></td>
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<tr>
<td><strong>Jackson County Sheriff's Office</strong></td>
<td>(706) 367-8718</td>
<td>Attn: Kacey 11445 Johns Creek Parkway Johns Creek, GA 30097</td>
<td>&quot;Application&quot; ~ Certified Disposition ~ $125 MO (one for Johns Creek and one for GCIC)</td>
<td>Attn: Kacey</td>
<td></td>
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<td>3/31/2011</td>
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<tr>
<td><strong>Johns Creek Police Dept.</strong></td>
<td>678-474-1600</td>
<td>Attn: Records P.O. Box 1658 Kingsland, GA 31548</td>
<td>&quot;Application&quot; ~ $25 fee (cash or MO) ~ Disposition ~ Copy of L.D.</td>
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<td>8/9/2010</td>
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<tr>
<td><strong>Kingsland Police Department</strong></td>
<td>(912) 729-8254</td>
<td>119 Pinewood Road P.O. Box 510 Leesburg, Georgia 31763</td>
<td>&quot;defendant must submit application in person ~ $25 money order but contact said this fee was for the DA's office (though theoretically they cannot charge for expungement)&quot;</td>
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<tr>
<td><strong>Lee County Sheriff's Office</strong></td>
<td>(229) 759-3334</td>
<td>6960 Main St. Lithonia, GA 30058</td>
<td>&quot;Application&quot; ~ $50.00 Fee</td>
<td>No</td>
<td>8-am-4pm</td>
<td></td>
<td>Was told the Sheriff's office will pull a GCIC record when the defendant arrives. When the disposition is missing, you must first have the court that handled the case fill in the result of the case</td>
<td>12/11/2009</td>
<td></td>
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<tr>
<td><strong>Lithonia Police Department</strong></td>
<td>(770) 482-8947</td>
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<tr>
<td>46</td>
<td>Macon Police Department</td>
<td>(478) 803-2340</td>
<td>Attn: Central Records Division 700 Popular Street Macon, GA 31202</td>
<td>Application ~$25.00 Money Order Copy of Identification GCIC Consent Form</td>
<td>2/23/2012</td>
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<tr>
<td>47</td>
<td>MARTA Police Department</td>
<td>(404) 848 - 4500</td>
<td>1484 Dekalb Avenue Atlanta, GA 30307</td>
<td><strong>Application ~No fee</strong></td>
<td>9am-5pm</td>
<td></td>
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<tr>
<td>48</td>
<td>McDonough Police Department</td>
<td>(770) 957-1218</td>
<td>Medical College of Georgia Public Safety Division Attn: Police Chief Bill McBride HT-2321 524 15th Street Augusta, Georgia 30912-7500</td>
<td>NO FEE; IN PERSON ONLY - Will not except by mail.</td>
<td>8/5/2011</td>
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<tr>
<td>49</td>
<td>Medical College of Georgia</td>
<td>(706) 721-2914</td>
<td>Medical College of Georgia Public Safety Division Attn: Police Chief Bill McBride HT-2321 524 15th Street Augusta, Georgia 30912-7500</td>
<td><strong>Application ~Crim History Report ~No fee</strong></td>
<td>8/19/2010</td>
<td></td>
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<tr>
<td>50</td>
<td>Milledgeville Police Dept.</td>
<td>(478)414-4000; Ask to speak with Karen Youngblood.</td>
<td>Medical College of Georgia Public Safety Division Attn: Police Chief Bill McBride HT-2321 524 15th Street Augusta, Georgia 30912-7500</td>
<td><strong>Application ~$25.00 fee</strong></td>
<td>8/5/2011</td>
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<tr>
<td>51</td>
<td>Milton Police Department</td>
<td>(678) 242-2500</td>
<td>13000 Deerfield Parkway Milton, GA 30004</td>
<td><strong>Application ~$25.00 fee</strong></td>
<td>8:30am - 4:30pm</td>
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<tr>
<td>52</td>
<td>Monro Co. Sherrif’s Office</td>
<td>(478) 994-7048</td>
<td>P.O. Box 276 Forsyth, GA 31029</td>
<td><strong>Application ~$25.00 fee</strong></td>
<td>3/9/2012</td>
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<tr>
<td>53</td>
<td>Morgan County Sheriff’s Office</td>
<td>(706) 342-1507</td>
<td>ATTN: Olivia Laborn 1380 Monticello Rd. Madison, GA 30650</td>
<td><strong>Application ~ID Copy ~Certified Disposition ~Application</strong></td>
<td>8/5/2011</td>
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<tr>
<td>54</td>
<td>Muscogee County Sheriff’s Office</td>
<td>(706) 653-4225</td>
<td>Attn: Warrants Department P.O Box 1338 Columbus, Georgia 31901</td>
<td><strong>Application ~$25.00 fee ~GCIC Disposition No</strong></td>
<td>6/15/2011</td>
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<tr>
<td>55</td>
<td>Palmetto Police Department</td>
<td>(770) 463-9068</td>
<td>401 Carlton Road Palmetto, GA 30268</td>
<td><strong>Application ~$25.00 fee</strong></td>
<td>M-F 8:00 - 5:00 PM</td>
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<tr>
<td>56</td>
<td>Powder Springs Police Dept</td>
<td>(770) 943-1616</td>
<td>Street Address (not mailing): 4483 Pineview Drive, Powder Springs, GA 30127</td>
<td><strong>Application ~$20 In cash ~MUST apply in person, bring I.D. (7 days a week, 24 hours)</strong></td>
<td>7/30/2010</td>
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<td>57</td>
<td>Richmond County Sheriff’s Office</td>
<td>(706) 821-1010</td>
<td>401 Walton Way Augusta, GA 30901</td>
<td><strong>Application ~$50 money order ~GCIC report - no older than 90 days</strong></td>
<td>8/19/2010</td>
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<tr>
<td>58</td>
<td>Riverdale Police Department</td>
<td>(770) 909-5423</td>
<td>7200 Church Street Riverdale, GA 30274</td>
<td><strong>Application ~$25.00 M.O.</strong></td>
<td>2/3/2012</td>
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<tr>
<td>59</td>
<td>Rockdale Police Department</td>
<td>(770) 918-6700</td>
<td>911 Chambers Drive Conyers, GA 30012</td>
<td>*Application $25.00 fee</td>
<td>8am - 5pm</td>
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<td>12/11/2009</td>
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<tr>
<td>60</td>
<td>Roswell Police Department</td>
<td>(770) 640 - 4100</td>
<td>39 Hill Street Roswell, GA 30078</td>
<td>*Application $25.00 fee</td>
<td>M-F 8:30am - 11:30am and 2:30pm - 4pm</td>
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<td>12/11/2009</td>
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<tr>
<td>61</td>
<td>Sandy Springs Police Department</td>
<td>(770) 551 - 6900</td>
<td>30328 Sandy Springs, GA</td>
<td>*Application $25.00 fee</td>
<td>8am - 5pm</td>
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<tr>
<td>62</td>
<td>Scottsdale Police Department</td>
<td>see Column H</td>
<td></td>
<td>*Application $25.00 fee</td>
<td>8am - 5pm</td>
<td></td>
<td></td>
<td>12/11/2009</td>
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<tr>
<td>63</td>
<td>Screven County Sheriff's Office</td>
<td>912-564-2013</td>
<td>202 Rocky Ford Road Sylvania, GA 30467</td>
<td>*Application $25.00 fee</td>
<td>8am - 5pm</td>
<td>Any arrests made by Scottsdale Police are expunged through the Dekalb County Police Record Department on W. Exchange Place</td>
<td>12/11/2009</td>
<td></td>
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<tr>
<td>64</td>
<td>Smyrna Police Department</td>
<td>(770)631-5070</td>
<td>ATTN: Records 2646 Atlanta Rd. Smyrna, GA</td>
<td>*Application $25.00 fee</td>
<td>8am - 5pm</td>
<td>Attn: Debbie Evans</td>
<td>Police Dept Records only usually only hold vehicle and simple marijuana charge records. Must get others from Cobb County State Court Clerks Office.</td>
<td>12/11/2009</td>
<td></td>
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<tr>
<td>65</td>
<td>Snellville Police Department</td>
<td>(770) 985-3555</td>
<td>2686 Springdale Road Snellville, GA 30039</td>
<td>*Application $25.00 fee</td>
<td>8am - 5pm</td>
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<td>12/11/2009</td>
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<tr>
<td>66</td>
<td>Stone Mountain Police Department</td>
<td>(770) 879 - 4980</td>
<td>922 Main Street Stone Mountain, GA 30083</td>
<td>*Application $25.00 fee</td>
<td>8am - 5pm</td>
<td></td>
<td></td>
<td>12/11/2009</td>
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<tr>
<td>67</td>
<td>Sylvester Police Department</td>
<td>(229) 776-8501</td>
<td>102 South Isabella Street Sylvester, GA 31791</td>
<td>*Application $25.00 fee</td>
<td>8am - 5pm</td>
<td></td>
<td></td>
<td>12/11/2009</td>
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<tr>
<td>68</td>
<td>Tift County Sheriff's Office</td>
<td>(229) 388-6020</td>
<td>Attn: Support Services 500 Morgan Drive, Tifton, GA 31794</td>
<td>*Application $25.00 fee</td>
<td>8am - 5pm</td>
<td></td>
<td></td>
<td>12/11/2009</td>
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<tr>
<td>69</td>
<td>Tifton Police Dept</td>
<td>(299) 382-3132</td>
<td>527 Commerce Way Tifton, GA 31794</td>
<td>&quot;Application&quot;</td>
<td></td>
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<td>&quot;Notarized consent form to pull up GCIC&quot;</td>
<td>&quot;Certified Disposition&quot;</td>
<td>&quot;$25.00 fee&quot;</td>
<td></td>
<td>Attn: Teila</td>
<td>11/30/2011</td>
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<tr>
<td>70</td>
<td>Tri Cities Narcotics Task Force</td>
<td></td>
<td>This was a division of the College Park PD and has been</td>
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<tr>
<td>71</td>
<td>Union City Police Department</td>
<td>(770) 515-7859</td>
<td>Attn: Ms. Ernestine Jones, Union City Police Dept. - Records Division, 5060 Union Street, Union City, GA 30291</td>
<td>&quot;Application ~ disposition&quot;</td>
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<td>&quot;copy of id ~ $50.00&quot;</td>
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<td>72</td>
<td>Walker County Sheriff's Department</td>
<td>(706)-638-1909</td>
<td>Attn: Scott Davis 105 South Duke St. Lafayette, GA 30728-3601</td>
<td>&quot;Application&quot;</td>
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<td>&quot;$15.00 fee ~ plain copy disposition&quot;</td>
<td>5 day turnaround</td>
<td>2/18/2011</td>
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<tr>
<td>73</td>
<td>Worth County Sheriff's Office</td>
<td>(229) 776-8211</td>
<td>201 N Main St # 14, Sylvester, GA 31791</td>
<td>&quot;Application&quot;</td>
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<td></td>
<td>&quot;Criminal History&quot;</td>
<td></td>
<td>5/24/2012</td>
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<tr>
<td>74</td>
<td>Woodstock Police Department</td>
<td>(770) 592-6000</td>
<td>12453 Hwy. 92 Woodstock, GA 30188</td>
<td>&quot;Mail app with $10 MO and copy of ID&quot;</td>
<td></td>
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<td>7/9/2012</td>
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</tbody>
</table>

The pull GCIC so disposition must be showing on criminal history before the app is submitted.
ATLANTA POLICE DEPARTMENT EXPUNGEMENT INSTRUCTIONS

Applying for Expungement If You Were Arrested by the Atlanta Police Department (APD)

Were you arrested by the Atlanta Police Department?
Does the arrest appear on your criminal history?
Were the charges dismissed, not prosecuted (nolle prossed), or dead docketed?*

If the answer to ALL of these questions is YES follow these instructions to apply for expungement

NOTE: The cost to expunge an APD arrest is $50.00. You must apply for each arrest separately. The process takes approximately 6-12 months.

Instructions to Apply for Expungement

1. Obtain a certified copy of the disposition in your case
   - A disposition is the paper from the court that shows how your case was resolved, it is on file at the courthouse
   - A certified copy has a raised seal on it
   - You can obtain a disposition at the clerk’s office of the court that resolved your charge
   - Plan to spend $3.00 to $10.00 for a certified disposition
   - If your case was resolved in Superior Court (felonies) go to: 1st floor of the Fulton County Courthouse (136 Pryor Street), the Criminal Closed File Room
   - If your case was resolved in State Court (some misdemeanors) go to: Room J-150 of the Fulton County Courthouse (160 Pryor Street)
   - If your case was resolved in Atlanta Municipal Court go to: 150 Garnett Street
   - Note: if your case is old the file may have to be ordered from storage which can take several days
   - If your charge was resolved in DeKalb go to the clerk’s office (Superior for felonies, State for most misdemeanors) in the DeKalb courthouse at 566 N. McDonough Street in Decatur

2. Get a copy of the expungement application
   - A copy may be attached to this document, or
   - You can find a copy online at: www.georgia.gov, or
   - You can obtain a copy from the District Attorney’s office or the Solicitor’s office at the courthouse

3. Fill out the first page of the application, sign it and date it
   - Only fill out Section One: Applicant Information
   - Make sure the address you provide will be good for at least a year (if you move, be sure to have your mail forwarded)
   - The other two pages will be filled out by APD and the prosecutor

4. Purchase a $25.00 money order
   - A U.S. Postal order is recommended because it does not expire and can be tracked if lost
   - Purchase at any post office
   - Make the money order payable to: Atlanta Police Department
   - A cashier’s check will also be accepted
5. Make a photocopy of your state-issued driver’s license or I.D.

6. Put the following items in an envelope:
   - The expungement application (1st page filled out and signed)
   - The $25 money order
   - A copy of your state I.D.
   - A certified copy of the disposition

7. Mail or hand deliver the envelope to the following address:
   Central Records (Expungement)
   Atlanta Public Safety Annex
   3493 Donald Lee Hollowell Parkway, NW
   Atlanta, GA 30331

8. According to APD it will take 6-12 months to receive a decision
   - You can check the status of your application by calling 404-546-4491

9. When you receive the approved application in the mail send it to the following address with an additional $25.00 money order made payable to the Georgia Bureau of Investigation:
   Georgia Crime Information Center
   Expungements
   P.O. Box 370808
   Decatur, GA 30037-0808

10. Or hand deliver it with a $25.00 money order to the following address (Mon-Fri, 8am to 4:30pm):
    3121 Panthersville Road
    Decatur, GA 30034

11. If your application is denied consult an attorney right away, you have 30 days to appeal

Checklist:
   ___ Expungement Application (1st Page filled out and signed)
   ___ $25.00 Money Order made payable to APD
   ___ Certified Copy of Disposition
   ___ Copy of valid state I.D.
   ___ Copy of everything for your records

*Not all cases that are dismissed, not prosecuted or dead docketed are eligible for expungement. For exceptions see O.C.G.A. 35-3-37.

