

Strategies for Creating Fair Employment Opportunities for People with Criminal Records

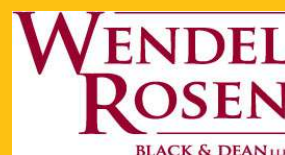
Findings from the Alameda County Business Leaders Summit on Reentry



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Introduction

Alameda County business leaders, employers, entrepreneurs, staffing agencies, workforce development professionals, and government agencies and officials recently gathered for the **Business Leaders Summit on Reentry: Strategizing for a Strong Local Economy**. The three-event series, held on June 18th, June 24th, and July 17th, drew 90 participants, all of whom brought tremendous energy and interest in developing strategies to work together to increase employment opportunities for Alameda County residents with a prior criminal record.

We are a local thread of a burgeoning national dialogue aimed at putting people with records to work to strengthen communities and bolster the economy. The U.S. Secretary of Labor, Thomas E. Perez, recently convened a wide range of business leaders, from Home Depot to Johns Hopkins Hospital Health System, at the White House to highlight corporate willingness to hire people with prior convictions.¹

The **Business Leaders Summit on Reentry** was convened by [The Lawyers' Committee for Civil Rights of the San Francisco Bay Area](#) (LCCR) and the [National Employment Law Project](#) (NELP) to engage the business community in developing strategies to expand employment opportunities for people with criminal records in Alameda County. The events highlighted the need to connect employers to tools and resources that can help maximize the human capital in their communities. Employers heard—some for the first time—about the laws on

This is an issue of passion for me because I truly believe... that people deserve a second chance.

– U.S. Secretary of Labor Perez



hiring people with records and the impact that locking people out of jobs has on public safety and the economy. Participants discussed strategies for hiring people with records that can bolster businesses' bottom lines while also benefitting the local community. Participants were surveyed at the beginning and end of each Summit event, and the results show that Alameda County businesses are ready for the next step:

- 57% of participants representing for-profit businesses reported that their companies have hired someone with a criminal record before.
- By the end of the Summit, 94% of participants representing for-profit businesses reported that they were willing to hire or employ qualified job applicants with criminal records at their companies.

The change that Summit participants experienced was profound. We encourage more businesses to join in sharing and learning about strategies for hiring people with criminal records.

LCCR and NELP are grateful to our Summit co-sponsors, the East Bay Economic Development Alliance, the East Bay Community Foundation, and the East Bay law firm, Wendel, Rosen, Black & Dean LLP. We also want to recognize our invaluable partnership with [Jessica Flintoft](#), who helped to develop and facilitate the Summit events. This project would not be possible without the generous support of the Alameda County Department of Public Health's Innovations in Reentry Fund, the financial sponsor of this project.

We invite employers to join our listserv to receive updates on employer tools for hiring people with records, announcements of legal trainings, and other resources for employers, all free of charge. Sign up for our listserv by contacting Meredith Desautels at mdesautels@lccr.com, or visit our website, www.lccr.com/programs/cultivating-fair-chance-employment-alameda-county.



Mike Hannigan, Co-Founder and President of Give Something Back Office Supplies

Local Business Leaders in Reentry

Opening up the Summit was local business leader **Mike Hannigan**, co-founder and president of [Give Something Back Office Supplies](#), California's largest independent office supply company, with more than 100 employees. Mr. Hannigan impressed upon participants the benefits of hiring people with criminal records: "Smart businesses will take full advantage of all the available subsidies and tax incentives for hiring people with felonies. With good hiring decisions, these will more than make up for any additional time that may be required to bring these new employees up to full productivity. It's been great for our bottom line and contributes to the overall strength and competitiveness of our workforce. Plus we are doing the right thing for the community, which counts as a big competitive advantage these days."

On June 24th, **Derek Barrett**, founder and CEO of [D and B Painting Co., Inc.](#), shared his perspective on the need to provide a second chance to people with records: "We need to move beyond the two prongs of 'bottom-line' and 'growth' as companies, and understand that we all will thrive when we include the third prong of 'investing in the community.'" He recounted a conversation he had with his young son that morning. When Mr. Barrett explained to his son that he was going to speak about the importance of hiring people who can't get work, he described his moral responsibility as a business leader. "You're

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Alameda County Supervisor Richard Valle

just like Spider-Man!” his son exclaimed. “Spider-Man says that ‘with great power comes great responsibility.’” “Yes,” Mr. Barrett said with a smile, “Spider-Man is a great example.”

At the July 17th event, **Alameda County Supervisor Richard Valle** spoke in his capacity as the founder and president of [Tri-CED Community Recycling](#), California’s largest non-profit recycling company. Supervisor Valle described how hiring at-risk youth at his company has been an opportunity to see young people grow, transform, and become leaders.

