

Cities Pave the Way:  
Promising Reentry Policies  
that Promote Local Hiring of  
People with Criminal Records

## National League of Cities Institute for Youth, Education, and Families

The Institute for Youth, Education, and Families (YEF Institute) is a special entity within the National League of Cities (NLC).

NLC is the oldest and largest national organization representing municipal government throughout the United States. Its mission is to strengthen and promote cities as centers of opportunity, leadership, and governance.

The YEF Institute helps municipal leaders take action on behalf of the children, youth and families in their communities. NLC launched the YEF Institute in January 2000 in recognition of the unique and influential roles that mayors, city councilmembers, and other local leaders play in strengthening families and improving outcomes for children and youth.

Through the YEF Institute, municipal officials and other community leaders have direct access to a broad array of strategies and tools, including:

- Action kits that offer a menu of practical steps that officials can take to address key problems or challenges.
- Technical assistance projects in selected communities.
- The National Summit on Your City's Families and other workshops, training sessions, and cross-site meetings.
- Targeted research and periodic surveys of local officials.
- The YEF Institute's website, audioconferences and e-mail listservs.

To learn more about these tools and other aspects of the YEF Institute's work, go to [www.nlc.org/iyef](http://www.nlc.org/iyef) or leave a message on the YEF Institute's information line at (202) 626-3014.

---

## National Employment Law Project

The National Employment Law Project (NELP) works to restore the promise of economic opportunity in the 21<sup>st</sup> century economy. In partnership with national, state and local allies, NELP promotes policies and programs that create good jobs, strengthen upward mobility, enforce hard-won worker rights and help unemployed workers regain their economic footing through improved benefits and services.

NELP works from the ground up to build change. Its model is to develop and test new policies at the state and local level, then scale them up to spur change at the national level. NELP partners with strong advocacy networks, grounded in the full range of stakeholders — grassroots groups and national organizations, worker centers and unions, policymakers and think tanks. The NELP staff of lawyers, policy experts and researchers provide:

- In-depth legal and policy analysis;
- Rigorous empirical research;
- Expert legal advice and technical assistance;
- Strategic leadership in coalitions;
- Communications, public education and messaging; and
- Capacity building.

To learn more about NELP, visit [www.nelp.org](http://www.nelp.org), or contact (212) 285-3025 or [nelp@nelp.org](mailto:nelp@nelp.org).

“Implementing this new policy won’t be easy, but it’s the right thing to do. . . .

We cannot ask private employers to consider hiring former prisoners unless the city practices what it preaches.”

Chicago Mayor Richard M. Daley, January 24, 2006

## I. Introduction

The nation’s cities are ground zero for the record numbers of people returning home from prison and hoping to start a new life by working and giving back to their families and their communities.

At all levels of government and across the private and non-profit sectors, it is possible to find compelling examples of community leaders coming together to forge promising reforms that address this historic reentry challenge.<sup>1</sup> While the obstacles facing our communities are even greater now, given the current economic crisis and stressed local budgets, a new wave of innovation has generated exciting models that local governments can adopt to restore hope and opportunity for those with a criminal history who have paid their debt to society.

This paper assembles the most promising local policies that promote the hiring of people with criminal records. Of special significance, the paper features 23 cities and counties — four more in the past year — that have decided to “ban the box” on their job applications that asks about an individual’s criminal record. To help level the playing field, these communities now defer the criminal background check to the final stages of the hiring process.

In addition, the paper highlights a range of other innovative hiring strategies, ranging from first source hiring policies to special tax credits and bonding subsidies. These promising reforms open up employment opportunities for people with criminal records which, in turn, improve public safety in those communities hardest hit by crime and unemployment.

The paper also describes some of the fundamentals of the local government hiring process and the federal civil rights laws that regulate criminal background checks. In an effort to focus more intentionally on actual hiring policies driven by local governments, the paper does not encompass the broad array of job readiness, training and placement programs targeting people returning from prisons back to their communities.

To help lay the foundation for this analysis, the Institute for Youth, Education and Families at the National League of Cities surveyed cities across the country to learn more about their hiring policies. Responses to this survey provided a wealth of helpful information that has been incorporated into the paper and summarized in the Appendix.

## II. The Basics of the City Hiring Process

Most municipalities follow set hiring procedures to process job applications, interview candidates and select finalists for hire. By way of background, the paper begins with a summary of the basics of these hiring procedures, highlighting those stages of the process that are of special significance to people with criminal records.

**The Job Application:** The city hiring process typically starts with a comprehensive job application. Most forms (often available both in print and online) require the applicant to answer some variation of the question, “Have you ever been convicted of a crime?” Applicants responding “yes” must then list certain details about the conviction, including the type of conviction, the date, and where the conviction occurred.

