

# GETTING THE RAP DOWN

Employment Strategies  
For New Yorkers with  
Criminal Records



workforce  
professionals  
TRAINING INSTITUTE

# EXECUTIVE DIRECTORS' INTRODUCTION

Assisting job seekers who have criminal records—and the employers that may hire them—represents one of the most persistently vexing challenges for workforce development organizations. In the years that Workforce Professionals Training Institute (WPTI) has provided direct training and technical assistance to practitioners and organizations in this area of work, we have learned much about effective strategies and practices, many of which we share in this report. Given the scale of this challenge, complex and frequently changing laws at the nexus of employment and criminal justice, and the very real societal stigma that reentrants face, we have found that this high-demand topic requires constant updating and refinement.

To date, over 500 people have attended WPTI's "Getting the RAP Down" training series, an intensive 28-hour, in-person workshop that equips practitioners with tools and resources to empower reentrants seeking work, and to engage employers around the legal obligations and potential incentives in the hiring process. Encouragement and input from many of these people—representative of the reentry, criminal justice, workforce development, and youth development fields, among others—inspired us to create this publication.

Many excellent organizations work tirelessly to assist persons with criminal records in finding employment in New York. *Getting the RAP Down* spotlights six of the leading organizations, though space constraints do not allow us to describe them at the length their accomplishments merit. The resources section of this report includes an extensive list of New York City organizations that work with the criminal justice population.

We see this report as a highlight of best practices and resources rather than a review of the field itself. As this publication is a work in progress, we welcome the continued input and support of our colleagues. We hope that this resource will be an asset to your practice.

**LOU MICELI**  
Founding Executive Director

**AMY LANDESMAN**  
Executive Director

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## **AUTHORS**

**Daniel J. Salemson, David Jason Fischer, Louis D. Miceli**

## **CONTRIBUTORS**

**James Brown, Robert Genn & Elaine Kost**, New York State Department of Labor

**Joel Copperman and Joe McLaughlin**, CASES

**Mark Elliott**, Economic Mobility Corporation

**Suzi Epstein**, Robin Hood Foundation

**Elizabeth Gaynes**, The Osborne Association

**Mark Goldsmith**, Getting Out and Staying Out (GOSO)

**Charles Hamilton**, Philanthropy New York

**Amy Landesman & Chris Genua**, Workforce Professionals Training Institute

**Roberta Meyers-Peebles**, The National H.I.R.E. Network

**Jennifer Mitchell**, The Doe Fund

**Laurie Parise**, Youth Represent

**Robert Carmona**, STRIVE National

**Stanley Richards and Glenn Martin**, The Fortune Society

**Kate Rubin**, The Bronx Defenders

**Mindy Tarlow and Tani Mills**, Center for Employment Opportunities

**Sonia Torruella**, New York City Housing Authority

**Dee Wallace**, Public/Private Ventures

**Morgan Stoffregen** proofread the report and **Aaron Wolk** provided layout and design.

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# I. Systems Overview and Considerations

*“Either they go to work or they go back to jail.”<sup>i</sup>*

—Raul Russi, former New York City Probation Commissioner, 2001

Every week, more than 1,300 New York City residents “come home” to their neighborhoods and families after completing a term of incarceration in prisons upstate or on Rikers Island. Far too many of the roughly 68,000 New Yorkers who make this journey each year will do so more than once over the course of their lives.<sup>ii</sup> The exact rate of recidivism depends on population and how one defines recidivism (re-arrest, reincarceration, or some other official measure of criminal justice involvement), but the most comprehensive federal study, conducted in the mid-1990s, found that 30 percent of released prisoners nationwide were rearrested within six months, 44 percent within a year, and 67.5 percent within three years.<sup>iii</sup>

All too often, New Yorkers with a criminal record<sup>iv</sup> must navigate the challenges of reentry into their community without much preparation or assistance. The infamous Rikers Island bus drops off discharged inmates at the Queens Plaza transportation hub before sunrise with little more than their personal belongings, transit fare, and some pocket change.<sup>v</sup> It would be difficult to come up with a more apt metaphor to capture the bleak realities of reentry, in particular the lack of faith and support the public at large invests in reentrants. Even as the public commitment to reentry services has ramped up in recent years—New York City spending on reentry surged to \$14.5 million in 2009, more than triple the amount spent just four years earlier<sup>vi</sup>—it is still unclear whether the investment has yielded meaningful results.

Employment—first simply finding a job, and then securing more substantive work, ideally on a career path, over the long term—comprises only one of the challenges

faced by reentrants. But it’s arguably the most important of those challenges: as the New York State Bar Association’s Special Committee on Collateral Consequences of Criminal Proceedings noted in 2006, “research from both academics and practitioners suggest that the chief factor that influences the reduction of recidivism is an individual’s ability to gain quality employment.”<sup>vii</sup> The experience of work, even in a menial and low-paying job, fills up hours that otherwise might be spent in illegitimate pursuits, and provides at least some money to meet expenses. Less tangibly, if no less important, the experience of seeking, securing, and retaining legitimate employment itself builds the confidence and self-worth of individuals who, exterior bravado notwithstanding, frequently lack both.

For providers of workforce services, finding employment for participants with criminal records presents a challenge even in the best of economic times, and can feel nearly impossible with the overall labor market slack and unemployment rising. Their participants face many of the same obstacles that hamper the general population of job seekers, from limited work history and low skill levels to uncertainty about housing or child care and untreated physical or mental health issues. But providers who work with reentrants also must determine how best to explain conviction history to potential employers, contend with restrictions on working in certain industries or obtaining licenses, and coordinate with parole or probation officers to meet other requirements of release.

At the same time, many of the challenges and strategies for reentrants are similar to those encountered in working with any other high-needs individuals seeking employment assistance. Time spent up front conducting quality assessment is well invested, and workforce providers often find greater success emphasizing their organization’s credibility and the human resources services it provides to employers rather than “selling” the individual candidate. Job placement and retention problems will generally mirror those of individuals in any other group disadvantaged by low skills, little work experience, and concerns around issues like health and housing. As Dee Wallace of Public/Private Ventures points out, “extolling the job seeker’s qualifications, selling your organization’s supports, encouraging the employer to give the person a chance, [and] providing good follow-up...[is] just good basic practice.”<sup>viii</sup>

As is true of all individuals who seek job training and placement assistance, no two reentrants are the same. “I try to tell providers that they need to work hard not to pigeonhole people and treat all clients who have a criminal record the same way,” says Roberta Meyers-Peebles, director of the National H.I.R.E. Network, a national advocacy group that serves as a clearinghouse for best practices in the field. “People are different; life experiences are different; maturity levels are different. They might not need as much guidance; they might need more guidance. There aren’t ‘ex-offenders’ who look the same and have the same needs, no more than for anyone else.”<sup>ix</sup>

Past history with the criminal justice and corrections systems often intensifies employment barriers. People leaving incarceration can have a harder time finding stable housing, making steady employment difficult to maintain. Employers who might otherwise overlook deficiencies such as limited academic achievement may be unwilling to hire a recently released applicant who also lacks a high school diploma. On a personal level, the experience of imprisonment often leaves individuals less trusting, less hopeful, and less cooperative with those to whom they must turn for assistance.

“Formerly incarcerated men and women face a combination of personal and societal barriers,” explains Stanley Richards, senior vice president for programs at The Fortune Society, “including the overall societal perception of formerly incarcerated persons, as well as legislative barriers.” Complicating the provider’s task, he adds, is that some of these obstacles remain even after a successful placement. “For many of them, once they get established they want to forget about that past. Once people obtain and maintain their employment and reach a point of stabilization, we have a challenging time reengaging them to offer ongoing support. We often hear people say ‘I’m doing well,’ even after only two or three months on the job—or we don’t hear back at all.”<sup>x</sup>

The confusing nature of criminal records—and uncertainty about what will show up when an employer conducts a background check—often clouds the employment picture even further. Practitioners find that many job seekers have never seen their own **RAP (Record of Arrest and Prosecution)** sheets and are unclear or misinformed about the specifics of their convictions. Although criminal records are public documents and individuals are entitled to access their own records, the process of requesting the rap sheet can be arduous and time consuming. Arcane legal terminology and the density of information contained in an official rap sheet—often dozens of pages recording every interaction with the criminal justice system from arrest through arraignment and disposition—baffles even legal experts on occasion.

The chaotic experience of the court system itself breeds confusion. Consider the following scenario, played out hundreds of times each day, with minor variations, in New York City:

An individual arrested on a misdemeanor charge of drug possession on, say, a Sunday might spend up to 24 hours in a crowded holding cell at the local police precinct. Blearily from lack of sleep, desperately in need of a shower, and possibly experiencing painful withdrawal symptoms from his forced detox, he is shepherded into a crowded courtroom on Monday morning to await his arraignment. Minutes before the case is called, he meets his public defender for the first time and is urged to seek a plea agreement for a lesser charge. After the defendant and prosecutor both consent, the defendant pleads guilty before the judge, and is released with time served.

By the time he gets home, he has no idea what actual charge is now on his record. Months later, he mistakenly writes on a job application that he was convicted of misdemeanor drug possession, rather than the less serious violation offense to which he actually pled. Seeing this, the employer assumes that the job seeker is a criminal and drug addict and decides not to hire. Sadly, had the applicant understood his true conviction record, he could have avoided the situation altogether. Employers cannot legally ask about most violation convictions, and violations will not show up on a commercial background check.

Ultimately, communication with the job seeker is the key that opens every door. Successful providers recognize that sustained engagement is the single most important factor in moving reentrants into a job. The informal motto of Getting Out and Staying Out (GOSO), a Manhattan nonprofit that works with 18- to 24-year-old men after their release, is simply “keep showing up.” A strong sense of compassion and explicit commitment to working through barriers—a core faith that success is possible—is critical to motivating participants. GOSO founder Mark Goldsmith notes that when he’s in the office on Saturday mornings, “The phone rings that whole time—‘Hey Mr. G, what’s going on?’ They call just to find out that I’m still here. They aren’t used to that; the idea that even when they screw up, I’m still here for them.” That level of commitment has helped GOSO achieve a recidivism rate of around 10 percent, compared to nearly two-thirds of the overall reentrant population in that age range.<sup>xi</sup>

*Getting the RAP Down* does not minimize the challenges of finding employment for people with criminal records. But as the standout provider organizations profiled throughout this report have demonstrated, success is possible. The public sector is beginning to come around as well: recognizing the tremendous social and economic drag created by mass incarceration, officials have belatedly grasped the importance of improving employment opportunities for those most likely to offend or re-offend. As this commitment deepens, the odds of successful reentry are likely to improve.

While a number of studies in recent years have demonstrated the crucial connection between employment and reduced recidivism, few detail specific strategies to assist someone who, in more cases than not, lacks many of the qualities desired by employers. This publication seeks to cast more light on the challenges of working with formerly incarcerated individuals, and to show how organizations in New York City have met and overcome those challenges.

The remainder of the report is divided into three sections. Section Two briefly covers trends and changes in correctional and employment laws at the local, state, and federal levels over the past few years—a period of considerable upheaval in which authorities have taken at least preliminary steps toward a more informed and enlightened view of correction and rehabilitation. Section Three takes a detailed look at practice-proven specific tools and strategies to overcoming the most common challenges in preparing for the job search. The final section includes a list of helpful resources for New York City workforce providers whose work touches upon employment issues for job seekers with criminal records. ■



## ***THE FORTUNE SOCIETY: ALTERNATIVES TO INCARCERATION***

As concerns have risen over the last few decades about both the fiscal and, for younger offenders, developmental consequences of mass incarceration, advocates have begun to articulate other options for judges when adjudicating cases—for youthful offenders in particular. “Alternatives to incarceration” (ATI) is a catch-all term for programs that include a range of pre-trial services as well as options to preserve public safety by detaining a criminal offender while offering that individual a more targeted and productive sentence than simply putting him or her behind bars. Treatment for substance abuse and mental illness, and community service options are among the more common ATI programs. In all, the New York State Division of Probation and Correctional Alternatives supports and oversees 165 ATI programs statewide; since the recent changes to New York’s notoriously punitive Rockefeller Drug Laws empower judges to divert more offenders to drug treatment rather than prison, a further surge in programs is possible if not likely.

The Fortune Society is the most active and prominent provider of ATI programs in New York City, which itself is the center of ATI activity across the United States. Fortune began its ATI efforts in the mid-1980s, when advocates and defense attorneys in the city realized that even judges who did not want to incarcerate young offenders for certain crimes had no other options. Today, the organization operates six ATI programs that variously serve general and targeted populations, including women, individuals with serious substance abuse dependencies, Spanish speakers, and felony-level offenders who require residential drug treatment. Fortune’s ATI programs are outpatient; participants must report every day. Other organizations offer residential ATI services.

Judges assign offenders to Fortune’s ATI programs at the pretrial stage, and only individuals who meet certain criteria are eligible. Participants must be 19 or older (with one narrow category of exception); they must be charged either with a felony or a violation of probation on an original felony

charge; and they must be facing at least one year of incarceration. The reason for this last standard, according to Glenn Martin, Fortune’s vice-president for development and public affairs, is that those facing lighter sentences might well just be sent home by a judge.

Martin stresses that ATI offers services intended to “meet the individual’s needs and address what leads to criminal activity”—a wide net that can include everything from anger management to basic literacy as well as issues of substance abuse. The programs have yielded millions in savings for the city and state: in 2008, Fortune’s six programs successfully diverted 139 individuals from incarceration for a total net savings (the putative costs of imprisonment minus the actual costs of the programs) of \$7.35 million. “The truth is that ATI programs cost less than incarcerating a person, have been proven to work, and don’t diminish public safety,” Martin adds.

As is the case with many successful providers, Fortune has developed a number of strategies to sustain engagement with former clients even after they find employment. “We’ve built in some incentive programs to try and keep people engaged,” says senior vice president Stanley Richards. “We do a MetroCard program for folks through the first six months, paying their transit costs to work for the first 30 days, then partial for the next three months, then reducing it again for the last two months. It’s a way to allow them to get on their feet and not worry about transportation for the first six months. The only requirement is that they come in weekly to meet with a retention specialist, talk about what’s going on, and get help if need be.”

## II. Trends and Changes in Correctional and Employment Laws

As the main thrust of criminal justice policy in the United States over the past half-century swung from rehabilitation toward punishment, the rising conservative tide of the 1970s onwards mandated ever-harsher punishments for even minor crimes. America has emerged as the world leader in incarceration, with nearly one out of every one hundred adults currently behind bars—a per capita rate that far exceeds every other industrialized country.<sup>xii</sup>

Nowhere has the impact of this change in law enforcement been more pronounced than New York City and State. Driven in large part by the draconian Rockefeller drug laws enacted in 1973, New York State has been at the forefront of this national trend: between 1970 and 2000, the state prison population increased more than fivefold, from 12,500 in 1970 to a peak of over 70,000 in 1999. Over the same period, state officials repeatedly made deep cuts to the education and training programs designed to prepare those behind bars for reentry into society. Without these supports, the majority of inmates struggle to make the transition successfully; most are rearrested within a few years.<sup>xiii</sup>

Despite the woeful inadequacy of reentry resources, New York places fewer employment roadblocks than most states in the way of people coming out of the criminal justice system. While state law allows individuals to be restricted from obtaining scores of occupational licenses due to criminal conviction—including job titles where the prohibition rationale is unclear, such as milk dealer or sanitation worker—and information about criminal convictions remains available to employers indefinitely, New York is one of just a handful of states that prohibit employers from establishing outright bans on hiring applicants with criminal records or inquiring about arrests that did not lead to conviction. New York is also among the few states that issue formal certificates that provide an official presumption of rehabilitation and can lift occupational licensing restrictions. Although employer discrimination against applicants with criminal records remains widespread, New York offers several mechanisms to investigate and potentially bring suit against blatant employer practices.<sup>xiv</sup>

In recent years, the policy pendulum has started to swing away from incarceration as the primary response to criminal behavior. With prison populations exerting an unsustain-

able strain on public budgets, many states are giving fresh looks to alternative sentencing options, rehabilitation and reintegration services, and crime prevention programs. Here, too, New York is in the vanguard: the legislature has enacted important changes in 2008 and 2009 that, on balance, offer more protections and support to people with criminal justice histories seeking to get their lives on track through regular work. These are discussed in detail below.

### HIRING DISCRIMINATION: THE LAW

Unlike most states, New York clearly defines what most employers can and cannot ask about criminal histories.<sup>xv</sup> On application forms, in-person interviews, and other interactions, most employers are allowed to ask about *criminal convictions* only. They may not ask about arrests that were dismissed or otherwise did not lead to conviction; convictions on charges classified as violations (such as disorderly conduct), which are considered noncriminal offenses; or sealed youthful offender adjudications. Further, most employers cannot implement blanket discrimination policies against hiring anyone with a criminal conviction; they must, by law, consider every applicant's conviction history individually, weighing eight different factors that take into account how relevant the conviction is to the job for which the reentrant is under consideration, the potential risk the reentrant might pose in that position, and evidence of rehabilitation.

A number of federal, state, and local statutes incorporate protections for job seekers with criminal records:

**Article 23-A of the New York State Correction Law (§§ 750-755).** This is the primary statute in New York State that defines how employers can consider criminal histories in decisions to hire, promote, reassign, or retain a worker, and identifies the factors that occupational licensing agencies can take into account in determining whether an applicant with past criminal involvement is eligible to receive a license. The law limits rejection based on criminal history to two conditions. First, a “direct relationship” must exist between the conviction and the job or license sought—such as a bank robber applying to work as a bank security guard. The second circumstance, far more open to subjective interpretation, allows discrimination if hiring or licensing the

person “would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.” In making these determinations, employers and licensing agencies must consider eight specific factors:

1. **The public policy of New York State to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.**
2. **The specific duties and responsibilities of the prospective employee or licensee.**
3. **The bearing, if any, of the conviction on the applicant's fitness or ability to perform one or more duties or responsibilities of the job.**
4. **The amount of time that has elapsed since the conviction.**
5. **The age of the person at the time of conviction.**
6. **The seriousness of the offense or offenses.**
7. **Any evidence of rehabilitation and good conduct provided by the applicant or by anyone on behalf of the applicant.**
8. **The legitimate interest of the public agency or private employer in protecting property and the safety and welfare of specific individuals or the general public.**

Article 23-A also entitles a rejected candidate to request from an employer or licensing agency a written explanation, which must be sent within 30 days, of why he or she was denied the job or license. Failure to show how a rejection based on criminal history meets the guidelines set out in Article 23-A can result in investigation and civil penalties. Article 23-A protects both current employees who are terminated when a criminal record comes to light and applicants for open positions.

**New York State Human Rights Law (Exec. L. § 296) and New York City Human Rights Law (Administrative Code of the City of New York, Title 8).** These two human rights laws prohibit most employers and occupational licensing bodies from inquiring about arrests that did not lead to conviction, sealed convictions, or youthful offender adjudications. (Similarly, Criminal Procedure Law § 160.50 explicitly gives applicants the legal right not to disclose information about arrests that did not lead to conviction.) These laws set out mechanisms for individuals to file complaints against employers and occupational licensing agencies for illegal discrimination based on criminal background.

**New York State Negligent Hiring Law.** Understanding that employers have legitimate worries about workplace liability, the New York State legislature amended the Human Rights Law in 2008 to alleviate employers' negligent hiring concerns when considering an applicant with a criminal history. Provided that the employer has complied with the balancing test required by Article 23-A during the hiring process, the law shields employers from having that conviction history used as evidence if sued because of the actions of a worker—effectively bolstering the employer's defense against the suit and removing one major motivation for instituting illegal blanket hiring bans against applicants with criminal records.<sup>xvi</sup>

**New York State Employer Education Act of 2008.** The state legislature mandated that, as of February 2009, all employers in New York State must prominently post Article 23-A in the workplace. Furthermore, employers must provide a copy of Article 23-A to any applicant on whom the employer runs a criminal background check during the hiring process. Producers of labor law posters have started to include Article 23-A alongside traditional wage and violation information. Given widespread ignorance about Article 23-A, this act should increase awareness among employers and job seekers alike.