Also at the July 17th event, **Derreck B. Johnson**, founder and president of the acclaimed [Home of Chicken and Waffles](#), described his philosophy behind hiring recent parolees and at-risk youth: “I’m aiming to hire people right off the streets because I’m from the community. I’ve seen how a job makes all the difference. When I give someone a chance and he becomes my best employee, I know that I’m doing right by my community.”

As well as business leaders, we were fortunate to have **Assembly Member Nancy Skinner** and **Alameda County Supervisor Keith Carson** attend the Summit and show support for businesses expanding job opportunities for people with records.



Public Safety and Employment

Jeanne Woodford, a senior distinguished fellow at the Chief Justice Earl Warren Institute on Law and Social Policy, provided Summit participants a glimpse into her 30-plus years of criminal justice and corrections experience. As the former warden of San Quentin State Prison, undersecretary of the California Department of Corrections and Rehabilitation, and chief adult probation officer of the City and County of San Francisco, Ms. Woodford has met thousands of people in the criminal justice system.

She shared the story of “Robert”—a former inmate who had been arrested 128 times, mostly for crimes related to his substance-abuse addiction and poverty. After coming in and out of San Quentin State Prison many times, Robert suddenly stopped appearing. Ms. Woodford wondered where he was. Years later, Robert contacted her and informed her that he had completed a treatment program and was finally able to turn his life around, working at a renowned university, becoming a productive member of the community, and proving it’s never too late for redemption.

Ms. Woodford also described speaking with a local Rotary Club, asking the group of employers, “How many of you would hire someone who’d been incarcerated?” and not seeing a hand go up. She

Did you know? 1 in 4 U.S. adults has a criminal record.



then asked, “How many of you would hire someone if you knew that he spent his time in prison fighting wildfires across the state, protecting human life and property?” A few hands went up. “How many of you would hire someone who’d been in prison if you knew she or he spent his time making eyeglasses for Medicaid patients?” More hands. “How many of you would hire that person if you knew she or he had built the furniture used in your children’s classrooms?” And even more hands. These were all work programs in prison. This story emphasized how important it is to consider the whole individual in hiring decisions. People make mistakes, but what have they done to better themselves and to gain skills and work experiences?

Ms. Woodford also grounded the audience in key facts and research:

- Never before have there been so many people in the United States with a criminal record—an estimated one in four adults, or 70 million Americans.² That’s about 375,000 Alameda County residents with a record. This staggering rate is due to vast expansion of the criminal justice system over the past several decades, and the fact that a record lasts a lifetime.
- Employers and our entire community have a stake in people with records getting jobs. Due to the loss of the production from people with felonies and prison records, the U.S. gross domestic product was reduced by an estimated \$57-65 billion in 2008.³
- Research has found that employment is the single most important influence on reducing recidivism.⁴ One state-level study found that a drop in the unemployment rate contributed to a decline in certain offenses such as burglary, larceny, and auto theft.⁵



Solutions to Help Businesses Open More Opportunities for People with Records

By the end of the Summit events, 60% of for-profit business participants reported that the Summit had made them “much more interested” in hiring people with criminal records. None reported not being interested at all. During each Summit, participants brainstormed the challenges in hiring people with criminal records and identified the tools that employers needed to put people to work.

Reducing Risk and Liability

Identifying Challenges: One Summit participant noted, “The stigma of hiring people with records is real and deep, and some HR people just think it’s too risky to hire.” Without question, the stigma of having a criminal record not only reduces an individual’s job opportunities but also stymies the political will to alleviate employment barriers.

Creating Solutions: Educating the public about the broad array of individuals with criminal records and humanizing the population are keys to reducing stigma. Many people are unaware that for the 70 million Americans with arrests and convictions, most of those records are for old or minor offenses, and the vast majority poses no risk in the workplace. Another facet of the deep-seated stigma of a criminal record is the ubiquitous characterization of men of color as



“hardened criminals.” To break down these dehumanizing stereotypes, our CEOs, HR personnel, and hiring decision-makers can adopt a belief in second chances and give people the opportunity to prove themselves. Events like the Summit can help increase employers’ understanding of people with records.

Interestingly, when asked about the potential benefits to their companies of hiring people with criminal records, survey participants did not cite legal compliance, tax breaks, or wage subsidies as the top benefits. Instead, participants’ responses reflected an understanding that people with criminal records are talented and diverse members of our community: 78% cited access to hardworking applicants, 73% cited access to talented applicants, 73% cited having an employee population that reflects the community, and 67% cited creating a stronger economy, as the top benefits for their companies.

Identifying Challenges: A small-business owner asserted that it may be that “small businesses just don’t have the time to figure out how to hire someone with a record.” Also, a few participants noted that “the reentry population isn’t ready to employ and needs a lot of help and services.”