---

<sup>1</sup> Mayoral Policy Caucus on Prisoner Reentry, “Rebuilding Lives. Restoring Hope. Strengthening Communities. Breaking the Cycle of Incarceration and Building Brighter Futures in Chicago” (January 2006), available at [http://egov.cityofchicago.org/webportal/COCWebPortal/COC\\_EDITORIAL/MPCFinalReport.pdf](http://egov.cityofchicago.org/webportal/COCWebPortal/COC_EDITORIAL/MPCFinalReport.pdf).

However, as documented in the NLC survey, the scope of information the applicant is required to produce varies from city to city. Some cities limit the inquiry to felony convictions going back a specific period of time and do not require applicants to disclose minor, misdemeanor convictions. Other cities require applicants to list convictions for any violation of the law other than a minor traffic offense. All cities responding to the survey reported that they continue to consider an applicant's qualifications for the job and do not disqualify an applicant based solely on the disclosure of a past conviction.

**Screening for Minimum Hiring Standards:** Next, most cities apply civil service rules and screen the candidates to determine if they meet the minimum educational and skill requirements of the specific job. These screening functions are often performed centrally by a human resources (HR) department. Depending on the job, the applicant may also be required to pass an aptitude test, including a written exam and/or physical ability test that measures the skills necessary to perform the specific job functions.

In many cases, a criminal background check is also conducted at this preliminary stage of the hiring process, either by a commercial data broker or by the state's official criminal records system. On occasion, a city will rely exclusively on the information regarding criminal history that an applicant submits on the job application. If the applicant meets the minimum requirements for the position, he or she will then advance to the final stage of the hiring process.

**The Final Stages of the Hiring Process:** Applicants who meet the minimum requirements dictated by the civil service rules and other policies, often including the criminal background check, are placed on a list of "eligibles" for hire generated by the HR department. At this stage, the agency or department that listed the job opening selects qualified applicants to interview. To protect the individual's privacy, some HR departments will retain information collected about an applicant's past conviction history while others disclose the records to the hiring manager to evaluate as part of the interview process.<sup>2</sup>

As described in more detail below, a growing number of cities are now performing a complete background check only at this last stage of the hiring process, when an individual is selected as a finalist in the hiring process. Some cities proceed to make a conditional offer of employment while awaiting the results of the criminal background check.

### III. Three Steps to a Model City Hiring Policy

#### STEP 1: EVALUATE CURRENT HIRING POLICIES AND ADOPT FEDERAL CIVIL RIGHTS STANDARDS THAT REGULATE HIRING OF PEOPLE WITH CRIMINAL RECORDS

The critical first step for cities to evaluate their criminal background check policies is to compare the city's hiring policy against the federal civil rights laws that protect against employment discrimination based on race, national origin, gender and religion.

Because criminal background checks for employment have a disproportionate negative impact on people of color, the Equal Employment Opportunity Commission (EEOC) has determined that employers that screen for a criminal record have a special obligation under Title VII of the Civil Rights Act of 1964 to protect against discrimination. Consistent with the federal law, most of the cities responding to the NLC survey indicated that the mere presence of a criminal conviction is not alone enough to disqualify an applicant for employment.

---

<sup>2</sup> For example, cities vary according to whether the candidate's conviction history is shared with the hiring manager. According to the NLC survey, Dublin, Ohio; Edgewood, Ky.; Jacksonville, Fla.; St. Louis, Mo.; and Lumberton, N.C., centralize review of conviction history information in the city's HR department. In other cities that responded to the survey, including Hartford, Conn., and Newark, N.J., the agency or department that is hiring also reviews the criminal record information.

However, Title VII further requires employers, including local governments, to adopt the specific EEOC criteria that reflect minimum federal requirements in evaluating criminal records for employment. First, the EEOC guidelines preclude employers from relying on arrest records of any sort, except in very special cases.<sup>3</sup> When an employer takes into account an individual's conviction, Title VII also requires that the screening policy be "job related,"<sup>4</sup> which means:

- the offense is substantially related to the job;
- the employer considered the nature and gravity of the offense; and
- the time that has passed since the conviction or the completion of the applicant's sentence is sufficiently recent.

Thus, as the EEOC has concluded, "an absolute bar to employment based on the mere fact that an individual has a conviction record is unlawful under Title VII."<sup>5</sup> Some state civil rights laws (e.g., in Hawaii, New York, Pennsylvania, Wisconsin and Minnesota) expand on the EEOC's guidelines in protecting against discrimination based on an individual's criminal record.