Prepared By:
Georgia Justice Project (Coming Home)
438 Edgewood Avenue
Atlanta, GA 30312
(404) 827-0027, ext. 238

The Coming Home program of Georgia Justice Project (GJP) assists individuals who cannot afford an attorney with issues related to their criminal history. GJP does not have the resources to assist everyone so we have provided these instructions as a guide. These instructions are not legal advice and do not create a client/attorney relationship.
<table>
<thead>
<tr>
<th>Eligible</th>
<th>Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Arrests closed by the arresting agency and never referred for prosecution</td>
<td><strong>Application</strong> – subject to approval by prosecuting attorney</td>
</tr>
<tr>
<td>2. Arrests never closed by the arresting agency nor referred for prosecution (open arrests) after a certain period of time</td>
<td><strong>Application</strong> – subject to approval by prosecuting attorney</td>
</tr>
<tr>
<td>a. Misdemeanors – 2 years</td>
<td></td>
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<tr>
<td>b. General felonies – 4 years</td>
<td></td>
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<tr>
<td>c. Serious violent/sexual felonies – 7 years</td>
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</tr>
<tr>
<td>3. Arrests referred for prosecution but not formally charged (dismissed or no-billed)</td>
<td><strong>Application</strong> – subject to approval by prosecuting attorney</td>
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<tr>
<td>4. Arrests formally charged but later dismissed, unless dismissed because:</td>
<td><strong>Application</strong> – subject to approval by prosecuting attorney</td>
</tr>
<tr>
<td>a. prosecution couldn’t use material evidence</td>
<td></td>
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<tr>
<td>b. conduct was a part of pattern of criminal activity prosecuted in other jurisdiction</td>
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<tr>
<td>c. individual had some form of immunity</td>
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<tr>
<td>5. Cases where an individual successfully completes their sentence under the Conditional Discharge Statute (O.C.G.A. 16-13-2)</td>
<td><strong>Application</strong> – subject to approval by prosecuting attorney</td>
</tr>
<tr>
<td>6. Cases where an individual successfully completes drug or mental health court, has the charges dismissed and is not subsequently arrested for five years</td>
<td><strong>Application</strong> – subject to approval by prosecuting attorney</td>
</tr>
<tr>
<td>7. Cases where the individual was acquitted of all charges unless the prosecuting attorney convinces the trial court otherwise</td>
<td><strong>Application</strong> – subject to approval by prosecuting attorney</td>
</tr>
<tr>
<td>8. Cases where felony charges are resolved without conviction but the individual is convicted of a misdemeanor arising from the same transaction or occurrence</td>
<td><strong>Petition</strong> – Superior Court for an order to restrict access to the felony charges resolved without conviction <strong>Review Standard:</strong> whether the charges arose from the same transaction or occurrence</td>
</tr>
<tr>
<td>9. Convictions that are reversed/vacated and not tried for two years</td>
<td><strong>Petition</strong> – Superior Court for an order to restrict <strong>Review Standard:</strong> whether restriction is appropriate giving due consideration to the reason the judgment was reversed or vacated, the reason the state did not retry and the public’s interest in record being available</td>
</tr>
<tr>
<td>10. Cases placed on the dead docket for at least 12 months</td>
<td><strong>Petition</strong> – Superior Court for an order to restrict <strong>Review Standard:</strong> whether restriction is appropriate giving due consideration to the reason the case was placed on the dead docket</td>
</tr>
<tr>
<td>11. Youthful offenders convicted of certain misdemeanor offenses who successfully complete their sentence and are not subsequently arrested for five years</td>
<td><strong>Petition</strong> – Superior Court for an order to restrict access <strong>Review Standard:</strong> whether restriction is appropriate giving due consideration to the individual’s conduct and the public’s interest in the record being available</td>
</tr>
<tr>
<td>Eligible</td>
<td>Process</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>1. Arrests closed by the arresting agency and never referred for prosecution</td>
<td><strong>Automatic</strong> - Arresting agency notifies GCIC, the accused and the accused’s attorney – GCIC restricts upon the entry of the information</td>
</tr>
<tr>
<td>2. Arrests never closed by the arresting agency nor referred for prosecution (open arrests) after a certain period of time</td>
<td><strong>Automatic</strong> - GCIC will automatically restrict access to the information if it does not receive notice of referral for prosecution within the specified time period</td>
</tr>
<tr>
<td>a. Misdemeanors – 2 years</td>
<td></td>
</tr>
<tr>
<td>b. General felonies – 4 years</td>
<td></td>
</tr>
<tr>
<td>c. Serious violent/sexual felonies – 7 years</td>
<td></td>
</tr>
<tr>
<td>3. Arrests referred for prosecution but not formally charged (dismissed or no-billed)</td>
<td><strong>Automatic</strong> - Upon the entry of the disposition to GCIC the record is automatically restricted and notice given to arresting agency to restrict within 30 days</td>
</tr>
<tr>
<td>4. Arrests formally charged but later dismissed, unless dismissed because:</td>
<td><strong>Automatic</strong> - Upon the entry of the disposition to GCIC the record is automatically restricted and notice given to arresting agency to restrict within 30 days</td>
</tr>
<tr>
<td>a. prosecution couldn’t use material evidence</td>
<td></td>
</tr>
<tr>
<td>b. conduct was a part of pattern of criminal activity prosecuted in other jurisdiction</td>
<td></td>
</tr>
<tr>
<td>c. individual had some form of immunity</td>
<td></td>
</tr>
<tr>
<td>5. Cases where an individual successfully completes their sentence under the Conditional Discharge Statute (O.C.G.A. 16-13-2)</td>
<td><strong>Automatic</strong> - Upon entry of the successful completion to GCIC the record is automatically restricted and notice given to arresting agency to restrict within 30 days</td>
</tr>
<tr>
<td>6. Cases where an individual successfully completes drug or mental health court, has the charges dismissed and is not subsequently arrested for five years</td>
<td><strong>Automatic</strong> - GCIC will restrict access to the information five years from the date of successful completion</td>
</tr>
<tr>
<td>7. Cases where the individual was acquitted of all charges unless the prosecuting attorney convinces the trial court otherwise</td>
<td><strong>Automatic</strong> - Upon the entry of the disposition to GCIC the record is automatically restricted and notice given to the arresting agency to restrict within 30 days</td>
</tr>
</tbody>
</table>
| 8. Cases where felony charges are resolved without conviction but the individual is convicted of a misdemeanor arising from the same transaction or occurrence | **Petition** – Superior Court for an order to restrict access to the felony charges resolved without conviction  
**Review Standard**: whether the charges arose from the same transaction or occurrence |
| 9. Convictions that are reversed/vacated and not tried for two years                                              | **Petition** - Superior Court for an order to restrict  
**Review Standard**: whether restriction is appropriate giving due consideration to the reason the judgment was reversed or vacated, the reason the state did not retry and the public’s interest in record being available |
| 10. Cases placed on the dead docket for at least 12 months                                                         | **Petition** – Superior Court for an order to restrict  
**Review Standard**: whether restriction is appropriate giving due consideration to the reason the case was placed on the dead docket |
| 11. Youthful offenders convicted of certain misdemeanor offenses who successfully complete their sentence and are not subsequently arrested for five years | **Petition** – Superior Court for an order to restrict access  
**Review Standard**: whether restriction is appropriate giving due consideration to the individual’s conduct and the public’s interest in the record being available |
Offender Tracking Number (OTN) (Cycle 1 of 1)

Earliest Event Date 1991-12-03
Offense Date 1991-12-03
Arrest SRF 42741729
Judicial SRF 47100358

Arrest (Cycle 1)
Arrest Date 1991-12-03
Case Number
Arresting Agency GAAPD0000 ATLANTA POLICE DEPARTMENT
Subject's Name
Arrest Type Adult

Charge
Charge Tracking Number 00040557882-1
Charge Literal PURCHASE/POSSESS/CONTROL - DRUG NAME MUST BE ENTERED IN
CHARGE COMMENT FIELD
Statute 16-13-30(A); GA
State Offense Code 3512
Severity Felony

Court Disposition (Cycle 1)
Case Number
Court Agency GA060035J
Subject's Name
Charge
Charge Tracking Number 00040557882-1
Charge Literal PURCHASE/POSSESS/CONTROL - DRUG NAME MUST BE ENTERED IN
CHARGE COMMENT FIELD
Statute 16-13-30(A); GA
State Offense Code 3512
Severity Felony
Disposition FIRST OFFENDER ACT (O.C.G.A. 42-8-60) (1992-04-10; Deferred)

Charge
Charge Tracking Number 00040557882-2
Charge Literal VGCSA C/P COCAINE
Charge Description NOT FOUND; GA
Statute
State Offense Code 3599
Severity Unknown
Disposition FIRST OFFENDER ACT (O.C.G.A. 42-8-60) (1992-04-10; Deferred)

Sentencing (Cycle 1)
Case Number
Sentence Date 1992-04-10
Sentencing Agency GA060035J FULTON COUNTY SUPERIOR COURT
Charge
Charge Tracking Number 00040557882-2
Sentence FINE $250 PROBATION 2 YEARS
July 22, 2011

Ms. Consuela Perkins
Georgia Crime Information Center
P.O. Box 370748
Decatur, GA 30037
Fax: 770-357-8159

RE: Required Discharge of an Offense Under the First Offender Statute (O.C.G.A. §42-8-62) for [Redacted], OTN: [Redacted], DOB: [Redacted], SSN: [Redacted]

Dear Ms. Perkins:

I am an attorney with Georgia Justice Project and I write on behalf of my client [Redacted]. On June 24, 2011 the charges under the above-referenced docket number were discharged pursuant to the First Offender Statute.

The Georgia Justice Project recently assisted [Redacted] in obtaining the discharge and she now requests that her GCIC be updated to reflect the discharge.

Attached is the Order of Discharge signed by Officer Valerie Woody and by Judge Richard E. Hicks. Should you require a certified copy, one can be provided.

If you have any questions I can be reached at 404-827-0027, ext. 259 or Marissa@gjp.org. I would greatly appreciate a call or an email letting me know when the matter has been resolved.

Thank you for your time,

[Signature]
Marissa McCall Dodson
Lead Coming Home Attorney
Georgia Justice Project

Coming Home Program • Answering the call of those with a criminal record in Georgia through direct service and advocacy.
IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

VS

CRIMINAL ACTION NO.

OFFENSE(S)

FINAL DISPOSITION

☐ PLEA ☐ VERDICT ☐ JURY ☐ NON-JURY ☐ OTHER DISPOSITION

☐ NEGOTIATED ☐ GUILTY ON COUNT(S) ☐ NOT GUILTY ON COUNT(S) ☐ NOLLE PROSEQUI ORDER ON COUNT(S)

☐ NOLO CONTENDERE ON COUNT(S) ☐ GUILTY OF INCLUDED OFFENSE(S) OF COUNT(S)

☐ TO LESSER INCLUDED OFFENSE(S) ON COUNT(S) ☐ DEAD DOCKET ORDER ON COUNT(S)

☐ DEFENDANT WAS ADVISED OF THE RIGHT TO HAVE THIS SENTENCE REVIEWED BY THE SUPERIOR COURT'S SENTENCE REVIEW PANEL

FIRST OFFENDER TREATMENT

WHEREAS, no adjudication of guilt has been made subsequent to the entry of the plea or verdict shown above, and
WHEREAS, the Court has reviewed the defendant's criminal record on file with the Georgia Crime Information Center, and
WHEREAS, the defendant has not previously been convicted of a felony or used the provisions of the First Offender Act (Ga. Laws 1968, p. 324).
NOW, THEREFORE, the defendant consenting hereto, it is the judgment of the Court that no judgment of guilt be imposed at this time but that further proceedings are deferred and the defendant is hereby sentenced to confinement for the period of

______ years;

HOWEVER, it is further ordered by the Court:

☐ That the sentence may be served on probation;

☐ That upon service of ___________ of the sentence, the remainder of ___________ may be served on probation;

PROVIDED, that the defendant complies with the following general and special conditions herein imposed by the Court as part of the sentence.
PROVIDED, further, that upon violation of the terms of probation, upon conviction for another crime during the period of probation, or upon the Court's determination that the defendant is or was not eligible for sentencing under the First Offender Act, the Court may enter an adjudication of guilt and proceed to sentence the defendant to the maximum sentence as provided by law.

IT IS THE FURTHER ORDER of the Court, and the defendant is hereby advised, that the Court may, at any time, revoke any conditions of this probation and/or discharge the defendant from probation. The probationer shall be subject to arrest for violation of any condition of probation herein granted. If such probation is revoked, the Court may enter an adjudication of guilt and proceed to sentence the defendant to the maximum sentence authorized by law with or without credit for time served on probation.

Upon fulfillment of the terms of this sentence, or upon release of the defendant by the Court prior to the termination of this sentence, the defendant shall stand discharged of said offense without court adjudication of guilt and shall be completely exonerated of guilt of said offense charged.

Let a copy of this Order be forwarded to the office of the State Probation System of Georgia and the Identification Division of the Federal Bureau of Investigation.

Initials of Probation Officer

Initials of Defendant

White - Clerk / Canary - Defendant / Pink - Probation

5/07/2316 PAGE 036

Page 1 of 2
SC-6.1 (Rev. 10/89)
16B-98A-290
FIRST OFFENDER TREATMENT (Page 2)

GENERAL CONDITIONS OF PROBATION

The defendant having been granted the privilege of serving all or part of the above-stated sentence on probation, hereby is sentenced to the following general conditions of probation:

1. Do not violate the criminal laws of any governmental unit.
2. Avoid injurious and vicious habits - especially alcoholic intoxication and narcotics and other dangerous drugs unless prescribed lawfully.
3. Avoid persons or places of unredeemable or harmful character.
4. Report to the Probation Officer as directed and permit such officer to visit you at home or elsewhere.
5. Work faithfully at suitable employment insofar as may be possible.
6. Do not change your present place of abode, move outside the jurisdiction of the Court, or leave the State for any period of time without prior permission of the Probation Supervisor.
7. Support your legal dependents to the best of your ability.

OTHER CONDITIONS OF PROBATION

IT IS FURTHER ORDERED, that the defendant pay a FINE of $500, plus COURT COST of ______________________, plus $50 or 10%, whichever is less pursuant of OCGA § 15-21-70 plus 10% of the original fine pursuant to OCGA 15-21-90 and pay RESTITUTION in the amount of ___________ and ATTORNEY'S FEE of ________________.

To be paid to

Pay ___________________________________________________________ Probation Fees to be paid at the rate of $ _____________________ each month beginning ____________

OTHER SPECIAL CONDITIONS

Pursuant to O.C.G.A 15-21-100
33 HOURS OF COMMUNITY SERVICE

Drug Screening AND/OR Treatment

Deemed Necessary by Probation Department to Be Gainfully Employed

The defendant was represented by the Honorable ________________, Attorney at Law, County, by (Employment)(Appointment).

Court Reporter: ________________________________

SO ORDERED, this __ day of ____________, 19__.

Judge

Superior Court

Certificate of Service - This is to certify that a true and correct copy of both pages of this Final Disposition has been delivered in person and the defendant has been duly instructed regarding the conditions as set forth.

This __ day of ____________, 19__. ____________________________, Probation Officer

Filed in this office this __ day of ____________, 19__.

Defendant ____________________________, Deputy Clerk
DEPARTMENT OF CORRECTIONS
PROBATION DIVISION

STATE OF GEORGIA

VS

Docket No.,

County of Fulton

In the Superior Court

PETITION FOR DISCHARGE OF DEFENDANT (FIRST OFFENDER ACT)

COMES NOW THE undersigned Valerie Woody and respectfully states to this Honorable Court that [redacted] as on the 10th day of April, 1992, placed on probation with said defendant's consent under the provisions of the Act for Probation of First Offenders, (O.C.G.A. 42-8-60, et. seq.) and with further proceedings being deferred in accordance with said Act for a period Two years, $250.00 fine, plus 50% of original fine $125.00 pursuant to O.C.G.A.15-21-100. Probation may be suspended upon payment of fine and completion of community service, 32 hours community service, drug screening and or treatment deemed necessary by probation department. To be gainfully employed.

THE DEFENDANT being eligible for discharge as shown by having fulfilled the terms of said probation and upon review of the defendant's criminal record as on file with Georgia Crime Information Center (attached hereto);

WHEREFORE, it is respectfully requested that the above named defendant be discharged under the provisions of said Act.

This 22 day of June, 2011

[Signature]

PROBATION OFFICER VALERIE WOODY

ORDER OF DISCHARGE

WHEREAS, the above named defendant, having been placed on probation on the 10th day of April, 1992, for a period of 2 years in accordance with the provisions of the Act for Probation of First Offenders (O.C.G.A. 42-8-60, et. seq.) without an adjudication of guilt, and . . .

WHEREAS, this Court having been petitioned by the defendant's Probation Officer and having reviewed the defendant's criminal record showing eligibility for sentencing;

WHEREFORE IT IS ORDERED AND DIRECTED that in accordance with the provisions of the Act for Probation of First Offenders (O.C.G.A. 42-8-60, et. seq.):

A. The defendant be discharged without court adjudication of guilt;
B. That this discharge shall completely exonerate the defendant of any criminal purpose;
C. That this discharge shall not affect any of said defendant's civil rights or liberties;
D. The defendant shall not be considered to have a criminal conviction; and
E. This discharge may not be used to disqualify a person in any application for employment or appointment to office in either the public or private sector.

IT IS FURTHER ORDERED AND DIRECTED that the Georgia Crime Information Center be notified of this discharge in accordance with the provisions of said Act as Amended.

