

**Enhancing Employment
Opportunities
for
Individuals with a Criminal
Record**

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Brief Overview

- Corrections & mental illness overview
- Barriers to employment for ex-offenders
- Strategies to address those barriers
- Need for state systems & local agency collaboration
- Available Resources

Corrections & Mental Illness

Statistics

- People with MI more represented in jail (16% of people in jail have MI, 5% of general population does).
- Stay longer in jail – (some places up to 5x as long).
- Incarceration increases chances of suicide.
- High rate of recidivism (72-90% repeat offenders).
- Community involvement & employment help keep people out of jail.

Corrections & Mental Illness

Statistics

- Almost 75% of inmates with MI have substance abuse problems.
- More likely to have been homeless prior to arrest.
- Over 50% incarcerated for a non-violent crime.

Corrections & Mental Illness

“It is important to note that, contrary to the public perception that people with mental illness are more likely to commit violent crimes, studies show that individuals with mental illness are actually more likely to be the victims of violent crimes than people without mental illness.”

Hiday et al., “Criminal Victimization of Persons with Severe Mental Illness.”

Corrections & Mental Illness

Employment

- Unemployment consistently associated with high recidivism rates (*Finn, 1998*).
- “Ex-offenders with jobs commit fewer crimes than ex-offenders without jobs, and those with higher earnings commit fewer crimes than those with lower earnings.” (*Bushway & Reuter, 1997*).

Barriers to Employment

- Federal & State laws and policies
- Incomplete data or knowledge of criminal history
- Substance abuse issues
- Lack of education, employment history, limited job skills
- Transportation issues (cannot get license)
- Limited social skills & soft skills for work
- Unrealistic earning expectations
- Limited family support
- Honesty tests

Barriers to Employment

Federal & State Laws/Polices

- What Can Employers Ask?

Each state is different, but most states allow employers to ask about convictions.

- J&J states that allow questions about arrests *regardless* of conviction:

- -Vermont - Illinois - Kansas
- -Oregon - -Maryland - South Carolina
- -Delaware -District of Columbia

- J&J states that do not allow this question:

- -Ohio - Connecticut

Barriers to Employment

(borrowed from H.I.R.E. Network)

BEST			AVERAGE			WORST		
RANK	STATE	SCORE	RANK	STATE	SCORE	RANK	STATE	SCORE
1	NY	10	20	AZ	26	35	MO	36
2	HI	12	21	ID	28	35	AK	36
3	CA	14	21	WI	28	35	TX	36
4	ME	15	23	LA	30	38	MD	37
5	OR	16	24	WV	31	38	IN	37
5	NH	16	24	MN	31	38	MS	37
7	UT	17	26	CT	31.5	38	WY	37
8	VT	18	27	KS	32	42	IA	38
9	MI	19	28	AR	33	42	SD	38
10	OH	19.5	28	ND	33	44	NJ	39
11	KY	22	28	FL	33	45	AL	41
11	NV	22	28	MT	33	46	DE	41.5
11	MA	22	32	NC	35	47	VA	43
14	IL	22.5	32	NE	35	47	GA	43
15	OK	23	32	PA	35	49	SC	47
16	NM	24				50	CO	48
17	RI	25						
17	TN	25						
17	WA	25						

HOW WE GRADED THE STATES

States were assigned a maximum of ten points for each roadblock category.

Therefore, the fewer the points, the better the score.

A Report Card for each state can be found on our website at:

www.lac.org/roadblocks/reportcardstates.html

A full description of the criteria and methodology we used to develop the Report Card can be found at:

www.lac.org/roadblocks/reportcardcriteria.html

Barriers to Employment

Honesty Tests

- Increase in use of honesty tests since 9/11
- No conclusive data on their reliability, validity or regulation of use.
- Only one state outlaws their use – MA
- Tests tend to violate privacy but no laws against this presently.
- Most companies that use the test do not publicize this fact (supermarkets & retail stores tend to use it)

Barriers to Employment

Incomplete Knowledge of Criminal History

- Many ex-offenders do not know what is on their criminal record.
- Criminal records often contain erroneous information or list the same arrests & convictions more than once.
- Almost anyone with access to the Internet can find information about someone's conviction history online without consent or any guidance on how to interpret or use information.