All cities should begin their review of city hiring policies by evaluating their own compliance with the hiring standards set by the EEOC, including the specific criteria used to evaluate criminal records. Thereafter, the cities should expressly extend the EEOC standards regulating the criminal background checks to all city agencies and local government contractors. In fact, it is an especially appropriate moment for cities to review their hiring policies to ensure compliance with the EEOC's guidelines because new federal guidelines expressly require that projects funded under the American Recovery and Reinvestment Act (ARRA) be implemented in a manner consistent with Title VII.<sup>6</sup>

### ***Chicago's Reentry Initiative Expands on the EEOC's Criminal Records Hiring Standards***

In 2006, in response to the comprehensive report and recommendations of the Mayoral Policy Caucus on Prisoner Reentry, Mayor Richard M. Daley of Chicago directed all city agencies to review their hiring policies regulating criminal background checks and ensure that they complied fully with the EEOC's guidelines. In addition to explicitly adopting the specific EEOC guidelines<sup>7</sup> to protect against discrimination based on criminal background checks for employment, the City of Chicago required all agencies to take into account evidence of rehabilitation and other mitigating factors before making their hiring decisions. As part of the new hiring process, the City of Chicago also revised its job application in February 2007 to remove the question about criminal history while still conducting a background check at the final stages of the hiring process. Mayor Daley took the significant step of calling for an agency-by-agency review of their hiring policies to send the powerful message to the city's private employers that local government should lead by example, creating fairer hiring policies to govern the process of screening people with criminal records for employment.

### ***Battle Creek and Kalamazoo Prohibit Blanket Felony Ban on Hiring***

In 2008, both Battle Creek and Kalamazoo, Mich., enacted city ordinances and policies prohibiting a blanket ban on hiring anyone with a felony conviction, thus addressing one of the more routine violations of the EEOC's guidelines regulating employment of people with criminal records. Specifically, the ordinances require that city vendors (those awarded contracts valued at more than \$10,000) certify that they have "adopted a hiring policy which does not preclude a person with a felony conviction from being considered for employment unless otherwise precluded by state or federal law."<sup>8</sup>

3 Equal Employment Opportunity Commission, "EEOC Policy Guidance on the Consideration of Arrest Records in Employment Decisions under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e et seq. (1982)." (Washington, DC: Equal Employment Opportunity Commission, September 7, 1990), available at [http://www.eeoc.gov/policy/docs/arrest\\_records.html](http://www.eeoc.gov/policy/docs/arrest_records.html).

4 Equal Employment Opportunity Commission, "EEOC Policy Statement on the Issue of Conviction Records under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. (1982)." (Washington, DC: Equal Employment Opportunity Commission, February 4, 1987), available at <http://www.eeoc.gov/policy/docs/convict1.html>.

5 *Id.*

6 U.S. Office of Management and Budget, Memorandum for the Heads of Departments and Agencies, "Updated Implementation Guidance for the American Recovery and Reinvestment Act of 2009" (April 3, 2009), at page 5.

7 Mayoral Policy Caucus on Prisoner Reentry, "Rebuilding Lives. Restoring Hope. Strengthening Communities. Breaking the Cycle of Incarceration and Building Brighter Futures in Chicago" (January 2006), at page 27.

## STEP 2: “BAN THE BOX” AND DELAY THE BACKGROUND CHECK UNTIL THE FINAL STAGES OF THE HIRING PROCESS

After incorporating the EEOC’s guidelines into the city’s hiring process, creating clear and fair screening standards that apply to all job applicants, cities should consider the “ban the box” policy that has now been adopted by 23 cities and counties across the country.

First conceived by All of Us or None, a California-based community group that represents people with criminal records, the “ban the box” policy removes the standard question that requires an applicant to disclose his or her criminal history from the city’s job application. By eliminating this question, the intent is to remove the debilitating stigma associated with the inquiry that often discourages qualified candidates with criminal records from seeking city employment.

At the same time, as one city HR director put it, removing the question from the initial job application also creates a “win-win” situation for the city because it helps maximize the applicant pool — especially in major urban areas where nearly one in three adults has a criminal record — and creates a helpful advantage for cities to compete successfully with other employers for the very best qualified workers in their communities.

Significantly, the “ban the box” policy still requires a criminal background check for those positions where it is necessary to ensure safety and security at the workplace. It also does not alter the job application or screening process for those positions, such as in law enforcement, for which criminal background checks are required by law to protect safety or security on the job. What it does, instead, is delay the criminal background check until the final stages of the hiring process once the applicant has been selected for an interview or the city has made a conditional offer of employment.