ORDERED THIS 24 day of June, 2011

[Signature]

JUDGE RICHARD E. HICKS
FULTON COUNTY SUPERIOR COURT
Offender Tracking Number (OTN) 2001-11-17
Earliest Event Date 2001-11-17
Offense Date 66666666
Arrest SRF 77777777
Judicial SRF

Arrest Date 2002-01-17
Case Number GA0640000
Arresting Agency GA0640000 GORDON COUNTY SHERIFFS OFFICE
Subject's Name Adult
Arrest Type (Cycle 3)

Charge Tracking Number 00102198736-1
Charge Literal BURGLARY
Statute 16-7-1; GA
State Offense Code 2203
Severity Felony

Court Disposition (Cycle 3)
Case Number GA064015J
Court Agency GA064015J GORDON COUNTY SUPERIOR COURT
Subject's Name

Charge Tracking Number 00102198736-1
Charge Literal BURGLARY
Statute 16-7-1; GA
State Offense Code 2203
Severity Felony
Disposition GUILTY (CONVICTED / ADJUDICATED) (2002-05-15; Convicted)

Sentencing (Cycle 3)
Case Number 2002-05-15
Sentence Date GA054015J GORDON COUNTY SUPERIOR COURT
Sentence Agency

Charge Tracking Number 00102198736-1
Sentence MODIFIED FROM FIRST OFFENDER: OGCA 42-8-65(B)
(CONVICTED WHILE ON PROBATION) HOWEVER THE COURT MUST REVOKE THE FIRST OFFENDER STATUS TO HAVE A CONVICTION DEFINED BY O.C.G.A. SECTION 17-10-7(B)(2)

RESTITUTION
OTHER SENTENCE TYPE
--OTHER SENTENCE CONDITION COMMUNITY SERVICE
DIV CTR
PUBLICATION 6 YEARS
FINE $1000
COURT COST
Offender Tracking Number (OTN): [redacted]
Earliest Event Date: 2001-05-01
Offense Date: 2001-05-01
Arrest SRF: 80651220

Arrest Date: (Cycle 2)
Case Number: [redacted]
Arresting Agency: G0330300 MARIETTA POLICE DEPARTMENT
Subject's Name: [redacted]
Arrest Type: Adult

Charge
Charge Tracking Number: 00101581900-1
Charge Literal: SIMPLE BATTERY
Statute: 16-5-23; GA
State Offense Code: 1379
Severity: Misdemeanor

Court Disposition
Case Number: [redacted]
Court Agency: GA033013J
Subject's Name: [redacted]

Charge
Charge Tracking Number: 00101581900-2
Charge Literal: SIMPLE BATTERY
Statute: 16-5-23; GA
State Offense Code: 1379
Severity: Misdemeanor
Disposition: MERGED (2001-07-27; Other)

Charge
Charge Tracking Number: 00101581900-3
Charge Literal: BATTERY
Statute: 16-5-23.1; GA
State Offense Code: 1376
Severity: Misdemeanor

Sentencing
Case Number: [redacted]
Sentence Date: 2001-07-27
Sentencing Agency: GA033013J COBB COUNTY STATE COURT
Charge
Charge Tracking Number: 00101581900-3
Sentence: PROBATION.12 MONTHS
OTHER SENTENCE TYPE.
-- OTHER SENTENCE CONDITION REVOKED 20020520, 2MD TO SERVE.CTS RTS.
FINE $2000.00.
APPLICATION FOR RESTORATION OF RIGHTS

The State Board of Pardons and Paroles (SBPP) cannot pardon or restore firearm rights for offenses that occurred in other states. I understand that the SBPP cannot issue Pardons for federal offenses. I understand that the SBPP cannot expunge (remove from my record) any charges or convictions I have received nor can the SBPP seal my records. I understand a Pardon may only be granted for a State of Georgia conviction.

NOTE: The right to vote is automatically restored upon completion of felony sentence(s).

I am applying for (check the appropriate line):

- Restoration of Civil and Political Rights (for eligibility requirements, see page 2, Section 1)
- Pardon (for eligibility requirements, see page 2, see Section 2)
- Restoration of Right to Receive, Possess or Transport in Commerce a Firearm (for eligibility requirements, see page 2, Section 3)
- Pardon exception (for eligibility requirements, see page 2, see Section 4)

In order to be processed, you must:

1. Attach your Georgia criminal history record (must be dated within 10 days of the postmark date)
2. Review criminal history to ensure all arrests show a disposition (conviction, dismissal, etc.)
3. Attach court documentation for any disposition not showing on your criminal record (see application instructions for obtaining criminal history and dispositions)
4. For firearms requests, you must submit three (3) letters of reference

PLEASE PRINT:

Name: [Name] (as it appears on court documents) Social Security Number

Other names you are known by

Inmate # (if applicable) Date of Birth Current County of Residence

Street Address City/State Zip Code

Home Telephone Number Cell Phone Number Daytime Phone Number

On penalty of false swearing, I declare hereby that every statement by me is true and correct. I affirm I have not omitted any requested information. I fully understand any order issued by the Board in reliance on false, inaccurate, or incomplete information will be null and void and of no effect at all. I have not concealed any convictions or unpaid fines or restitution. I understand the Board's decision may not be appealed.

Signature [Signature] Date [Date]

If your application is incomplete, it will be returned to you for completion. Therefore, you must forward a self-addressed, stamped envelope with your application. If you move, you will need to notify the Parole Board in writing.

Revision Date – March 2012
APPLICATION INFORMATION AND INSTRUCTIONS

- You may obtain your criminal history from the local law enforcement agency. Most Sheriffs’ Offices offer this service for a fee.
- To obtain certified disposition documents, contact the Clerk of Court in the county of conviction. Dispositions on misdemeanor offenses are only required for Pardon exceptions as noted in Section 4. You are not required to provide dispositions older than 15 years.
- No attorney is necessary for this process.

Section 1: Restoration of Civil and Political Rights

This restores a person’s civil rights which are lost in Georgia at the time of conviction. These include the right to run for and hold public office, to serve on a jury, and to serve as a Notary Public. The right to vote is automatically restored upon completion of your sentence(s) therefore you need not submit an application.

- You must have completed all sentence(s) within two (2) years prior to applying.
- You must have lived a law-abiding life during the two (2) years prior to applying.

Section 2: Pardon (State of Georgia convictions only):

This is an order of official forgiveness and is granted to those individuals who have maintained a good reputation in their community following the completion of their sentence(s). A Pardon is an official statement attached to the criminal record that states that the State of Georgia has pardoned the crime. It does not expunge, remove or erase the crime from your record. It may serve as a means for a petitioner to advance in employment or education.

- A Pardon will also restore your civil and political rights.
- You must have completed all sentence(s) at least five (5) years prior to applying.
- You must have lived a law-abiding life during the five (5) years prior to applying.
- You cannot have any pending charges.
- All fines and restitution must be paid in full.

Section 3: Restoration of Right to Receive, Possess or Transport in Commerce a Firearm

- This Restoration of Firearms Rights will include a Pardon and Restoration of Civil and Political Rights.
- You must submit three (3) letters of reference from citizens of unquestionable integrity.
- You cannot have any felony or misdemeanor drug related convictions.
- You cannot be granted for any offense in which a firearm was used or possessed.
- You must have completed all sentence(s) at least five (5) years prior to applying.
- You must have lived a law-abiding life during the five (5) years prior to applying.
- All fines and restitution must be paid in full.
- A personal interview will be required with a SBPP staff member. Photo identification (photo) must be provided at the time of the interview. This also includes applicants who reside out of state.

Section 4: Exception for Pardon or Restoration of Civil and Political Rights

In some cases, individuals may request an exception to the two (2) and five (5) year eligibility requirement. Additionally, some individuals may require a Pardon for misdemeanor convictions. If you are applying for such an exception, you must provide documentation to verify the specific situation.

- Adoption / Custody / Foster Care / Daycare (certified copies of court documents)
- Section VIII (8) Housing (application)
- Truck driver into Canada (letter from employer)
- Education (supporting documents)
- Employment (supporting documents)
- Immigration (proof of deportation status and proof of legal, permanent residency)
- Peace Officer Standards and Training Council (POST). For additional information on law enforcement qualifications, please see POST Council Rule number 464-3-02(1)(g) at the following link: http://www.gapost.org/Rules/3offcrt.html.

Revision Date – March, 2012
Glossary of Terms

Pardon – This is an order of official forgiveness and is granted to those individuals who have maintained a good reputation in their community following the completion of their sentence(s). A Pardon is an official statement attached to the criminal record that states that the State of Georgia has pardoned the crime. It does not expunge, remove or erase the crime from your record. It may serve as a means for a petitioner to advance in employment or education.

Restoration of Civil and Political Rights – This is an order restoring a person’s civil rights which are lost in Georgia upon conviction. These include the right to run for and hold public office, to serve on a jury, and to serve as a Notary Public. The right to vote is automatically restored upon completion of your sentence(s) therefore you need not submit an application.
Frequently Asked Questions

I need an attorney to apply?  No, you do not need an attorney to apply for a Pardon or Restoration of Civil and Political Rights.

Is there a fee to apply?  No, there is no cost to apply for restoration of rights.

How long does it take for my application to be processed?  The entire process can be lengthy since all information you provide to us must be verified.  On average, processing an application takes approximately six to nine months and may take longer based on the Board’s workload.

What will happen if I cannot obtain my criminal history or dispositions for my convictions?  Your application will not be processed without the Georgia criminal history and certified sentence document for any disposition not showing on your record.

When am I eligible to apply for a Pardon?  You must have completed all sentence(s) at least five (5) years prior to applying and have lived a law-abiding life since the completion of your sentence(s).  You can have no pending charges against you.  All fines and restitution must be paid in full.

Will my conviction still show on my record?  Yes, however, a Pardon or Restoration of Civil and Political Rights will become part of your criminal history record.

How do I get a Record Expungement?  This is not a function/duty of the Parole Board.  To research details regarding a Record Expungement, Go to OCGA Section 35-3-37 for Georgia law requirements.  You may also search at the following website:  http://www.ehow.com/how_5481088_expunge-record-georgia.html

If I receive a Pardon, and then I am asked by an employer or future employer whether I have been convicted of a crime, do I answer “no” since I received a Pardon?  You must answer “yes” to your employer or future employer.  Explain that you have received a Pardon and provide a copy of your Pardon paperwork.

I was convicted of a sex offense and I was pardoned.  Do I still have to register on the Sex Offender Registry?  Yes, even if you received a Pardon, you must continue to register on the Sex Offender Registry.  You may research at www.sbi.georgia.gov (click on Services and then Sex Offender Registry).

What is a Restoration of Civil and Political Rights?  A Restoration of Civil and Political Rights is an order restoring the rights which are lost in Georgia upon conviction.  These include the right to run for and hold public office, to sit on a jury, and to serve as a Notary Public.  Restoration of Civil and Political Rights does not include the right to possess, own or carry a firearm.  If you were convicted in another state and wish to have these rights restored, you must currently reside in Georgia.

When am I eligible to apply for Restoration of Civil and Political Rights?  You must currently live in Georgia.  You must have completed all sentence(s) at least two (2) years prior to applying and lived a law-abiding life since the termination of your sentence(s).

Is a Restoration of Civil and Political Rights a separate process from a Restoration of Firearms Rights?  Yes, these are different processes.  If you would like to have your firearms rights restored, you must check the line on the application for “Restoration of Right to Receive, Possess or Transport in Commerce a Firearm.”  A personal interview will be required for firearms restorations.

Can I bow hunt even if I do not receive a Pardon or Restoration of Civil and Political Rights?  Yes, you may bow hunt without a Pardon or Restoration of Civil and Political Rights.

Is a muzzle loader considered a firearm?  Yes, a muzzle loader is considered a firearm.

Do I have to apply with the Parole Board to restore my right to vote?  No, you do not have to apply to restore your right to vote.  Your right to vote is automatically restored upon termination of your sentence(s).  However, you must re-register with your local registrar’s office in the county of your residence.  To find your local registrar’s office, visit this site:  http://sos.georgia.gov/elections/elections/voter_information/2011_voter_info.asp

Do I need to apply with the Parole Board to restore my right to sit on a jury?  Yes, you must apply for a Restoration of Civil and Political Rights in order to sit on a jury.

Do I need to apply with the Parole Board to restore my right to run for public office?  Yes, you must apply for a Restoration of Civil and Political Rights to run for public office.

Do I need to apply with the Parole Board to restore my right to apply for a Notary Public?  Yes, you must apply for a Restoration of Civil and Political Rights to apply for a Notary Public.

Revision Date – March, 2012
August 2, 2012

Mr. XXX
555 Somewhere St.
Atlanta, GA 30308

Dear Mr. XXX:

Included is a checklist and sample application to aid you in the completion of your pardon application.

Please be aware that the State Board of Pardons and Paroles cannot pardon offenses that occurred in states other than Georgia. Also, this process is not a way to expunge charges or convictions. A pardon is an order of official forgiveness for individuals who have maintained a good reputation in their community after completion of their sentences. In many cases, a pardon may help an individual advance his or her employment or education, or improve chances of obtaining housing, but it does not remove anything from your criminal history.

The following are requirements to be eligible to receive a pardon:
- You must have completed all sentences at least five years before applying (this means five years after completing probation or parole)
- You must have lived a law-abiding life during the five years before applying
- You cannot have any pending charges when applying (you cannot be on probation or parole or have a pending case)
- All fines and restitution must be fully paid before applying

The application requires that you compile and submit a number of documents, and we recommend that you submit others. The checklist below can be used as a reference when collecting materials.

The following are the components of the pardon application:

☐ Four-page application (mandatory):
  o If you do not have an application you can print one from the State Board of Pardons and Paroles website, www.pap.state.ga.us
  o Must check line for “Pardon” and fill in information at bottom of page one (note: a Pardon includes a Restoration of Civil and Political Rights)
  o Sign and date page 1
Note the frequently asked questions on page 4

☐ A copy of your official Georgia criminal history record ("GCIC") (must be pulled less than 10 days before day you send application, can be obtained from many police departments and sheriff’s offices) (mandatory)

☐ Disposition(s) for any charges not showing disposition on your criminal record (GCIC) (mandatory)
  ○ Note: To obtain certified disposition documents, contact the Clerk of Court in the county of your conviction.
  ○ Dispositions for misdemeanors are only required for Pardon Exceptions listed in section 4 of page 2 of the application.
  ○ You are not required to provide dispositions for charges more than fifteen years ago.

☐ A self-addressed stamped envelope (mandatory).

☐ Optional materials listed below: (optional, but strongly suggested)
  ○ Letter from you to State Board of Pardons and Paroles (example in packet)
  ○ Certificates from any school, rehabilitation program, trade program, or copies of any diplomas (example in packet)
  ○ Your resume if you have one
  ○ Letters of recommendation on your behalf (example in packet)

If you have any questions about the pardon application or necessary components, please don’t hesitate to call us at (404) 827-0027 ext. 235.

Sincerely,

Brenda Smeeton
Staff Attorney
§ 35-3-37. (Effective until July 1, 2013. See note.) Inspection of criminal records; purging, modifying, or supplementing of records

(a) Nothing in this article shall be construed so as to authorize any person, agency, corporation, or other legal entity to invade the privacy of any citizen as defined by the General Assembly or the courts other than to the extent provided in this article.

(b) The center shall make a person's criminal records available for inspection by such person or his or her attorney upon written application to the center. Should the person or his or her attorney contest the accuracy of any portion of the records, it shall be mandatory upon the center to make available to the person or such person's attorney a copy of the contested record upon written application identifying the portion of the record contested and showing the reason for the contest of accuracy. Forms, procedures, identification, and other related aspects pertinent to access to records may be prescribed by the center.