Effective Strategies for Increasing Employment Opportunities

1. Know the laws in your state.
2. Know the individual's criminal history, legal rights & obligations.
3. Help individual clean up their rap sheet/record.
4. Utilize financial incentives
(work opportunity tax credit & federal bonding)
5. Recognize & respond to concerns of employer.

Effective Strategies Cont.

6. Know local employers & culture of workplace
 - Good job development techniques will be the same as with anyone else.
7. Locate necessary documentation for employment (SS#, driver's license, photo ID, birth certificate, GED documentation, certificates of training, etc).
8. Provide the basic components of evidence-based supported employment.

Effective Strategies

Know the laws in your state

- A report on state legal barriers facing people with criminal records

http://www.hirenetwork.org/pdfs/LAC_PrintReport.pdf

- Information on agencies in each state related to helping people with a criminal record

<http://www.hirenetwork.org/resource.html>

Effective Strategies

How to obtain a criminal record history for an individual:

- Each state is different. To locate the agency you need to contact visit this website:
<http://www.hirenetwork.org/resource.html>
- Fees are typically involved if going through a reporting agency, but these can be waived.

Effective Strategies

Why obtain criminal records & what to know about them.

- Employers use these for criminal record information more often than rap sheets.
- *Info on reports often inaccurate.*
- If denied job, employer must state reason in writing per interviewee's request.
- No time limit for convictions being on record.
- Employer must have written consent of prospective employee.

Effective Strategies

Obtaining a RAP Sheet

- State & Federal (FBI) rap sheets
- Each state's rules are different
 - <http://www.hirenetwork.org/resource.html> (resource for each state)
 - Any law enforcement agency or correctional facility can help
- Usually need fingerprints & fee for service (although can be waived)
- FBI rap – see website
www.fbi.gov/hq/cjisd/fprequest.html

Effective Strategies

Record of Arrest & Prosecution (RAP Sheet)

- History of arrests and dispositions (or outcomes) information based on fingerprints.
- If fingerprinted by a law enforcement agency, a record is sent to State central repository. If more than one state, then FBI also has record.

Effective Strategies

RAP Sheets: What information is on there?

- Name & extensive ID info
- Arrest dates
- Arresting agency
- Arrest charges
- Court docket or indictment numbers
- Disposition (or outcome) of each of the listed cases

Effective Strategies

Expungement & Sealing

- **Expungement** – record of arrest is removed from all state & federal repositories (won't be on rap sheet).
 - Only possible if acquittal, situations of supervision, or no conviction.
- **Sealing** – files & records are sealed and only available by law to specific parties.
 - Convictions can be sealed.
 - If arrest or conviction is sealed not on FBI rap sheet.
- Process takes **6-8 months** to complete

Effective Strategies

Expungement & Sealing

- States have the right to permit the sealing or expungement of arrests that never led to conviction and conviction records after an appropriate period of time has elapsed.
- *Most states never expunge or seal conviction records but do allow arrest records to be sealed or expunged when the arrest did not lead to a conviction.*
 - 33 states do not permit the expungement or sealing of any conviction records.
 - 17 states allow some conviction records to be expunged or sealed, such as first-time offenses.
 - 40 states allow people to seal or expunge records of some or all arrests that did not lead to conviction.
 - 30 states allow you to deny the existence of a sealed or expunged arrest record when it did not lead to a conviction, if asked on employment applications or similar forms.