**The Federal Civil Rights Act of 1964.** The Equal Employment Opportunity Commission (EEOC), charged with enforcing federal anti-discrimination laws, has found that criminal background checks can have a disproportionate impact on employment opportunity for minority job seekers under Title VII of the Civil Rights Act of 1964. Although the EEOC sees background checks as a legitimate part of the screening process, like Article 23-A it restricts blanket prohibitions on hiring individuals with criminal histories and requires that employers consider the potential relevance of each applicant's record individually. Unlike Article 23-A, EEOC guidelines permit consideration of arrests that did not lead to conviction—but employers in New York must still follow the stricter state standards.<sup>xvii</sup>

## RESPONDING TO ILLEGAL DISCRIMINATION IN HIRING

Regardless of formal protections, many employers refuse to hire anyone with a criminal background. Unfortunately, with enforcement of the hiring laws spotty at best, there is little downside for most employers that discriminate illegally. Their reasons for doing so vary: some employers, especially smaller companies that do not have dedicated hiring managers or larger companies that operate in multiple states, may be legitimately unaware of the legal protections afforded

## State Reforms: Changes to Rockefeller Drug Laws

Enacted in 1973, the Rockefeller Drug Laws (named for Governor Nelson Rockefeller) gave New York State the distinction of having the toughest laws of its kind in the country. The new guidelines imposed extremely harsh mandatory minimum prison terms—often on par with those meted out for violent crimes like murder—for the possession or sale of even small amounts of controlled substances. For more than 30 years, hundreds of thousands of nonviolent drug offenders have spent years behind bars for activities driven by addiction or economic desperation.

Although modifications in 1979 and 2005 ameliorated some of the harshest provisions of the laws, the legislature did not enact sweeping reforms until March 2009. Among the most significant changes, judges regained the discretion to sentence first-time and some repeat offenders who entered guilty pleas to drug treatment as an alternative to incarceration. Recognizing how much damage a criminal history can do to a reentrant's employment prospects—and the statistical evidence that those who do not find employment are much more likely to return to criminal activity and eventual re-incarceration—the new law also allows judges to seal criminal records containing no more than one felony and up to three misdemeanors.<sup>xviii</sup>

These reforms have the potential to reduce the overall prison population, provide needed treatment for those with substance abuse issues, and reduce the long-term damages of a criminal record. Perhaps equally important, they seem to indicate that the shift from a primarily punitive approach to corrections to a greater emphasis on rehabilitation has reached a tipping point. But with prosecutors continuing to push back against the changes to the law and some key questions yet to be resolved—such as when and under what conditions prisoners sentenced under the old laws can apply for re-sentencing—it is too soon to gauge the full effects of the reforms.

to job seekers by New York law. These employers are often quite willing to come into compliance after learning of their obligations. Other employers, knowledgeable of the law but fearful of having a “convict” in the workplace, will point to reasons other than the criminal record in declining to hire. In such cases, discrimination is very difficult to prove unless a pattern of behavior can be documented. Moral outrage aside, practitioners with limited resources whose primary mission is to place participants into jobs rather than identify and correct illegal discrimination generally find that bringing action against these employers consumes more energy and time than they have for the task.

Talking with employers about potential illegal discrimination is never easy. Applicants and job developers are wary of slipping into an adversarial relationship by appearing critical. Even the slightest hint that the employer may be engaged in illegal practices may quickly destroy any chance for hiring. Practitioners report that they have the most success broaching the subject from the position of protecting the employer from liability. Rather than adopting an accusatory tone, they utilize a low-key approach along the lines of the following:

*“You may not have heard, since the laws are pretty obscure, but New York actually limits what employers can consider about applicants’ criminal records. Even some larger companies like Home Depot have recently found themselves facing the possibility of legal action because their hiring processes excluded too many people with a record. Would you like me to send some information on what Article 23-A and the human rights laws allow employers in New York to consider about criminal records?”*

Of course, if an employer takes offense at the premise, this may be the last conversation the provider has with the company. Mindful of that risk, many practitioners and applicants turn to local *pro bono* legal organizations like the Legal Action Center, the Legal Aid Society, MFY Legal Services, and Youth Represent to contact employers on their behalf when discrimination issues arise. These legal organizations first try to educate employers in order to bring about an amicable resolution, and then potentially bring action against those that willfully continue to disregard the law.

Many workforce providers interviewed for this report felt that large employers in particular tend to “get away with” discriminating, while small employers—who are more likely to rely on the help of local workforce providers to meet their hiring needs—are generally more amenable to hiring formerly incarcerated individuals. Providers should be mindful of these realities in determining which employers to approach. Many find that smaller employers

are less likely to have openings in a poor hiring climate, while larger firms often have openings due to turnover even when not adding jobs overall.

## CRIMINAL RECORDS AND BACKGROUND CHECKS

The open nature of court proceedings is a cornerstone of the American judicial system. Court records historically have been available for review by anyone willing to visit the courthouse. While employers have always had the ability to access at least some records, the time and effort required in the pre-Internet age made routine criminal background checks rare. Spurred by recent advances in technology, falling costs, and mounting concerns over negligent hiring, more than 80 percent of large private employers and many smaller companies now run such checks for even low-level positions.<sup>xix</sup>

Not surprisingly, this dramatic increase in the use of criminal background checks has had a negative impact on job applicants. Employers are more likely to reject otherwise-qualified applicants who have a record, under the assumption that past involvement with the law is a strong predictor of future criminal behavior. While the correlation may be true statistically for the criminal justice population as a whole, the motivation behind criminal behavior, which a background check cannot capture, varies widely among individuals. Consider a young person with an assault conviction. His conviction may be a sign of deeply rooted predatory tendencies that would pose a danger to others in the workplace. Alternatively, he might have been arrested in a singular case of jumping in to defend a friend during a street fight that got out of hand, and would actually be an exemplary worker. A background check does not distinguish between the two, and so employers often err on the side of caution by excluding everyone with a certain conviction—or any convictions, or sometimes even just arrests that did not lead to conviction but improperly turn up on the check.

Even if the raw information yielded by a background check is factually correct—often not the case—without context, the report can cloud rather than enhance an employer’s understanding of a job applicant. For instance, research shows that time itself has an ameliorating effect on criminal behavior. Recent large-scale studies of “hazard rates” suggest that individuals who remain free of contact with the criminal justice system for a certain number of years following conviction and punishment are actually less likely to commit new crimes than their peers in the general public.<sup>xx</sup> Denying a job based on an old conviction does little to enhance safety and continues to punish someone who made a mistake at a younger age—yet many background checks, by yielding decades-old information, will do just that.

## Occupational and Licensure Bans

In addition to facing potential discrimination from employers, individuals with criminal records often encounter difficulties in acquiring state-mandated licenses to work in certain industries. In New York, criminal history can limit or preclude eligibility for many occupations, from accountant to weighmaster, that require a license or certification from a government body.

Typically, jobs for which licensure is restricted involve close contact with vulnerable populations, responsibility for other people’s property, or public safety. But sometimes exclusions veer into flat-out irrationality. Roberta Meyers-Peebles, director of the National H.I.R.E. Network, cites the ban against individuals with criminal records working in any establishment that sells liquor. “It goes beyond just being the owner,” she explains. “If you have a felony, or certain misdemeanors, you can’t even work at the register or in the kitchen unless you’ve been granted a Certificate of Rehabilitation or a waiver by the ABC Liquor Authority.”<sup>xxi</sup>

In some cases, rejection due to a conviction is automatic but can be overturned with a rehabilitation certificate. In other cases, the decision to grant or withhold a license or certification is handled on a case-by-case basis using the eight-point test laid out in Article 23-A. Rejected candidates for licensure generally can appeal unfavorable decisions to the relevant state agency. The Legal Action Center’s New York State Occupational Licensing Survey details the impact of a criminal conviction on over 100 state occupational licenses.<sup>xxii</sup>

The criminal background-check system raises issues of basic fairness. Even those who believe that excluding reentrants from employment makes good public policy recognize that people should not suffer because of wrong information attached to their name. Such errors occur regularly. While companies sell the promise of instant access to tens of millions of criminal records, no rigorously controlled, centralized national database exists.

Behind the hype of flashy websites, the reliability of commercial background checks is shockingly low. Although few thorough studies of the commercial criminal background-check industry exist, one 2004 review of similar commercial credit reports revealed that 79 percent contained some type of error. Given the even more byzantine manner in which private companies gather and package criminal records—essentially mashing together information obtained at different times from multiple state agencies and other sources without verifying that the information is complete or even pertains to the same individual—horror stories abound. Job seekers may not learn about errors until after they have been denied a job, if at all, and the process for correcting those errors can be time-consuming.<sup>xxiii</sup>

## SOURCES OF CRIMINAL RECORDS IN NEW YORK

In New York, multiple state, city, and private agencies collect and disseminate criminal records. Each entity compiles different types of records for different purposes, and restrictions on who can access those records vary significantly.

**New York State Division of Criminal Justice Services (DCJS)** maintains the official repository of criminal records in New York State, compiling information from police departments, courts, and other law enforcement agencies. Fingerprint-based, DCJS rap sheets are available only to criminal justice and law enforcement agencies, the individual named in the report, employers given specific authority to run fingerprint background checks (such as schools, hospitals, and public agencies), bonding agencies, and most occupational licensing authorities. DCJS also maintains New York's free, online Sex Offender Registry containing information on level-two (medium risk) and level-three (high risk) offenders. [criminaljustice.state.ny.us](http://criminaljustice.state.ny.us)

**New York State Office of Court Administration (OCA)** compiles court data from city and county courts in all 62 counties. Through its **Criminal History Record Search** service, based solely on name and birth date, OCA maintains records of misdemeanor and felony convictions and open cases. These reports, available to anyone for a fee, are the primary source of information used by commercial background-check companies that purchase the records in bulk. (Unlike DCJS, OCA does not provide a hardship waiver for the fee, which at time of writing is \$55 per request.) OCA also maintains the free, online **WebCrims** database of open criminal cases in New York City and additional selected counties, used mainly by attorneys. [www.nycourts.gov/apps/chrs/](http://www.nycourts.gov/apps/chrs/)

**The Federal Bureau of Investigation (FBI)** maintains a national clearinghouse of criminal records called the National Crime Information Center, collecting fingerprint-based information from all state criminal justice agencies, including DCJS, to create the most comprehensive multistate rap sheets. These records are heavily restricted: unless an applicant is applying for federal employment, military service, or work in specific fields, it is unlikely that the FBI will provide a rap sheet to an employer. [www.fbi.gov/hq/cjisd/fprequest.htm](http://www.fbi.gov/hq/cjisd/fprequest.htm)

**New York State Department of Correctional Services Inmate Lookup** service is a free, online database of current and released inmates in the New York State prison system. Since the database is name-based and contains information only on convictions that resulted in incarceration in the state prison system, few employers rely on the service for employment checks. It can be a very useful tool, however, for practitioners whose job seekers cannot recall specific charges or dates of incarceration. [www.docs.state.ny.us](http://www.docs.state.ny.us)

**New York City Department of Correction Inmate Lookup** service provides information on individuals currently or very recently incarcerated in the New York City jail system. Like its state counterpart, this city service can be useful in verifying local incarceration information. [www.nyc.gov/doc](http://www.nyc.gov/doc)

**Consumer Reporting Agencies** represent the primary conduit used by employers to obtain criminal histories of job applicants. The National Association of Professional Background Screeners ([www.napbs.com](http://www.napbs.com)) lists nearly 1,000 private companies that compile criminal, credit, employment, and other records from a wide range of sources to resell to employers, landlords, and other customers. The scope, completeness, and accuracy of these records vary significantly from company to company. Although the commercial background-check industry operates under little oversight, job seekers are afforded a number of protections under the federal and state laws discussed below.

## COMMON ERRORS ON COMMERCIAL BACKGROUND CHECKS

Unfortunately for both applicants and employers, the myriad ways that criminal records are generated, collected, and disseminated ensure that commercial criminal background checks frequently contain incomplete or inaccurate information. These errors typically fall into one of a few common categories:

**1. Cases that lack disposition information.** When commercial consumer reporting agencies acquire records in bulk from OCA, they receive the records as they exist at the

time of purchase; cases yet to be resolved are indicated as such. Since companies are not automatically informed of updated information, a case that subsequently resolves in the defendant's favor through acquittal or dismissal will still show up as open on a commercial background check years later.

**2. Misattribution of criminal records.** Due to legal restrictions, commercial companies generally rely on name-based records rather than those that use unique identifiers like fingerprints, resulting in a high potential for confusion. The inclusion of another person's criminal history on a background check can have an obvious detrimental impact on the hiring decision, yet background check companies often have no way of verifying that records bearing the same name refer to different people. Conversely, one person may show up in court records under multiple names that are not connected together on a commercial background check, giving the employer an incomplete view of the applicant's conviction history.

**3. Inclusion of legally prohibited information.** Many commercial companies operate nationwide, and may not be aware of New York state restrictions on certain categories of criminal records. A related concern is that clerical errors at the court level occasionally record the wrong charges, or fail to properly mark cases that should be sealed from employers. Until 2007, OCA records sold to commercial agencies reported sealed violations. Although commercial reporting companies are required to remove information restricted under state law, the need to follow different sets of rules depending on the location of the person requesting the report inevitably results in some employers receiving information that should have been purged. To address this concern, New York State law now prohibits employers from considering violation convictions regardless of where they obtain the information.

## COMMERCIAL BACKGROUND-CHECK PROTECTIONS FOR JOB SEEKERS

Two similar laws—the **New York State Fair Credit Reporting Act** (FCRA) (N.Y. General Business Law § 380) and the **federal Fair Credit Reporting Act** (15 U.S.C. § 1681)—provide some protection for job seekers regarding commercial background checks. Collectively, the two laws require the following:

- **In reports sold to New York-based employers, consumer reporting agencies may not include information on arrests that did not lead to criminal convictions.** Conflicting language in the two laws may sow confu-

sion. This restriction exists only in the state law; the federal FCRA allows information on any arrests. The more restrictive state law takes precedence, but some national companies unfamiliar with the New York regulations may inadvertently provide arrest information.

- **Employers that request a criminal background check as part of a hiring, promotion, retention, or reassignment process must receive written authorization from applicants or current employees before doing so.**
- **Before taking “adverse action” (e.g., not hiring or promoting) based on information contained in the background check, employers must provide the applicant with a copy of the report and an explanation of consumer rights under the FCRA.** This enables the applicant to dispute any inaccurate, incomplete, or unverifiable information, which by law must be removed or corrected by the reporting agency within 30 days of notification.

While these FCRA protections seem to address the most pernicious issues of background checks, the reality is that they are difficult to enforce. Many employers fail to provide applicants with an opportunity to review their background check report prior to making the hiring decision, and in most cases, by the time the job seeker receives the rejection letter or follows up on the application, the position has already been filled by someone else. More significantly, there is little to prevent employers from sidestepping the requirements altogether by simply stating that the hiring decision was based on factors other than the background report, such as other candidates having better qualifications. In cases such as these, and especially if incorrect information exists, applicants may have no idea that the background check was the real obstacle in their path to employment.<sup>xxiv</sup>

## KNOWLEDGE IS POWER: PREPARING FOR THE BACKGROUND CHECK

Job applicants who understand their rights and obligations and know what is likely to show up on a background check will feel more confident when asked to discuss their criminal history. Key points to remember:

- **Job seekers have an obligation to answer honestly questions about unsealed felony and misdemeanor convictions.** Candidates who lie on an application or interview forego any legal protections they might have against discrimination based on criminal history. Given the easy availability of criminal records, attempts to dissemble are likely to backfire. (Workforce practitioners routinely encounter job seekers

who were fired from a job months or years after falsifying their application. Employers may choose not run the background check until they have cause for concern, or when considering promoting an existing employee to a more sensitive position.)

- ***In New York State, most employers may inquire only about felony and misdemeanor convictions, and pending cases.*** They cannot ask about arrests that did not lead to convictions, sealed convictions, noncriminal violations, or youthful offender adjudications. There is no time limit on what they can ask: some employers are concerned only with relatively recent criminal history, but others want to know about any criminal convictions no matter how long ago they took place.
- ***Criminal record information never goes away in New York State.*** Many incorrectly believe that New York State criminal records “expire” after a certain length of time, or that individuals can pay to have their records erased. While certain categories of criminal information—such as youthful offender adjudications—can be sealed so that employers will not see them, such action is limited and generally occurs at the time of sentencing or dismissal. Adult misdemeanor and felony convictions are almost never sealed after the fact.

## REVIEWING JOB SEEKERS’ CRIMINAL RECORDS

**Before applying for jobs,** anyone who has been arrested in New York State should obtain a copy of his or her official rap sheet and at least one commercial background check. Most reentrants cannot accurately recall every detail of their criminal record, so simply verifying conviction charges can help to avoid disclosing too much or too little. Understanding in advance what employers are likely to discover on a background check can reduce some of the anxiety in the application process by enabling candidates and provider staff to devise strategies to present that information in the most favorable light.

- **Official rap sheet.** The DCJS “Personal Criminal History Record Review Program” enables individuals to access their full rap sheet. With few exceptions, employers that are authorized to request DJCS rap sheets will see only unsealed misdemeanor and felony convictions. DCJS will waive the application fee upon proof of financial hardship such as a photocopy of a public benefits card or letter stating that the applicant is unemployed.<sup>xv</sup> Outlined below are steps to obtain a DJCS rap sheet.

**1. If able to pay out of pocket for the rap sheet, schedule an appointment for fingerprinting.** Starting in December 2009, DCJS has contracted with an outside company to handle the application process. The application / fingerprinting fee at the time of writing is \$61.75. Directions are available on the DCJS website: [criminaljustice.state.ny.us/ojis/recordreview.htm](http://criminaljustice.state.ny.us/ojis/recordreview.htm)

**2. If unable to afford the application fee, request a DCJS Record Review Fee Waiver packet** by email at [RecordReview@dcjs.state.ny.us](mailto:RecordReview@dcjs.state.ny.us), by telephone at (800) 262-3257, or by standard mail at Record Review Unit, New York State Division of Criminal Justice Services, 4 Tower Place, Albany, NY 12203-3764.

**2. Complete and return the Record Review application and fingerprint card.** Fingerprints must be collected by someone trained in fingerprinting procedure. Individuals can have their fingerprints taken at a local police precinct, but risk arrest if the police happen to discover any open warrants. New York residents uncertain of legal status can contact the **Legal Action Center** at (212) 243-1313 to sign up for a free workshop that explains the rap sheet process, during which fingerprint cards are created by trained staff. Private companies provide fingerprinting services for a fee.

**3. Carefully review the rap sheet and correct any errors.** When individuals request their own records, DCJS will provide all of the relevant information in its files. Because they include information collected at every step along the criminal justice path, DCJS rap sheets can run for dozens of pages filled with arcane numbers and abbreviations. The jumble of technicalities may make the final outcome of an incident difficult to decipher on the page. The Legal Action Center’s comprehensive handbook, *How to Get and Clean Up Your New York State Rap Sheet*, provides a step-by-step guide to reading and correcting a DCJS rap sheet. Generally, individuals can correct clerical errors or incomplete information by providing DCJS with a certified copy of the disposition slip obtained from the clerk of the court where the case was heard. More serious errors likely require legal assistance, and LAC staff provides free consultations on rap sheet issues to New York residents.

- **Commercial background check.** The federal Fair and Accurate Credit Transactions Act of 2003 (FACT Act or FACTA, Pub.L. 108-159) requires commercial consumer reporting agencies to provide individuals with a free copy of their personal information, upon request, once a year. While contacting each of the hundreds of companies that sell criminal record information to employers is impractical, job seekers should obtain a copy of their full



report from at least one of the major consumer reporting agencies.<sup>xxvi</sup> When disputing any errors in writing, it is helpful to include any documentation available. Since consumer reporting agencies simply resell information collected from other sources, however, they cannot correct mistakes that originated elsewhere. Complex cases may require legal assistance.