(c) If an individual believes his or her criminal records to be inaccurate or incomplete, he or she may request the original agency having custody or control of the detail records to purge, modify, or supplement them and to notify the center of such changes. Should the agency decline to act or should the individual believe the agency's decision to be unsatisfactory, the
individual or his or her attorney may, within 30 days of such decision, enter an appeal to the
superior court of the county of his or her residence or to the court in the county where the
agency exists, with notice to the agency, to acquire an order by the court that the subject
information be expunged, modified, or supplemented by the agency of record. The court shall
conduct a de novo hearing and may order such relief as it finds to be required by law. Such
appeals shall be entered in the same manner as appeals are entered from the probate court,
except that the appellant shall not be required to post bond or pay the costs in advance. If the
aggrieved person desires, the appeal may be heard by the judge at the first term or in
chambers. A notice sent by registered or certified mail or statutory overnight delivery shall be
sufficient service on the agency having custody or control of the disputed records that such
appeal has been entered. Should the record in question be found to be inaccurate, incomplete,
or misleading as set forth in paragraph (3) of subsection (d) of this Code section, the court shall
order it to be appropriately expunged, modified, or supplemented by an explanatory notation.
Each agency or individual in the state with custody, possession, or control of any such record
shall promptly cause each and every copy thereof in his or her custody, possession, or control
to be altered in accordance with the court's order. Notification of such deletion,
 amendment, and supplementary notation shall be promptly disseminated to any individuals or
agencies, including the center, to which the records in question have been communicated, as
well as to the individual whose records have been ordered so altered.

(d) (1) An individual who was:

(A) Arrested for an offense under the laws of this state but subsequent to such arrest is
released by the arresting agency without such offense being referred to the prosecuting
attorney for prosecution; or

(B) After such offense referred to the proper prosecuting attorney, and the prosecuting
attorney dismisses the charges without seeking an indictment or filing an accusation

may request the original agency in writing to expunge the records of such arrest, including any
fingerprints or photographs of the individual taken in conjunction with such arrest, from the
agency files. Such request shall be in such form as the center shall prescribe. Reasonable fees
shall be charged by the original agency and the center for the actual costs of the purging of
such records, provided that such fees shall not exceed $50.00.

(2) Upon receipt of such written request, the agency shall provide a copy of the request to
the proper prosecuting attorney. Upon receipt of a copy of the request to expunge a criminal
record, the prosecuting attorney shall promptly review the request to determine if it meets the
criteria for expungement set forth in paragraph (3) of this subsection. If the request meets
those criteria, the prosecuting attorney shall review the records of the arrest to determine if
any of the material contained therein must be preserved in order to protect the constitutional
rights of an accused under Brady v. Maryland.

(3) An individual has the right to have his or her record of such arrest expunged, including
any fingerprints or photographs of the individual taken in conjunction with such arrest, if the
prosecuting attorney determines that the following criteria have been satisfied:

(A) The charge was dismissed under the conditions set forth in paragraph (1) of this
subsection;

(B) No other criminal charges are pending against the individual; and

(C) The individual has not been previously convicted of the same or similar offense under
the laws of this state, the United States, or any other state within the last five years, excluding
any period of incarceration.

(4) The agency shall expunge the record by destroying the fingerprint cards, photographs,
and documents relating exclusively to such person. Any material which cannot be physically destroyed or which the prosecuting attorney determines must be preserved under *Brady v. Maryland* shall be restricted by the agency and shall not be subject to disclosure to any person except by direction of the prosecuting attorney or as ordered by a court of record of this state.

(5) It shall be the duty of the agency to notify promptly the center of any records which are expunged pursuant to this subsection. Upon receipt of notice from an agency that a record has been expunged, the center shall, within a reasonable time, restrict access to the criminal history of such person relating to such charge. Records for which access is restricted pursuant to this subsection shall be made available only to criminal justice officials upon written application for official judicial law enforcement or criminal investigative purposes.

(6) If the agency declines to expunge such arrest record, the individual may file an action in the superior court where the agency is located as provided in Code Section 50-13-19. A decision of the agency shall be upheld only if it is determined by clear and convincing evidence that the individual did not meet the criteria set forth in paragraph (3) of this subsection or subparagraphs (A) through (G) of paragraph (7) of this subsection. The court in its discretion may award reasonable court costs including attorney's fees to the individual if he or she prevails in the appellate process. Any such action shall be served upon the agency, the center, the prosecuting attorney having jurisdiction over the offense sought to be expunged, and the Attorney General who may become parties to the action.

(7) After the filing of an indictment or an accusation, a record shall not be expunged if the prosecuting attorney shows that the charges were nolle prossed, dead docketed, or otherwise dismissed because:

(A) Of a plea agreement resulting in a conviction for an offense arising out of the same underlying transaction or occurrence as the conviction;

(B) The government was barred from introducing material evidence against the individual on legal grounds including but not limited to the grant of a motion to suppress or motion in limine;

(C) A material witness refused to testify or was unavailable to testify against the individual unless such witness refused to testify based on his or her statutory right to do so;

(D) The individual was incarcerated on other criminal charges and the prosecuting attorney elected not to prosecute for reasons of judicial economy;

(E) The individual successfully completed a pretrial diversion program, the terms of which did not specifically provide for expungement of the arrest record;

(F) The conduct which resulted in the arrest of the individual was part of a pattern of criminal activity which was prosecuted in another court of this state, the United States, another state, or foreign nation; or

(G) The individual had diplomatic, consular, or similar immunity or inviolability from arrest or prosecution.

(8) If the prosecuting attorney having jurisdiction determines that the records should not be expunged because the criteria set forth in paragraph (3) or subparagraphs (A) through (G) of paragraph (7) of this subsection were not met, and the agency or center fails to follow the prosecuting attorney's recommendation, the prosecuting attorney having jurisdiction over the offense sought to be expunged or the Attorney General may appeal a decision by the agency or center to expunge a criminal history as provided in Code Section 50-13-19.

(9) An individual who has been indicted or charged by accusation that was subsequently
dismissed, dead docketed, or nolle prossed may request an expungement as provided by paragraphs (1) through (3) of this subsection; provided, however, that if the prosecuting attorney objects to the expungement request within 60 days after receiving a copy of said request from the agency, the agency shall decline to expunge and the individual shall have the right to appeal as provided by paragraph (6) of this subsection.

(10) Nothing in this subsection shall be construed as requiring the destruction of incident reports or other records that a crime was committed or reported to law enforcement. Further, nothing in this subsection shall be construed to apply to custodial records maintained by county or municipal jail or detention centers. It shall be the duty of the agency to take such action as may be reasonable to prevent disclosure of information to the public which would identify such person whose records were expunged.

(e) Agencies, including the center, at which criminal offender records are sought to be inspected may prescribe reasonable hours and places of inspection and may impose such additional procedures, fees not to exceed $3.00, or restrictions including fingerprinting as are reasonably necessary to assure the records' security, to verify the identities of those who seek to inspect them, and to maintain an orderly and efficient mechanism for inspection of records.

(f) The provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," shall not apply to proceedings under this Code section.

(g) If the center has notified a firearms dealer that a person is prohibited from purchasing or possessing a handgun pursuant to Part 5 of Article 4 of Chapter 11 of Title 16 and if the prohibition is the result of such person's being involuntarily hospitalized within the immediately preceding five years, upon such person or his or her attorney making an application to inspect his or her records, the center shall provide the record of involuntary hospitalization and also inform the person or attorney of his or her right to a hearing before the judge of the probate court or superior court relative to such person's eligibility to possess or transport a handgun.


NOTES: THE 2012 AMENDMENT, effective May 2, 2012, part of an Act to revise, modernize, and correct the Code, revised language in the sixth sentence of subsection (c).

EDITOR'S NOTES. --Code Section 35-3-37 is set out twice in this Code. The first version is effective until July 1, 2013, and the second version becomes effective on that date.

Ga. L. 1995, p. 139, § 7, not codified by the General Assembly, provides that no local ordinance which was in effect on March 22, 1995, shall be affected by Code Section 16-11-184 until January 1, 1996, at which time, unless enacted subsequent to March 22, 1995, as provided by that Code section, any such ordinance shall be of no further force or effect, and further provides that no ordinance or regulation attempting to regulate firearms in any manner shall be enacted by any county, city, or municipality after July 1, 1995.

Ga. L. 1995, p. 139, § 8, not codified by the General Assembly, provides that subsection (f) of this Code section shall be repealed automatically upon a final judicial determination that such Act is invalid for any reason.

Ga. L. 2000, p. 1589, § 16, not codified by the General Assembly, provides that the amendment to this Code section is applicable with respect to notices delivered on or after July 1, 2000.

Ga. L. 2012, p. 899, § 9-1/HB 1176, not codified by the General Assembly, provides, in part, that Part VI of this Act, which amended this Code section, shall become fully effective on July 1, 2013; provided, however, that for the purpose of preparing for implementation of Part VI of this Act, said part shall become effective on July 1, 2012. For the version amended by Ga. L. 2012, p. 899, § 6-2/HB 1176, see the version of Code Section 35-3-37 set out below.

LAW REVIEWS. --For article commenting on the 1997 amendment of this Code section, see 14

LexisNexis 50 State Surveys, Legislation & Regulations

Background & Reference Checks/Inquiries

JUDICIAL DECISIONS

INVESTIGATORY CASE FILE OPEN UNLESS PRIVACY INVADED. --When "criminal history record information" has been incorporated by a law-enforcement agency into an investigatory case file, it should be open for public inspection unless its disclosure would constitute an invasion of privacy. Napper v. Georgia Television Co., 257 Ga. 156, 356 S.E.2d 640 (1987).


NO MODIFICATION FOLLOWING NOLLE PROSEQUI. --Petitioner was not entitled to modification or expungement of criminal record to reflect entry of nolle prosequi on certain charges. Drake v. State, 170 Ga. App. 846, 318 S.E.2d 721 (1984).

SHERIFF'S OFFICE'S REFUSAL TO EXPUNGE SUBJECT TO APPEAL TO SUPERIOR COURT. --Trial court erred in dismissing an indictee's appeal from the sheriff's office's refusal to expunge the indictee's record without determining whether the charges had been nolle prossed for a reason set forth in O.C.G.A. § 35-3-37(d)(7)(A) through (G). If the charges had not been nolle prossed for one of these reasons, the denial could not be affirmed. Grimes v. Catoosa County Sheriff's Office, 307 Ga. App. 481, 705 S.E.2d 670 (2010).


APPEAL TO SUPERIOR COURT. --By the statute's express provisions, an appeal from the denial of a request to expunge a criminal record under O.C.G.A. § 35-3-37(d)(6) is as provided in O.C.G.A. § 50-13-19. In such case, the review shall be conducted by the court without a jury and shall be confined to the record. Grimes v. Catoosa County Sheriff's Office, 307 Ga. App. 481, 705 S.E.2d 670 (2010).

APPLICABILITY TO INACCURATE, INCOMPLETE, OR MISLEADING RECORDS. --If a criminal record is inaccurate, incomplete, or misleading, a superior court has three available remedies—expungement, modification, or supplementation—so long as the court finds the remedy to be "required by law" and "appropriate." Meinken v. Burgess, 262 Ga. 863, 426 S.E.2d 876 (1993).

EXPUNGEMENT REMEDY EXCEPTIONAL. --Expungement should be reserved for exceptional cases based upon competing state and citizen interests, and the fact that the defendant's arrest record did not reflect that the defendant was acquitted by operation of law did not constitute an exceptional circumstance warranting the remedy of expungement instead of modification or supplementation. Meinken v. Burgess, 262 Ga. 863, 426 S.E.2d 876 (1993).

OPINIONS OF THE ATTORNEY GENERAL

CONFIDENTIALITY OF INFORMATION OBTAINED FROM GEORGIA CRIME INFORMATION CENTER. --Since information supplied by the Georgia Crime Information Center to local law enforcement agencies may often contain nonconviction data, such as arrests resulting in acquittals, dismissals, or arrests resulting in no prosecutions, such material is of a sensitive


CENTER MAY ALLOW PRIVATE RESEARCHERS ACCESS TO INFORMATION UNDER IMPOSED CONDITIONS. --Georgia Crime Information Center is permitted to allow private researchers access to criminal history record information and to impose such conditions on that access as the center deems appropriate. 1975 Op. Att'y Gen. No. U75-78.

ONLY SUPERIOR COURT JUDGES MAY ORDER RECORDS EXPUNGED OR MODIFIED. --Only superior court judges may order criminal history records to be expunged or otherwise modified, and then only after strict compliance with the procedure set forth in O.C.G.A. § 35-3-37(c). 1989 Op. Att'y Gen. No. 89-60.

EXPUNGEMENT BY CITY SOLICITOR'S OFFICE. --City of Atlanta Solicitor's office does not have the authority to approve the expungement by an original agency of a criminal arrest record involving a felony or misdemeanor state offense which is dismissed in municipal court and for which no indictment or accusation has been drawn. 1998 Op. Att'y Gen. No. U98-11.

ONLY BASIS UPON WHICH GEORGIA CRIME INFORMATION CENTER SHALL EXPUNGE A RECORD is upon clear finding by court that said record is inaccurate, incomplete, or misleading, and setting forth the factual basis for such finding. 1982 Op. Att'y Gen. No. 82-8.

PURGING OF RECORDS. --Center should purge the center's records only when the records are inaccurate. 1975 Op. Att'y Gen. No. 75-110.

RESEARCH REFERENCES


C.J.S. --76 C.J.S., Records, §§ 76, 82 et seq., 116, 126, 130, 131, 152.

ALR. --Judicial expunction of criminal record of convicted adult, 11 ALR4th 956.

Expunction of federal arrest records in absence of conviction, 97 ALR Fed. 652.

Effect of expungement of conviction on § 241(a)(4), (11) of Immigration and Nationality Act of 1952 (8 USC § 1251(a)(4), (11)), making aliens deportable for crimes involving moral turpitude or drugs, 98 ALR Fed. 750.

Title Note

Article Note

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TOC: Georgia Code, Constitution, Court Rules & ALS, Combined > / . . . > ARTICLE 2. GEORGIA CRIME INFORMATION CENTER > § 35-3-37. (Effective until July 1, 2013. See note.) Inspection of criminal records; purging, modifying, or supplementing of records

Citation: o.c.g.a. 35-3-37

View: Full

Date/Time: Monday, August 20, 2012 - 12:14 PM EDT
(a) As used in this Code section, the term:

(1) "Drug court treatment program" means a treatment program operated by a drug court division in accordance with the provisions of Code Section 15-1-15.

(2) "Entity" means the arresting law enforcement agency, including county and municipal jails and detention centers.

(3) "Mental health treatment program" means a treatment program operated by a mental health court division in accordance with the provisions of Code Section 15-1-16.

(4) "Nonserious traffic offense" means any offense in violation of Title 40 which is not prohibited by Article 15 of Chapter 6 of Title 40 and any similar such offense under the laws of a state which would not be considered a serious traffic offense under the laws of this state if committed in this state.
(5) "Prosecuting attorney" means the Attorney General, a district attorney, or the solicitor-general who had jurisdiction where the criminal history record information is sought to be modified, corrected, supplemented, amended, or restricted. If the offense was a violation of a criminal law of this state which, by general law, may be tried by a municipal, magistrate, probate, or other court that is not a court of record, the term "prosecuting attorney" shall include the prosecuting officer of such court or, in the absence of such prosecuting attorney, the district attorney of the judicial circuit in which such court is located.

(6) "Restrict," "restricted," or "restriction" means that the criminal history record information of an individual relating to a particular charge shall be available only to judicial officials and criminal justice agencies for law enforcement or criminal investigative purposes or to criminal justice agencies for purposes of employment in accordance with procedures established by the center and shall not be disclosed or otherwise made available to any private persons or businesses pursuant to Code Section 35-3-34.

(7) "Serious violent felony" shall have the same meaning as set forth in Code Section 17-10-6.1.

(8) "State" includes any state, the United States or any district, commonwealth, territory, or insular possession of the United States, and the Trust Territory of the Pacific Islands.

(9) "Youthful offender" means any offender who was less than 21 years of age at the time of his or her conviction.

(b) Nothing in this article shall be construed so as to authorize any person, agency, corporation, or other legal entity of this state to invade the privacy of any citizen as defined by the General Assembly or as defined by the courts other than to the extent provided in this article.

(c) The center shall make an individual's criminal history record information available for review by such individual or his or her designee upon written application to the center.

(d) If an individual believes his or her criminal history record information to be inaccurate, incomplete, or misleading, he or she may request a criminal history record information inspection at the center. The center at which criminal history record information is sought to be inspected may prescribe reasonable hours and places of inspection and may impose such additional procedures or restrictions, including fingerprinting, as are reasonably necessary to assure the security of the criminal history record information, to verify the identities of those who seek to inspect such information, and to maintain an orderly and efficient mechanism for inspection of criminal history record information. The fee for inspection of criminal history record information shall not exceed $15.00, which shall not include the cost of the fingerprinting.