Creating Solutions: In our survey, 47% of for-profit business participants reported that they do not run background checks on applicants. Those businesses that decide to run a background check should ensure their compliance with the law and best practices. LCCR and NELP will be developing tools to help businesses of all sizes comply with relevant criminal-records-related laws, including model policies and practices and the sample documents to implement them.

It’s easy to conflate the entire population of people with records with the smaller subset of individuals that are in the process of transitioning out of jail or prison. But, criminal records last a lifetime. An overwhelming majority of people with records are not coming straight from the criminal justice system, and their convictions may be decades old. A simple next step for any employer is to ensure that they are not simply weeding out anyone with a record, but are taking into account the time since the offense.

People who are transitioning from jail and prison need job opportunities to reduce the risk of re-offending. Often, these individuals may benefit from additional support for “soft skills” and job training. These supports can be provided by workforce development partners working hand-in-hand with employers by providing individualized guidance, wrap-around services, and job training. Fully 68% of for-profit business participants reported in our surveys that “supportive services for employees” would most likely increase the likelihood of their companies hiring people with criminal records.



Identifying Challenges: A participant shared that she “had no idea that negligent hiring wasn’t a big risk.” She also explained that she wasn’t familiar with the relevant laws and didn’t know what was “OK to ask about a criminal record.”

Creating Solutions: LCCR and NELP will be hosting legal trainings for employers so that they can be informed about the actual risks of negligent hiring and to help familiarize businesses with the web of civil rights and consumer protection laws that apply to the use of criminal records in employment decisions.

Improving Bottom Line of Local Businesses

Identifying Challenges: Half (50%) of the participants reported in our surveys that wage subsidies would increase the likelihood of their companies hiring people with records; 45% of participants reported that tax incentives would do so. Participants were excited to learn about tax incentives and wage subsidies from local expert, [Susana Villarreal](#), the enterprise zone tax credits and incentives coordinator for the City of Oakland. However, some participants lamented that they had “no idea these existed” and for those that had heard of them, “they sounded too complicated.”



Creating Solutions: Ms. Villarreal is available to help businesses in Alameda County apply for the credits and will be hosting trainings. In addition, LCCR and NELP will be helping to educate the business community about the existence of these resources, and developing recommendations for policy and programmatic enhancements to improve their effectiveness.

Next Steps



A majority (59%) of for-profit business participants reported in our surveys that “training and resources” for their companies would increase the likelihood of their companies hiring people with records. To meet this need, LCCR and NELP will be developing free employer tools to help businesses hire people with records, and conducting free legal trainings for employers to ensure compliance with related laws. Keep updated on the newest developments and free resources by contacting Meredith Desautels (mdesautels@lccr.com) to join our listserv.

For employers ready to become a fair chance employer now, consider these steps:

- 1. Keep the conviction question off the initial job application.** You’ve never asked about criminal history before, or you decide to take the conviction history question off the job application, because you understand that it’s too easy to have “yes” on the conviction check-box lead to an application landing in the recycling bin. You’re committing to removing any blanket bans against hiring a person with a conviction.
- 2. Wait to run a background check on a top candidate.** If you decide to pay for background checks before you hire someone, you’ll wait until you’ve made your top choice or choices to run the check. That way, you’ll truly consider the person’s qualifications and be better able to contextualize the person’s record within their application as a whole.
- 3. Talk to the job candidate about the conviction.** If your top choice for a job has a conviction, and that conviction may be related to the duties of the job, you will have a conversation with the candidate to see if the conviction would prevent the candidate from performing the job.
- 4. Contact a public agency or local workforce development organization to see if there is a pool of candidates from which you can hire.** Many local agencies have programs in which individuals with arrest and conviction records are participating to prepare them for success in employment.



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Notes:

- 1 See Justice Center: The Council of State Governments, "[Business Executives and Government Officials Convene at White House](#)," (July 1, 2014).
- 2 The National Employment Law Project calculated estimate based on U.S. Census data and U.S. Bureau of Justice Statistics, "Survey of State Criminal History Information Systems, 2012," (2014), available at <https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>.
- 3 John Schmitt and Kris Warner, "Ex-offenders and the Labor Market," Center for Economic and Policy Research (2010), available at <http://www.cepr.net/documents/publications/ex-offenders-2010-11.pdf>.
- 4 Mark T. Berg and Beth M. Huebner, "Reentry and the Ties that Bind: An Examination of Social Ties, Employment, and Recidivism," *Justice Quarterly* (28) at pp. 382-410, (2011), available at <http://www.pacific-gateway.org/re-entry,%20employment%20and%20recidivism.pdf>.
- 5 Steven Raphael and Rudolf Winter-Ebmer, "Identifying the Effect of Unemployment on Crime," *The Journal of Law and Economics* (44), (2001), available at <http://www.jstor.org/stable/10.1086/320275>.