**After being turned down for employment due to information contained in a commercial criminal background check,** the applicant should contact the employer in writing to request the specific reason(s) for denying the job, the name of the company that supplied the report, and a copy of the actual report. Such requests remind employers of the importance of following the guidelines under Article 23-A and FCRA, can create a paper trail to document blatant discrimination, and may uncover previously overlooked errors on background reports.

## OBTAINING CERTIFICATES OF REHABILITATION

New York is among the few states that offer formal certificates of rehabilitation. These certificates restore some rights lost at the time of conviction, lift statutory bars on obtaining specific jobs or occupational licenses, and generally carry with them a presumption of successful rehabilitation. New York offers two types of rehabilitation certificates that both achieve the same ends.

*Certificate of Relief from Disabilities* is available only to individuals who have no more than one felony and any number of misdemeanors. (This includes all federal, New York, and out-of-state convictions, but not cases tried as a juvenile delinquent or youthful offender.) Individuals can apply at any time and a separate application is required for each conviction.

*Certificate of Good Conduct* is the only option for people with two or more felony convictions. This type of certificate imposes a waiting period before eligibility, depending on the classification of the most serious conviction: for a “C,” “D,” or “E” felony, at least 3 years from the date of the last conviction, payment of fine, or release from prison; for an “A” or “B” felony, at least 5 years from the last conviction, payment of fine, or release from prison. One Good Conduct certificate covers all convictions.

Certificates do not seal or erase a conviction, nor do they remove the obligation to disclose convictions when asked on an application or interview. Employers will still be able to see the convictions on a background check after

## Federal Reforms: The Second Chance Act and the National Criminal Justice Commission

As at the state level, federal policy too is beginning to move toward criminal justice reform. One of the more encouraging developments of recent years came in 2008, when large bipartisan majorities in Congress passed the Second Chance Act. This legislation, as important for its symbolic value as for its substance, authorizes grants to government agencies and nonprofit organizations to support prisoner reentry through employment services, treatment for drug and alcohol abuse, housing assistance, and other programs that lower the incidence of recidivism. The Fiscal Year 2009 budget included \$25 million for grants under the Second Chance Act, a figure slated to quadruple in 2010.<sup>xxvii</sup> But that may be just the beginning. In March 2009, Senator Jim Webb (D-VA) introduced a bill to establish a national commission charged with developing the framework for “nothing less than a complete restructuring of the criminal justice system in the United States.”<sup>xxviii</sup> Furthermore, in November 2009, the Criminal Justice Reinvestment Act was introduced in both the House and Senate to authorize a grant program to help states and local jurisdictions implement policies that reduce spending on incarceration in order to redirect resources to support risk-reduction programs and services like job training and education, drug addiction and mental health treatment, and other essential social services in the community.

a certificate has been granted. A certificate, however, can do a great deal to mitigate the seriousness of a conviction in an employer’s mind. Although certificates are recorded next to the applicable convictions on official rap sheets, they may or may not show up on a commercial background check—and employers may not be familiar with them regardless—so the job applicant should always provide a copy of the certificate

and emphasize that the state formally considers him or her to be rehabilitated. As noted earlier, Article 23-A requires employers to weigh evidence of rehabilitation when making a hiring decision. Once the state has officially recognized someone as rehabilitated, it becomes much harder for the employer to do otherwise.<sup>xix</sup>

Getting a handle on the legal implications of a criminal record—understanding the laws regulating what employers can and cannot ask about criminal history, knowing how criminal information is disseminated, obtaining a rap sheet and commercial background check to review in advance, applying for a rehabilitation certificate if possible—is just one part of the employment equation. The job search process itself is, for many, a far more difficult undertaking. Describing the conviction that seemed straightforward on a rap sheet in a clear and honest but favorable manner suddenly becomes much harder when staring at the small box on an application form, or under the intense pressure of an interview. The next section explores how providers can help reentrants develop the dexterity required to honestly disclose criminal history without scaring off the employer. ■

## ***CASES: ALTERNATIVES TO INCARCERATION FOR OLDER YOUTH***

CASES (Center for Alternative Sentencing and Employment Services) is another prominent New York City provider that offers a range of highly regarded ATI programs. Since the 1970s, CASES has developed and refined programs that serve customers “by addressing the factors that underlie criminal behavior,” including inadequate education, substance abuse, and mental illness. The organization has developed particular specialization in programming for criminal offenders with serious mental illness and younger individuals, working with them to address their barriers and providing supported employment opportunities. The Court Employment Project (CEP), serving individuals mostly between the ages of 16 and 19 who have been charged with felony offenses and other serious crimes, also offers a heavy emphasis on workforce preparation.

“For these folks, we know what works,” says executive director Joel Copperman. “We run a program where we put kids in a four-week, very strenuous, everyday after-school program.” Additionally, participants must be enrolled in either school or a GED program. “It’s mostly focused on soft skills,” Copperman says of CEP. After they complete the four-week program, participants are placed in supervised work positions four days a week for ten to twelve weeks, receiving a stipend from CASES and supervision on site from the employer. Job sites have included the federal Equal Employment Opportunity Commission as well as retail stores and art galleries in the city.

“Getting kids connected to the workplace is the key,” Copperman observes. “After-school jobs introduce you to a world of work and responsibility.” He estimates that CASES serves about 120 young New Yorkers every year, of which approximately 55 percent complete the program and go on to unsubsidized employment. “We think this is the right approach for our customers because of their very limited experience and their needs for support.”

In addition to CEP, since 2002 CASES has collaborated with the New York City Department of Education and the City University of New York to operate Community Prep High School, a unique educational institution for students Copperman describes as “one of the toughest populations of kids in the city to provide with educational services.” He notes that many students at the school have attended—or, often, not attended—upwards of a half-dozen schools across the city within a few years. Their experiences within the public school system have been sufficiently bad that “even sitting in class for 45 minutes or coming to school every day is a real stretch.” Daily attendance averages about 60 percent.

Community Prep seeks to fill a gap in the system by “creating a bridge between incarceration and liberty for youth making the transition from custodial to community schools.” The school does not grant degrees, but rather serves as a place where students can remediate severe shortfalls in literacy and basic skills before transitioning back to a community school. Six CASES staff members work in the building, providing support services. “We’re trying to push education and get them to stay in school,” explains Copperman. “There are lots of therapeutic programs and opportunities for engagement.”

# III. Engagement Around Employment

This section details nuts-and-bolts techniques and approaches to helping reentrants find jobs. The strategies focus on both internal and external barriers that commonly prevent people with criminal records from landing and keeping employment. They are informed by the direct experience of the authors in connecting hundreds of reentrants to employment; ongoing conversations around “best practices” with workforce practitioners, probation and parole officers, and other experts in the field of reentry; and years of skills development workshops developed and conducted by Workforce Professionals Training Institute. The process of preparing any job seeker is as much art as science, and practitioners may find that what works for one participant will fall flat with others. The practices below are by no means the only approaches available, nor will they be effective with every job seeker.

## UNDERSTANDING NEGATIVE FEELINGS TOWARD EMPLOYMENT

Workforce practitioners often find that negative attitude presents the largest barrier to success for people who have been in the criminal justice system. For many reentrants, the hardest part of finding a job is not employer discrimination. It is not their limited skills, education, or work history. Nor is it the restrictions placed upon them by their probation or parole officer. Rather, the biggest barrier can be the negative internal voice that tells them over and over that they will never succeed—and persuades them to give up without even trying.

The idea of steady employment can feel like an impossibility for individuals who have been involved in the criminal justice system. Many had marginal and intermittent work histories before committing crime, and their criminal records hardly provide a boost to employment prospects post-release. The factors necessary for success in the world of work—educational achievement, cognitive abilities, interpersonal dexterity, refined work ethic, a track record of reliability—are often in shorter supply for the reentrant population than for the average job seeker. High frequencies of substance abuse and mental illness also hamper prospects, while the social networks that provide connections to employers and exposure to different career options are often minimal. As Harvard sociologist Bruce Western has noted, “Men coming out of prison get low-paying, insecure jobs because they have few skills or work experience. An ex-offender is likely to get a bad job primarily because he is a poor worker.”<sup>xxx</sup>

Reentrants also face the stark reality that employment opportunities at the lower end of the labor market have been eroding for years. Low-skilled workers, especially those from urban neighborhoods of concentrated poverty, generally find living-wage paychecks few and far between. Structurally, the New York City economy—like that of the nation as a whole—has become less friendly to lower-skilled workers. The shift from manufacturing and industry to a retail- and service-based economy eliminated millions of higher-paying jobs that once provided pathways to the middle class for workers with limited education. The competition for entry-level positions is particularly fierce in New York City, with its continuous influx of skilled workers from around the country and abroad willing to start at the bottom. The predominance of small “mom-and-pop” retailers, especially in the city’s poorer neighborhoods, further reduces the opportunities for hiring and advancement found in larger companies.

Issues of race and ethnicity in employment and criminal justice also cannot be ignored. Unemployment rates for African Americans and Latinos are often twice as high as those of whites, a disparity that cannot be solely explained by gaps in educational or work achievement. When comparably qualified sets of New Yorkers of different racial and ethnic backgrounds in a 2004 study were sent to apply for the same jobs, the results showed that “blacks are only slightly more than half as likely to receive consideration by employers relative to equally qualified white applicants. Latinos also pay a penalty for minority status, but they are clearly preferred relative to their black counterparts.” This racial preference, conscious or otherwise, is so strong that employers seemed more willing to hire a white applicant with a criminal record over a black applicant without one. Minority applicants offered a job often found themselves directed to lower-status positions than those for which they applied.<sup>xxxi</sup>

Criminal justice statistics reflect the cumulative impact of these (and other) internal and external challenges on minority communities. In 2006, African Americans and Hispanics made up nearly 80 percent of the inmate population in New York State, despite constituting just 30 percent of the state’s population. In 2000, roughly one out of every three unemployed African American and Hispanic young men was behind bars.<sup>xxxii</sup> For these groups, incarceration has become routine—almost an expected occurrence in their lifetime.

Without a doubt, the criminal record itself represents a major deterrent for both employers and job seekers. Employers tend to be wary of hiring applicants involved in the criminal justice system, fearing issues of worksite liability and worker reliability. Workforce organizations that specialize in assisting reentrants report that it is not uncommon for their participants to apply for hundreds of positions before securing an opening. Such high odds can wear down even the most determined job seeker. Every rejected or ignored application reinforces the perception that employers refuse to hire anyone with a criminal background. As days turn into weeks and weeks into months, this growing certainty of employer discrimination provides justification to abandon the job search altogether. Ultimately, waning dedication to find employment strengthens the economic and social pressures to return to criminal behavior. Not surprisingly, at the time they return to prison nearly 90 percent of New York's probation and parole violators are unemployed.<sup>xxxiii</sup>

## PLANTING THE SEEDS FOR CHANGE

Addressing the motivation behind criminal activity is crucial to helping reentrants make the right choices as they return to society. People commit crimes for myriad reasons, including economic necessity, opportunism, difficulty with impulse control, defiance of authority, self-defense, desire for status, and simple thrill seeking, to name a few. While the causes are widely recognized, little consensus exists around how to replace antisocial behavior with a mindset that rejects criminal activity altogether. Since the 1970s, the prevailing national mood has demanded incapacitation of offenders, viewing them as flawed individuals who will continue to break the law unless controlled through lengthy incarceration, punitive sanctions, strict behavior modification programs, and extensive post-release supervision. The pendulum is starting to swing the other way, however. A resurgent interest in rehabilitation in recent years, spurred by the financial legacy of mass incarceration and the growing body of evidence that certain non-punitive approaches can and do affect positive change, is returning focus to programs that encourage pro-social activities (education, skills training, employment) or develop new behaviors (drug treatment, mental health treatment, family reunification) that reduce the likelihood of recidivism.<sup>xxxiv</sup>

While employment clearly plays a significant role in rehabilitation, some workforce organizations have adopted approaches toward their participants that, on balance, are more directive and discouraging than engaging and empowering. At the extremes, program structures can feel

almost as impersonal and mechanical as prison life, with participants shuffled through assessments, workshops, and employment activities that may not be suited to their needs. Organizations themselves are generally under significant funding pressure to move people into employment quickly, and often cannot afford the time necessary to develop the truly supportive relationship required to meet the high-needs of a population coming from the criminal justice system.

## THE ASSET MODEL FOR INTERMEDIARIES: A STRENGTHS-BASED APPROACH TO WORKING WITH REENTRANTS

Negative self-perception represents the greatest challenge for the majority of people coming out of the criminal justice system. While the barriers they face are real and significant—housing, family reunification, employer discrimination, limited education and training, substance abuse, and mental health issues, to name just a few—for many the first step toward employment involves changing the deeply ingrained internal narrative fostered by the criminal justice system: *Convict. Drug Addict. Dropout. Deadbeat Parent. Loser.*

Creating the rapport necessary to overcome negative self-perceptions can be difficult, especially when life experiences have created deep suspicions of any perceived authority figure and manifests in open resistance to workforce program structures and services. This resistance challenges even the most experienced practitioners, although many have found that participants who show the most initial hostility often evolve into the most dedicated program members and alumni once they overcome their distrust.

Disrupting the negative monologue requires finding and tapping into what motivates a participant, different for every person. While external pressure can affect behavior temporarily, cultivating internal desire for change results in greater motivation and long-term results. Research into self-determination theory—why people choose to act or not act—has identified three fundamental factors crucial to building internal motivation:

- **Autonomy.** Individuals who believe they play a direct or substantial role in deciding what to do will work harder and be more committed to the outcome. Employment readiness preparation must be presented as an active partnership in which both the program and participant are fully engaged to attain the desired result, rather than a passive process in which the participant simply sits through a series of workshops and then waits for a job developer to secure an interview.

- **Competence.** For a person to change behavior, he or she must believe that the change is both important and achievable. Participants must be able to identify what they want to accomplish while in the program, articulate why it is important to them, understand the steps necessary to achieve their goal, and recognize existing resources and positive attributes from different areas of their lives that can help them attain it. This can be a challenge for individuals accustomed to describing themselves in negative terms, and often requires practitioners to encourage different ways of thinking by shifting the focus from “what’s wrong” to “what’s right.” Participants who do not genuinely believe that others see them in a positive light have a difficult time seeing themselves that way.
- **Relatedness.** People tend to behave like those around them, so creating an environment that emphasizes success and modeling positive behaviors can itself promote positive thinking. For workforce programs, this starts with building positive rapport between the staff and participants and among the participants

themselves, creating formal and informal mentorship opportunities, and plastering program walls with images of success, including pictures and descriptions of former participants who have successfully made the transition to employment.

Essential as it is, this transition from a deficit- to asset-based approach to job seekers does not come easily for many providers. First and foremost, the internal and external obstacles that reentrants face present significant and sometimes insurmountable barriers. Social service ethos emphasizes treatment of deficiencies before moving forward, inclining many practitioners—even those without clinical training—to gravitate toward current problems rather than future options. To further complicate matters, workforce development funding often rewards quick job placement, discouraging long-term career planning and full development of untapped strengths. Finally, on a personal level, some practitioners feel conflicted about working with individuals who have committed serious offenses and struggle to dissociate the person from the crime.

### The profile below illustrates the distinctions between the traditional deficit-based view of a job seeker versus an asset-based approach.

Joseph Jones is now 20 years old. He has never held a legitimate paying job, and the only money he has earned has been through criminal activity. Originally from Haiti, English is not his first language and he speaks with a heavy accent. He dropped out of high school at age 16 before completing the tenth grade, when he and his friends started smoking marijuana and using cocaine. They became involved in street-level drug sales and were arrested on several occasions. At 18, he was convicted for drug possession and sentenced to nine months in jail. While incarcerated, Joseph learned that his best friend had been shot and decided he did not want to share the same fate. During his time at Rikers Island, he swore off drugs, began remedial literacy classes, and volunteered for the grounds crew responsible for landscaping and general upkeep of outdoor areas. He later transferred to a facilities maintenance team to clean building interiors and perform minor plumbing and building repairs. Upon release, Joseph enrolled in a local workforce development organization that offers GED preparation, computer and mechanical skills training, job readiness workshops, internships, and a mentoring program.

Joseph’s father was a drug addict who would disappear for long periods, and died when Joseph was 10 years old. Joseph had to take on responsibility for helping his mother raise his younger brothers and sisters, and still looks after them before their mother gets home from work in the evening to the cramped apartment they all share. When he was 14, he spent the summer at a Fresh Air Fund camp, where he was appointed a volunteer counselor’s assistant to help supervise the younger campers. He likes to work with his hands, especially assembling and disassembling mechanical items to see how they work, and is passionate about high performance sports cars.

From the description, Joseph Jones could be seen in two very different ways depending on the perspective of the observer:

DEFICIT-ORIENTED VIEW	STRENGTHS-BASED VIEW
Has a criminal record	Completed his sentence and has not been arrested since. Because of his age at time of conviction, he may have been sentenced as a youthful offender, which would not show up on the background checks most employers are allowed to run
Not fluent in English; speaks with a heavy accent that makes him hard to understand	Multilingual in Creole and French, a major boon in the job market. His English is improving through the classes in which he is enrolled
High-school dropout	Currently enrolled in education program to obtain his GED
No formal work history	Gained valuable skills and experience while incarcerated. Also has volunteer experience
Product of single parent household	Has family connections and support
Does not appear to have a formal career plan	Demonstrates an interest in mechanics, an area with numerous employment pathways
History of drug abuse	Has been clean for nearly two years
Seems on first glance like an irresponsible young person	Demonstrated responsibility in caring for siblings
Less-than-desirable living situation	Has stable housing

The first view presents Joseph as an aimless, drug-addicted criminal from a broken home who dropped out of school. The second view characterizes him as a young man who has made mistakes in his life, but has learned important lessons from those mistakes and possesses qualities that will help him succeed in the labor market. (Appendix A contains a listing of potential strengths across various facets of life.)

## MOTIVATIONAL INTERVIEWING TO OVERCOME RESISTANCE AND CREATE INTERNAL DRIVE

Motivational Interviewing (MI) has emerged in recent decades as a way to build internal drive for change by helping individuals articulate their goals, resolve ambivalence about those goals, and identify the steps necessary to achieve them. Operating on the recognition that people tend to commit to an action based on the verbal stance they take, MI utilizes strategic questions and statements to elicit positive talk about challenges. Rather than attempting to reason or bully someone into a course of action, MI practitioners withhold judgment and instead encourage participants to articulate for themselves the benefits or drawbacks of a certain course

of action. In driving the conversation themselves rather than taking direction from others, participants become less resistant, can better identify what needs to change, and are more likely to commit themselves to achieving that change. MI is best thought of as a style of interaction that uses empathy to open up lines of communication, “rolls with” rather than confronts resistance, employs careful questions and statements to prompt participants into articulating the change they would like to see, and then encourages them as they work toward their goals.<sup>xxxv</sup> Consider the different impacts of the following types of statements:

### CONFRONTATIONAL STATEMENTS THAT GENERATE RESISTANCE

- You’ve got a problem because...
- Why don’t you...
- If you don’t, then...
- We’ll have no choice but to terminate you unless you...
- Why do you keep messing up?
- You need to prove to me that...
- I don’t want excuses, this is what you need to do...

### MOTIVATIONAL INTERVIEWING STATEMENTS THAT PROMOTE DISCUSSION

- What problems has this behavior caused for you?
- How important is it for you to complete this successfully?
- What do you think might happen if...?
- Tell me about...
- What’s that like for you?
- What was your life like before you started...?
- How do you want things to end up when you’re done with this program? Where do you want to be?
- What other ideas do you have to address this situation? What else might work for you?