(e) If the criminal history record information is believed to be inaccurate, incomplete, or misleading, the individual may request that the entity having custody or control of the challenged information modify, correct, supplement, or amend the information and notify the center of such changes within 60 days of such request. In the case of county and municipal jails and detention centers, such notice to the center shall not be required. If the entity declines to act within 60 days of such request or if the individual believes the entity's decision to be unsatisfactory, within 30 days of the end of the 60 day period or of the issuance of the unsatisfactory decision, whichever occurs last, the individual shall have the right to appeal to the court with original jurisdiction of the criminal charges in the county where the entity is located.

(f) An appeal pursuant to subsection (e) of this Code section shall be to acquire an order from the court with original jurisdiction of the criminal charges that the subject information be modified, corrected, supplemented, or amended by the entity with custody of such information. Notice of the appeal shall be provided to the entity and the prosecuting attorney. A notice sent
by registered or certified mail or statutory overnight delivery shall be sufficient service on the entity having custody or control of the disputed criminal history record information. The court shall conduct a de novo review and, if requested by a party, the proceedings shall be recorded.

(g) (1) Should the court find by a preponderance of the evidence that the criminal history record information in question is inaccurate, incomplete, or misleading, the court shall order such information to be appropriately modified, corrected, supplemented, or amended as the court deems appropriate. Any entity with custody, possession, or control of any such criminal history record information shall cause each and every copy thereof in its custody, possession, or control to be altered in accordance with the court's order within 60 days of the entry of the order.

(2) To the extent that it is known by the requesting individual that an entity has previously disseminated inaccurate, incomplete, or misleading criminal history record information, he or she shall, by written request, provide to the entity the name of the individual, agency, or company to which such information was disseminated. Within 60 days of the written request, the entity shall disseminate the modification, correction, supplement, or amendment to the individual's criminal history record information to such individual, agency, or company to which the information in question has been previously communicated, as well as to the individual whose information has been ordered so altered.

(h) Access to an individual's criminal history record information, including any fingerprints or photographs of the individual taken in conjunction with the arrest, shall be restricted by the center for the following types of dispositions:

(1) Prior to indictment, accusation, or other charging instrument:

   (A) The case was never referred for further prosecution to the proper prosecuting attorney by the arresting law enforcement agency and:

      (i) The offense against such individual is closed by the arresting law enforcement agency. It shall be the duty of the head of the arresting law enforcement agency to notify the center whenever a record is to be restricted pursuant to this division. A copy of the notice shall be sent to the accused and the accused's attorney, if any, by mailing the same by first-class mail; or

      (ii) The center does not receive notice from the arresting law enforcement agency that the offense has been referred to the prosecuting attorney or transferred to another law enforcement or prosecutorial agency of this state, another state or a foreign nation, or any political subdivision thereof for prosecution and the following period of time has elapsed from the date of the arrest of such individual:

         (I) If the offense is a misdemeanor or a misdemeanor of a high and aggravated nature, two years;

         (II) If the offense is a felony, other than a serious violent felony or a felony sexual offense specified in Code Section 17-3-2.1 involving a victim under 16 years of age, four years; or

         (III) If the offense is a serious violent felony or a felony sexual offense specified in Code Section 17-3-2.1 involving a victim under 16 years of age, seven years.

If the center receives notice of the filing of an indictment subsequent to the restriction of a record pursuant to this division, the center shall make such record available in accordance with Code Section 35-3-34.

(B) The case was referred to the prosecuting attorney but was later dismissed; or
(C) The grand jury returned two no bills; and

(2) After indictment or accusation:

(A) Except as provided in subsection (i) of this Code section, all charges were dismissed or nolle prossed;

(B) The individual pleaded guilty to or was found guilty of possession of a narcotic drug, marijuana, or stimulant, depressant, or hallucinogenic drug and was sentenced in accordance with the provisions of Code Section 16-13-2, and the individual successfully completed the terms and conditions of his or her probation;

(C) The individual successfully completed a drug court treatment program or mental health treatment program, the individual's case has been dismissed or nolle prossed, and he or she has not been arrested for at least five years, excluding any arrest for a nonserious traffic offense; or

(D) The individual was acquitted of all of the charges by a judge or jury unless, within ten days of the verdict, the prosecuting attorney demonstrates to the trial court through clear and convincing evidence that the harm otherwise resulting to the individual is clearly outweighed by the public interest in the criminal history record information being publicly available because either:

(i) The prosecuting attorney was barred from introducing material evidence against the individual on legal grounds, including, without limitation, the granting of a motion to suppress or motion in limine; or

(ii) The individual has been formally charged with the same or similar offense within the previous five years.

(i) After the filing of an indictment or accusation, an individual's criminal history record information shall not be restricted if:

(1) The charges were nolle prossed or otherwise dismissed because:

(A) Of a plea agreement resulting in a conviction of the individual for an offense arising out of the same underlying transaction or occurrence as the conviction;

(B) The prosecuting attorney was barred from introducing material evidence against the individual on legal grounds, including, without limitation, the granting of a motion to suppress or motion in limine;

(C) The conduct which resulted in the arrest of the individual was part of a pattern of criminal activity which was prosecuted in another court of the state or a foreign nation; or

(D) The individual had diplomatic, consular, or similar immunity or inviolability from arrest or prosecution;

(2) The charges were tried and some but not all of the charges resulted in an acquittal; or

(3) The individual was acquitted of all charges but it is later determined that the acquittal was the result of jury tampering or judicial misconduct.

(j) (1) When an individual had felony charges dismissed or nolle prossed or was found not guilty of felony charges but was convicted of a misdemeanor offense or offenses arising out of the same underlying transaction or occurrence, such individual may petition the superior court in the county where the arrest occurred to restrict access to criminal history record information
for such felony charges within four years of the arrest. Such court shall maintain jurisdiction over the case for this limited purpose and duration. Such petition shall be served on the arresting law enforcement agency and the prosecuting attorney. If a hearing is requested, such hearing shall be held within 90 days of the filing of the petition. The court shall hear evidence and shall grant an order restricting such criminal history record information if the court determines the charges in question did not arise out of the same underlying transaction or occurrence.

(2) When an individual was convicted of an offense and was sentenced to punishment other than the death penalty, but such conviction was vacated by the trial court or reversed by an appellate court or other post-conviction court, the decision of which has become final by the completion of the appellate process, and the prosecuting attorney has not retried the case within two years of the date the order vacating or reversing the conviction became final, such individual may petition the superior court in the county where the conviction occurred to restrict access to criminal history record information for such offense. Such court shall maintain jurisdiction over the case for this limited purpose and duration. Such petition shall be served on the prosecuting attorney. If a hearing is requested, such hearing shall be held within 90 days of the filing of the petition. The court shall hear evidence and shall determine whether granting an order restricting such criminal history record information is appropriate, giving due consideration to the reason the judgment was reversed or vacated, the reason the prosecuting attorney has not retried the case, and the public's interest in the criminal history record information being publicly available.

(3) When an individual's case has remained on the dead docket for more than 12 months, such individual may petition the superior court in the county where the case is pending to restrict access to criminal history record information for such offense. Such petition shall be served on the prosecuting attorney. If a hearing is requested, such hearing shall be held within 90 days of the filing of the petition. The court shall hear evidence and shall determine whether granting an order restricting such criminal history record information is appropriate, giving due consideration to the reason the case was placed on the dead docket; provided, however, that the court shall not grant such motion if an active warrant is pending for such individual.

(4) (A) When an individual was convicted in this state of a misdemeanor or a series of misdemeanors arising from a single incident, and at the time of such conviction such individual was a youthful offender, provided that such individual successfully completed the terms of his or her sentence and, since completing the terms of his or her sentence, has not been arrested for at least five years, excluding any arrest for a nonserious traffic offense, and provided, further, that he or she was not convicted in this state of a misdemeanor violation or under any other state's law with similar provisions of one or more of the offenses listed in subparagraph (B) of this paragraph, he or she may petition the superior court in the county where the conviction occurred to restrict access to criminal history record information. Such court shall maintain jurisdiction over the case for this limited purpose and duration. Such petition shall be served on the prosecuting attorney. If a hearing is requested, such hearing shall be held within 90 days of the filing of the petition. The court shall hear evidence and shall determine whether granting an order restricting such criminal history record information is appropriate, giving due consideration to the individual's conduct and the public's interest in the criminal history record information being publicly available.

(B) Record restriction shall not be appropriate if the individual was convicted of:

(i) Child molestation in violation of Code Section 16-6-4;

(ii) Enticing a child for indecent purposes in violation of Code Section 16-6-5;

(iii) Sexual assault by persons with supervisory or disciplinary authority in violation of Code Section 16-6-5.1;
(iv) Keeping a place of prostitution in violation of Code Section 16-6-10;

(v) Pimping in violation of Code Section 16-6-11;

(vi) Pandering by compulsion in violation of Code Section 16-6-14;

(vii) Masturbation for hire in violation of Code Section 16-6-16;

(viii) Giving massages in a place used for lewdness, prostitution, assignation, or masturbation for hire in violation of Code Section 16-6-17;

(ix) Sexual battery in violation of Code Section 16-6-22.1;

(x) Any offense related to minors generally in violation of Part 2 of Article 3 of Chapter 12 of Title 16;

(xi) Theft in violation of Chapter 8 of Title 16; provided, however, that such prohibition shall not apply to a misdemeanor conviction of shoplifting in violation of Code Section 16-8-14; or

(xii) Any serious traffic offense in violation of Article 15 of Chapter 6 of Title 40.

(5) Any party may file an appeal of an order entered pursuant to this subsection as provided in Code Section 5-6-34.

(k) (1) The center shall notify the arresting law enforcement agency of any criminal history record information, access to which has been restricted pursuant to this Code section, within 30 days of the date access to such information is restricted. Upon receipt of notice from the center that access to criminal history record information has been restricted, the arresting law enforcement agency or other law enforcement agency shall, within 30 days, restrict access to all such information maintained by such arresting law enforcement agency or other law enforcement agency for such individual's charge.

(2) An individual who has had criminal history record information restricted pursuant to this Code section may submit a written request to the appropriate county or municipal jail or detention center to have all records for such individual's charge maintained by the appropriate county or municipal jail or detention center restricted. Within 30 days of such request, the appropriate county or municipal jail or detention center shall restrict access to all such criminal history record information maintained by such appropriate county or municipal jail or detention center for such individual's charge.

(3) The center shall be authorized to unrestrict criminal history record information based on the receipt of a disposition report showing that the individual was convicted of an offense arising out of an arrest of which the information was restricted pursuant to this Code section.

(l) If criminal history record information is restricted pursuant to this Code section and if the entity declines to restrict access to such information, the individual may file a civil action in the superior court where the entity is located. A copy of the civil action shall be served on the entity and prosecuting attorney for the jurisdiction where the civil action is filed, and they may become parties to the action. A decision of the entity shall be upheld only if it is determined by clear and convincing evidence that the individual did not meet the criteria set forth in subsection (h) or (j) of this Code section.

(m) (1) For criminal history record information maintained by the clerk of court, an individual who has a record restricted pursuant to this Code section may petition the court with original jurisdiction over the charges in the county where the clerk of court is located for an order to seal all criminal history record information maintained by the clerk of court for such individual's
charge. Notice of such petition shall be sent to the clerk of court and the prosecuting attorney. A notice sent by registered or certified mail or statutory overnight delivery shall be sufficient notice.

(2) The court shall order all criminal history record information in the custody of the clerk of court, including within any index, to be restricted and unavailable to the public if the court finds by a preponderance of the evidence that:

(A) The criminal history record information has been restricted pursuant to this Code section; and

(B) The harm otherwise resulting to the privacy of the individual clearly outweighs the public interest in the criminal history record information being publicly available.

(3) Within 60 days of the court’s order, the clerk of court shall cause every document, physical or electronic, in its custody, possession, or control to be restricted.

(4) The person who is the subject of such sealed criminal history record information may petition the court for inspection of the criminal history record information included in the court order. Such information shall always be available for inspection, copying, and use by criminal justice agencies and the Judicial Qualifications Commission.

(n) (1) As to arrests occurring before July 1, 2013, an individual may, in writing, request the arresting law enforcement agency to restrict the criminal history record information of an arrest, including any fingerprints or photographs taken in conjunction with such arrest. Reasonable fees shall be charged by the arresting law enforcement agency and the center for the actual costs of restricting such records, provided that such fee shall not exceed $50.00.

(2) Within 30 days of receipt of such written request, the arresting law enforcement agency shall provide a copy of the request to the prosecuting attorney. Within 90 days of receiving the request, the prosecuting attorney shall review the request to determine if he or she agrees to record restriction, and the prosecuting attorney shall notify the arresting law enforcement agency of his or her decision within such 90 day period. The arresting law enforcement agency shall inform the individual of the prosecuting attorney’s decision, and, if record restriction is approved by the prosecuting attorney, the arresting law enforcement agency shall restrict the criminal history record information within 30 days of receipt of the prosecuting attorney’s decision.

(3) If a prosecuting attorney declines an individual’s request to restrict access to criminal history record information, such individual may file a civil action in the superior court where the entity is located. A copy of the civil action shall be served on the entity and prosecuting attorney for the jurisdiction where the civil action is filed, and they may become parties to the action. A decision of the prosecuting attorney shall not be upheld if it is determined by clear and convincing evidence that the harm otherwise resulting to the privacy of the individual clearly outweighs the public interest in the criminal history record information being publicly available.

(4) To restrict criminal history record information at the center, an individual shall submit a prosecuting attorney’s approved record restriction request or a court order issued pursuant to paragraph (3) of this subsection to the center. The center shall restrict access to such criminal history record information within 30 days from receiving such information.

(o) Nothing in this Code section shall give rise to any right which may be asserted as a defense to a criminal prosecution or serve as the basis for any motion that may be filed in any criminal proceeding. The modification, correction, supplementation, amendment, or restriction of criminal history record information shall not abate or serve as the basis for the reversal of any criminal conviction.
(p) Any application to the center for access to or restriction of criminal history record information made pursuant to this Code section shall be made in writing on a form approved by the center. The center shall be authorized to develop and publish such procedures as may be necessary to carry out the provisions of this Code section. In adopting such procedures and forms, the provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," shall not apply.

(q) It shall be the duty of the entity to take such action as may be reasonable to prevent disclosure of information to the public which would identify any individual whose criminal history record information is restricted pursuant to this Code section.

(r) If the center has notified a firearms dealer that an individual is prohibited from purchasing or possessing a handgun pursuant to Part 5 of Article 4 of Chapter 11 of Title 16 and if the prohibition is the result of such individual being involuntarily hospitalized within the immediately preceding five years, upon such individual or his or her attorney making an application to inspect his or her records, the center shall provide the record of involuntary hospitalization and also inform the individual or attorney of his or her right to a hearing before the judge of the probate court or superior court relative to such individual's eligibility to possess or transport a handgun.


NOTES: CODE COMMISSION NOTES. --Pursuant to Code Section 28-9-5, in 2012, a period was added at the end of paragraph (j)(3).

EDITOR'S NOTES. --Code Section 35-3-37 is set out twice in this Code. The first version is effective until July 1, 2013, and the second version becomes effective on that date.


Ga. L. 2012, p. 899, § 9-1/HB 1176, not codified by the General Assembly, provides, in part, that Part VI of this Act, which amended this Code section, shall become fully effective on July 1, 2013; provided, however, that for the purpose of preparing for implementation of Part VI of this Act, said part shall become effective on July 1, 2012.

Title Note
Article Note
§ 42-8-62. Discharge of defendant without adjudication of guilt

(a) Upon fulfillment of the terms of probation, upon release by the court prior to the termination of the period thereof, or upon release from confinement, the defendant shall be discharged without court adjudication of guilt. Except for the registration requirements under the state sexual offender registry and except as otherwise provided in Code Section 42-8-63.1, the discharge shall completely exonerate the defendant of any criminal purpose and shall not affect any of his or her civil rights or liberties; and the defendant shall not be considered to have a criminal conviction. It shall be the duty of the clerk of court to enter on the criminal docket and all other records of the court pertaining thereto the following:

"Discharge filed completely exonerates the defendant of any criminal purpose and shall not affect any of his or her civil rights or liberties, except for registration requirements under the state sexual offender registry and except with regard to employment providing care for minor children or elderly persons as specified in Code Section 42-8-63.1; and the defendant shall not be considered to have a criminal conviction. O.C.G.A. 42-8-62."

