

# STRATEGIES TO ENGAGE EMPLOYERS IN CONVERSATIONS ABOUT HIRING APPLICANTS WITH CRIMINAL RECORDS

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Nearly one in three adults in the U.S. has a criminal record that can appear on a routine background check for employment.<sup>i</sup> Furthermore, in a recent survey, men with conviction records accounted for about 34 percent of the nonworking men of prime working age.<sup>ii</sup> Studies have shown that the existence of a criminal record reduces the likelihood of an employer calling an applicant back by 50 percent on average, rising to 60 percent for black male job candidates.<sup>iii</sup> These statistics demonstrate both that involvement with the criminal justice system is a fairly common experience in the U.S. and that a criminal record impacts employment opportunities.

With the national unemployment rate dipping below 5 percent, employers cannot afford to overlook millions of qualified workers.<sup>iv</sup> The economy loses \$78 to 87 billion per year in gross domestic output due to the number of people with criminal records that are unemployed or underemployed.<sup>v</sup>

Many employers have expressed a desire to provide fair access to job opportunities for this population but are unsure how to do so while still addressing safety and liability concerns, such as negligent hiring. To bridge this gap, a wide range of organizations and agencies—including parole and probation agencies, reentry service providers, and educational and occupational training programs—work to provide support to people with criminal records who are seeking employment. This tipsheet offers these organizations suggestions on how they can engage employers in conversations about hiring people with criminal records, which will help improve the employment outcomes of the people they serve.

## Tip One: Do Your Research

Before reaching out to employers, learn about their industry's employment practices and the barriers that people with criminal records may face when trying to enter or advance in those industries. Research the local, state, and federal hiring policies that regulate when in the hiring process employers can inquire about criminal records. It is also important to understand specific employers' hiring needs; they will be more responsive if you can frame the discussion around their company's need for qualified workers.

- Identify the **industries in your region** that are expected to grow. This will help you target your efforts on employers with the largest number of job openings, as well as the sectors that are expected to have the most job openings in the future.<sup>vi</sup>
- Learn about the **career paths available in certain fields**, including the education and training requirements a person would need to meet in order to advance in a specific career.<sup>vii</sup>

- Note **the legal and regulatory sanctions**—or collateral consequences—that limit or prohibit people with certain criminal convictions from obtaining occupational licenses and accessing employment in specific industries. This will help you better gauge which fields to consider exploring. For example, states—and in a few cases, the federal government—require licenses for particular businesses or occupations, including some health care professions, commercial drivers, and cosmetologists.<sup>viii</sup>
- Understand the **state and local hiring policies** aimed at the consideration of records in hiring decisions. A broad menu of reforms, which some localities have deemed “fair-chance” laws, incorporate “ban the box” policies<sup>ix</sup> and build off the best practices detailed in the U.S. Equal Employment Opportunity Commission’s guidelines on the use of arrest and conviction records for employment decisions.<sup>x</sup> Policies run the gamut from simply removing questions about the applicant’s conviction history from the job application to more robust alternatives, such as not asking about criminal records at all in the process or only inquiring about criminal history within a certain time period, e.g. the past five years. The scope of the policies also varies as to the level of government, the legal mechanism used, and the type of employer choosing to “ban the box.” As of August 2017, 29 states and more than 150 cities and counties had adopted policies to delay inquiries into a job applicants’ criminal history during the hiring process.<sup>xi</sup> Delaying this inquiry encourages the employer to focus on skills and qualifications first and allows the potential employee to get a foot in the door and explain their record during in an interview.

## Tip Two: Listen to Employers

Talk with employers to learn about their hiring practices. Ask them about their willingness to consider new ways of recruiting workers, and identify what interests them and what concerns them about this process.

- **Understand what skills employers are looking for in employees** so you can refer qualified applicants for the appropriate job openings. It is also important to understand the challenges of employers’ recruiting and hiring processes. For example, if employers report a constant turnover of entry-level workers, they may need help in establishing a more effective screening process. If employers report that new hires do not have the required skills for their positions, you may need to connect them with workforce partners who can provide training in the needed areas. For more information on this, see Tip Four.
- **Ask employers about their hiring practices** and if they currently hire qualified workers with criminal records. If not, explore why and respond to their questions and concerns. Be prepared to counter myths and misunderstandings concerning state and federal laws, professional regulations, and the use of background checks.
- Explore opportunities for employers to **provide input on the development of correctional education and training programs**, as well as to participate in job shadowing or mentoring programs. Their involvement will ensure that these programs train job seekers to meet the needs of the employer, and will engage employers on a foundational level in the process of hiring people with criminal records.

## Tip Three: Promote Peer Learning

Employers listen to other employers, so you should create avenues for them to communicate with one another. Employers will value your role as a convener or intermediary.

- Identify and **build relationships with employers** who have had success hiring people with criminal records. Encourage them to share their stories with other employers in their industries and communities.
- **Convene a meeting of employers in the same sector to discuss** their hiring practices and the resources they use when considering a criminal record in hiring decisions.<sup>xiii</sup> If employers work together, they can collaborate to create useful resources such as industry standards in occupational training programs, common applications, and shared hiring events. Industry associations, such as the National Association of Home Builders and the National Association of Manufacturers, have already established programs to train current and formerly incarcerated workers for jobs in their industries.
- **Work with your chamber of commerce.** Chambers of commerce regularly provide peer learning opportunities for their members and are trusted by the business community. Chamber member organizations are mainly small and medium-sized businesses, which often seek out their chambers of commerce for solutions to common business challenges. In this vein, the Association of Chamber of Commerce Executives has developed a [Smart Justice Program](#), which provides tools and assistance to chambers interested in promoting the hiring of people with criminal records.<sup>xiiii</sup>