“Three cities — Boston, Chicago and San Francisco — have taken groundbreaking steps aimed at de-emphasizing criminal histories for qualified applicants for city jobs, except in law enforcement, education and other sensitive areas where people with convictions are specifically barred by statute. . . . Taken together, the recent developments in Boston, Chicago and San Francisco symbolize a step forward in terms of fairness for law-abiding ex-offenders, who are often barred from entire occupations because of youthful mistakes and minor crimes committed in the distant past.”

**Editorial, “Cities that Lead the Way,” *New York Times* (March 31, 2006)**

As described above, most cities do not rely on criminal history information provided by the applicant when screening for a criminal record. Rather, they typically conduct a formal criminal background check under contract with a private data broker or with the state criminal history databases. Thus, the information generated on the job application itself usually serves a narrow purpose, often limited to evaluating the veracity of the applicant’s statements *after* a formal background check has been completed.

Moreover, by conducting criminal background checks of all applicants for employment — not just of those candidates who reach the final stages of the hiring process — cities are also expending valuable personnel time and limited resources on investigations of large numbers of applicants when they could instead target time and resources more efficiently toward those who are most likely to be employed.

Because the “ban the box” policy still requires a criminal background check, it does not confer favorable treatment on people with criminal records who are competing for city jobs. The intent is to create the appearance and reality of a fairer hiring process for all qualified workers, which benefits local government employers and the community. Given that the employer is still screening for an individual’s criminal record for those positions that pose a threat to the safety or security of the public, the employer is protected against any potential legal liability for “negligent hiring.”

Since 2004, when the policy was first adopted by San Francisco, another 22 cities and counties in 12 states have enacted “ban the box” ordinances or implemented similar policies under a mayor’s or county executive’s authority.<sup>9</sup> Major cities such as Austin, Boston, Chicago, Jacksonville, Minneapolis, Portland, Ore., San Francisco and St. Paul as well as smaller cities and counties such as New Haven, Conn., have been leaders in adopting innovative reforms. In the past year, Memphis, along with another four cities has joined the “ban the box” movement (Hartford, Conn., Worcester, Mass., Bridgeport, Conn., and Kalamazoo, Mich.).<sup>10</sup> In the past year, three new states (Connecticut, New Mexico and Minnesota) have also adopted “ban the box” policies that apply to all state employment.<sup>11</sup>

### ***Minneapolis Ban the Box Policy Works to Expand Hiring and Conserve Limited City Resources***

The City of Minneapolis adopted the Fair Hiring Practices Resolution in December 2006, removing the criminal background check question from city job applications. In addition, the policy specifies that a background check is to be completed only *after* a conditional job offer has been made to the job applicant. Since the hiring reforms went into effect in 2007, the city’s Human Resource Department has documented that far fewer applicants are being rejected due to past convictions. In fact, nearly 60 percent of the applicants for whom the background check raised a potential concern were later hired (compared to 5.7 percent under the prior policy). In addition, Minneapolis found that considering conviction information later in the hiring process — just in those cases where a conditional offer of employment has been made — reduced the amount of time and resources necessary to process applicants for city jobs by 28 percent.

### ***Jacksonville Takes a Comprehensive Approach to Remove Multiple Barriers to Employment***

In 2008, the Jacksonville, Fla., City Council adopted an ordinance reforming both the city’s hiring procedures and its contractor bidding policies to promote employment of people with a criminal record. The directive implementing the “ban the box” ordinance states that the city department heads will “not inquire about or consider criminal background check information in making a hiring decision.”<sup>13</sup> Instead, “criminal information disclosure is required as part of *the post-offer* new hire process.” [Emphasis in original]. While removing the criminal history question from the job application, the application instructions go a step further and encourage people with a criminal record to apply for city jobs.<sup>14</sup> Significantly, the criminal background check screening process is centralized in the city’s Human Resources Department so that criminal record information is not shared with other city agencies. Moreover, particularly strong standards help to ensure that applicants are not inappropriately excluded during the city’s screening process, taking into account the specific duties of the job, the age of the offense and rehabilitation.

9 These cities and counties include: Alameda County, Calif.; Austin; Baltimore; Berkeley, Calif.; Boston; Bridgeport, Conn.; Cambridge, Mass.; Chicago; Hartford, Conn.; Jacksonville, Fla.; Kalamazoo, Mich.; Memphis; Minneapolis; Multnomah County, Ore.; New Haven, Conn.; Norwich, Conn.; Oakland, Calif.; Providence, R.I.; San Francisco; Seattle; St. Paul, Minn.; Travis County, Texas; and Worcester, Mass. For more detail on these policies, including links to the ordinances and local contacts, see National Employment Law Project, “Major U.S. Cities and Counties Adopt Hiring Policies to Remove Unfair Barriers to Employment of People with Criminal Records” (Updated June 29, 2010), available at <http://www.nelp.org/page/-/SCLP/CityandCountyHiringInitiatives.pdf>.