## THE DOE FUND: INTEGRATIVE SERVICES

The Doe Fund does not explicitly target people with criminal records, but more than 75 percent of the homeless population that Doe serves have a history of incarceration. Past and present drug abuse affects nearly 90 percent of Doe trainees, giving Doe justification in claiming that it works with “the segment of the homeless population considered the hardest to serve.” In the more than 20 years since founder and president George McDonald launched the organization, Doe has helped approximately 3,500 men and women to get off drugs and alcohol and find full-time work and independent housing.

Doe’s *Ready, Willing & Able* (RWA) program offers a holistic service model that includes housing and drug treatment as well as work experience and job skills training. Since 2001, the organization has also offered a nonresidential version of the program for recent reentrants with stable housing, *Ready, Willing and Able-DAY* (RWA-DAY), which includes paid transitional work, case management, education, job training and placement assistance. RWA-DAY participants join the program upon referral from the Kings County District Attorney’s ComALERT Program, the New York State Division of Parole, the U.S. Probation Department, or the New York City Department of Probation. Every participant must submit to drug testing and have at least one year left of parole or probation.

Engagement usually lasts six to nine months, during which time residential participants progress from performing simple maintenance in their facilities, to paid transitional employment and work-skills training, to ultimately securing unsupported employment and finding housing on their own while remaining clean and sober. From the point of intake, Doe inculcates a sense of responsibility and reciprocal obligation in its program participants, who must renounce all eligibility for public assistance and other publicly funded supports. For the first month, they receive a \$15 weekly stipend, pay no rent, and are given free meals while spending four hours a day taking care of their new homes and meeting with case managers and other support staff. They also begin twice-weekly random drug testing, which lasts for the duration of the program. Once they begin paid employment, and for the remainder of the time they are in Doe residential housing, they must

contribute \$85 each week for room and board—a symbolic action designed to mimic how the outside world functions.

By the same principle, they are paid for their work, performing jobs such as street cleaning, apartment repair, food preparation, and mail sorting—and in some cases working within Doe business ventures such as a pest removal company—and earn between \$7.40 and \$8.15 per hour for at least 35 hours each week. Of this, they are obligated to pay between \$60 and \$75 each week into a personal savings account, a requirement that emphasizes the importance of financial planning; when they graduate from the program, Doe matches their savings with a \$1,000 grant—akin to a congratulatory gift that a student might receive upon graduating from high school or college.

During the last stage of RWA, participants intensify their preparation for braving the labor market without support. They spend six weeks in a job preparation course, where they learn how to research job opportunities, prepare résumés and cover letters, and present themselves honestly and effectively in interviews with prospective employers. The sequence also covers challenges to job retention after securing a position, conflict resolution strategies, workplace ethics, and stress management. A team of job developers provides further support, leveraging relationships with local employers to make fruitful job matches and checking up on program graduates after placement. This approach works. A recent evaluation by Harvard Professor Bruce Western, the nation’s leading researcher on criminal justice, verifies that RWA significantly reduces criminal recidivism. The evaluation compared individuals who participated in RWA (participants), those who completed RWA (graduates), and a matched control group of NYC parolees similar to RWA clients, but did not take part in the program. The study showed that RWA graduates are 60% less likely to be convicted of a felony within three years after their release from incarceration, and that RWA participants are 56% less likely to be convicted of a violent crime within three years after their release from incarceration.

**MI relies on four main techniques, known by the acronym OARS, to steer conversations in a productive manner** (a sample conversation using the OARS approach appears in Appendix B):

- O** • Ask **O**pen-ended questions that require more than a “yes” or “no” response. (Open-ended questions work best when trying to ascertain someone’s motivation; close-ended questions are useful for gathering factual information.)
- A** • **A**ffirm Positive Talk and Behavior. For example, thank people for showing up on time, complement them on coming dressed appropriately, applaud them for being willing to consider alternative job opportunities, and ask them to describe previous job search successes.
- R** • **R**eflect What You Are Hearing or Seeing. This does not need to signal agreement with what the person is saying, but rather to demonstrate that you have been listening. For example, when a participant expresses frustration with the length of time it has taken to find a job and threatens to quit the program, the staff member might say, “It feels like this might be a waste of your time, and so it frustrates you,” or “It almost feels like you’re just getting the runaround, because every time you come in you get different information.”
- S** • **S**ummarize What Has Been Said. Periodically recapping what has been said can bridge lulls in the conversation to encourage the job seeker to continue talking, transition between topics, and clarify core issues.

**BREAKING THROUGH THE LURE OF CRIME**

Why *not* commit crime? For many reentrants the issue is not clear cut, especially when economic necessity drives criminal behavior. The drudgery of low-wage, low status employment can look like a poor alternative to the immediate rewards and excitement of illicit activities. Given limited work histories, constrained legitimate job opportunities, past ability to make ends meet through criminal means, and the very real discrimination they are likely to face in the labor market, some reentrants may discount the notion of employment entirely. Workforce practitioners must be able to demonstrate that work, even low-paying work, is a better option than returning to criminal behavior. And they must do so using an approach that engages and empowers participants to identify for themselves that employment is not only possible, but desirable.

Some criminal activity mirrors traditional employment. A criminal career often requires a set of skills and discipline not unlike those found in other work settings. (The retail narcotics trade, for example, involves product

promotion, customer service, money handling, quality assurance, and the maintenance of connections to wholesalers in order to thrive in a competitive marketplace—all the while avoiding arrest by police and “competitive pressures” exerted by other dealers.) Before selling the idea of entry-level legitimate jobs, workforce practitioners must often help their participants articulate the major drawbacks to using crime as a means to economic advancement. Many reentrants do not consider that:

**1. Most criminals are bad at crime.** Few can boast of a long career in crime without incarceration or injury. Simply put, the stressful nature of criminal activity typically leads to one of two outcomes: getting caught, or getting shot. Even the savviest criminals cannot avoid the small mistakes or bad luck that result in negative consequences. The difficulty of a criminal career becomes clear in lengthy rap sheets that record repeated trips through the criminal justice system, often for the same types of crime. There is an especially strong sense of tragicomedy with multiple convictions for attempted crimes—proof of such ineptitude that the individual couldn’t even commit the crime successfully before being arrested!

**2. For most, criminal activity is not particularly lucrative.** While crime may be a way to get immediate money, over the long run most criminal activity yields little reward compared to the time, effort, and risk involved. Attempting to answer the puzzling question about why so many drug dealers still live with their moms, economist Stephen Levitt's detailed analysis of a Chicago crack gang, for example, found that similar to many legitimate enterprises the ruling elite profited handsomely while the many foot soldiers engaged in the drudge work earned as little as \$3.30 per hour during their long shifts on the corner—a situation that forced some into minimum wage jobs in order to subsidize their criminal activities! The low pay was hardly the worst aspect of the job, however. Over the four-year period that researchers followed this gang, they found that street dealers averaged nearly six arrests, suffered more than two nonfatal wounds or injuries, and that one in four was killed.<sup>xxxvi</sup> Factor in time spent behind bars—no money coming in, but obligations like child support orders continuing to accrue—and the economic rewards of criminal activity look meager compared to even minimum-wage jobs.

**3. Money made through criminal activity rarely lasts.** Criminal culture encourages a profligate lifestyle. People who commit crime for economic gain are often just getting by, or spend their money on material items that are quickly gone. Criminals who are supporting addictions see their money go out as fast as it comes in. The proceeds of criminal activity are usually seized upon conviction, or spent by friends and relatives while the person is incarcerated. Few criminals save enough to retire to Florida with a comfortable nest egg after twenty years “on the job.”

**4. The status and sense of self-importance that comes from some criminal behavior can also be acquired through employment, without the risks.** For some, part of the lure of low-level criminal activity lies in the promise of respect it confers in many communities. While the realities of activities like the drug trade can be quite bleak, aspiration to the glorified gangster lifestyle that few actually achieve nonetheless drives many to the streets. Legitimate employment is rarely so flashy, but carries with it equally important connotations—provider, contributor, full member of society—that also command respect.

## PRESENTING EMPLOYMENT AS A BETTER OPTION

The truth is that most people involved in the criminal justice system quickly come to realize that crime does not lead to long-term success. As the dismal realities of the criminal lifestyle become harder to ignore after a period of incar-

ceration, serious brush with danger, or growing pressure for change from friends and family, many look for an alternative way of living. Workforce practitioners must help participants articulate the benefits that come from getting and maintaining even entry-level steady employment.

Maslow's hierarchy of needs—survival, safety, social connection, external recognition and self-esteem, and attainment of a high level of self-actualization—underscores the importance of formal employment in modern life.<sup>xxxvii</sup> While criminal activity may satisfy some of these needs in a short-term (and often negative) manner, employment plays a primary role in all of them. Employment presents a number of benefits over crime:

**1. Steady income.** While a low-wage job will not support a luxurious lifestyle in New York City, paychecks are predictable. Over time, as a worker moves up to better jobs, wages from steady employment will outpace the irregular earnings of criminal activity. More importantly, money earned through legitimate work cannot be seized by the legal system at any time.

**2. Structure and routine in daily life.** Employment is one of the pillars of a successful life, providing a reason to get up and go somewhere every workday, and an opportunity to interact with others in a positive manner. Staying busy through work also reduces the likelihood of reverting to negative behavior.

**3. Ability to develop natural strengths, talents, and gifts.** Employment provides the framework and opportunity to identify, hone, and utilize one's skills and interests in ways rarely found in criminal activity.

**4. Positive sense of purpose and identity.** People who commit crimes are typically seen as untrustworthy, unreliable, and dangerous in the eyes of the broader society. Employment, by contrast, demonstrates acceptance of responsibilities and a drive to create a better life for oneself and one's family. Employment often provides the identity by which people present themselves to others (“I'm a plumber” or “I'm a salesperson”), while reentrants spend years trying to shake the “criminal” label.

**5. Become a role model.** Maintaining steady employment sets a positive example for family members, friends, and neighbors. Especially in neighborhoods where jobs are scarce, most employment confers respect. People who have been involved in the criminal justice system often gravitate toward social service jobs from a desire to use their experience to help others avoid the road they once followed.

**6. Be a contributor to, rather than a drag on, community and society.** Employment enables individuals to make a positive contribution rather than just taking from others. The pride inherent in leaving behind supports such as public assistance and becoming a taxpayer should not be underestimated. As a participant in New York City's Midtown Community Court's employment program proudly told the staff after learning he had been offered his first job in more than a decade, "Finally I am going to give back rather than always taking. I don't want to waste any more time behind bars. I'm not going to rely on handouts anymore."

## THE CHALLENGE OF THE JOB SEARCH FOR INDIVIDUALS WITH CRIMINAL HISTORIES

*"80 percent of success is just showing up."*

— Woody Allen

**M**ake no mistake: a criminal record complicates the process of securing employment. Applicants who have been convicted typically need to look longer, submit more applications, go on more interviews, and often consider less desirable positions before landing the right job. And some employers will never hire an applicant with a record, either because of licensing and regulatory restrictions, or deeply held prejudice.

Employer stereotypes around criminal records pose a significant challenge. Although nonviolent offenses constitute the majority of convictions in New York State, a 2006 focus group study found that local employers "seem to have extreme notions of what it means to have been convicted of a crime. Most employers interviewed have had few personal experiences interacting or working with individuals who have been convicted of a crime. Employers tend to associate all or most criminal convictions with extreme behaviors and violent crimes, such as rape and murder."<sup>xxxviii</sup>

While the difficulty created by a record is real, it does not render an applicant unemployable. A reentrant's key to success in the labor market lies in understanding and responding to what motivates employers to hire. Fundamentally, all employers—large and small, for-profit and nonprofit—are concerned with earning money directly or attracting additional funding. Although they may go into

business because of a passion for creating and selling a certain product or providing a certain service, at the end of the day the bills must be paid in order to continue operations. As such, employers typically hire the candidate they feel will add most to the bottom line. Criminal history becomes a barrier precisely because employers believe that prior actions predict future behavior, and that a conviction record is an indication that the applicant might adversely affect the bottom line through diminished productivity or increased workplace liability. The challenge falls to the applicant to convince the employer otherwise.

The impact of a criminal record on the job search depends on four main factors, three of which the job seeker has no control over after conviction.

**1. The age at which an applicant committed the crime.** Employers tend to be more forgiving of someone who broke the law as a teenager than someone who committed a crime as an adult. (Regardless of conviction history, however, young workers face a difficult time breaking into the hyper-competitive New York City labor market.)

**2. The severity of the crime for which the applicant was convicted.** A felony carries more weight than a misdemeanor. A crime classified as violent causes greater concern than a nonviolent conviction. Employers generally view theft-based crimes (burglary, robbery) as more serious than nonviolent crimes that do not involve theft.

**3. The amount of time that has passed since the conviction.** Employers tend to be more forgiving of decades-old convictions than a conviction that occurred six months ago. Many employment applications reflect this differentiation by asking only about convictions within a recent time frame.

**4. The evidence of rehabilitation since the conviction.** Prior work history, volunteer experience, and involvement in education and training all go a long way toward mitigating employers' concerns. Since this is the only area that a job seeker can bolster, engaging in such activities and presenting post-conviction accomplishments in the most positive light possible takes on great importance.

## DAMAGE CONTROL: MINIMIZING THE IMPACT OF A CRIMINAL RECORD IN THE JOB SEARCH

Each workforce organization develops its own approach to preparing participants for the job search, depending in large part on the nature of the organization and the characteristics of the population it serves. Those known

for working primarily with reentrants, such as CEO or The Fortune Society, typically lean toward full and immediate disclosure of criminal history to employers, and have spent years developing a cadre of “offender friendly” employer partners. (Some of these employers actually prefer to hire individuals whose conviction histories confer significant tax incentives.) This approach has the benefit of relieving a major source of stress for job seekers nervous about whether and when questions about their convictions will come up, and enables applicants to be forthcoming about their criminal histories with less fear of discrimination.

Organizations that serve a mixed job seeker base in which only some have criminal records, generally encourage reentrants to follow the more nuanced disclosure requirements of New York State law, revealing criminal history only when asked by the employer. They spend considerable time crafting strategies and even specific “scripts” that accentuate positive attributes and minimize the negative implications of criminal activities. This approach rests on the assumption that the longer an employer can see the applicant as an individual before the conviction stigma attaches, the better. Since the hiring process depends to a large degree on likeability, the more comfortable an employer feels with an applicant, the greater the chance that the employer will be able to see past the rap sheet. Given that New York State law typically requires disclosure only when explicitly asked, the best-case scenario is that an employer is so impressed with the candidate that he or she never thinks to ask and the applicant never has to disclose at all. This approach opens a wider pool of employers beyond just those that are “offender friendly,” but requires applicants to develop a sophisticated understanding of what employers are allowed to ask, and significant poise in answering those questions effectively.

In truth, organizations use both approaches with employers, depending on the specific needs of the participant or the preference of the job developer. Regardless of the approach, three areas of the job search require special attention and concrete strategies for reentrants to navigate successfully.

**1. Writing a résumé or application that will appeal to potential employers.** Many struggle with how to incorporate positive experience and qualifications gained during incarceration, while minimizing the negative impact that listing those institutions can cause. Involvement in criminal activity often coincides with a number of “résumé pitfalls” that elicit concern, such as low education or long stretches of unemployment.

**2. Answering the dreaded “have you ever been convicted of a crime” question on an application or interview.** Interviews are stressful under the best of conditions, and

having to talk about the highly negative, highly personal experiences of conviction and incarceration with a potential employer can feel overwhelming. For this reason, job seekers nearly always identify the interview as the most difficult part of the job search.

**3. Sustaining momentum over the weeks or months that it takes to secure a job.** Especially at the bottom end of the labor market, the job search is a numbers game. The more applications or résumés submitted, the more likely an interview will be offered; the more interviews the applicant goes on, the more likely he or she will be hired. Every job seeker, regardless of background, feels discouraged by the stream of negative (or non-) responses from employers before the right position comes along. For individuals who already believe their convictions make them unemployable, giving up after a few rejections can seem like the rational course of action.

## CREATING AN APPEALING RÉSUMÉ OR APPLICATION

Many reentrants have never created a résumé; at best, they might leave prison with a list of certifications earned while incarcerated that they’ve been told can help in their job search. They might not realize that résumés and applications serve as a marketing tool with one purpose: to secure an interview. They may be unclear on what makes one résumé or application stand out over another in an employer’s eyes.

The good news is that even those with limited experience and skills can develop a substantial résumé, since in many ways structure is as important as content. Employers typically spend a very short amount of time reviewing résumés before deciding whether or not to call the person in for an interview. The résumé must convey the important information about a candidate in a manner that employers will notice quickly, and that stands out from all the other résumés on an employer’s desk. A few “tricks of the trade” can enable anyone to create a visually impressive, full-page résumé.

As a rule of thumb, a résumé or application should contain enough information in a brief format to make the employer want to learn more, and to the greatest degree possible omit information that may cast doubt on the applicant. While this may seem obvious to seasoned job seekers, individuals who have not been in the labor market recently—especially those who have been through therapeutic groups where honesty and acceptance of responsibility for actions are highly stressed—often struggle with what to include or omit. Some prefer to disclose that they have been incarcerated, accepting

that a percentage of employers will decide not to offer an interview as a result but preferring to have their past in the open. Others resist including valuable experience and skills gained behind bars for fear of tipping off the employer to a period of incarceration. No single approach will work for all job seekers: a person sentenced to probation may never have any disruption in employment and so can easily avoid broadcasting involvement in the criminal justice system, whereas someone released after a decade behind bars will have a hard time not revealing prison tenure.

Avoid fabrications at all costs. Many job seekers believe they can make up fictional employers or stretch out the time they spent in actual jobs in a vain effort to cover gaps. Such deceptions quickly crumble when the employer attempts to verify work history, and starting a job based on a deliberate lie nullifies hiring protections if and when the deception is later discovered.

## THE EMPLOYMENT ARC AND THE THREE D'S

When considering whether to offer an interview, employers look for three broad positive characteristics on a résumé or application collectively known as the **Employment ARC**:

- A** • **Ability** – does this person know (or demonstrate the capacity to learn) the specific duties of the job?
- R** • **Reliability** – does this person possess a good work ethic? Will he or she show up to work consistently? Can he or she work well with minimal supervision? Is this person honest?
- C** • **Compatibility** – will this person fit in with the “organizational culture”? Will he or she get along with supervisors, co-workers, and customers?

Successful applicants ensure that everything on a résumé or application points to one or more of the **ARC**.

Employers also attempt to read between the lines for evidence of certain traits that might compromise an applicant’s suitability for the job, collectively known as the **Three D’s: Dishonesty, Drinking and Drug Use**.

Anything that raises red flags about these Three D’s should be omitted or minimized to the greatest extent possible. Criminal history clearly causes concerns about ARC and susceptibility toward the Three D’s, but a number of approaches can mitigate its impact on a résumé.

## RÉSUMÉ FORMATS

The fixed structure of an application form limits options for customization: a box is either filled in or not. But the flexibility of résumés enables a savvy writer to create an eye-catching, distinguished résumé that stands out from the crowd. Given the multitude of applications employers receive for almost any job opening, every job seeker should attach a copy of their formal résumé even to applications that do not require it.

Job seekers and practitioners frequently worry using the “correct” résumé format. In truth, résumé writing is more art than science. Remember, the résumé has one purpose and one purpose alone: to secure an interview. Whatever approach lands the interview is the right approach, regardless of the format it takes.

**Layout** Employers typically spend just a minute or two skimming each résumé or application to rule people either in or out of further consideration. Under such conditions, the layout and overall structure of a résumé is almost as important as the content. Résumés typically fall into one of two basic formats depending on the applicant’s work history and skills:

**Reverse chronological.** This format lists experience starting with the most recent and working backwards. (Employers typically want to see experience within the past 10 years only, unless the older experience is directly relevant to the position under consideration.) Employers generally prefer the reverse chronological format as it clearly shows the progression of an applicant’s career path, which makes it best suited for individuals with steady employment history. Major periods of unemployment stand out on reverse chronological résumés.