### EMPLOYERS LEARN FROM EACH OTHER IN WESTERN MICHIGAN

Employers in Michigan are teaming up to create a community of practice around hiring people with criminal records. Talent 2025, a collaboration of more than 100 CEOs in western Michigan focused on strengthening the local labor force, is facilitating a process where senior human resources managers and directors can learn about hiring people with criminal records. Participants meet five times over the course of six months to discuss their experiences and strategies for hiring people with criminal records, including relevant laws, insurance liability, understanding criminal records, and developing fair chance hiring policies. Talent 2025 has paired with 30-2-2, a joint initiative between Butterball Farms and Cascade Engineering, to identify 30 local employers that will each hire two workers with criminal records and track their employment outcomes for two years.

## Tip Four: Create Win-Win Opportunities

Employers are more likely to consider hiring people with criminal records when doing so addresses their business needs and serves their bottom line. Focus conversations with employers on the benefits of broadening their pool of qualified applicants.

- **Position your organization as a pre-screener of applicants**, which can reduce human resources costs for the employer. You might offer to meet with potential job candidates to conduct mock interviews, review their credentials, and assess their skills and reliability.

- **Partner with employers to identify marketable skills** and to create effective training programs that can result in job-ready employees.
- **Connect employers with [American Job Centers](#) to establish on-the-job training programs** with wage subsidies provided by the government. This will allow employers to reduce costs and give them the opportunity to evaluate workers on the job before making a hiring decision<sup>xiv</sup> and, as discussed in Tip Two, ensures applicants have the skills employers are looking for.

## FROM ON-THE-JOB TRAINING TO PERMANENT EMPLOYMENT

Project Empowerment—launched in 2002 by the Washington, DC, Department of Employment Services—partners with employers to provide on-the-job training to those facing barriers to employment, including people who have been incarcerated. The job-readiness program includes an intensive three-week training course, skill development, supportive services, and permanent job search assistance as well as subsidized on-the-job training.

## Notes

- i. Maurice Emsellem and Michelle Natividad Rodriguez, *Advancing a Federal Fair Chance Hiring Agenda: Background Check Reforms in Over 100 Cities, Counties, & States Pave the Way for Presidential Action* (National Employment Law Project, 2015).
- ii. Binyamin Appelbaum, “The Vanishing Male Worker: How America Fell Behind,” *New York Times*, December 11, 2014, [https://www.nytimes.com/2014/12/12/upshot/unemployment-the-vanishing-male-worker-how-america-fell-behind.html?\\_r=0](https://www.nytimes.com/2014/12/12/upshot/unemployment-the-vanishing-male-worker-how-america-fell-behind.html?_r=0)
- iii. Devah Pager, “The Mark of a Criminal Record,” *American Journal of Sociology* 108 (5):937-975.
- iv. Bureau of Labor Statistics, U.S. Department of Labor, <https://data.bls.gov/timeseries/LNS14000000>.
- v. Cherrie Bucknor and Alan Barber, *The Price We Pay: Economic Costs of Barriers to Employment for Former Prisoners and People Convicted of Felonies* (Center for Economic and Policy Research June 2016).
- vi. CareerOneStop has industry profiles and other useful information, available at [www.careeronestop.org/ExploreCareers/Learn/research-industries.aspx](http://www.careeronestop.org/ExploreCareers/Learn/research-industries.aspx). The U.S. Department of Labor funds each state to compile short and long term employment projections available at [www.doleta.gov/business/projections/InternetLinks.cfm](http://www.doleta.gov/business/projections/InternetLinks.cfm). In addition, each state is required to develop a Workforce Innovation and Opportunity Act (WIOA) Plan, which includes employment projections, available at [www2.ed.gov/about/offices/list/osers/rsa/wioa/state-plans/index.html](http://www2.ed.gov/about/offices/list/osers/rsa/wioa/state-plans/index.html).
- vii. Society for Human Resource Management, *Developing Career Paths and Ladders* (2015).
- viii. Task Force on Over-Criminalization of the U.S. House of Representatives (June 26, 2014) p. 8. Because the majority of occupational licensing laws are state-regulated, this paper does not contemplate local laws.
- ix. “Ban the box” refers to the removal of the check-box on job applications inquiring about conviction information.
- x. [https://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](https://www.eeoc.gov/laws/guidance/arrest_conviction.cfm)
- xi. Michelle Natividad Rodriguez and Beth Avery, *Ban the Box: U.S. Cities, Counties, and States Adopt Fair Hiring Policies* (National Employment Law Project, 2017).
- xii. Employer engagement planning guides and sample materials are available through The National Reentry Resource Center at <https://csjjusticecenter.org/nrrc/hiring-people-with-criminal-records/>
- xiii. [http://www.acce.org/clientuploads/directory/magazine\\_archive/spring2016/Spr2016\\_05\\_PEW.pdf](http://www.acce.org/clientuploads/directory/magazine_archive/spring2016/Spr2016_05_PEW.pdf)
- xiv. [www.careeronestop.org/businesscenter/trainandretain/fundingemployeetraining/on-the-job-training.aspx](http://www.careeronestop.org/businesscenter/trainandretain/fundingemployeetraining/on-the-job-training.aspx)

*This project was supported by Grant Nos. 2016-MU-BX-K011 and ED-ESE-15-A-0011/0001, awarded by the Bureau of Justice Assistance and the U.S. Department of Education, respectively. The Bureau of Justice Assistance is a component of the Department of Justice’s Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Departments of Justice or Education.*