Such entry shall be written or stamped in red ink, dated, and signed by the person making such entry or, if the docket or record is maintained using computer print-outs, microfilm, or similar means, such entry shall be underscored, boldface, or made in a similar conspicuous manner and shall be dated and include the name of the person making such entry. The criminal file, docket books, criminal minutes and final record, and all other records of the court relating to the offense of a defendant who has been discharged without court adjudication of guilt pursuant to this subsection shall not be altered as a result of that discharge, except for the entry of discharge thereon required by this subsection, nor shall the contents thereof be expunged or destroyed as a result of that discharge.
(b) Should a person be placed under probation or in confinement under this article, a record of the same shall be forwarded to the Georgia Crime Information Center. Without request of the defendant a record of discharge and exoneration, as provided in this Code section, shall in every case be forwarded to the Georgia Crime Information Center. In every case in which the record of probation or confinement shall have been previously forwarded to the Department of Corrections, to the Georgia Crime Information Center, and to the Identification Division of the Federal Bureau of Investigation and a record of a subsequent discharge and exoneration of the defendant has not been forwarded as provided in this Code section, upon request of the defendant or his attorney or representative, the record of the same shall be forwarded by the clerk of court so as to reflect the discharge and exoneration.


NOTES: THE 2001 AMENDMENT, effective July 1, 2001, in subsection (a), in the second sentence, substituted "Except for the registration requirements under the state sexual offender registry, the" for "The" and inserted "or her" and, in the first undesignated paragraph, inserted "or her" and inserted "," except for registration requirements under the state sexual offender registry".

THE 2003 AMENDMENT, effective July 1, 2004, in subsection (a), inserted "and except as otherwise provided in Code Section 42-8-63.1" near the beginning of the second sentence and inserted "and except with regard to employment providing care for minor children or elderly persons as specified in Code Section 42-8-63.1" near the end of the first undesignated paragraph.


LexisNexis 50 State Surveys, Legislation & Regulations

Sex Offender Registration

JUDICIAL DECISIONS

PROBATION SENTENCE MERELY PRELIMINARY. --Any probationary sentence entered under this section is preliminary only, and, if completed without violation, permits offender complete rehabilitation without stigma of felony conviction. If, however, such offender does not take advantage of such opportunity for rehabilitation, his trial which, in effect, has been suspended is continued and an adjudication of guilt is made and a sentence entered. State v. Wiley, 233 Ga. 316, 210 S.E.2d 790 (1974).

RESTRICTIONS MAY BE IMPOSED DURING SERVICE OF FIRST OFFENDER TERM. --Subsection (a) allows a defendant's slate to be wiped clean for the purposes of recordation of a criminal conviction and its effect on civil rights or liberties after a defendant successfully fulfills the first offender terms. It does not prohibit restrictions on a defendant's civil rights or liberties imposed during service of the first offender term. Salomon v. Earp, 190 Ga. App. 405, 379 S.E.2d 217 (1989), overruled on other grounds, Pender v. Witcher, 196 Ga. App. 856, 397 S.E.2d 193 (1990).

NECESSITY OF ADJUDICATION OF GUILT. --Despite defendant's two violations of the conditions of probation, because no adjudication of guilt was entered during the term of the defendant's

FIRST-OFFENDER PROHIBITED FROM OBTAINING PISTOL PERMIT. --Provision of § 16-11-129 (b), prohibiting the granting of a pistol permit to a person convicted as a first-offender for possession of a controlled substance, applied prospectively to an applicant who had been discharged as a first-offender five years before enactment of the provision. Foss v. Probate Court of Chatham County, 232 Ga. App. 612, 502 S.E.2d 278 (1998).

"DISCHARGE" AUTOMATIC UPON COMPLETION OF TERM. --The "discharge" of a non-first-offender probationer is automatic upon the successful completion of the terms of the sentence and is not dependent upon the subsequent formalization of that successful completion. State v. Mills, 268 Ga. 873, 495 S.E.2d 1 (1998).

Where the defendant was sentenced under this article to five years of probation on one count, followed by five consecutive 12 month sentences on other counts, he was entitled to have his record cleared of the first count under this article after completing his first five years of probation. Arrington v. State, 234 Ga. App. 187, 505 S.E.2d 851 (1998).

Defendant, pursuant to O.C.G.A. § 42-8-62(a), was not automatically discharged under the Georgia First Offender Act, O.C.G.A. § 42-8-60, when the defendant was released from confinement because the automatic discharge of the defendant occurred upon the successful completion of the terms of the defendant's sentence. Kaylor v. State, 312 Ga. App. 633, 719 S.E.2d 530 (2011).


USE OF PRIOR PROSECUTION IN WHICH DEFENDANT GIVEN FIRST-OFFENDER TREATMENT. --As a result of the changes made in 1985 to this section, the use of a prior prosecution in which defendant was given first offender treatment and successfully completed the terms of his probated sentence "is not allowable by law" as provided in § 42-8-65. Accordingly, the portion of the case in which defendant was sentenced under subsection (a) of § 17-10-7 as a repeat offender had to be reversed and remanded for resentencing. Queen v. State, 182 Ga. App. 794, 357 S.E.2d 150 (1987) (holding Op. Att'y Gen. U81-32 incorrectly states present law).

Because defendant had completed a three-year first-offender probationary sentence and had been discharged without court adjudication of guilt pursuant to this section at the time he allegedly violated § 16-11-131, the trial court properly dismissed the charge. State v. Mills, 268 Ga. 873, 495 S.E.2d 1 (1998).

Because defendant, who was discharged without adjudication of guilt under the Georgia First Offender Act (GFOA) after successfully completing probation, was not entitled to expungement of records, defendant's prior drug conviction under the GFOA was not expunged and the district court properly included that conviction in the calculation of defendant's criminal history category pursuant to U.S. Sentencing Guidelines Manual § 4A1.2 and properly sentenced the defendant to 21 months in prison for violating 21 U.S.C. § 841(a)(1), (b)(1)(C). United States v. Knight, 2005 U.S. App. LEXIS 24785 (11th Cir. Nov. 15, 2005) (Unpublished).

IMPEACHMENT OF WITNESS THROUGH FIRST-OFFENDER RECORD. --In both civil and criminal cases, unless there is an adjudication of guilt, a witness may not be impeached on general credibility grounds by evidence of a first offender record. Matthews v. State, 268 Ga. 798, 493 S.E.2d 136 (1997).

Under the First Offender Act, O.C.G.A. § 42-8-60 et seq., the trial court properly prohibited a defendant from impeaching a witness with a forgery offense. The defendant cited no authority in support of the argument that this violated the defendant's rights under the confrontation clause of the Sixth Amendment, and the court held that impeachment to show a general lack of
trustworthiness based on a prior criminal conviction was not guaranteed by the confrontation clause. Butler v. State, 285 Ga. 518, 678 S.E.2d 92 (2009).

ADMISSIBILITY IN CIVIL ACTIONS. --Evidence of a first offender’s guilty plea is not admissible for the purpose of impeaching a witness by showing him to have been convicted of a crime involving moral turpitude, even though it is admissible in a civil trial to impeach an adverse witness by disproving or contradicting his testimony. Witcher v. Pender, 260 Ga. 248, 392 S.E.2d 6 (1990).

"REHABILITATION" WITHIN MEANING OF FEDERAL RULE. --Section did not provide for "rehabilitation" within the meaning of Rule 609(c), Fed. R. Evid., which prohibits evidence of a prior conviction for purposes of impeachment if the conviction has been the subject of a "rehabilitation." Wilson v. Attaway, 757 F.2d 1227 (11th Cir.), rehearing denied, 764 F.2d 1411 (11th Cir. 1985).

GUILTY PLEA UNDER FIRST-OFFENDER INADMISSIBLE. --Trial court erred in admitting testimony and documents concerning defendant's entry of the first-offender guilty plea to commercial gambling where defendant was still on probation at the time of the condemnation trial, and because it was not used for impeachment purposes, its use was prohibited. Jones v. State, 212 Ga. App. 682, 442 S.E.2d 880 (1994).

Defendant's guilty plea to an offense for which she received first-offender treatment should not have been admitted as evidence that she committed a similar independent offense. Davis v. State, 269 Ga. 276, 496 S.E.2d 699 (1998).

FIRST OFFENDER RECORD PROPERLY ADMITTED. --Defendant's first offender record was properly considered at his sentencing hearing, and evidence regarding his underlying behavior in connection with the first offender plea was not required. Williams v. State, 228 Ga. App. 622, 492 S.E.2d 290 (1997).


SEX OFFENDER REGISTRATION AS SPECIAL CONDITION TO PROBATION. --Trial court did not err in imposing a special requirement on defendant's probation of registration as a sex offender, even though he was sentenced under the First Offender Act, O.C.G.A. § 42-8-60 et seq., as the imposition of that special condition was authorized under the language in § 42-8-62(a) and to rule otherwise would render meaningless the language in § 42-8-62(a) concerning registration requirements. Evors v. State, 275 Ga. App. 345, 620 S.E.2d 596 (2005).

SEX OFFENDER REGISTRATION NOT REQUIRED AFTER SUCCESSFUL COMPLETION OF FIRST OFFENDER SENTENCE. --Defendant was not required to register as a sexual offender because the defendant successfully completed a first-offender sentence for statutory rape and burglary charges, and a "conviction" under O.C.G.A. § 42-1-12(a)(8) did not include a discharge without an adjudication of guilt following the successful completion of a first offender sentence; the plain language of O.C.G.A. § 42-8-62(a) provided that, with certain exceptions, once a first offender was discharged without an adjudication of guilt, he or she stood completely exonerated and was not considered as having been convicted of a crime. Jackson v. State, 299 Ga. App. 356, 683 S.E.2d 60 (2009).

FAILURE TO CHALLENGE EVIDENCE OF NON-ADJUDICATED CRIME WAS INEFFECTIVE ASSISTANCE OF COUNSEL. --Defendant's convictions for armed robbery, aggravated assault, and kidnapping of a couple in a residence were reversed on appeal. Evidence that one victim was ordered from a standing to a lying position and that another was dragged around the home was insufficient to establish asportation to support the kidnapping counts. The defendant's convictions for armed robbery and aggravated assault were reversed as the defendant established ineffective assistance of counsel based on trial counsel's failure to object to the
inadmissible hearsay statements of two witnesses and the admission of improper impeachment evidence against the defendant regarding a crime for which the defendant was never adjudicated guilty for as a result of being a first offender. Rayshad v. State, 295 Ga. App. 29, 670 S.E.2d 849 (2008).


OPINIONS OF THE ATTORNEY GENERAL

PROBATION SENTENCE NOT NECESSARILY CONVICTION. --Placing of an individual on probation does not by itself result in a conviction and any person serving such a probation has not suffered a conviction which would disfranchise him; he therefore would be eligible to vote. 1974 Op. Att'y Gen. No. 74-26.

FULFILLMENT OF PROBATION TERMS OR EARLY RELEASE NOT CRIMINAL CONVICTION. --The fulfillment of the terms of probation under this article or the release by the presiding court prior to termination of a period of probation is not a criminal conviction for purposes of Ch. 4, T. 25. 1976 Op. Att'y Gen. No. 76-130.

PLACEMENT OR DISCHARGE OF PERSON FROM FIRST OFFENDER PROBATION is disposition to be accurately recorded, maintained, and reported by Georgia Crime Information Center. 1975 Op. Att'y Gen. No. 75-110.

CONFIDENTIALITY OF FIRST OFFENDER RECORDS. --The confidentiality provisions of the First Offender Act having been repealed at the 1990 session of the General Assembly, the court records of first offenders are, subject to the requirement in subsection (a) for a red ink marking on the records, public records subject to public inspection and viewing in the same manner as other records of criminal actions in the office of the clerk of the superior court. Thus, except as otherwise provided by law, these documents are public records which are subject to public viewing and inspection. 1991 Op. Att'y Gen. No. U91-5.

RESEARCH REFERENCES


Title Note
Chapter Note
Article Note
O.C.G.A. § 42-8-60

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*** Current Through the 2012 Regular Session ***
*** Annotations Current Through March 30, 2012 ***

TITLE 42. PENAL INSTITUTIONS
CHAPTER 8. PROBATION
ARTICLE 3. PROBATION OF FIRST OFFENDERS

GO TO GEORGIA STATUTES ARCHIVE DIRECTORY

O.C.G.A. § 42-8-60 (2012)

§ 42-8-60. Probation prior to adjudication of guilt; violation of probation; review of criminal record by judge

(a) Upon a verdict or plea of guilty or a plea of nolo contendere, but before an adjudication of guilt, in the case of a defendant who has not been previously convicted of a felony, the court may, without entering a judgment of guilt and with the consent of the defendant:

(1) Defer further proceeding and place the defendant on probation as provided by law; or

(2) Sentence the defendant to a term of confinement as provided by law.

(b) Upon violation by the defendant of the terms of probation, upon a conviction for another crime during the period of probation, or upon the court determining that the defendant is or was not eligible for sentencing under this article, the court may enter an adjudication of guilt and proceed as otherwise provided by law. No person may avail himself or herself of this article on more than one occasion.

(c) The court shall not sentence a defendant under the provisions of this article and, if sentenced under the provisions of this article, shall not discharge the defendant upon completion of the sentence unless the court has reviewed the defendant’s criminal record as such is on file with the Georgia Crime Information Center.

(d) The court shall not sentence a defendant under the provisions of this article who has been found guilty of or entered a plea of guilty or a plea of nolo contendere for:
(1) A serious violent felony as such term is defined in Code Section 17-10-6.1;

(2) A sexual offense as such term is defined in Code Section 17-10-6.2;

(3) Sexual exploitation of a minor as defined in Code Section 16-12-100;

(4) Electronically furnishing obscene material to a minor as defined in Code Section 16-12-100.1;

(5) Computer pornography and child exploitation, as defined in Code Section 16-12-100.2; or

(6) (A) Any of the following offenses when such offense is committed against a law enforcement officer while such officer is engaged in the performance of his or her official duties:

   (i) Aggravated assault in violation of Code Section 16-5-21;

   (ii) Aggravated battery in violation of Code Section 16-5-24; or

   (iii) Obstruction of a law enforcement officer in violation of subsection (b) of Code Section 16-10-24, if such violation results in serious physical harm or injury to such officer.

   (B) As used in this paragraph, the term "law enforcement officer" means:

   (i) A "peace officer" as such term is defined in paragraph (8) of Code Section 35-8-2;

   (ii) A law enforcement officer of the United States government;

   (iii) A person employed as a campus police officer or school security officer;

   (iv) A conservation ranger; and

   (v) A jail officer employed at a county or municipal jail.


NOTES: THE 2006 AMENDMENT, effective July 1, 2006, in the second sentence of subsection (b), inserted "or herself"; and added subsection (d).

THE 2012 AMENDMENT, effective July 1, 2012, deleted "or" at the end of paragraph (d)(4); substituted "; or" for a period at the end of paragraph (d)(5); and added paragraph (d)(6).

CROSS REFERENCES. --Probation for first offenders of laws relating to possession of narcotic drugs, marijuana, etc., § 16-13-2. Punishment of misdemeanor first offenders, § 17-10-3.

CODE COMMISSION NOTES. --Pursuant to Code Section 28-9-5, in 2006, "plea of guilty or" was substituted for "plea of guilty of" in the introductory language of subsection (d).

EDITOR'S NOTES. --Ga. L. 2006, p. 379, § 30, not codified by the General Assembly, provides that: "The provisions of this Act shall not affect or abate the status as a crime of any such act or omission which occurred prior to the effective date of the Act repealing, repealing and reenacting, or amending such law, nor shall the prosecution of such crime be abated as a result of such repeal, repeal and reenactment, or amendment."

LAW REVIEWS. --For article on recidivism and convictions based on nolo contendere pleas, see 13 Ga. L. Rev. 723 (1979). For article on the effect of nolo contendere plea on conviction, see

JUDICIAL DECISIONS

PROVISIONS NOT APPLICABLE TO DUI CASES. --The phrase "relating to probation of first offenders" in § 40-6-391(f) refers to the general title of this article, and does not purport to limit the prohibition of first offender treatment only to convictions for driving under the influence where probation is imposed. Sims v. State, 214 Ga. App. 443, 448 S.E.2d 77 (1994). O.C.G.A. § 40-6-391(f) did not violate equal protection under the Fourteenth Amendment or Ga. Const. 1983, Art. I, Sec. I, Para. II by excluding DUI offenses from First Offender Act, O.C.G.A. § 42-8-60 et seq., coverage. The defendant did not show the absence of a rational relationship between the state's compelling interest in protecting the public's safety and the classification; the defendant's equal protection argument boiled down to no more than the claim that the legislature made a bad policy judgment about which offenders should be eligible for First Offender Act treatment. Rhodes v. State, 283 Ga. 361, 659 S.E.2d 370 (2008).