**Functional.** This format describes the skills an applicant possesses without identifying where those skills were gained. Applicants who have inconsistent work histories in which gaps would be highly noticeable, have worked a series of nearly identical jobs, are seeking employment in a highly technical field that requires specialized skill sets, or have acquired skills in non-traditional work environments all might choose a functional résumé format. (Examples of reverse chronological and functional résumés are included in Appendices C and D.)

**Résumé Content** A few basic rules can strengthen the appeal of a résumé:

**1. Focus on the Employment ARC.** Every entry on the résumé should demonstrate Ability, Reliability or Compatibility. Given the difficulty of instilling motivation and interpersonal skills, employers especially value evidence of reliability and compatibility.

**2. Fill the page, but don't overwhelm.** A résumé that leaves half the sheet blank looks unimpressive. A résumé full of dense blocks of text is unreadable. Find the happy medium.

**3. Maintain consistent formatting and professionalism throughout.** Consistency makes the résumé easier to read, and will affect how employers view an applicant. Avoid unprofessional language and attempts at humor, and do not include inappropriate email addresses. (In an age of ubiquitous free email providers, there is no excuse for giving employers an email address that is anything other than a variation on the applicant's name, such as [jsmith@yahoo.com](mailto:jsmith@yahoo.com).)

**4. Avoid typos and grammatical errors at all costs.** Misspellings and grammatical errors undermine employers' confidence in an applicant's attention to detail or education levels. Verify the names and locations of all former employers using Google and Superpages.com; many job seekers have difficulty remembering the names of companies for which they once worked, especially if the job lasted for a short period of time.

**5. Use names and numbers wherever possible.** When scanning a page, the eye notices numerals and proper names, especially those that are well known. Résumé writers should pepper descriptions of responsibilities with numbers and the specific names of tools and companies. ("Prepared over 100 lbs of pasta daily utilizing the Imperia Manual Pasta Machine" will elicit a better response than "Prep work in kitchen.")

**6. Include experience gained while incarcerated, but downplay the impact of incarceration by using alternative names for jails or prisons.** Reentrants are often reluctant to include on their résumés the important skills and valuable work experience gained while behind bars for fear of tipping off employers to their criminal record. Alternative (but still truthful) ways of describing the location where the experience occurred can alleviate concerns and potentially increase the applicant's chances for an interview. For those who served time in New York City's Rikers Island jail complex, résumé writers can use individual building names (e.g., "Eric M. Taylor Center, Queens,

NY"). Former inmates of one of New York State's 67 prisons can list the name of the facility minus the word "correctional" (e.g., "Adirondack Facility, Ray Brook, NY"). In some situations, the job seeker may be able to use the name of a company or organization that operates within the prison system, such as Corcraft Industries, with which he or she had been involved. (The applicant, of course, must still be prepared to talk about incarceration in a forthcoming manner if the employer asks about it on the interview.) For a full listing of city and state facilities, see the websites of the New York City Department of Corrections ([www.nyc.gov/doc](http://www.nyc.gov/doc)) and the New York State Department of Correctional Services ([www.docs.state.ny.us](http://www.docs.state.ny.us)).

## OVERCOMING RÉSUMÉ PITFALLS

Inconsistent work histories can make writing a résumé difficult for many reentrants. Below are suggestions to address five common areas of concern:

**1. No recent or formal paid work history.** For job seekers who have been out of the labor market for a long period or never held a legal job, list any off-the-books work, volunteer experience, internships, training programs, education, and family responsibilities in which the person has been involved. Use a functional résumé to focus on skills and education/training.

**2. Non-traditional work experience such as prison or treatment programs.** Residents of correctional facilities and treatment programs often perform substantive work that future employers will appreciate. As discussed above, work that took place under the auspices of a company or program operating within the penal system can be listed under that name; use names of specific buildings, or omit the word "correctional" in the title of facilities. Use a functional résumé to focus more on skills rather than work history.

**3. Off-the-books / self-employed work.** Individuals often provide services for money that they may not consider "work," such as child care for friends and neighbors, hair braiding, and casual labor. Identify those activities and translate the information into job duties and descriptions; treat this work as an actual business by giving it a formal name and title (e.g., name: "Jane Smith Child Care," title: "Owner / Operator" or "Freelance"). Include off-the-books employment as a regular job but ask the former employer in advance whether he or she would verify employment if requested; if not, the job seeker should include the work but give the job title as an "independent contractor," the official term for workers not hired as regular employees.

### **STRIVE: BOOT CAMP MODEL**

Unlike The Doe Fund and CEO, STRIVE (Support and Training Result in Valuable Employees) offers an intentionally and consciously short program. Participants whose applications are accepted spend three to four weeks in an intensive training workshop that emphasizes “soft skills”—personal responsibility, attitude, communication, and confidence—and are then placed into jobs. The program costs nothing, but is far from “free”: those who don’t attend, or transgress the ground rules of conduct, are dismissed and must start again.

Despite working with some of the “hardest to serve”—in 2005, the last year for which information is available, 42 percent of STRIVE clients were reentrants, and the average reading level was ninth grade—STRIVE places an average of 3,000 individuals into jobs every year and has helped more than 33,000 people secure employment since its founding in 1984. Participants in STRIVE’s program for high-risk youth had a recidivism rate of 15 percent in 2005, compared to an overall recidivism rate for this demographic of approximately 50 percent.

In addition to preparing participants for the workforce through role-playing and instruction on résumé writing, interview conduct, workplace attire, and computer skills, STRIVE’s Core Training emphasizes that job seekers must accept the world as they find it. From the first day forward, instructors deliver two messages: life is not fair, and society owes you nothing. The organizational motto, “where attitude counts,” reinforces those messages: given participants’ past struggles and lingering barriers to employment, from criminal and addiction histories to low skills and little work experience, their prospects for success will depend on positive thinking and consistently presenting a hopeful face to the world.

After participants complete the Core program, they work with job developers to find appropriate placements. The organization has built a track record through a quarter-century of success with

its model that has helped convince hundreds of employers to take chances on STRIVE graduates: approximately 90 percent come back to recruit new grads for openings every year. In addition to straight placements with outside employers, the organization offers some supervised work opportunities for program participants who require a longer period of transition into the labor market.

While the initial training period is short, STRIVE’s commitment to its graduates is not: after completing the program, former participants receive support throughout their first two years of employment, and have lifetime access to services at any of the 18 STRIVE sites in the United States or in five other countries. Recently, STRIVE has stepped up its training efforts as well: in 2006, the organization helped individuals seeking jobs in the construction industry to attain their GEDs, a necessary prerequisite for more advanced training. And in 2009, STRIVE launched an intensive training program that prepares workers both for construction positions and a range of emerging “green jobs,” from energy efficiency to brown-fields remediation.



**4. Multiple short-term jobs or extremely varied work history.** List years only (e.g., “2005,” not “March to April, 2005”); highlight skills and coursework; find common threads across the various positions and focus on strong points; group similar jobs according to title rather than employer (e.g., “retail cashier,” not “cashier, Duane Reade; cashier, Rite-Aid; cashier, CVS”); and include temporary, seasonal, or volunteer experience.

**5. Incomplete education or training.** Move education toward the bottom of the résumé to make it less prominent, or else omit it altogether; no mention of education may be less damaging than, for example, including that the applicant dropped out of high school and has not earned a GED. Certifications should also be listed in addition to or in place of education. Focus on skills and work experience. Use phrases like “currently enrolled,” “anticipated graduation / completion,” and “in the process of.”

## ANSWERING THE CONVICTION QUESTION ON AN INTERVIEW OR APPLICATION

Job interviews represent the core of the job search process. Given their “make or break” importance in the hiring decision, they provoke anxiety in even the most confident candidate. Interviews do not have to be a negative experience, however, and should be viewed as positive achievements regardless of how they ultimately turn out. The offer of an interview in itself means that the employer sees enough in the résumé or application to believe that the job seeker might be a good hire and add value to the bottom line.

For applicants with criminal histories, an interview feels especially nerve-racking. No matter how well the initial conversations go, they wait with foreboding to be asked about their record. Given the stereotypes of reentrants held by many employers, shaped in large part by the extreme crimes they see reported on the news or depicted in movies, questions about criminal history must be handled deftly. The best approach addresses the conviction truthfully, but quickly shifts the focus of the conversation to more positive ground. Applicants often fall into a number of traps when trying to answer the “tell me about your conviction” question in the stressful setting of an interview:

**1. Providing too little information.** Saying “yes, I was convicted of a crime,” and nothing else, is not sufficient. Without context, employers will often assume the worst.

**2. Providing too much information.** Some will describe their criminal activities in great detail, often portraying

their illegal behaviors in ways that may not seem to suggest contrition. Once focused on the specifics of a crime, employers have a hard time hearing anything else about the applicant.

**3. Proclaiming innocence.** Some reentrants try to convince employers that they did not actually commit the crime, denying their guilt despite the conviction. Even if the person was framed, took the fall for someone else, was the victim of a case of mistaken identity or any other number of possible explanations, this tactic is almost never successful. From an employer’s perspective, conviction equals guilt.

**4. Lying or massaging the truth.** Many reentrants find it tempting to deny the existence of any criminal record, or disclose only the least serious conviction, in the hopes the employer skips the background check. With nearly 80 percent of companies engaging in comprehensive criminal checks and many criminal records freely available online, this approach rarely works.<sup>xxxix</sup> The risk is simply too great. While lying may get some applicants hired, they can never be certain when their misrepresentations will be discovered. Employers may opt to run formal background checks only after a new employee starts work, when a situation such as a theft occurs in the workplace, or when offering a promotion. Many workforce practitioners have seen firsthand situations in which their job seekers were hired and settled into positions they truly enjoyed, only to be let go when the truth came out weeks or months later. Lying on an application or an interview forfeits any legal protections against discrimination based on criminal history, and makes obtaining the next job that much harder.

Reentrants can help employers see beyond the rap sheet by following two basic strategies on the interview:

**1. Defy stereotypes by looking and acting professionally.** Non-verbal cues play a major role in hiring decisions. The human brain begins to attach a label to the people we encounter in as little as one-tenth of one second, based solely on appearance.<sup>xl</sup> Employers often have deeply engrained notions of how a “criminal” looks and acts. An applicant who shows up for the interview well-groomed, wearing formal business attire, and avoiding inappropriate language and behavior can defy expectations in a positive way. Simply put, the more professional the applicant appears, the less likely the employer will ask questions about criminal history. Ultimately, the best way to handle a criminal record is never having to talk about it because the employer never brings it up.

**2. Understand—and only answer—what the employer is asking.** Reentrants are often confused about what the law requires them to disclose to potential employers. As discussed earlier, under New York State law, employers can ask only about unsealed *criminal convictions* (felonies and misdemeanors). Employers are prohibited from asking about noncriminal convictions such as violations, or arrests that did not lead

to a conviction. Furthermore, applicants are required to disclose their criminal convictions *only* when asked specifically on an application or interview, and they should disclose only the information for which the employer asks. (Some sex offenders and others with more serious convictions may be mandated as a condition of parole to inform all potential employers of their status, whether the employer asks or not.)

**Consider the following example: The year is 2010. Jane was convicted of a misdemeanor in 1995. John was convicted of three misdemeanors in 2007 and a felony in 2001. Jamal pled guilty to a disorderly conduct violation six months ago. The table below indicates how all three should respond to specific questions:**

QUESTION ON INTERVIEW OR APPLICATION	HOW SHOULD JANE ANSWER?		HOW SHOULD JOHN ANSWER?		HOW SHOULD JAMAL ANSWER?	
	YES	NO	YES	NO	YES	NO
Have you ever been convicted of a crime?	X		X			X
Have you been convicted of a crime in the past 10 years?		X	X			X
Have you ever been convicted of a felony?		X	X			X
Have you been convicted of a felony in the past 7 years?		X		X		X

## THE FOUR-STEP PROCESS TO ANSWERING QUESTIONS ABOUT CRIMINAL HISTORY

Many workforce practitioners struggle to help their job seekers figure out what to say about criminal convictions during an interview. Success comes down to understanding why employers ask about criminal history and what types of responses can ameliorate their concerns.

Employers ask about criminal history for one simple reason: they believe that past actions predict future behavior. A pattern of criminal behavior even years ago, they assume, indicates that the applicant must still be dishonest or dangerous today. To change this belief, reentrants must be able to demonstrate convincingly that their past is truly their past, that they have seen the errors of their ways, and that they will be reliable, productive workers if given the opportunity.

The following four-step response, developed and refined by workforce practitioners in use with thousands of job seekers, offers a straightforward but effective way to shift the conversation from the negative (what happened in the past) to the positive (how the applicant can help the employer make money today).

**STEP 1. State *when* the conviction happened, and (if applicable) add that it was nonviolent or non-theft related.** Keep this part as short as possible. Do not go into details or make excuses to explain it away. (For example, “I was convicted of a nonviolent, non-theft felony in 2001” or “I was convicted of a nonviolent misdemeanor in 2003” but not “I was convicted of cocaine possession but I was framed / got caught up in a sweep / was holding it for someone else and let me tell you all about it.”) Job seekers often get tripped up when talking about the specifics of their crime, and once the employer hears details they may not focus on anything else the person says.

**Step 2. Express remorse.** Employers want to see an acceptance of responsibility, personal reflection, and a desire for change.

**Step 3. State *that you've changed.*** It can be as simple as saying, “I’m a different person today,” but should be explicit.

**Step 4. Explain *how you've changed by listing the positive steps you've made in your life.*** This can cover a wide variety of areas: education, military service, work history, volunteer activities, and/or skills obtained in or outside of prison. Even something as simple as not having any additional contact with the police since the conviction can be seen as a positive.

Practice is key here. The more confidence job seekers exude in what they are saying, the more convincing the explanation will come across to the employer. Few peo-

### To illustrate, a person with a felony drug-sale conviction might give the following answer to the dreaded “tell me about your conviction” question:

Yes, it’s true that I was convicted of a nonviolent, non-theft felony in 2003. I deeply regret my decision for many reasons, especially because it does not reflect who I am today. During that time, I reached a low point in my life and became involved in activities I knew were wrong. I made a mistake and paid the price.

In some ways, I’m glad that conviction happened as it helped me to see that I could do better with my life. I have had no involvement with the police since that time and am not on probation or parole. In 2005, the State of New York recognized my rehabilitation by issuing me an official Certificate of Relief. I have worked in customer service and food service since then, including handling up to \$500 per day and supervising other workers. I earned my GED in 2006 and am currently enrolled in a training program to develop my computer skills and office service skills like customer service, telephone etiquette, filing, faxing, and copying so I can be the best worker possible. If you give me a chance, you’ll see that no one will work harder than me.

ple can improvise a compelling answer to such a fraught question in the heat of the moment. Writing out and memorizing what they want to say in advance will significantly reduce anxiety and the potential for saying too much or too little. To avoid sounding contrived, job seekers should prepare their script in a conversational style similar to how they actually talk. Reentrants often find it necessary to practice their response aloud dozens or hundreds of times before it becomes second nature. The goal, ideally, is to sound so positive and focused on the future that the employer becomes more interested in the potential value the applicant is offering rather than the specifics of the conviction. (Employers also find talking about criminal history uncomfortable, and often move on quickly once they feel confident that the person will not be a threat to their business.)

## DISCUSSING INFORMATION ABOUT CRIMINAL CONVICTIONS

After hearing the initial four-step answer, employers may still insist on details about the criminal conviction. Since any talk about criminal activity is laden with pitfalls, the job seeker should be ready to hand over a written table that provides the relevant information: date of conviction; the state where the conviction occurred; penal law number; formal name of the charge; and the current status of

the sentence. (Applicants should never provide a copy of their official DCJS or FBI rap sheet to an employer, as it may contain additional information that employers should not use in their hiring decisions.) Preparing such a table in advance ensures that the job seekers truly understand their record, discloses only the information required by law, creates the impression that they have nothing to hide, and removes the challenge of having to remember and explain verbally the technical aspects of the legal system.<sup>xii</sup>

### CRIMINAL CONVICTION INFORMATION

DATE	STATE	PENAL LAW NO.	CHARGE	CURRENT STATUS
10/30/99	NY	PL 160.05	Robbery, 3rd Deg.	Issued Certificate of Good Conduct
06/05/97	NY	PL 180.40	Sports Bribing	Completed Probation
01/25/96	NY	PL 220.03	Possession of a Controlled Substance, 1st Deg.	Completed Alternative to Incarceration Program
07/21/95	NY	PL 255.00	Unlawfully Solemnizing a Wedding	Completed Probation

# ***CENTER FOR EMPLOYMENT OPPORTUNITIES: TRANSITIONAL EMPLOYMENT***

Much as a halfway house provides an intermediate step to the outside world, transitional employment offers a more forgiving environment in which to master basic workplace competencies. These jobs typically stress “soft skills” such as punctuality, proper attire, conflict resolution, problem solving and teamwork, more than actual training. This model is considered especially useful for reentrants who need time and greater supervision to develop the skills and attitudes required for success on the job—and who have much at stake, including potentially their freedom, riding on their ability to get those right.

Nationally recognized for its use of transitional employment, the Center for Employment Opportunities (CEO) has worked with formerly incarcerated New Yorkers for more than 30 years. CEO runs the biggest transitional jobs program in New York City, operating more than 35 work sites in partnerships with municipal agencies and the City University of New York. Participants work under CEO supervisors in physical plant maintenance and groundskeeping, with a daily average of around 235 workers across all sites.

The ability to engage reentrants immediately upon release plays a major role in CEO’s success. An individual coming home on a Thursday might show up at CEO’s downtown Manhattan office on Friday to begin four days of pre-employment training, receive orientation to CEO’s menu of services, and get sized for the provided steel-toed work boots. “Timing matters,” says CEO executive director Mindy Tarlow. “People are most motivated to work right when they’re released—which is also when they have the most significant obstacles to working. That’s also the time in which they’re most likely to recidivate.”

CEO pays its transitional workers every day, driving home the message that work yields rewards. Workers generally hold these positions for an average of two months, coming back to the office one day a week for counseling and consultation before being placed into unsubsidized, full-time employment. They receive real-time feedback to identify and

work through attitudes and behaviors that could cause trouble down the road. “If you looked at reasons why people we place lose their jobs,” Tarlow observes, “the vast majority relate to a negative attitude around work.” She characterizes transitional jobs as “a laboratory in which some of those things can be worked out in advance of placement into full-time jobs.”

While participants are on job sites, the agency’s job developers begin matching them with partner employers, most of which have hired from the organization for years. The credibility that CEO has built up with these employers over time is crucial: employers receive both a candid assessment of the job seeker’s strengths and weaknesses and the organizational guarantee of ongoing support post-hire. To mitigate employer concerns, CEO makes significant use of the federal bonding program to indemnify employers against theft or damage caused by a worker. The key, Tarlow notes, is “to avoid making bonding a paperwork burden for the employer. CEO makes sure to do all the paperwork so the employer doesn’t have to do anything. Things like the bonding program are deal-closers, not door-openers. It is the prospect of having a free human resources agency offering qualified employees that opens the door to employers and keeps them coming back.” She proudly notes that in more than 30 years, “we’ve almost never lost an employer.”

Since 1995, CEO has placed over 12,000 individuals into unsubsidized employment. In recent years, CEO has added a retention unit to remain engaged with placed participants and proactively address problems they might face in the course of their working lives. “Their job is to figure out and understand who needs intensive services, and when,” Tarlow states. “Some things are predictable: people can often get depressed around the holidays, for instance. But most are not predictable. People’s lives are complicated.”

