

HUMAN RIGHTS DEFENSE CENTER

Dedicated to Protecting Human Rights

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SENT VIA EMAIL ONLY

Commission Meeting
EEOC Executive Officer
131 M Street, N.E.
Washington, D.C. 20507

**RE: Formal Comment Regarding Hiring Practices
that Negatively Impact Ex-Offenders**

Dear Sir or Madam:

I write in reference to the Commission's July 26 meeting, during which the topic of hiring practices that impact former offenders was discussed.

I serve as associate editor of Prison Legal News, a non-profit monthly publication that reports on criminal justice issues, and a project of the Human Rights Defense Center. Over the past 21 years that PLN has been publishing we have run numerous articles on topics related to re-entry, former prisoners and recidivism rates, and the impact a criminal conviction has on reintegration into the community following release from incarceration.

Both myself and the director of the Human Rights Defense Center are former offenders, having served a total of 27 years between us. Almost all of PLN's regular writers are currently or formerly imprisoned, and we have a preferred hiring policy for people with criminal records.

Common sense, our empirical experience and research studies all indicate that ex-offenders have a difficult time finding jobs that provide a living wage following their release from custody, in large part due to their criminal record, and that this difficulty in securing employment directly contributes to reentry problems and thus higher recidivism rates.

In regard to research, a collaborative report by the Pew Charitable Trusts' Economic Mobility Project and Public Safety Performance Project, released in September 2010, addressed the impact of prior incarceration on the upward economic mobility of ex-offenders. The study found a strong negative effect of incarceration on upward economic mobility not only for former prisoners but also their families. Before incarceration, more than two-thirds of male prisoners were employed with

PLN is a project of the Human Rights Defense Center

over half being the primary earner for their families. After release, their hourly wages were about 11% less than a similar group of men who were not incarcerated, their annual employment was nine weeks less and their annual income was 40% less. Please see Attachment 1, an article about the Pew report from the August 2011 issue of *Prison Legal News*.

Often a former prisoner's criminal record has no relation to the type of job he or she is seeking, but because ex-offenders do not constitute a protected class, employers are free to discriminate against them and deny them employment based on their criminal record alone. Certainly, some offenders who commit certain crimes should be legitimately excluded from work in positions that are directly related to their offense; child sex offenders, for example, should not be working at day care centers. But the majority of former prisoners have committed crimes that are unrelated to any particular job position – e.g., non-violent drug or property offenses. Yet they frequently face exclusion from the job market solely due to the unalterable fact of their criminal conviction.

Some jurisdictions have passed laws and ordinances to remove questions about prior convictions from public employment job applications or to make ex-offenders a protected class for purposes of anti-discrimination statutes – including Hawaii, New York and Philadelphia. Most recently, the City of San Francisco is presently considering a proposal to make former prisoners a protected class for housing and employment purposes. Please see Attachment 2.

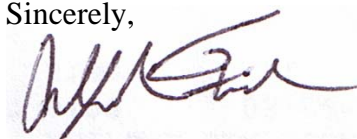
The Human Rights Defense Center supports actions that remove barriers to reentry for ex-offenders, including barriers to employment. This includes ensuring that former prisoners do not face discrimination in the job market due solely to the fact of their criminal record alone when that record has no relationship to or bearing on the job position they are seeking.

Absent reforms in this area, ex-offenders will continue to face discrimination in hiring decisions and will continue to have difficulty securing employment post-release, which will have a negative effect on re-entry and result in higher recidivism among former prisoners.

We encourage the EEOC to give serious consideration to this issue, and to propose and promulgate solutions to this problem which is faced by many, if not most, of the almost 730,000 prisoners who are released from state and federal correctional facilities each year.

Thank you for your time and attention in this regard;

Sincerely,



Alex Friedmann
Associate Editor, PLN

From Prison Legal News, August 2011 (www.prisonlegalnews.org)

Report Finds Prior Incarceration Hinders Upward Economic Mobility

by Matt Clarke

The Pew Charitable Trusts' Economic Mobility Project and Public Safety Performance Project issued a collaborative report in September 2010 on the impact of incarceration on economic mobility. The report found a strong negative effect of incarceration on upward economic mobility not only for former prisoners but also their families.

"These findings make it clear that beyond the already substantial brick and mortar costs of incarcerating such a significant portion of the population, there are additional costs to former inmates, their families and their communities," the report stated. "Those who have been incarcerated emerge from prisons and jails and work fewer weeks per year, receive lower wages and take home smaller earnings. These costs now account for a substantial share of the economic hardship faced, in particular, by young, undereducated racial and ethnic minorities."

Before incarceration, more than two-thirds of male prisoners were employed with over half being the primary earner for their families. After release, their hourly wages are about 11% less than a similar group of men who were not incarcerated, their annual employment is nine weeks less and their annual income is 40% less. Lifetime earnings by age 48 are reduced by an average of \$179,000 for formerly incarcerated men. The effect is strongest among minorities and the undereducated. Total earnings by white males is lowered by 2%, by 6% for Hispanic males and by 9% for black males.