APPLICABILITY OF 1982 AMENDMENT. --The 1982 amendment of this section is applicable only as to those defendants who committed their crime on or after November 1, 1982. Hahn v. State, 166 Ga. App. 71, 303 S.E.2d 299 (1983).

The sentencing of a defendant first offender to a term of confinement under the provisions of this section, as amended effective November 1, 1982, for a crime committed on September 22, 1982, violated the ex post facto prohibition of the United States Constitution, where the law at the time of the commission of the crime contained no provision for a term of confinement. Taylor v. State, 181 Ga. App. 199, 351 S.E.2d 723 (1986).

FIRST-OFFENDER TREATMENT BY CONSENT, PRIOR TO 1982 AMENDMENT. --Although this section did not specifically provide for confinement as a condition of first-offender treatment before the 1982 amendment, where a condition of confinement was consented to by defendant at the time her first-offender treatment was imposed and where no adjudication of guilt was entered at that time, defendant's treatment was first-offender treatment even though ordered before the amendment, and trial court did not err in revoking the first-offender treatment, entering an adjudication of guilt, and imposing a sentence which was harsher than the terms originally imposed. O'Ree v. State, 172 Ga. App. 51, 322 S.E.2d 89 (1984).

PRIOR CONVICTION UNDER FIRST OFFENDER ACT COUNTS IN CALCULATION OF CRIMINAL HISTORY. --Because defendant, who was discharged without adjudication of guilt under the Georgia First Offender Act (GFOA) after successfully completing probation, was not entitled to expungement of records, defendant's prior drug conviction under the GFOA was not expunged and the district court properly included that conviction in the calculation of defendant's criminal history category pursuant to U.S. Sentencing Guidelines Manual § 4A1.2 and properly sentenced the defendant to 21 months in prison for violating 21 U.S.C. § 841(a)(1), (b)(1)(C). United States v. Knight, 2005 U.S. App. LEXIS 24785 (11th Cir. Nov. 15, 2005) (Unpublished).

CONSTRUCTION WITH O.C.G.A. § 17-10-1. --Trial court did not err by sentencing defendant to both confinement and probation in violation of the First Offender Act, under O.C.G.A. § 42-8-60 (a), as the statute did not mandate a sentence of either confinement or probation, and defendant's probation was not conditioned upon the defendant spending some specified time incarcerated; O.C.G.A. § 17-10-1(a)(1) granted to the sentencing judge the power and authority to suspend or probate all or any part of the entire sentence under such rules and regulations as the judge deems proper. Johanson v. State, 260 Ga. App. 181, 581 S.E.2d 564 (2003).
After the defendant was found guilty of arson and sentenced, the sentence could not be modified, pursuant to O.C.G.A. § 17-10-1(f) to grant the defender first offender treatment because the plain language of the first offender statute, O.C.G.A. § 42-8-60 et seq., specifically prohibited such a modification after sentencing. Burchette v. State, 274 Ga. App. 873, 619 S.E.2d 323 (2005).

CONSTRUCTION WITH O.C.G.A. § 17-10-6. --State's claim that defendant's sentence was not subject to review because it followed a probation revocation was rejected as the defendant initially was sentenced as a First Offender; O.C.G.A. § 42-8-60 et seq., sentence was revoked and a sentence of 12 or more years was imposed. State v. Swartz, 277 Ga. App. 241, 626 S.E.2d 210 (2006).

CONSTRUED WITH O.C.G.A. § 16-6-3. --The trial court did not err in denying the defendant's request to charge the jury on misdemeanor statutory rape and in imposing a felony sentence, as: (1) a charge of misdemeanor statutory rape was not supported by the evidence, due to the difference in the defendant's and the victim's age at the time of the offense; (2) the defendant's requested charge set forth an incorrect principle of law within the context of the case; and (3) the sentence of five years probation under the First Offender Act, O.C.G.A. § 42-8-60 et seq., fell within the statutory range. Orr v. State, 283 Ga. App. 372, 641 S.E.2d 613 (2007).

Based on the plain language of O.C.G.A. §§ 17-10-6.2(a)(4) and 42-8-60(d)(2), a defendant who commits statutory rape is excluded from first offender consideration if the defendant was 21 years of age or older. Thus, a defendant who was 18 at the time of the offense and 19 at the time of the conviction was eligible for first offender consideration. Planas v. State, 296 Ga. App. 51, 673 S.E.2d 566 (2009).

JURISDICTION OF MOTION TO WITHDRAW GUILTY PLEA. --Since judgments of conviction are not entered in cases proceeding under the First Offender Act unless the defendant violates the terms of probation, the sentencing court retains jurisdiction both for resentencing and to consider a motion to withdraw a guilty plea after the end of the term of court in which the plea was entered. Tripp v. State, 223 Ga. App. 73, 476 S.E.2d 844 (1996).

FIRST-OFFENDER PETITION. --Defendant's first-offender petition filed after the verdict was returned but before the court entered the sentence was timely. Fleming v. State, 233 Ga. App. 483, 504 S.E.2d 542 (1998).

FIRST-OFFENDER STATUS IS DISCRETIONARY. --The trial court in rendering sentence is not required to give first-offender status merely because it is requested, even where no previous offense is shown; but according to the circumstances of the case, including the conduct of the individual defendant in the crime, the trial court may give in its discretion any sentence prescribed by law for the offense. Welborn v. State, 166 Ga. App. 214, 303 S.E.2d 755 (1983).

The trial court is not required to render a first offender status merely because it is requested even where no previous offense is shown; the trial court may give in its discretion any sentence prescribed by law for an offense, or probation. Todd v. State, 172 Ga. App. 231, 323 S.E.2d 6 (1984); Head v. State, 203 Ga. App. 730, 417 S.E.2d 398 (1992).

The trial court did not abuse its discretion by refusing to grant defendant first offender treatment because he committed a misdemeanor after the offense for which he sought first offender treatment. Stinnett v. State, 215 Ga. App. 224, 447 S.E.2d 165 (1994).

Following technical violations of the conditions of probation, short of conviction for another crime or a determination of initial ineligibility, the trial court had discretion to continue a first offender on probation without first revoking first offender status, entering an adjudication of guilt, and resentencing for the underlying offense. Mohammed v. State, 226 Ga. App. 387, 486 S.E.2d 652 (1997).

Nothing in Georgia's First Offender Act, O.C.G.A. § 42-8-60 et seq., required the trial court sua sponte to consider defendant's status as a first offender, and the trial court did not err by adopting a sentence that was consistent with the sentence the prosecutor agreed to recommend if defendant pled guilty to robbery by intimidation. Gibson v. State, 257 Ga. App. 134, 570 S.E.2d 437 (2002).
Trial court did not fail to exercise its discretion in considering and then denying defendant's request for first offender treatment with regard to the defendant's conviction upon a non-negotiated guilty plea for aggravated assault and possession of a firearm during the commission of a crime, because the record showed that the trial judge considered the request and determined that, given the nature of the offense, it would be inappropriate to grant such status. Steele v. State, 270 Ga. App. 488, 606 S.E.2d 664 (2004).

FIRST OFFENDER STATUS DOES NOT MANDATE PROBATIONARY PERIOD. --Under O.C.G.A. § 42-8-60(a), a trial court may place a first offender defendant on probation or sentence the defendant to a term of confinement as provided by law and nothing in the statute mandates a probationary period for first offenders; on the contrary, a trial court exercises its discretion in determining whether to grant probation to a first offender. Therefore, defendant, who was sentenced as recommended by the plea agreement, properly had defendant's motion to correct sentence denied. Wilson v. State, 259 Ga. App. 627, 578 S.E.2d 260 (2003).


Trial court violated O.C.G.A. § 42-8-60(a) by failing to exercise its discretion and refusing to consider sentencing defendant as a first offender because defendant opted for a jury trial; the use of a mechanical sentencing formula was an abdication of judicial responsibility. Cook v. State, 256 Ga. App. 353, 568 S.E.2d 482 (2002).


Trial court abused its discretion in not even considering defendant's request for first-offender sentencing, based on its inflexible rule that it did not consider first-offender sentencing where a defendant went to trial and its belief that defendant should have testified; even though the trial court was not required to grant first-offender status, it was required to at least consider defendant's request. Wnek v. State, 262 Ga. App. 733, 586 S.E.2d 428 (2003).

REGISTRATION AS SPECIAL CONDITION OF PROBATION. --Trial court did not err in imposing a special requirement on defendant's probation of registration as a sex offender, even though the defendant was sentenced under the First Offender Act, O.C.G.A. § 42-8-60 et seq., as the imposition of that special condition was authorized under the language in § 42-8-62(a) and to rule otherwise would render meaningless the language in § 42-8-62(a) concerning registration requirements. Evers v. State, 275 Ga. App. 345, 620 S.E.2d 596 (2005).

MERE REMINDER INSUFFICIENT TO REQUEST SENTENCING UNDER FIRST OFFENDER ACT. -- Merely reminding the sentencing judge that the conviction is the defendant's first offense is not equivalent to a request for sentencing under the Georgia First Offender Act. Powell v. State, 271 Ga. App. 550, 610 S.E.2d 178 (2005).


After the defendant was found guilty of arson and sentenced for that offense, the plain language of O.C.G.A. § 42-8-60(a) barred a trial court from considering the defendant's motion to be granted first offender treatment. Burchette v. State, 274 Ga. App. 873, 619 S.E.2d 323 (2005).

After a defendant was convicted for statutory rape, the trial court lacked jurisdiction to resentence the defendant as a first offender or to rescind the conviction or confinement portion of the sentence. First offender treatment was only permitted before a defendant had been adjudicated guilty and sentenced. State v. Stuble, 296 Ga. App. 510, 675 S.E.2d 253 (2009).

FIRST OFFENDER TREATMENT NOT BARRED PRIOR TO THE 1998 AMENDMENTS. --Prior to the

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CONSTRUED WITH O.C.G.A. § 40-5-75. --Section 40-5-75, which mandates driver's license suspension for any person convicted of possession of a controlled substance or marijuana, does not apply to those defendants who are given first offender treatment under this section. Priest v. State, 261 Ga. 651, 409 S.E.2d 657 (1991).

A defendant who is given first offender treatment has not been "convicted" within the meaning of § 40-5-75 and mandatory driver's license suspension is not required. Priest v. State, 261 Ga. 651, 409 S.E.2d 657 (1991).

OUT OF STATE CONVICTION. --Trial court did not err by denying defendant first-offender treatment as defendant presented no evidence, in the form of a certified copy of the conviction in another state in which defendant was sentenced to a one-year term of probation, that the prior conviction in the other state was a misdemeanor. Middleton v. State, 264 Ga. App. 615, 591 S.E.2d 493 (2003).

FIRST OFFENDER STATUS APPLICATION TO MISDEMEANORS. --In a felony case where defendant's first offender status was removed from the sentence defendant received for pleading guilty to theft by receiving a stolen motor vehicle because defendant had previously pled guilty to a misdemeanor, the appellate court held that the Georgia First Offender Act, O.C.G.A. § 42-8-60 et seq., applied to misdemeanors. Stafford v. State, 251 Ga. App. 203, 554 S.E.2d 219 (2001).

CONSTRUED WITH O.C.G.A. § 17-10-6.1. --Applying the Georgia Supreme Court's holding from Fleming v. State, 271 Ga. 587, 523 S.E.2d 315 (1999), resentencing was required because, prior to the 1998 amendments to §§ 17-10-6.1 and 42-8-60 et seq., a defendant found guilty of a serious violent felony under § 17-10-6.1 was not precluded from requesting and obtaining first offender treatment. Burleson v. State, 242 Ga. App. 217, 529 S.E.2d 228 (2000).

PRIOR PROSECUTION IN WHICH DEFENDANT GIVEN FIRST OFFENDER TREATMENT. --As a result of the changes made in 1985 to this section, the use of a prior prosecution in which defendant was given first offender treatment and successfully completed the terms of his probated sentence "is not allowable by law" as provided in § 42-8-65. Accordingly, the portion of the case in which defendant was sentenced under subsection (a) of § 17-10-7 as a repeat offender had to be reversed and remanded for resentencing. Queen v. State, 182 Ga. App. 794, 357 S.E.2d 150 (1987) (holding Op. Att'y Gen. U81-32 incorrectly states present law).


GUILTY PLEA NOT A "CONVICTION." --The entry of a guilty plea under this section is not a "conviction" within the usual definition of that term. Priest v. State, 261 Ga. 651, 409 S.E.2d 657 (1991).

Notwithstanding the fact that under this article a conviction does not result unless the person sentenced fails to complete satisfactorily the probationary period, the record of a first offender sentence may be used to impeach a witness in a civil action. Hightower v. GMC, 175 Ga. App. 112, 332 S.E.2d 336 (1985), overruled on other grounds, Pender v. Witcher, 196 Ga. App. 856, 397 S.E.2d 193 (1990), aff'd, 255 Ga. 349, 338 S.E.2d 426 (1986).

OPPORTUNITY FOR REHABILITATION. --If offender does not take advantage of opportunity for rehabilitation, his trial which has been suspended is continued and an adjudication of guilt is made and a sentence entered. State v. Wiley, 233 Ga. 316, 210 S.E.2d 790 (1974).

If, by violating terms of his probation, defendant shows that he is not worthy of the offered opportunity for rehabilitation then, and only then is he sentenced to penitentiary. No former adjudication of guilt having been made and no prior sentence having been entered thereon, the defendant is subject to receive any sentence permitted by law for the offense he has been found guilty of committing. State v. Wiley, 233 Ga. 316, 210 S.E.2d 790 (1974).


As in probation revocation proceedings, only slight evidence is necessary to support a termination of probation under the first offender statute. Evans v. State, 185 Ga. App. 805, 366 S.E.2d 165 (1988).


The better practice would be to introduce evidence of the criminal offense underlying the conviction as well as a certified copy of the conviction itself. If that is done, the fact that the conviction is reversed on appeal because of error, or because the evidence does not support a finding of guilt beyond a reasonable doubt, will not vitiate a revocation of probation properly based on slight evidence of the criminal offense. Crawford v. State, 166 Ga. App. 272, 304 S.E.2d 443 (1983).

Because the evidence showed that the probationer had continuous access to the firearms in the house on the day of a fatal shooting, and that the probationer intended to, and did in fact exercise control over the sons' access to one of the guns in the minutes leading up to the shooting, the trial court properly found that the probationer had constructive possession of the firearm. Wright v. State, 279 Ga. App. 299, 630 S.E.2d 774 (2006).

ADJUDICATION OF GUILT UPON VIOLATION OF PROBATION OR CONVICTION FOR OTHER CRIME. --Where no adjudication of guilt had been made and no prior sentence had been entered, it is clear that if an individual on probation under the First Offender Act violates the terms of his probation or is convicted for another crime, the trial court may enter an adjudication of guilt and impose any sentence permitted by law for the offense he has been found guilty of committing. Beasley v. State, 165 Ga. App. 160, 299 S.E.2d 886 (1983).

By committing a new crime, defendant lost the benefit of first offender status, and the unadjudicated guilt in connection with the prior state offense was properly considered a prior conviction for purposes of sentencing under the U.S. Sentencing Guidelines Manual, which pursuant to U.S. Sentencing Guidelines Manual § 4A1.2, mandated the imposition of criminal history points, even if doing so undermined the purpose of the Georgia's First Offender Act, O.C.G.A. § 42-8-60 et seq. United States v. Barner, 572 F.3d 1239 (11th Cir. 2009).

Trial court did not err in increasing the sentence originally imposed upon the defendant because the defendant was informed when the first offender probation sentence was pronounced that, upon an adjudication of guilt, the defendant could be sentenced to the maximum allowable under the law; although the sentencing form was ambiguous since both the first offender treatment box and the felony sentence box were checked the ambiguity in the form was not fatal to the trial court's imposition of a sentence greater than the original one. Otuwa v. State, 303 Ga. App. 410, 693 S.E.2d 610 (2010).