## DISCLOSING CONVICTION HISTORY ON APPLICATIONS

Most modern application forms ask about conviction history. As in an interview, honesty is the best policy and certain approaches are more likely to yield better results. The conviction question generally mirrors the wording below, taken from the application form for a national food chain:

EMPLOYMENT DESIRED (if you are applying for a retail hourly position, please keep in mind that the availability of hours may vary.)							
Position	Location/Department		Salary Desired		Date You Can Start		
Specify hours available for each day of the week	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Are you able to work overtime? _____ Have you ever worked for ABC Company? _____ If yes, when? _____ Which store/department? _____							
Are you legally eligible for employment in the U.S.? Yes ___ No ___ (All new hires will be required to provide documentation to comply with I-9 requirements.)							
Have you been convicted of a crime in the last seven (7) years? Yes ___ No ___							
If Yes, list convictions that are a matter of public record (arrests are not convictions). A conviction will not necessarily disqualify you for employment.							
<p><i>CALIFORNIA APPLICANTS ONLY: Applicant may omit any convictions for the possession of marijuana (except for convictions for the possessions of marijuana on school grounds or possession of concentrated cannabis that are more than two(2) years old, and any information concerning a referral to, and participation in, any pretrial or post trial diversion program). MARYLAND APPLICANTS ONLY: Under Maryland law, an employer may not require or demand, as a condition of employment, prospective employment, or continued employment, that an individual submit to or take, a lie detector or similar test. An employer who violates this law is guilty of misdemeanor and subject to a fine not exceeding \$100. MASSACHUSETTS APPLICANTS ONLY: It is unlawful in Massachusetts to require or administer a lie detector test as a condition of employment or continued employment. An employer who violates this law shall be subject to criminal penalties and civil liability.</i></p>							

The structure of this form poses an obvious challenge: once the applicant has checked Yes, how is it possible to adequately “list convictions” or provide evidence of rehabilitation in the tiny amount of space available in the box? Reentrants typically try one of the following on application forms:

- **Leave the explanation blank or write, “Will explain at interview.”** In the absence of any detail, many employers will imagine the worst types of offenses and decide not to offer an interview.
- **Write only the penal code number of the crime.** While this answers the question in the most technically correct way, most employers will not know (or know where to find out) that, for example, “220.03” is the New York State code for Criminal Possession of Controlled Substance in the 7th Degree, an A Misdemeanor, or that “265.03” is the code for Criminal Possession of a Weapon in the 2nd Degree, a C Felony. Again, they may assume the applicant committed a more serious crime and choose not to offer an interview.

- **Write only their last (or least serious) conviction.** Providing only part of the criminal record may seem appealing, but if a later background check does not match the information provided on the application, the employer may view the omission as amounting to a lie, with adverse consequences.

There is a better way. Rather than explaining the convictions on the form itself, some applicants create a formal **Statement of Conviction History** based on the four-step process outlined earlier. After checking Yes, they write “Please See Attached” in the explanation box and staple a copy of their statement to the back of the application form. (Appendix E contains an example Statement of Conviction History.) The statement serves a number of purposes. First, it enables the applicant to quickly move past the conviction question on the application, a major source of anxiety. Second, it gives a “voice” to the applicant that makes it harder for the employer to rely on preexisting stereotypes. Finally, it provides another opportunity for the job seeker to sell his or her qualifications in depth, a task often difficult for anyone to do on an application.

## MAXIMIZING SUCCESS IN THE JOB SEARCH

For any job seeker, success in securing employment depends on a combination of factors: desirable skills, education and work experience, the amount of competition for available jobs, tenacity in the search process, and luck. The criminal record creates a competitive disadvantage, one that varies based on the length and severity of the conviction history, how much time has elapsed since the last conviction, and the type of occupation for which the person is applying, among other factors. Workforce practitioners have found that reentrants typically submit at least two to three times as many applications as someone without a criminal history to find a suitable position. Given this reality, a number of steps can increase the likelihood of successful employment outcomes.

### Set expectations around job search activities

Largely a numbers game, success in the job search comes most quickly to those who continuously submit applications and résumés. Many workforce organizations, however, do not push their participants to take an active role in their own job search, instead allowing them to wait for a job developer to find appropriate openings. Not surprisingly, these organizations find that job seekers get discouraged when opportunities do not come quickly. Establishing clear goals and expectations around the job search can help maintain motivation over the weeks and months when positive responses may be few and far between.

At a minimum, job seekers should take an active role in their own employment destinies by submitting at least four applications each day—a minimum of 20 per week, every week—until they are employed, tracking their activities in a log. Some organizations require participants to review their logs each week with a job developer, and may even make access to the job developer's services contingent upon consistent effort. Participants who ultimately find their own jobs feel greater attachment to the positions than those who are simply told to show up for interview that has been arranged for them by someone else. At the very least, the process of applying for 20 jobs each week dramatically illustrates how difficult finding a job can be, which may later give pause to those thinking of quitting for trivial reasons once employed. (Appendix F contains a sample Employment Search Tracking Sheet.)

### Expand or tap into new networks

The New York State Department of Labor estimates that only 20 percent of positions appear in newspapers or online. Over half of all workers get their jobs through networking with people and organizations that can connect them to positions in the “hidden job market.”<sup>xliii</sup> Limiting

oneself to the classifieds significantly reduces the number of opportunities available. Typically living in neighborhoods of high unemployment, however, people with criminal histories often have few personal contacts who can alert them to unadvertised opportunities. Several strategies can help job seekers expand their networks:

- **Identify knowledgeable people in the community.** Religious leaders, community board members, and local politicians often have their pulse on economic activity in their immediate area and may be willing to pass along a résumé or provide the name of a potential employer.
- **Register with the New York City Workforce1 Career Center (WFICC or “One Stop”) system.** With offices in each borough, the government-funded Workforce1 system ([www.nyc.gov/workforce1](http://www.nyc.gov/workforce1)) is open to anyone over the age of 18 and places over 25,000 job seekers into employment each year. The Centers also offer specialized job training vouchers and workshops on job-search techniques.
- **Register with employment and temporary staffing firms.** In a down economy particularly, many employers rely on the hundreds of staffing firms located throughout New York City to fill their hiring needs. For job seekers, these firms offer extensive networks of employers and access to openings not listed anywhere else. Some reentrants have found that the criminal record presents less of an issue when placed through a staffing agency—especially a temporary agency—as compared to applying directly to a company. Superpages.com offers an easy way to find staffing firms by geographical location.
- **Enroll in a workforce development program.** These programs combine intensive job preparation training, wrap-around supportive services, and placement assistance to low-income individuals. They typically require a commitment of time and attendance from program participants and may have restrictions on who can enroll. Programs that specialize in working with reentrants have identified employers who are open to hiring applicants with a criminal record. The New York City Employment and Training Coalition ([www.nycetc.org](http://www.nycetc.org)) serves as a clearinghouse of information about local workforce development organizations. (A listing of programs that focus specifically or solely on criminal justice can be found in the resources section.)

### Seek out employers most likely to hire reentrants

While opportunities for reentrants can be found anywhere and no employer should be ignored, certain types of employers are more willing to consider applicants with

a criminal record. A 2006 focus group study of New York City-based employers, for example, found the greatest openness to hiring among African-American business owners and male employers in manual labor industries such as transportation and construction. By contrast, female employers generally, and employers who run businesses that deal primarily in cash (such as retail stores), have significant customer contact, or whose workers are required to enter homes unattended, expressed the greatest concerns about hiring reentrants.<sup>xliii</sup> Several free, online directories can help job seekers in New York City identify specific types of employers by location. (Unlike job-search websites such as Monster.com, these directories list all companies working in a specific field, not just those with current job postings.)

- **ACI Employer Locator tool:**  
[www.acinet.org/employerlocator](http://www.acinet.org/employerlocator)
- **New York State Business Directory:**  
[www.labor.state.ny.us/stats/bdirector.shtm](http://www.labor.state.ny.us/stats/bdirector.shtm)
- **New York State Division of Minority and Women Business Development directory:**  
[www.nylovesmwbe.ny.gov](http://www.nylovesmwbe.ny.gov)
- **New York City Minority- and Women-Owned Business Enterprise directory:**  
[www.nyc.gov/html/sbs/html/procurement/mwbe.shtml](http://www.nyc.gov/html/sbs/html/procurement/mwbe.shtml)

### Market and utilize available employer incentives

Unknown to many employers, the federal government and New York State offer a number of incentives to encourage hiring reentrants or members of other groups that have traditionally been shut out of the labor market. Detailed information on these incentives, described below, also can be found on the website of the New York State Department of Labor ([www.labor.state.ny.us](http://www.labor.state.ny.us)).

- **Federal Bonding Program:** Administered by the New York State Department of Labor, the Federal Bonding Program provides employers with insurance coverage of up to \$10,000 to reimburse any losses that result from theft, forgery, larceny, or embezzlement of money or property by an insured newly hired reentrant, welfare recipient, youth, or other high-risk job applicant. The bonds are provided at no cost to employers for the first six months of an employee's tenure.
- **Tax credits:** Two types of tax credits for employers, worth a combined \$4,500, can underwrite the cost of hiring certain types of workers:

- **The Work Opportunity Tax Credit (WOTC)** is a federal tax credit of up to \$2,400 for each qualified worker with a felony conviction hired no later than one year after conviction or release from prison. Employers can claim this credit for each worker hired who meets the criteria.

- **The Workers with Disabilities Employment Tax Credit (WETC)** is a New York State tax credit worth up to \$2,100 for each individual hired who has been certified as disabled by certain government agencies. Many reentrants qualify based on a history of alcohol or substance addiction.

## EXPLORE ALTERNATIVE ROUTES TO EMPLOYMENT

For many reentrants, especially those with limited skills or work history and particularly in a time of slack labor demand, the competitive job market may be too difficult to access immediately. Some find greater success exploring alternative activities that can build a foundation for future employment.

- **Volunteering and internships:** An easy way to try out different types of work and work environments is to offer one's time at no cost. Nonprofit organizations especially are willing to take on short-term volunteers and longer-term interns. While some convictions may exclude an individual from volunteering in certain settings, many volunteer and internship opportunities do not screen for criminal background. The experience gained during these opportunities can help to build a résumé, and volunteer positions often lead to important networking contacts and even permanent positions. Local organizations such as New York Cares ([www.newyorkcares.org](http://www.newyorkcares.org)) and NYC Service ([www.nycservice.org](http://www.nycservice.org)) connect volunteers with available opportunities.
- **AmeriCorps:** The federally funded AmeriCorps program ([www.americorps.gov](http://www.americorps.gov)) places paid volunteers into full-time positions with a variety of nonprofit organizations for one year. This competitive program, which tripled in size in 2009, provides experience doing substantive work and a solid foundation for future employment. AmeriCorps participants who complete their year of service receive an educational stipend of nearly \$5,000 in addition to the money they earn throughout the year.
- **Post-secondary education and training:** Although prison college programs have been significantly curtailed over the past few decades in New York State, the connection between living-wage employment and post-secondary education and training has never been greater. The employment outlook for those with a high school diploma/GED



or less has been declining for years, as New York City sheds the unionized industrial base that once provided a ladder to the middle class for generations of workers. Even entry-level positions in many fields today require a year or two of college. Career websites like **CareerOneStop** ([www.careeronestop.gov](http://www.careeronestop.gov)) and **CareerZone** ([www.nycareerzone.org](http://www.nycareerzone.org)) provide a wealth of information on high-wage, growing sectors, including links to training options. For those seeking direct assistance, **College Initiative** ([www.collegeinitiative.org](http://www.collegeinitiative.org)) and **College and Community Fellowship** ([www.collegeandcommunity.org](http://www.collegeandcommunity.org)) provide guidance and support for reentrants navigating the complexities of the City University of New York and State University of New York systems. These organizations seek to ease the challenge of higher education through prerelease planning, assessment, academic coaching, preparation for required placement exams, help with assembling college application packets, access to financial aid, counseling on outstanding student loans, tutoring, and other services.<sup>xiv</sup>

- **Self-employment:** The entrepreneurial skills evident in many criminal activities can be directed for positive purposes to provide supplemental or even primary sources of income. Although not necessarily practical for reentrants who are mandated to traditional employment by probation or parole, or who lack the desire to start their own business, the idea of becoming one's own boss can be highly attractive. Across New York City, hundreds of formerly incarcerated individuals have started a range of ventures, from microenterprises requiring little capital and space, to small and medium companies that require a formal business plan and more substantial funding. While risk of failure is high for any new business undertaking, the benefits of self-employment are considerable for reentrants: absence of employer discrimination against applicants with a criminal record, potential greater range of opportunities, and ability to channel energy into a productive cause. Local micro-funding organizations like **Project Enterprise** ([www.projectenterprise.org](http://www.projectenterprise.org)) and **ACCION USA** ([www.accionusa.org](http://www.accionusa.org)) can help entrepreneurs plan and fund their new ventures.<sup>xiv</sup>

## SUCCESS IS ALWAYS POSSIBLE

Assisting individuals coming out of the criminal justice system can feel like a Sisyphean task. The transition from incarceration to productive member of society overwhelms many reentrants, and multiple barriers ensure that a significant percentage return to prison. Success stories abound, however, and while each individual takes a different path it is from those stories that we can glean some of the interlocking sources of their success: a real determination to change, often brought about by a very

positive or extremely negative life experience (birth of a child, overdose on drugs); reduction of criminogenic factors, such as addiction or antisocial peers; identifying and tapping into individual motivators; offering the right types of programs and interventions at the right times; recalibrating thought processes through cognitive-behavioral strategies like Motivational Interviewing and role playing; layering positive reinforcements to build confidence; and providing ongoing support as the individual moves toward self-sufficiency.

## Below is one such story, remarkable and unique in its details yet repeated in thousands of variations each year across New York.

Meeting her today, no one would guess that Linda Steele had been incarcerated for a decade. But for nearly thirty years beginning in her late teens, Linda's life had been a downward spiral of drugs, alcohol and trips through the prison system. By 2005, mired deep in addiction and involved in a corrosive relationship irreparably damaged by her inability to stop drinking, she knew her life had to change. "I was angry at him because he couldn't save me," she recalled. "He was trying to help me but was as powerless as I was over my addiction. I could not live up to our relationship, and when he used to tell me the truth about myself it hurt too much." Driven by a "gift of desperation" from her certainty that either death or permanent incarceration were near unless she made a fundamental change, she left her partner and checked into a detox and rehabilitation center for the third time in three years for what proved to be an extremely difficult withdrawal. With sobriety came an extended-stay halfway house where she faced the prospects of rebuilding her life and finding legal employment for the first time as a single woman in her forties.

Public assistance provided a bridge to a future — albeit a difficult and humbling one to cross. In exchange for her benefits, the City of New York required her to clean toilets at a government facility two days per week, and attend a job search program the other three days. The first such program proved a disaster. She soon found herself sitting with fifty other mandated participants in a large room with nothing to do all day. Linda was determined that she wanted a real career and repeatedly asked about the training options that were supposed to be available

to her, but the job developers “told me most jobs were shut off to me because of my criminal record and kept pressuring me to take dead-end minimum-wage positions so they could get me out of the program as quickly as possible.” Her refusal to accept a low-quality job soon led to a disciplinary meeting at the New York City Human Resources Administration (HRA). “Although I was nine months sober at that point, things seemed pretty hopeless and I wondered whether I could really change my life,” she remembered.

That low point actually marked a turning point. During the meeting a sympathetic HRA worker recognized Linda’s sincerity in her desire for training. She assigned Linda to a 35 hour per week job search program at the Midtown Community Court that specialized in assisting individuals with criminal histories. Linda recalled the director during orientation “telling us that with some hard work, and willingness, that we, no matter what our past, we would get a job. I never had anyone tell me that, and I knew I was in the right place.” In the program she learned computer skills and workplace competencies, developed a résumé for the first time in her life, and gained the confidence to talk to employers about her criminal convictions. With funding from VESID, the New York State vocational rehabilitation agency, she simultaneously enrolled in night classes for training in hemodialysis at Brooklyn College and volunteered in the nephrology clinic at St. Vincent’s Hospital on weekends to gain additional experience. “Those days were long and I would get home bone tired, but I finally felt I was doing something positive.”

With encouragement from the job training program, her Alcoholics Anonymous sponsor and the outpatient program she continued to attend, Linda applied for any job that seemed remotely interesting. She went on a number of interviews that ultimately proved unsuccessful but provided good lessons on talking to employers. At one interview, the employer was so impressed with Linda’s demeanor and enthusiasm that “she completely overlooked the fact that I had checked ‘Yes’ to the conviction question on the application form. I actually drew her attention to it because I knew they would run a background check.” Despite “friendly advice” that the position was unobtainable due to her convictions, Linda applied for and was hired as a radiology film library clerk at a major hospital for a 21 hour shift on the

weekends. To supplement her income, she also found a minimum wage job washing dogs during the week at an animal clinic in Staten Island. “Public assistance helped me when times were the toughest, but after eight months of mandated appointments and assignments it felt so good to finally be able to support myself and make my own choices.”

Having learned to walk, Linda was about to start running. Her willingness to try almost anything and give freely of herself opened door after door. Amethyst House, her drug treatment program in Staten Island, asked her to represent the organization in a presentation on addiction issues before state lawmakers in Albany. She returned to the Midtown Community Court to serve as a motivational speaker for new participants in the job training program, and was featured as a centerpiece of a local news report about the court. An appearance as a guest panelist at a training workshop for assisting formerly incarcerated individuals so impressed one of the attendees that it led to a seasonal job at a non-profit financial services organization. She parlayed her weekend job at the hospital into a second job with an affiliated hospice.

Linda’s continued involvement with the Midtown Community Court led to her first permanent position. In addition to the work with the job training program she had also started serving as a volunteer mentor with the court’s CHOICES program for women arrested on prostitution charges — a cause close to her heart. She connected deeply with the women caught up in criminal activities and encouraged them to choose a different path. Recognizing her potential, the court’s director hired Linda as her executive assistant in June 2007. “For the first time in my life I had a steady paycheck, money of my own, private health insurance, a retirement account, vacation days, paid holidays. I was working closely with judges and prosecutors after years behind bars — it seemed almost unreal!”

Linda’s accomplishments continued to be recognized. In 2008, she won a \$5,000 award from the Avon Foundation Hello Tomorrow Fund to support her continued work with the CHOICES program — selected from more than 1,700 applicants by a panel that included personal finance expert Suze Orman, actress Phylicia Rashad, and Sarah Ferguson, The Duchess of York. In the press release announcing the award, the panel cited her ability to

connect with women caught up in prostitution and noted that “Linda grasps that the most crucial thing she has done to empower women and improve society was to first empower herself.” She was also profiled in the Brennan Center for Justice’s report *My First Vote*, a compilation of stories about people who voted for the first time in November 2008 after having regained their right to vote following a criminal conviction. “There were tears in my eyes as I waited to vote. I felt like I was finally a productive member of society. I’ve never before felt like I could make a difference in terms of what happens around me. But I walked out of the polling place on Election Day feeling like I mattered, that I made a difference. I realized how far I’ve come. Amazing.” The actor Alan Alda later read her story aloud at a fundraising dinner for the Brennan Center.

As of 2010, Linda continues to work at the Midtown Community Court, having transitioned to become the classroom instructor for the job training program she once attended. She spends her days encouraging the program’s participants to look past their criminal backgrounds and see the world of potential before them. She remains active in Alcoholics Anonymous, volunteering to lead groups inside Arthur Kill Correctional Center and at Amethyst House, and coordinating all meetings at the South Beach Alcohol Treatment Center in Staten Island. She is making plans to enroll in college to pursue a degree, with the ultimate goal of starting a safe house residence for women leaving prostitution. Perhaps most importantly, she has reunited with a daughter she had not seen in over 20 years, and met her young grandson for the first time. “My life has completely changed in the five years since I became sober. Of course there are hard days, but I know that I will never go back to the way things were. I’m now doing things and making impacts in ways I could never have imagined. And I feel like I’ve just gotten started! Who would have ever thought it? Not me, that’s for sure.”