Effective Strategies

Employment Applications

- Application is a legal document (lying = termination at any time)
- Typically employers can ask about convictions
- Be prepared with accurate information
- Answer only what is asked
- Do not leave question blank (or say, “will discuss”)

Effective Strategies

Employment Applications

- Prepare to discuss convictions w/employer
- Evidence of rehabilitation helpful
 - Certificate of release from disabilities
 - Certificate of good conduct
 - Letters from treatment providers/counselors confirming active work towards or successful recovery from substance abuse (**ONLY** if related to conviction)

Effective Strategies

Explaining a Felony

- Honesty is the best policy.
 - HOW the information is communicated makes all the difference!
 - 3-step process:
 - State what happened briefly & clearly. Explain if necessary. Use common language.
 - Express remorse, show examples of how responsibility has been taken.
 - Communicate how things have changed or improved.
 - Important to be positive, highlight abilities & skills, be relaxed, and have good eye contact.

Effective Strategies

Interview Example #1

Interviewer:

“I see from your application that you have been convicted of a crime. Will you explain this to me? Tell me about it.”

Applicant:

“I’m glad you asked because I want you to feel comfortable about hiring me. It is embarrassing for me to talk about. I want to assure you that it had nothing to do with my previous employers. I took some things that didn’t belong to me and as a result, I’ve taken the time to decide what field I would like to get into. I have enrolled in several clerical courses and can type 50 wpm. I am familiar with several software programs for word processing, and have excellent phone skills. I am very interested in learning all I can about this industry and I know I would be an asset to your organization.”

Effective Strategies

Interview Example #2

Applicant:

“When I was younger I got mixed up with the wrong crowd and got in trouble for breaking into cars. We all do things when we are young that we regret. I used the time to my advantage by completing an air conditioning and heating training program and received my certificate. I’ve researched several air conditioning companies in the area and yours is well respected. I would really like to be part of your team.”

Effective Strategies

Interview Example #3

Applicant:

“In my past, I was involved with drugs, but that is all behind me and I’ve taken control of my life. I have two years of experience in food service and want to stay in this industry and learn as much as possible. As a result of my past, when you hire me, your company is eligible for the Work Opportunity Tax Credit, which can save you up to \$2,400. Are you familiar with this program?”

Effective Strategies

Certificate of Release from Disabilities

- Qualifications:
 - Only 1 felony and/or several misdemeanors
- Restores access to certain areas of employment
 - security guard or PI
- Restores ability to obtain licenses
 - liquor license & real estate broker license
- Restores citizen rights
 - vote, hold public office
- Certificate presented upon release from prison or while on parole

Effective Strategies

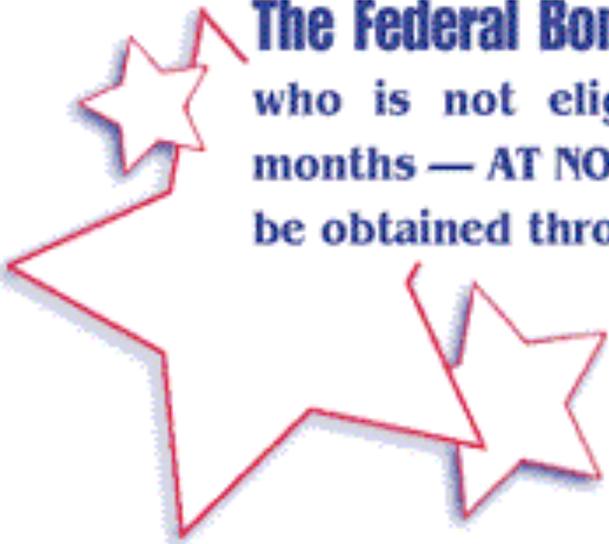
Certificate of Good Conduct Similar to Certificate of Release

- Qualifications:
 - 2 or more felony convictions
 - Completion of entire probation w/no additional criminal activity
 - Completion of waiting period (3-5 years based on type of felony)

Work Opportunity Tax Credit

- WOTC provides a tax credit for employers who hire certain targeted low-income groups, including vocational rehabilitation consumers, former AFDC recipients, veterans, ex-offenders, food stamp recipients, summer youth employees, and SSI recipients.
- A tax credit of up to 40 percent of the first \$6,000, or up to \$2,400, in wages paid during the first 12 months for each new hire.
- Effective through December 31, 2005 (will probably be extended).
- <http://www.dol.gov/odep/pubs/fact/wotc.htm>

The Federal Bonding Program



The Federal Bonding Program provides fidelity bonds to anyone who is not eligible for commercial bonding. Bonding for six months — **AT NO COST TO THE EMPLOYER OR THE EMPLOYEE** — can be obtained through this office.