Typically, two-thirds of male workers in the lowest fifth of earnings distribution will eventually work their way to a higher income bracket. For former prisoners, only one-third climb out of the lowest fifth. Additionally, a mere 2% of male former prisoners starting in the lowest fifth make it to the top fifth after 20 years, compared with 15% of such male workers who were never incarcerated.

In 1985, 1 in 125 children had an incarcerated parent. Now the rate is 1 in 28 (3.6%), totaling 2.7 million children with a parent in prison. The impact is most prominent among minority children: 1 in 9 (11.4%) for black children, about 1 in 28 (3.5%) for Hispanic children and 1 in 57 (1.8%) for white children.

The report found that 23% of children with an incarcerated father are expelled or suspended from school compared with 4% of those without a father in prison. Family income during a father's incarceration drops by 22% compared with the year prior to incarceration. Even after the father is released, family income remains 15% below pre-incarceration levels. Since income and education are strong indicators of children's future economic mobility, a parent's incarceration has a strongly negative effect on a child's future financial prosperity.

"To support upward mobility, states can invest in programs that reconnect former inmates with the labor market and remove obstacles to reintegration. To stop the revolving door of incarceration, states can invest in research-based policies and programs in the community that keep former inmates on the straight and narrow, improve public safety and cost far less than incarceration," the report notes.

Such policies and programs include education, job training, job placement

assistance and follow-up services to help retain employment; capping the percent of former prisoners' income subject to deductions for fines, fees and other unpaid debt; expanding the Earned Income Tax Credit to include non-custodial low-income parents; diverting low-risk defendants into community-based supervision programs; using earned-time credits to reduce prison sentences for prisoners who complete educational, vocational or rehabilitation programs; and implementing alternative sanctions, such as weekend jail terms, to punish parole and probation violators – which would prevent them from losing their jobs.

The Pew Charitable Trusts report was based on research by Professor Bruce Western of Harvard University and Professor Becky Pettit of the University of Washington.

Source: *“Collateral Costs: Incarceration’s Effect on Economic Mobility,”* Pew Charitable Trusts, Sept. 2010 (available at www.economicmobility.org)



San Francisco Considers Legal Protection for Criminals

By Claudia Cowan

Published July 26, 2011 | FoxNews.com

A legislative proposal in San Francisco seeks to make ex-cons and felons a protected class, along with existing categories of residents like African-Americans, people with disabilities and pregnant women. If passed by city supervisors, landlords and employers would be prohibited from asking applicants about their criminal past.

Supporters say it's an effort to help former offenders get back on their feet, but critics call the concept a crime in itself.

"My mother is an immigrant, my mother-in-law is a Jew and I'm a gay man. Those are all protected categories, but you're going to put a felon in there as a protected category? That's not right," said Andrew Long, a board member of the San Francisco Apartment Association.

But ex-cons contend they're immediately disqualified by employers and landlords reluctant to trust anyone with a rap sheet.

"People don't want to hire felons," says Monique Love, who served time five years ago on a drug offense. Clean and sober now, she says boxes on application forms asking about criminal history unfairly discriminate against her. At one recent interview, Monique says she never got the chance to tell her story of recovery and rehabilitation.

"I didn't get a shot. Not a shot," she says. "As soon as he saw that box was checked, the boss was like, 'I'm sorry, we can't help you.'"

According to The City's Human Rights Commission, San Francisco has the highest recidivism rate of any big city in California, almost 80 percent. With an influx of new prisoners set to be released because of the state's budget crisis, supporters argue felons need legal protections before they're disqualified simply because of their record, which could be decades old and for crimes that have nothing to do with the job they're hoping to get.

Commission Director Teresa Sparks calls it a public safety issue.

"Without housing, it's hard to keep a steady job, and many times because of that, people recommit," Sparks said. She argues a criminal history shouldn't be the only reason someone is denied housing or work.

"All we're saying is get a chance to know them, see if they're qualified otherwise, before you use that as a criteria for taking them out," she said.

Hawaii, New York and Philadelphia have enacted similar policies to prevent blanket discrimination against felons in the private job market, and some cities in Illinois and Wisconsin have imposed such restrictions on rental property owners.

At a public hearing at San Francisco's City Hall this week, some landlords worried that if the policy passes here, they'll face a barrage of lawsuits from unscrupulous convicts.

"Some ex-cons will probably make this a business, going from apartment complex to apartment complex, getting denied for whatever reason, and then filing a nuisance lawsuit," Long said.

Sparks says rental property owners could turn away sex offenders and people who've committed some violent crimes, like murder. Employers could also reject job applicants if their crimes are "significantly related" to the position they are seeking, but they could only inquire about the applicants' criminal past at the end of the interview process.

That doesn't sit well with Gary Bauer, owner of Bauer's Intelligent Transportation, one of San Francisco's biggest transportation companies. He says he needs to know about an applicants criminal history right up front.

"We won't discriminate against anyone, but we need to know what we're looking at. What is their background? Is it grand auto theft? We're running transportation," Bauer said, adding, "Being in California, and in San Francisco, it gets tougher and tougher every year ... when they come down with these things."

Public hearings continue to formalize the legislation, with lawsuits sure to follow, if San Francisco gives legal protections to people who broke the law.

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