As Linda’s story shows, redemption and change are possible regardless of background. While the desire for change must come from the reentrant, practitioners can do much to inspire, encourage and nourish their participants’ accomplishments. Once people truly believe in themselves, there are almost no limits to what they can achieve. ■

## **OSBORNE ASSOCIATION: MIXING OLD AND NEW APPROACHES**

Among New York's oldest providers of employment services to individuals with past criminal justice system involvement, the Osborne Association opened its doors in 1931. Inspired by the work of Thomas Mott Osborne—an industrialist and mayor of Auburn, New York, who later served as a warden of Sing Sing Prison—the organization pursues a vision of reentry services that fuses an idealistic belief that individuals can transform their lives with a pragmatic recognition of the personal and systemic obstacles that stand in their way. Today the Osborne Association provides services to more than 5,500 individuals in New York each year, at sites in the Bronx, Brooklyn, Rikers Island, Beacon, and 17 state prisons.

Preparing its participants for work and helping them find suitable placements is a key aspect of Osborne's approach: its Employment and Training Division offers assessment, counseling, job-readiness instruction, training, and post-placement supports, including career upgrade opportunities, all specially designed for individuals with criminal records. Osborne's placement program helps nearly 1,000 men and women in the New York area find jobs each year. As is often the case with providers who work with this population, Osborne has found that small employers—particularly those in food service, manufacturing, and the nonprofit sector—are among its most reliable and consistent.

But work isn't the only consideration in serving reentrants. "While employment is critical both for income and to meet parole requirements, employment alone doesn't address the core issues that people coming home face," says executive director Elizabeth Gaynes. Part of that has to do with the difference between work experiences behind prison walls and outside. "People who've been incarcerated have learned or unlearned behavior that would be problematic in the workplace," Gaynes adds. "Work inside the prison rarely takes eight hours, it doesn't involve looking people in the eye, and it doesn't

involve taking initiative—all things they're going to need to be successful. So whether it's transitional jobs, soft skill training, or working with families, there's work to be done before you can put these people in employment." Often, that work involves resolving family disputes and helping clients live healthier lives through addressing substance abuse issues and avoiding or coping with HIV/AIDS—two major areas of focus for Osborne participants.

Osborne is also at the leading edge of at least one area of employment programming for New Yorkers with past criminal justice involvement: green jobs. The organization has created a Green Career Center within its Bronx base of operations, the first such center to attempt to match the reentrant population with this emerging field. Gaynes thinks that the newness of the sector makes it a favorable opportunity for Osborne members. "Any time there's a relatively new sector that doesn't have an established way of thinking about who's the 'right' fit, you have the opportunity to make the case," she explains. Gaynes notes two other aspects of jobs in this new field that render it an area of opportunity: "The educational requirements for some of the green jobs are a good match for our clients, and they don't necessarily involve a lot of customer contact." Finally, the fact that Osborne has a wage subsidy contract with the state, in which the provider uses public money to pick up some of the compensation to the employee, also helps its pitch to new employers in the field. "Some of these green programs are startups," says Gaynes. "For them, hiring someone with a wage subsidy can make a difference."

# **APPENDICES & RESOURCES**

## APPENDIX A – STRENGTHS-BASED MODEL FOR JOB PLACEMENT

### *Identifying strengths across all areas of life*

#### **Home / Housing and Family Life**

- Lives with people who are a good resource for network
- Lives with people who have positive values & attitudes toward work
- Lives with people who will push job seeker when needed

#### **Avocational Interests / Hobbies**

- Has hobbies that require marketable skills
- Has a hobby that can be turned into a job or business
- Hobby could lead to a job in an industry related to that hobby

#### **Criminal Record / Legal History**

- Has not had contact with the police since last conviction
- Is able to take responsibility for behavior
- Has a supportive parole / probation officer
- Has completed or is close to completing parole or probation
- Took classes, worked, or completed treatment while in jail
- Has obtained a copy of DCJS rap sheet, understands all of the entries, and has corrected any errors
- Has applied for or obtained Certificates of Relief from Disabilities or Good Conduct

#### **Military Service**

- Served in the United States Army, Navy, Air Force, Marines, Reserves, Coast Guard, or in the state militia
- Was awarded an honorable discharge
- Developed marketable skills while in service
- Is eligible for service-related benefits

#### **Work History**

- Has worked in one position for a long time and has become a master
- Has worked in a variety of positions within an industry
- Has worked within a variety of industries
- Has demonstrated progressive responsibilities
- Any types of awards or recognition

#### **Job-Seeking Skills**

- Knows ways to find leads
- Treats job search like a job
- Has looked for work in the past
- Exhibits a positive attitude toward job search
- Can navigate web-based job banks and applications, and can use email
- Has good research skills

#### **Life Skills**

- Has goals and a vision of how life should look
- Has a good network in place
- Is not afraid to develop a new network
- Is tenacious, does not give up easily

#### **Education History**

- Is aware of learning style
- Has earned high school, GED, or college degree
- Participated in extracurricular activities that could be a job
- Any education-related accomplishments
- Can access Pell grants or training vouchers for further skills development

#### **Medical**

- Is in good physical and mental shape
- Does not view self as a victim of illness / condition / disability
- Has an awareness and healthy respect for limitations

#### **Substance Abuse / Mental Health Treatment**

- Has good clean time
- Views work as part of recovery program
- Treatment staff are supportive of the idea of work
- Understands relapse triggers, especially those related to employment (stress, money)
- Attends support groups regularly and has sponsor, home group, and commitment to program
- Is receiving the proper care

#### **Income / Benefits**

- Has stable income through benefits or other source
- Is knowledgeable and has been screened for eligible benefits
- Understands how employment may affect benefits eligibility

## APPENDIX B – SAMPLE MOTIVATIONAL INTERVIEWING CONVERSATION

In this situation, a participant arrived late to the program yesterday, admitted that he had smoked marijuana that morning, and was sent home. He is discussing the situation today with his counselor, who utilizes the OARS techniques to build a desire for change.

**Counselor:** I think we can both agree that yesterday was unusual for you. You've come so far in the short time you've been in the program. What effect do you think your drug use has on your performance here and on the job search? *[Open-ended question]*

**Participant:** I don't really think it's a factor. I generally don't light up when I've got other things going on. Yesterday was just stressful, I guess.

**C:** You usually make sure that it doesn't affect your responsibilities. That's good. Why is that important to you? *[Reflection, affirmation, open-ended question]*

**P:** I don't want to end up like my father. He was a good-for-nothing drunk who could never hold down a job for more than a few weeks.

**C:** What was that like for you? *[Open-ended question]*

**P:** I had a bad time of it, he was rarely around and my mother had to work several jobs to keep a roof over our heads.

**C:** Definitely sounds rough. You want to do better for your own family. *[Reflection]*

**P:** Of course, that's no way to live.

**C:** Well, what are some ways that drug use affects your ability to do things differently? *[Open-ended question]*

**P:** I know a lot of employers do drug screenings. That could be a problem.

**C:** How so? *[Open-ended question]*

**P:** I might not get the job I want, or could get fired if they do random tests. My friend says he's used some detox supplements, but I don't know if I can count on those.

**C:** Coming back to this program, why is drug use also a problem here? *[Open-ended question]*

**P:** I guess it makes it harder for me to follow what's happening, and distracts others. Plus I know some people are in recovery and don't want to be around others who are using. Like I said, it was a bad day and it won't happen again.

**C:** Great! I'm glad to hear that. What else can you do when things get stressful? *[Open-ended question]*

**P:** I'll find someone to talk to if things get hard. I remember that drug-use policy you discussed during orientation and don't want it to affect my participation here.

**C:** I'm really pleased that you recognize the issues. Even though you're usually careful about when you use, drug use might limit your options or land you in a situation that makes it difficult to provide a better life for your family. You also know it could also affect your ability to participate here, so you won't let it happen again. The next time you get stressed, you'll find someone to talk to about it before using. Now that we talked, I'm feeling confident that you will make the right decisions, but I'm always available. Thanks for your openness. *[Reflection, affirmation, summary]*

## APPENDIX C – REVERSE CHRONOLOGICAL FORMAT RÉSUMÉ

# Joseph J. Jones

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123 Avenue Z • New York, NY 10000  
646-555-1212 (Day) • 212-555-9876 (Eve) • jjonesnyc@yahoo.com

**OBJECTIVE:** To secure an entry-level position with progressive responsibility in a field where I can use and develop my manual skills

**SUMMARY:** Fluent in Creole and Conversational French; experience in Office Work, Facility Maintenance, Landscaping, Camp Counselor Assistant; type 45 wpm; extremely good with hands and interested in mechanics; highly responsible and dependable; excellent interpersonal skills; work well in a team and with little supervision

### EDUCATION & TRAINING

2008-Present

#### **Big Apple Works**

New York, NY

##### *Computer & Office Skills Training*

- Currently enrolled in training program to develop computer skills in Microsoft Office 2007 (Microsoft Word, Excel, PowerPoint and Access), other productivity software and general work readiness skills; type 45 wpm
- Completed a four-week administrative internship at the law firm of Howard, Howard and Fine, responsible for supporting over 40 partners, associates and other staff in the Entertainment Law division. Operated Norstar 6000 multi-line telephone system, correctly routing calls to appropriate staff and interacting with high-level clientele. Assisted with duplication and assembly of 6,000 page appeal package for submission to the New York State Court of Appeals in the case of *Hatfield vs. McCoy*
- Currently studying for the General Educational Development examination, in preparation for advanced educational opportunities

### WORK & VOLUNTEER EXPERIENCE

2007-2008

#### **Eric M. Taylor Center**

Queens, NY

##### *Facilities Maintenance & Landscaping*

- Maintained cleanliness and upkeep of six multi-use buildings at busy facility; swept, mopped and buffed floors using Acme 2000 Xtreme industrial buffer machine; performed minor plumbing and other building repairs
- Performed landscaping duties to maintain and improve condition of public spaces; raked and gathered leaves; seeded lawns and cut grass on weekly schedule using Touro 6000 commercial mower

2003-2007

#### **Child-Care Provider**

New York, NY

- Frequently responsible for after-school care of four children, ages 6-12
- Assisted with homework, supervised outings to local parks, prepared nutritional meals according to strict dietary guidelines

Summer 2002

#### **Fresh Air Fund Summer Camp**

Lake George, NY

##### *Volunteer Counselor's Assistant*

- Volunteered to assist camp counselors in organizing activities and monitoring participants, age 6-10, in summer camp for low-income youth

REFERENCES AVAILABLE UPON REQUEST



## APPENDIX D – FUNCTIONAL FORMAT RÉSUMÉ

### Joseph J. Jones

123 Avenue Z • New York, NY 10000  
646-555-1212 (Day) • 212-555-9876 (Eve) • jjonesnyc@yahoo.com

**OBJECTIVE:** To secure an entry-level position with progressive responsibility in a field where I can use and develop my skills

**SUMMARY:** Fluent in Creole and Conversational French; experience in Office Work, Facility Maintenance, Landscaping, Camp Counselor Assistant; type 45 wpm; extremely good with hands and interested in mechanics; highly responsible and dependable; excellent interpersonal skills; work well in a team and with little supervision

#### OFFICE SERVICES SKILLS

- Proficient in Microsoft Office 2007 software suite, including Word, Excel, PowerPoint and Access
- Type 45 words per minute with 99% accuracy
- Extensive knowledge of the Norstar 6000 and similar multi-line telephone systems
- Experience in high-volume document duplication and assembly
- Able to support multiple professionals in a fast-paced environment
- In 2008, completed a four-week administrative internship at the law firm of Howard, Howard and Fine, responsible for supporting over 40 partners, associates and other staff in the Entertainment Law division

#### CUSTODIAL MAINTENANCE SKILLS

- Experience in the custodial maintenance and upkeep of high-traffic buildings
- High degree of familiarity with the Acme 2000 Xtreme industrial buffer machine
- Ability to perform minor plumbing, painting and other building repairs

#### LANDSCAPING SKILLS

- Experience in maintaining and improving condition of high-traffic public spaces
- Ability to lift 75+ pounds, rake and gather leaves manually or with blowers, seed lawns and cut grass
- Familiarity with the Touro 6000 commercial mower

#### CHILD-CARE SKILLS

- Frequently responsible for after-school care of four children, ages 6-12, including assistance with homework, supervision of outings to local parks, and preparation of nutritional meals according to strict dietary guidelines
- As volunteer counselor assistant, organized activities and monitored campers, age 6-10, in summer camp for low-income youth

#### EXPERIENCE

2008-Present	<b>Big Apple Works</b> , <i>Computer &amp; Office Skills Training</i>	New York, NY
2007-2008	<b>Eric M. Taylor Center</b> , <i>Facilities Maintenance &amp; Landscaping</i>	Queens, NY
2003-2007	<b>Child-Care Provider</b>	New York, NY
Summer 2002	<b>Fresh Air Fund Summer Camp</b> , <i>Volunteer Counselor's Assistant</i>	Lake George, NY

REFERENCES AVAILABLE UPON REQUEST

## APPENDIX E – STATEMENT OF CONVICTION HISTORY FOR ATTACHING TO AN APPLICATION

### STATEMENT OF CONVICTION HISTORY

*I was convicted of a nonviolent, non-theft felony in 2003. I deeply regret my mistake for many reasons, especially because it does not reflect who I really am today. During that time, I reached a low point in my life and became involved in activities I knew were wrong. I made a mistake and paid the price.*

*Since my conviction, I have turned myself around. I have had no contact with the police since 2003, am not on probation or parole, and was awarded a Certificate of Relief from the State of New York demonstrating that I have been rehabilitated. I have worked in customer service and food service since then, including handling up to \$500 per day and supervising other workers. I earned my GED in 2006 and am currently enrolled in a training program to develop my computer skills—Microsoft Word, Excel, PowerPoint, Access and the Internet—and general office service skills like customer service, telephone etiquette, filing, faxing, and copying so I can be the best worker possible.*

*I would greatly appreciate the opportunity to discuss any questions or concerns you may have about my past. Given the chance, I can become a real asset to your company.*

*Thank you for your consideration,*

*Job S. Eeker*

## APPENDIX F – EMPLOYMENT SEARCH TRACKING SHEET

Individuals involved in active job search must submit **at least 4 applications per day**.  
Record search activities below and staple documentation (copy of application, fax cover page, printout of email or web form) to the back of this sheet.

	Date of Contact	Employer's Name, Address & Phone Number or Email	Contact Method*	Name / Title of Person Contacted	Position Available	Application Submitted?	Action / Follow-up
Ex.	9-Feb	N.Y. Yankees, 161st St., Bronx, NY	F	George Steinbrenner	Peanut Vendor	<input type="checkbox"/> Yes <input type="checkbox"/> No	Called 2/11, still no decision
1						<input type="checkbox"/> Yes <input type="checkbox"/> No	
2						<input type="checkbox"/> Yes <input type="checkbox"/> No	
3						<input type="checkbox"/> Yes <input type="checkbox"/> No	
4						<input type="checkbox"/> Yes <input type="checkbox"/> No	
5						<input type="checkbox"/> Yes <input type="checkbox"/> No	
6						<input type="checkbox"/> Yes <input type="checkbox"/> No	
7						<input type="checkbox"/> Yes <input type="checkbox"/> No	
8						<input type="checkbox"/> Yes <input type="checkbox"/> No	
9						<input type="checkbox"/> Yes <input type="checkbox"/> No	
10						<input type="checkbox"/> Yes <input type="checkbox"/> No	
11						<input type="checkbox"/> Yes <input type="checkbox"/> No	
12						<input type="checkbox"/> Yes <input type="checkbox"/> No	
*E = Email; F = Fax; M = Mail; P = In Person; T = Telephone; W = Web Application; JF = Job Fair							Week of _____ Sheet ____ of ____

## IV. Resources

The needs of job seekers with criminal records are complex and varied, and they are likely to struggle even in the best of situations; without effective support services, the odds against them are even worse. This section includes a sampling—but far from an exhaustive list—of organizations that provide a comprehensive array of wraparound services.

### LEGAL RESOURCES

#### LawHelp New York

[www.lawhelp.org/NY](http://www.lawhelp.org/NY)

LawHelp NY is an on-line directory of over 600 free legal service organizations for low-income New Yorkers.

#### The Legal Aid Society

[www.legal-aid.org](http://www.legal-aid.org)

ELP Hotline: (888) 218-6974

The Society's Employment Law Project reaches low-wage and unemployed workers through its hotline, community education clinics, and collaborations with community-based organizations. The Project handles employment matters in federal and state courts, the U.S. Equal Employment Opportunity Commission, the U.S. Department of Justice, and the New York City Commission on Human Rights.

#### Legal Action Center (LAC)

[www.lac.org](http://www.lac.org)

(212) 243-1313

LAC is the only nonprofit law and policy organization in the United States whose sole mission is to fight discrimination against people with histories of addiction, HIV/AIDS, or criminal records, and to advocate for sound public policies in these areas. LAC attorneys and paralegals will assist with obtaining and understanding rap sheets, correcting errors on criminal records, requesting certificates of rehabilitation, and addressing illegal employer discrimination against applicants who have a criminal history.

#### Legal Information for Families Today (LIFT)

[www.liftonline.org](http://www.liftonline.org)

(212) 343-1122

LIFT works within the New York City family court system to provide legal information, community education, and compassionate guidance for individuals involved in parental issues, including custodial and visitation rights and child support obligations.

#### MFY Legal Services, Inc.

[www.mfy.org](http://www.mfy.org)

WJP Hotline: (212) 417-3838

MFY's Workplace Justice Project connects low income workers and job seekers to attorneys and paralegals for advice and counsel on employment problems, including discrimination based on criminal history.

#### National H.I.R.E. Network

[www.hirenetwork.org](http://www.hirenetwork.org)

(212) 243-1313

Established by the Legal Action Center, the National H.I.R.E. Network serves as both a national clearinghouse for information and an advocate for policy change. The goal of the National H.I.R.E. Network is to increase the number and quality of job opportunities available to people with criminal records by changing public policies, employment practices and public opinion. The National H.I.R.E. Network also provides training and technical assistance to agencies working to improve the employment prospects for people with criminal records.

#### Reentry Net

[www.reentry.net](http://www.reentry.net)

A project of The Bronx Defenders and Pro Bono Net, Reentry Net is a collaborative education and resource center for individuals and organizations in New York State that advocate for people with criminal records and their families. Reentry Net contains materials from dozens of contributing organizations throughout New York State. All resources have been screened, selected, and organized by experts.

#### Youth Represent

[www.youthrepresent.org](http://www.youthrepresent.org)

(212) 553-6314

As the only holistic juvenile justice and reentry non-profit organization in New York City dedicated solely to young people, Youth Represent provides legal representation in criminal and Family Court, and offers civil representation for young people denied employment, suspended from school, or denied housing or threatened with eviction due to their court involvement.