Effective Strategies

Federal Bonding

- For 30 yrs DOL funded bonds making it free for states—no longer doing this
- State & local funds must be used to purchase bond packages (Voc Rehab, Corrections, Employment Programs etc) *Call: 1-800-233-2258*
- Websites:
http://www.hirenetwork.org/fed_bonding.html
www.bonds4jobs.com

Costs: \$

Number of Bond Units	Total Package Cost	Cost Per Unit
25	\$2,450	\$98
50	\$4,600	\$92
75	\$6,550	\$87
100	\$8,400	\$84

Effective Strategies

Job Development

- Selling points for Employers
 - Employment program acts as a human resources department: it screens applicants (employers typically do not know about their applicants from off the street).
 - Employment program refers people who are interested in the type of work the employer offers (good job matching).
 - Employment program provides support to the employer w/site visits, calls, and problem solving.
 - Services are free.

Effective Strategies

Job Development

- Big businesses are more difficult to create relationships with:
 - Have own HR department
 - Higher standards
 - Hiring process takes a long time
 - Very reluctant to hire ex-offenders
 - BUT more likely to use Work Opportunity Tax Credit

Effective Strategies

Job Development

- Smaller businesses easier to develop a relationship with:
 - Typically do not have own HR department.
 - Have less money for recruitment activities.
 - Appreciate the support of employment counselor.
 - Hiring process less formal and time consuming.

Stakeholder Collaboration

Systems Affecting Employment of Ex-offenders

- Workforce Systems (Dept. of Labor)
- Vocational Rehabilitation
- Criminal Justice System
- Mental Health System
- Local Business Community
- Housing Market
- Transportation
- Educational System
- Social Security

Stakeholder Collaboration

- Important to develop partnerships & coalitions among MH, SA, housing, business community, criminal justice systems, peer advocacy groups, and One-stop centers to increase systems integration.
- Integral component to this collaboration is to create positive relationships with key staff in each agency.
- Learn about the different cultures, incentives, and environment at each agency.

Stakeholder Collaboration

- Develop a community awareness event:
 - Invite: employers, landlords, ex-offenders, department of corrections, etc.
- Provide education/information directly to business community (use panel of successfully employed ex-offenders).
- *Need to have a positive relationship with probation & parole officers.*

Summary

- Important to know what is on the criminal record:
 - Change things that are incorrect & know how to explain arrests & convictions.
- Become familiar with the laws & policies in your state.
- Foster positive relationships with the probation & parole officers.
- Develop relationships with local business community.
- Work on collaboration at the state and local level.

Resources

- National H.I.R.E. Network
<http://www.hirenetwork.org/>
- Information on agencies in each state related to helping people with a criminal record
<http://www.hirenetwork.org/resource.html>
- National GAINS Center
<http://www.gainsctr.com>
- The Criminal Justice / Mental Health Consensus Project
<http://consensusproject.org/>
- An Explanation of Federal Medicaid and Disability Program Rules [For Inmates]
<http://consensusproject.org/projects/benefits/federal-benefits>
- National Institute of Corrections
<http://www.nicic.org/>

References

- Finn, P. (1998) *Program Focus: Successful job placement for ex-offenders: The center for employment opportunities*. National Institute of Justice: NCJ 168102.
 - http://nij.ncjrs.org/publications/pub_search.asp?title=employment&submit=Go&author=&category=99&searchtype=basic&location=top
- Bushway, S. & Reuter, P. (1997). "Labor markets and crime risk factors." Chapter 6 in L.S. Sherman, D. Gottfredson, D. MacKenzie, J. Eck, P. Reuter, & S. Bushway, *Preventing crime: What works, what doesn't, what's promising* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, 1997) pp. 6-17, cited in *Program Focus*, National Institute of Justice: NCJ 168102.