SENTENCE AFTER EXPIRATION OF FIRST OFFENDER PROBATION PERIOD. --Trial court had jurisdiction to impose sentence on drug possession charges based upon defendant's violation of

Trial court had the authority to revoke the defendant's first offender status and enter an adjudication of guilt for the defendant's violations of probation, pursuant to O.C.G.A. §§ 42-8-34(g) and 42-8-60(b), because the defendant was still serving the defendant's probated sentence. Further, because the trial court, when pronouncing the defendant's first offender sentence, advised the defendant that, upon adjudication of guilt, the defendant could be resentenced to the statutory maximum for two counts of child molestation, and that the time served would be credited against the defendant's new sentence, the trial court was authorized to increase the sentence originally imposed. Kaylor v. State, 312 Ga. App. 633, 719 S.E.2d 530 (2011).

LENGTH OF SENTENCE. -- When person on probation as first offender violates terms of his probation and adjudication of guilt is entered pursuant to this section, he is subject to receive any sentence permitted by law, including a sentence greater than the period to be served on probation which was originally imposed under first offender law. Austin v. State, 162 Ga. App. 709, 293 S.E.2d 10 (1982).

Where defendant was informed at time he was originally placed on probation that he could receive full sentence upon violation of his probation, court, in revoking his probation, did not lack authority to impose a 10-year sentence on ground that first-offender sentencing document entered by court imposed only five years. Griffin v. State, 163 Ga. App. 871, 295 S.E.2d 863 (1982).

Where defendant's sentence under paragraph (a)(1) was five years' probation, with the requirement that 90 to 120 days be served in a probation boot camp, later modified to a probation detention center, when defendant's probation was revoked, the trial court could have sentenced defendant to the maximum penalty for the burglary conviction. McKinney v. State, 240 Ga. App. 812, 525 S.E.2d 395 (1999).


When first offender probation under subsection (b) is revoked, credit must be given for time served on probation. Tallant v. State, 187 Ga. App. 138, 369 S.E.2d 789 (1988).

Where the defendant violated the terms of his probation, the court could not impose the maximum sentence without giving him credit for time served on probation, since to do so would impose a sentence exceeding the maximum allowed by law. Franklin v. State, 236 Ga. App. 401, 512 S.E.2d 304 (1999).

In the case of defendant who was convicted and sentenced for child molestation, a resentencing order requiring defendant to serve a total of 13 years -- five to be served in prison beyond the three already served on probation, to be followed by an additional five years on probation -- was not error because defendant was resentenced within the maximum sentence allowable by law, defendant was clearly advised of this possibility, and the court credited the time already served on probation. Roland v. Meadows, 273 Ga. 857, 548 S.E.2d 289 (2001).

INCREASED SENTENCE ON REVOCATION PROPER. -- The trial court does not err in imposing a greater sentence on defendant than the original first offender sentence, in revoking defendant's earlier probation, where the first offender sentence of probation plainly stated, "If such probation is revoked or cancelled, the court may adjudge the defendant guilty of the above offense and impose any sentence permitted by law for the ... offense." Crawford v. State, 166 Ga. App. 272, 304 S.E.2d 443 (1983).
CONFINEMENT NOT "INCARCERATION." Sentence of defendant based on first offender treatment, to five years' probation, conditioned upon successive periods of confinement in a detention center, a diversion center, and in defendant's house under intensive supervision, was authorized and such does not constitute incarceration, which refers to continuous and uninterrupted custody in a jail or penitentiary. Penaherrera v. State, 211 Ga. App. 162, 438 S.E.2d 661 (1993).

TRIAL COURT ERRED IN IMPOSING GREATER SENTENCE than revoked term of four years' probation, and in refusing to give defendant credit for time served on probation. Lillard v. State, 156 Ga. App. 54, 274 S.E.2d 96 (1980).
Triail court violated original sentencing order by imposing new sentence greater than that originally imposed and erred in failing to give credit for time served on probation. Saladine v. State, 165 Ga. App. 836, 302 S.E.2d 739 (1983).

FAILURE TO PAY FINE. --Sentencing court could not revoke probation for failure to pay fine and restitution, absent evidence and findings that defendant was somehow responsible for the failure or that alternative forms of punishment were inadequate. Bearden v. Georgia, 461 U.S. 660, 103 S. Ct. 2064, 76 L. Ed. 2d 221 (1983).


SENTENCE VACATED AND RESENTENCING ORDERED when the trial court erred by increasing a juvenile defendant's voluntary manslaughter sentence after the defendant had already begun serving the same, because the original sentence was final at the time it was imposed, and defendant had no reason to believe otherwise; hence, the trial court's increased sentence constituted double jeopardy and could not stand. Williams v. State, 273 Ga. App. 42, 614 S.E.2d 146 (2005).

DOUBLE JEOPARDY CONCERNS DID NOT PROHIBIT RESENTENCING AFTER ORIGINAL SENTENCE HAD BEGUN being served if the resentencing was allowed by law and the defendant had no reasonable expectation in the finality of the original sentence; resentencing after a defendant had begun serving the original sentence was allowed under the First Offender Act, O.C.G.A. § 42-8-60 et seq., because defendant initially lied to the trial court about a prior conviction to receive first offender treatment, and since defendant was warned by the trial court that the defendant was subject to resentencing if he was untruthful about the defendant's record, the defendant had no reasonable expectation that the original sentence was final. Wilford v. State, 278 Ga. 718, 606 S.E.2d 252 (2004).

FAILURE TO SENTENCE UNDER FIRST OFFENDER ACT AFFIRMED. --Defendant's 10-year sentence for forgery was affirmed as the defendant attorney twice reminded the sentencing court of defendant's first offender status, but did not request that the defendant be sentenced under the Georgia First Offender Act; absent clear, i.e., unambiguous, statements in the record showing: (1) an explicit request for First Offender Act treatment at the time of sentencing; and (2) a failure to exercise discretion as evidenced by a misunderstanding of the law or a general policy against First Offender Act treatment, a defendant's sentence must be upheld. Powell v. State, 271 Ga. App. 550, 610 S.E.2d 178 (2005).
Trial court was authorized to consider the defendant's indifference to both the terms of the bond requirements imposed and the underlying charges filed in its decision regarding whether or not to treat the defendant as a first offender; hence, it did not err in declining to impose sentence under the first offender statute. Collins v. State, 281 Ga. App. 240, 636 S.E.2d 32 (2006).

WITNESS'S FIRST OFFENDER SENTENCING RECORDS WERE INADMISSIBLE IN DEFENDANT'S TRIAL. --After defendant cross-examined a witness for the state regarding the witness's first offender sentence under the First Offender Act, O.C.G.A. § 42-8-60 et seq., in an effort to show witness bias, the trial court erred in requiring defendant to introduce into evidence certified
copies of the relevant sentencing record and in thus denying defendant the right to open and conclude closing arguments by forcing defendant to present evidence, as defendant had a right under the Confrontation Clause of U.S. Const. amend. VI to cross-examine the witness regarding the witness's first offender probation status to show bias, but the records relevant to that status were not admissible because there was no adjudication of the witness's guilt; the error, however, was harmless in light of the overwhelming evidence of defendant's guilt. Smith v. State, 276 Ga. 263, 577 S.E.2d 548 (2003).

Trial court did not abuse the court's discretion in prohibiting the defendant's cross-examination of a witness regarding the witness's first offender plea in order to show bias and a motive to testimony favorable to the state because there was no evidence showing the connection between the witness's first offender status and the witness's desire to shade the witness's testimony to curry favor with the state; the defendant had to present facts in addition to the existence of two first offender pleas to support the defendant's efforts to impeach the witness for bias. Sanders v. State, 290 Ga. 445, 721 S.E.2d 834 2012.

USE IN THREE-FELONY RECIDIVIST SENTENCING. --Remand was necessary because it was unclear whether one of defendant's convictions, which was a first offender conviction pursuant to O.C.G.A. § 42-8-60 et seq., was successfully completed, in which case there was no "conviction" as that term was defined under O.C.G.A. § 16-1-3(4) because there was no adjudication of guilt, or alternatively, whether the first offender sentence was convicted and the trial court thereafter entered an adjudication of guilt and a sentence thereon, in which case it could be counted as one of the three felonies for purposes of recidivist sentencing under O.C.G.A. § 17-10-7(c). Swan v. State, 276 Ga. App. 827, 625 S.E.2d 97 (2005).

APPEAL DISCRETIONARY. --Because the drug court program under O.C.G.A. § 16-13-2(a) is similar to the first offender statute of O.C.G.A. § 42-8-60 and because § 42-8-60 appeals are discretionary under O.C.G.A. § 5-6-35(a)(5), the discretionary appeal procedures of § 5-6-35 (a)(5) must be followed when appealing after violation of the conditions of the drug court program. Andrews v. State, 276 Ga. App. 428, 623 S.E.2d 247 (2005).

WITHDRAWAL OF GUILTY PLEA. --Trial court did not err in instructing defendant that defendant would not be allowed to withdraw the Alford plea between the time it was entered and the pronouncement of the sentence; this instruction did not violate O.C.G.A. § 17-7-93(b), as that statute did not apply to pleas resulting in treatment as a first offender under the Georgia First Offender Act, O.C.G.A. § 42-8-60 et seq. Winkles v. State, 275 Ga. App. 351, 620 S.E.2d 594 (2005).

FIRST OFFENDER TREATMENT IS "CONVICTION" UNDER IMMIGRATION AND NATIONALITY ACT. --Board of Immigration Appeals (BIA) did not abuse its discretion when it denied the alien's motion to reopen because: (1) the alien pled guilty to two counts of child molestation and received five years probation on each count, thereby satisfying the requirements of 8 U.S.C. § 1101(a)(48)(A), and the mere fact that the alien was sentenced pursuant to Georgia's First Offender Act, O.C.G.A. § 42-8-60(a) did not mean that the alien lacked a "conviction" for purposes of 8 U.S.C. § 1227; (2) nothing in the alien's extraordinary motion for a new trial, the state's nolle prosse motion, or the superior court's orders indicated that the alien's guilty plea was taken in violation of Georgia law or the federal constitution, and; (3) although it was uncontested that a full and unconditional pardon would have defeated the charge that the alien was removable under 8 U.S.C. § 1227(a)(2)(A)(iii), the BIA did not abuse its discretion when it refused to consider the alien's uncertified copy of the alien's pardon; and (4) even if the BIA had considered the alien's pardon, the pardon would not have eliminated the additional grounds for removal that the alien conceded to at the removal hearing. Mohammed Salim Ali v. United States AG, 443 F.3d 804 (11th Cir. 2006).

FIRST OFFENDER TREATMENT IS NOT "CONVICTION" FOR PURPOSES OF SERVING ON A JURY. --Prospective petit juror serving a sentence under the First Offender Act, O.C.G.A. § 42-8-60 et seq., had not been "convicted" within the meaning of O.C.G.A. § 15-12-163(b)(5), which allowed either the state or the accused to object to the seating of a juror who had been

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convicted of a felony; the trial court therefore erred in disqualifying the juror for cause.

DEFENDANT ELIGIBLE TO SERVE ORDERED TERM OF CONFINEMENT. -- Trial court did not err in denying the defendant's motion to correct an illegal sentence because, in accordance with the plain language of the First Offender Act, O.C.G.A. § 42-8-65(c), during the defendant's term of confinement, the defendant, who pled guilty to first degree cruelty to children, O.C.G.A. § 16-5-70, was deemed to be a convicted felon for purposes of the State-Wide Probation Act, O.C.G.A. § 42-8-35.4, and, consequently, within a category of persons eligible to serve the ordered term of confinement at a probation detention center; the legislature is presumed to have had full knowledge of the First Offender Act when the legislature enacted the State-Wide Probation Act.


OPINIONS OF THE ATTORNEY GENERAL

LEGISLATIVE INTENT. -- General Assembly's intent was to allow, within court's discretion, defendant to avail himself of first offender treatment for crime or crimes growing out of same conduct which may be the subject of multicount indictment. 1975 Op. Att'y Gen. No. U75-85.


It was the intent of the General Assembly to give the trial judges authority to permit certain defendants, whom they believed to be worthy of an opportunity not to have a record of adjudication of guilt or a criminal offense, to undergo a period of probation, which if successfully completed would result in their being discharged without there ever being an adjudication of guilt. 1978 Op. Att'y Gen. No. U78-21.

First offender probation is intended to have a different result from ordinary periods of probation. It was the intent of the General Assembly when it enacted this section to give the trial judges authority to permit those defendants whom they believed to be worthy of an opportunity not to have a record of adjudication of guilt for a criminal offense to serve a period of probation, which if successfully completed would result in their being completely exonerated without there ever being any adjudication of guilt. 1980 Op. Att'y Gen. No. 80-79.

PROBATION ADMINISTERED PRIOR TO ADJUDICATION OF GUILT. -- Probation administered pursuant to this section is administered prior to adjudication of guilt. 1981 Op. Att'y Gen. No. U81-12.
A PLEA OF GUILTY under this article does not fall under rule that such plea, when accepted and entered up, is tantamount to a conviction. 1971 Op. Att’y Gen. No. U71-87.

PAYMENT OF FINE. --Superior court judge may impose payment of fine as term and condition of probation for a defendant being treated under this article. 1975 Op. Att’y Gen. No. U75-42.

APPLICABILITY OF § 42-8-65. --Provision of § 42-8-65 regarding release of record of discharge applies to records in cases where finding of guilt was made, pursuant to conviction or plea, but where adjudication of guilt was withheld pending successful completion of probation. 1981 Op. Att’y Gen. No. U81-32.

SPLIT SENTENCES. --A sentencing court may impose a "split sentence" of a period of incarceration followed by a period of probation on defendants subject to this section. 1985 Op. Att’y Gen. No. 85-40.

WHEN SENTENCE BEGINS TO RUN. --A sentence imposed subsequent to revocation of first offender probation should run from date sentence is imposed. 1976 Op. Att’y Gen. No. 76-16.

REVOCATION BY COURT IN CIRCUIT WHERE PROBATION IMPOSED. --Only the circuit imposing first offender probation may revoke that period of probation, even though supervision has been transferred to another judicial circuit. 1980 Op. Att’y Gen. No. 80-79.

APPLICANT FOR PISTOL PERMIT. --An applicant for a license to carry a pistol or revolver under § 16-11-129 who has successfully completed, or who has been released prior to termination of the probationary period under this article, does not have to be free from all restraint or supervision for a specified period of years before applying for a pistol permit, since the successful completion of the period of probation has resulted in there being no adjudication of guilt and, therefore, no conviction. 1978 Op. Att’y Gen. No. U78-21.


Fulfillment of terms of probation under this section or release by court prior to termination of period of probation is not a criminal conviction for purposes of Georgia Firefighter Standards and Training Act (T. 25, Ch. 4, Art. 1). 1981 Op. Att’y Gen. No. U81-12.

Individual in process of serving period of probation under this section should be treated, for purposes of Georgia Firefighter Standards and Training Act (T. 25, Ch. 4, Art. 1), in same manner as individual who has satisfactorily fulfilled terms of or who has been released from such probation. 1981 Op. Att’y Gen. No. U81-12.

FIRST OFFENDER TREATMENT NOT "CONVICTION" UNDER DRUG-FREE WORKPLACE ACT. --First offender treatment upon a verdict or plea of guilty is not a "conviction" within the meaning of the Drug-free Workplace Act (§ 45-23-1 et seq.), applicable to public employees. 1992 Op. Att’y Gen. No. 92-10.

FIRST OFFENDER TREATMENT IS "CONVICTION" UNDER DRUG-FREE CAMPUS ACT. --First offender treatment upon a verdict or plea of guilty is a "conviction" within the meaning of the Drug-free Postsecondary Education Act of 1990 (§ 20-1-20 et seq.), applicable to students in institutions of higher learning. 1992 Op. Att’y Gen. No. 92-10.

RESEARCH REFERENCES


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ALR. --Plea of nolo contendere or non vult contendere, 89 ALR2d 540.

Propriety, in imposing sentence for original offense after revocation of probation, of considering acts because of which probation was revoked, 65 ALR3d 1100.

Acquittal in criminal proceeding as precluding revocation of probation on same charge, 76 ALR3d 564.

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