## EMPLOYMENT SERVICES

### **Black Veterans for Social Justice**

664 Willoughby Avenue  
Brooklyn, NY 11206  
[www.bvsj.org](http://www.bvsj.org)  
(718) 852-6004

### **Bowery Residents Committee**

324 Lafayette Street, 8th floor  
New York, NY 10012  
[www.brc.org](http://www.brc.org)  
(212) 803-5700

### **Center for Community Alternatives**

39 West 19th Street, 10th Floor  
New York, NY 10011  
[www.communityalternatives.org](http://www.communityalternatives.org)  
(212) 691-1911

### **Center for Employment Opportunities (CEO)**

32 Broadway, 15th Floor  
New York, NY 10004  
[www.ceoworks.org](http://www.ceoworks.org)  
(212) 422-4430

### **CUNY “Catch” Program, Bronx Community College**

Gould Residence Hall, 5th Floor  
2155 University Avenue  
Bronx, New York 10453  
[www.bcc.cuny.edu/FutureNow](http://www.bcc.cuny.edu/FutureNow)  
(718) 289-5852

### **CUNY “Catch” Program, LaGuardia Community College**

29-10 Thompson Avenue, C-232  
Long Island City, NY 11101  
(718) 482-5128  
[www.lagcc.cuny.edu/ace/cunycatch.aspx](http://www.lagcc.cuny.edu/ace/cunycatch.aspx)

### **The Doe Fund**

232 East 84th Street  
New York, NY 10028  
[www.doe.org](http://www.doe.org)  
(212) 628-5207

### **Exalt Youth**

150 Court Street, 2nd Floor  
Brooklyn, NY 11201  
[www.exaltyouth.org](http://www.exaltyouth.org)  
(718) 923-1400

### **Fifth Avenue Committee**

621 DeGraw Street  
Brooklyn, NY 11217  
[www.fifthave.org](http://www.fifthave.org)  
(718) 237-2017

### **The Fortune Society**

29-76 Northern Boulevard  
Long Island City, NY 11101  
[www.fortunesociety.org](http://www.fortunesociety.org)  
(212) 691-7554

### **Friends of Island Academy**

330 West 38th Street, Suite 301  
New York, NY 10018  
[www.foiany.org](http://www.foiany.org)  
(212) 760-0755

### **Getting Out and Staying Out**

91 East 116th St  
New York, NY 10029  
[www.gosonyc.org](http://www.gosonyc.org)  
(212) 831-5020

### **The HOPE Program**

One Smith Street  
Brooklyn, NY 11210  
[www.thehopeprogram.org](http://www.thehopeprogram.org)  
(718) 852-9307

### **Managed Work Services of New York**

1910 Arthur Avenue, 5th floor  
Bronx, NY 10457  
[www.mwsny.com](http://www.mwsny.com)  
(718) 466-8200

### **The Osborne Association**

809 Westchester Avenue  
Bronx, NY 10455  
[www.osborneny.org](http://www.osborneny.org)  
(718) 707-2600

### **Time Square Ink (TSI)**

Midtown Community Court  
314 West 54th Street  
New York, NY 10019  
[www.timessquareink.org](http://www.timessquareink.org)  
(646) 264-1338

**STRIVE**

240 East 123rd Street, 3rd floor  
New York, NY 10035  
[www.strivenational.org](http://www.strivenational.org)  
(212) 360-1100

**Women's Prison Association**

110 2nd Avenue  
New York, NY 10003  
[www.wpaonline.org](http://www.wpaonline.org)  
(646) 336-6100

**EDUCATION & TRAINING RESOURCES****Literacy Partners**

30 East 33rd Street  
New York, NY 10016  
[www.literacypartners.org](http://www.literacypartners.org)  
(212) 725-9200

**The College Initiative**

P.O. Box 966  
New York, NY 10116  
[www.collegeinitiative.org](http://www.collegeinitiative.org)  
(212) 691-7554 ext. 358 or 378

**NYC Workforce1 Career Centers  
Individual Training Grants**

[www.nyc.gov/workforce1](http://www.nyc.gov/workforce1)

**MENTAL HEALTH SERVICES****New York Center for Addiction Treatment Services  
(NYCATS)**

598 Broadway, 2nd Floor  
New York, NY 10012  
[www.nycats.net](http://www.nycats.net)  
(212) 966-9537

**NYC Department of Health and Mental Hygiene**

225 Broadway, 17th Floor  
New York, NY 10007  
[www.nyc.gov/doh](http://www.nyc.gov/doh)  
(212) 341-2468

**The Bridge**

248 West 108th Street  
New York, NY 10025  
[www.thebridgeinc.org](http://www.thebridgeinc.org)  
(212) 663-3000 ext. 377

**Upper Manhattan Mental Health Center, Inc.**

1727 Amsterdam Avenue  
New York, NY 10031  
[www.ummhinc.org](http://www.ummhinc.org)  
(212) 694-9200

**St. Marks Place Unitas**

57 St. Marks Place  
New York, NY 10003  
[www.unitas-nyc.org](http://www.unitas-nyc.org)  
(212) 982-3470

**HOUSING SERVICES & RESOURCES****Argus Community, Inc.**

760 East 160th Street  
New York, NY 10456  
[www.arguscommunity.org](http://www.arguscommunity.org)  
(718) 401-5700

**Center for Urban Community Services**

198 East 121st Street  
New York, NY 10035  
[www.cucs.org](http://www.cucs.org)  
(212) 801-3300

**Community Access**

2 Washington Street, 9th Fl.  
New York, NY 10004  
[www.communityaccess.org](http://www.communityaccess.org)  
(212) 780-1400

**Housing + Solutions**

3 West 29th Street, Suite 805  
New York, NY 10001  
(212) 213-0221

**Pathways to Housing**

55 West 125th Street, 10th Floor  
New York, NY 10027  
[www.pathwaystohousing.org](http://www.pathwaystohousing.org)  
(212) 289-0000

**CLOTHING RESOURCES****Career Gear**

120 Broadway, 36th floor  
New York, NY 10271  
[www.careergear.org](http://www.careergear.org)  
(212) 577-6190

**Bottomless Closet**

15 Penn Plaza, Suite 40  
New York, NY 10001  
[www.bottomlessclosetnyc.org](http://www.bottomlessclosetnyc.org)  
(212) 563-2499

**Dress For Success**

32 East 31st Street, Suite 602  
New York, NY 10016  
[www.dressforsuccess.org](http://www.dressforsuccess.org)  
(212) 684-3611

**SUBSTANCE ABUSE  
TREATMENT SERVICES****New York State Office of Alcoholism and Substance  
Abuse Services (OASAS) Treatment Provider Search  
and Directory**

[www.oasas.state.ny.us/treatment/directory.cfm](http://www.oasas.state.ny.us/treatment/directory.cfm)

**U.S. Substance Abuse & Mental Health Services  
Administration (SAMHSA) Substance Abuse  
Treatment Facility Locator**

[dasis3.samhsa.gov](http://dasis3.samhsa.gov)

**Exodus Transitional Community**

2231 Third Avenue  
New York, NY 10029  
[www.etcny.org](http://www.etcny.org)  
(917) 492-0990

**Greenwich House**

122 West 27th Street, 6th floor  
New York, NY 10001  
[www.greenwichhouse.org](http://www.greenwichhouse.org)  
(212) 691-2900

**Odyssey House**

219 East 121st Street  
New York, NY 10035  
[www.odysseyhouseinc.org](http://www.odysseyhouseinc.org)  
(212) 987-5100

**Phoenix House**

2191 Third Avenue  
New York, NY 10035  
[www.phoenixhouse.org](http://www.phoenixhouse.org)  
(212) 831-1555

**Women In Need, Inc. (WIN)**

115 West 31st Street  
New York, NY 10001  
[www.women-in-need.org](http://www.women-in-need.org)  
(212) 695-4758

**Veritas Therapeutic Community, Inc.**

912 Amsterdam Ave  
New York, NY 10025  
[www.veritas-inc.org](http://www.veritas-inc.org)  
(212) 865-9182

**EMERGENCY ASSISTANCE****Alcohol and Drug Information**

(800) 729-6686

**Crime Victims Hotline**

(212) 577-7777

**Discrimination Helpline**

(212) 306-7500

**Domestic Violence Hotline (Safe Horizon)**

(800) 621-HOPE

**Homeless Services (24 Hours)**

311

**Rape & Sexual Assault Hotline**

(212) 267-7273

**Runaways Hotline**

(800) 621-4000

**Suicide Prevention Hotline**

(212) 673-3000

## NOTES & REFERENCES

- <sup>i</sup> Walter Shapiro, “Prison Nation Turns Its Back on Released Convicts,” *USA Today*, May 30, 2001, <http://www.usatoday.com/news/opinion/shapiro/543.htm>.
- <sup>ii</sup> The WIB Prisoner Reentry Steering Committee, *Prisoner Reentry and the New York City Workforce Investment System: A Report to the New York City Workforce Investment Board presented by The WIB Prisoner Reentry Steering Committee*, December 2007.
- <sup>iii</sup> Cited in New York State Bar Association, *Re-Entry and Reintegration: The Road to Public Safety*, May 2006.
- <sup>iv</sup> Throughout this report, we use a number of terms to describe individuals who have past involvement with the criminal justice system. Increasingly, practitioners are moving away from terms that dehumanize and are fraught with stereotypes (such as “ex-criminal” or “ex-offender”) in favor of terms that emphasize humanity and potential for rehabilitation (including “formerly incarcerated individuals,” “reentrants,” and “people with criminal histories”). These terms should be considered as interchangeable and refer to the same group, even if the convicted individual did not actually serve his or her sentence behind bars.
- <sup>v</sup> Donatella Lorch, “When Liberty Is a Step Off a Bus, Freed Inmates Carry Worldly Goods and Pocket Change,” *The New York Times*, July 12, 1996; Alan Feuer, “Out of Jail, Into Temptation: A Day in a Life,” *The New York Times*, February 28, 2002. In 2003, the New York City Department of Corrections created Rikers Island Discharge Enhancement (RIDE), bringing together a number of city agencies and nonprofit organizations to provide discharge planning and after-jail services to inmates, including transportation directly from Rikers to community-based services. A small percentage of the total number of people discharged participates in these voluntary programs, and funding for some programs has been eliminated in recent years. New York City Independent Budget Office, *City Spending Rises on Programs To Help Inmates Leaving Jail*, June 2009.
- <sup>vi</sup> New York City Independent Budget Office, *City Spending Rises on Programs to Help Inmates Leaving Jail*, June 2009.
- <sup>vii</sup> New York State Bar Association, *Re-Entry And Reintegration: The Road To Public Safety*, May 2006, p. 17.
- <sup>viii</sup> Interview with Dee Wallace, November 2008. Wallace is co-author of P/PV’s *Going to Work With a Criminal Record: Lessons from the Fathers at Work Initiative* (2008): [http://www.ppv.org/ppv/publications/assets/238\\_publication.pdf](http://www.ppv.org/ppv/publications/assets/238_publication.pdf).
- <sup>ix</sup> Interview with Roberta Meyers-Peebles, November 2008.
- <sup>x</sup> Interviews with Stanley Richards, November 2008 and October 2009.
- <sup>xi</sup> Interview with Mark Goldsmith, November 2008
- <sup>xii</sup> Adam Liptak, “1 in 100 U.S. Adults Behind Bars, New Study Says,” *The New York Times*, February 28, 2008
- <sup>xiii</sup> The Correctional Association of New York, *Inmates under Custody 1970-2005 Factsheet*, February 2006; The Correctional Association of New York, *Trends In New York State Prison Commitments, 1980-2008 Factsheet*, February 2009.
- <sup>xiv</sup> In its annual “scorecard” of state legal barriers facing people with criminal records, the New York-based Legal Action Center reviews the policies of each state regarding employment restrictions, regulation of criminal records, access to public assistance, voting rights, and other aspects of life that affect the ability of an individual to return to society. New York currently ranks second best in the country for the leniency of its policies, although that ranking reflects in many ways the reluctance of most states to extend even minimal assistance to its citizens returning home. For a breakdown of the restrictions in every state, see the Legal Action Center’s *After Prison: Roadblocks to Reentry* project website at [www.lac.org/roadblocks-to-reentry](http://www.lac.org/roadblocks-to-reentry).
- <sup>xv</sup> It is important to note that while the guidelines described in this section apply to most employers in New York State, certain law enforcement agencies and organizations that operate in specific fields are given greater leeway in considering conviction history in hiring decisions. Furthermore, some industries (such as finance) are guided by federal regulations that supplement or supersede New York State law.



- <sup>xvi</sup> N.Y. Exec. Law §296(15).
- <sup>xvii</sup> United States Equal Employment Opportunity Commission, *Employment Tests and Selection Procedures Factsheet*, June 23, 2008, [http://www.eeoc.gov/policy/docs/factemployment\\_procedures.html](http://www.eeoc.gov/policy/docs/factemployment_procedures.html).
- <sup>xviii</sup> Jeremy W. Peters, “Albany Reaches Deal to Repeal ‘70s Drug Laws,” *The New York Times*, March 26, 2009.
- <sup>xix</sup> The Bronx Defenders, *The Consequences of Criminal Proceedings in New York State*, September 2007.
- <sup>xx</sup> Alfred Blumstein and Kiminori Nakamura, “‘Redemption’ in an Era of Widespread Criminal Background Checks,” *NIJ Journal*, No. 263, June 2009: <http://www.ojp.usdoj.gov/nij/journals/263/redemption.htm>.
- <sup>xxi</sup> Interview with Roberta Meyers-Peebles, November 2008.
- <sup>xxii</sup> Legal Action Center, *New York State Occupational Licensing Survey*, 2006.
- <sup>xxiii</sup> Kim Zetter, “Bad Data Fouls Background Checks,” *Wired*, March 11, 2005, <http://www.wired.com/politics/security/news/2005/03/66856>. Common errors include incomplete disposition information that leaves a case appearing active after it has been resolved; clerical errors that make convictions seem much more serious, such as recording “§125.25,” the New York penal code number for murder, in place of “§155.25,” the code for petit larceny; not sealing cases that should be sealed from view by employers; and, most troubling, unintentional intermixing of records between people with similar names or through identity theft. The best resource for understanding and correcting rap sheets is the Legal Action Center’s excellent guide for non-lawyers *How to Get and Clean Up Your New York State RAP Sheet*, Seventh Ed., 2007.
- <sup>xxiv</sup> For more information on the federal and state FCRA, see the Privacy Rights Clearinghouse, *Employment Background Checks: A Jobseeker’s Guide*, <http://www.privacyrights.org/fs/fs16-bck.htm>; Federal Trade Commission, *A Summary of Your Rights Under the Fair Credit Reporting Act*, <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre35.pdf>; Legal Action Center, *How to Get and Clean Up Your New York Rap Sheet*, 2007, pp. 33-35.
- <sup>xxv</sup> People whose criminal histories include convictions in other states will need to contact each state’s criminal justice agency individually. Individuals can also request their own federal rap sheet from the FBI under the Freedom of Information Act, with an \$18 fee that can be waived with a notarized letter claiming financial hardship. For more details, see [www.fbi.gov/hq/cjisd/fprequest.htm](http://www.fbi.gov/hq/cjisd/fprequest.htm).
- <sup>xxvi</sup> The National Association of Professional Background Screeners lists nearly 1,000 member background-check companies at [www.napbs.com](http://www.napbs.com). Although companies are not required to include directions on how to request a free copy of their report on their websites, many do. (If the information is not displayed prominently, search the website for “FACT Act” or “FACTA,” or contact the main customer service number.) For example, industry giant ChoicePoint offers a free “Full File Disclosure” report, which includes criminal history, by calling (866) 312-8075. HireRight, another large commercial agency, has a request form available online at <https://www.hireright.com/Disputes/Report.aspx>. Additionally, job seekers should request free copies of their personal report from the big three credit agencies—Experian, TransUnion, and Equifax—at [www.annualcreditreport.com](http://www.annualcreditreport.com). Although these reports typically do not include criminal records, they may list correctional facilities or halfway houses among previous addresses. Many employers request credit reports on applicants for positions handling money.
- <sup>xxvii</sup> For more information, please see Reentry Policy Council, “Second Chance Act” portal, [http://reentrypolicy.org/government\\_affairs/second\\_chance\\_act#OVERVIEW](http://reentrypolicy.org/government_affairs/second_chance_act#OVERVIEW).
- <sup>xxviii</sup> Senator Jim Webb, “Why We Must Reform Our Criminal Justice System,” *The Huffington Post*, June 11, 2009, [http://www.huffingtonpost.com/sen-jim-webb/why-we-must-reform-our-cr\\_b\\_214130.html](http://www.huffingtonpost.com/sen-jim-webb/why-we-must-reform-our-cr_b_214130.html).
- <sup>xix</sup> For a detailed guide to applying for certificates in New York State, see Legal Action Center, *Certificates of Relief from Disabilities and Certificates of Good Conduct: What You Can Do About Criminal Convictions When Looking for Work*, 2007, available at [www.lac.org](http://www.lac.org).

- <sup>xxx</sup> A 2006 analysis of New York's prison population found that half of all inmates did not complete high school and between 60-70 percent had a history of drug abuse. The Correctional Association of New York. *Prisoner Profile Fact Sheet*, March 2006; Bruce Western, *Punishment and Inequality in America*, New York: Russell Sage Foundation, 2006, pp. 110-111.
- <sup>xxxii</sup> Devah Prager and Bruce Western, *Race At Work: Realities of Race and Criminal Record in the NYC Job Market*, 2005, <http://www.nyc.gov/html/cchr/html/raceatwork.html>.
- <sup>xxxiii</sup> Western, *Punishment and Inequality in America*, p. 90.
- <sup>xxxiii</sup> The Independent Committee on Reentry and Employment, *Report and Recommendations to New York State on Enhancing Employment Opportunities for Formerly Incarcerated People*, 2006, p. 3.
- <sup>xxxiv</sup> Scott T. Walters et al., *Motivating Offenders to Change: A Guide for Probation and Parole*, National Institute of Corrections, June 2007, pp. 1-10.
- <sup>xxxv</sup> Walters et al., *Motivating Offenders to Change: A Guide for Probation and Parole*
- <sup>xxxvi</sup> Steven D. Levitt and Stephen J. Dubner, *Freakonomics: A Rogue Economist Explores the Hidden Side of Everything*, Revised and Expanded Edition, New York: William Morrow, 2006, pp. 88-99.
- <sup>xxxvii</sup> A. H. Maslow, "A Theory of Human Motivation," *Psychological Review*, Vol. 50, 1943, pp. 370-96, <http://psychclassics.yorku.ca/Maslow/motivation.htm>.
- <sup>xxxviii</sup> "Barriers to Reentry Employment: Business Owners' Willingness to Hire Individuals with a Criminal Background," Appendix A of the Independent Committee on Reentry and Employment, *Report and Recommendations to New York State on Enhancing Employment Opportunities for Formerly Incarcerated People*, 2006, p. 29.
- <sup>xxxix</sup> Jon Bonné, "Most Firms Now Use Background Checks," *MSNBC*, January 21, 2004, <http://www.msnbc.msn.com/id/4018280/>.
- <sup>xl</sup> Janine Willis and Alexander Todorov, "Making Up Your Mind After a 100-Ms Exposure to a Face," *Psychological Science*, Vol. 17 #7 (2006): 592-598.
- <sup>xli</sup> Appendix I of The Fund for Modern Courts publication *From Arrest To Appeal: A Guide To Criminal Cases In The New York State Courts*, 2005, contains a useful listing of common charges with associated penal law number and classification. Available at <http://www.moderncourts.org/Publications>.
- <sup>xlii</sup> NY State Department of Labor, *Job Search Guide: Strategies for Professionals*, <http://www.labor.state.ny.us/careerservices/findajob/conduct.shtm>.
- <sup>xliii</sup> "Barriers to Reentry Employment: Business Owners' Willingness to Hire Individuals with a Criminal Background," Appendix A of the Independent Committee on Reentry and Employment, *Report and Recommendations to New York State on Enhancing Employment Opportunities for Formerly Incarcerated People*, 2006, pp. 27-37.
- <sup>xliv</sup> For detailed examinations of issues and strategies around education for reentrants, see Prisoner Reentry Institute, John Jay College of Criminal Justice, *Back to School: A Guide to Continuing Your Education after Prison*, 2007, and the Urban Institute, *From the Classroom to the Community: Exploring the Role of Education during Incarceration and Reentry*, 2009.
- <sup>xlv</sup> For an overview of entrepreneurship as an employment strategy during reentry, see Prisoner Reentry Institute, John Jay College of Criminal Justice, *Venturing Beyond the Gates: Facilitating Successful Reentry with Entrepreneurship*, 2007. For one example of a formerly incarcerated entrepreneur in New York City, see Nekoro Gomes, "A Barbershop Is A Beacon for Those Leaving Prison," *City Limits Weekly*, March 2, 2009, [http://www.citylimits.org/content/articles/viewarticle.cfm?article\\_id=3706](http://www.citylimits.org/content/articles/viewarticle.cfm?article_id=3706).