10 Other major cities, including Detroit, are also actively debating “ban the box” policies. *Id.*

11 Several additional states, including Massachusetts, New Jersey and Rhode Island, are also debating “ban the box” initiatives that apply to state employment. National Employment Law Project, “New State Initiatives Adopt Model Hiring Policies Reducing Barriers to Employment for People with Criminal Records” (June 2010), available at <http://www.nelp.org/page/-/SCLP/ModelStateHiringInitiatives.pdf>.

12 City of Minneapolis Conviction Information Summary 2004– 2008 YTD includes data through July 3, 2008.

13 Jacksonville Human Resources Directive #0121, Ex-Offender Employment Review Standards (Revised July 8, 2009).

14 Specifically, the instructions to the Jacksonville job application read: “CRIMINAL BACKGROUND INFORMATION: Individuals with conviction records may be eligible for employment with the City and are encouraged to apply. Evaluations of eligibility will be based upon the nature of the job applied for, nature of the offense, as well as applicant’s conduct subsequent to the offense. This information will be kept confidential and will not become part of the personnel file if the individual is employed.”



### **STEP 3: APPLY THE LOCAL FAIR HIRING REQUIREMENTS TO GOVERNMENT CONTRACTORS**

In an attempt to promote model hiring policies in the private sector, several cities have also required employers that receive local government contracts to adopt the same hiring policies used by the city to remove barriers to employment for people with criminal records. For example, Boston, Cambridge and Worcester, Mass., as well as Hartford and New Haven, Conn., now extend their city “ban the box” policies and other local hiring reforms to their vendors.

#### ***Boston Extends Model Hiring Reforms to City Vendors***

Since 2006, Boston has had in place one of the nation’s most expansive local government hiring policies promoting employment of people with criminal records. The policy requires a “good faith” determination of whether a criminal background check is necessary for each city position and postpones screening for a criminal record until the job applicant is found to be “otherwise qualified” for the position. In addition, all private vendors that enter into new contracts with the city (estimated to total 50,000) are required to adopt “policies, practices and standards that are consistent with city standards.” Moreover, each city agency that issues a covered contract has to review the vendor’s policies and follow up to ensure that the policies are properly implemented as part of the process of evaluating the vendor’s performance under the contract.<sup>15</sup>

## **IV. Leverage Development Funds to Target Jobs for People with Criminal Records**

In addition to addressing their own employment policies and those of their contractors, more cities across the country are adopting promising strategies that leverage local development funds to create employment opportunities for residents facing the greatest difficulties entering the labor market. These initiatives take many forms, ranging from local hiring preferences for targeted groups of city residents to “project labor agreements” negotiated with local unions and “community benefit agreements” negotiated with the help of community-based organizations.<sup>16</sup> In some cities, these hiring policies specifically target people with criminal records, bringing together training and other resources with a commitment of employment on city-funded development projects.

These policies often apply to construction projects and the growing number of investments in green jobs made possible with new federal grants for weatherization and other energy conservation projects. In fact, the federal government strongly endorses these innovative strategies in projects funded with ARRA dollars, stating in federal guidelines that localities should “maximize the economic benefits of a Recovery Act-funded investment in a particular community by supporting projects that seek to ensure that the people who live in the local community get the job opportunities that accompany the investment.”<sup>17</sup>

#### ***Newark’s First Source Hiring Ordinance***

The City of Newark, N.J., passed its “first source” or local hiring ordinance in 2000. The ordinance requires construction contractors doing business with the city to take affirmative steps to employ Newark residents in 40 percent of their positions.<sup>18</sup> The residents can be employed as apprentices, trainees, helpers or full-fledged journeymen. Both construction contractors and developers are required to comply with the ordinance or otherwise demonstrate “best

---

<sup>15</sup> The full text of Boston’s ordinance is available at [http://nelp.3cdn.net/dc937c758c0ad0c931\\_fem6bxk1e.pdf](http://nelp.3cdn.net/dc937c758c0ad0c931_fem6bxk1e.pdf).

<sup>16</sup> For more background on these strategies, see Kathleen Mulligan-Hansel, “Making Development Work for Local Residents: Local Hire Programs and Implementation Strategies that Serve Local Communities” (Partnership for Working Families: June 2008), available at <http://www.communitybenefits.org/downloads/Making%20Development%20Work%20for%20Local%20Residents.pdf>.

<sup>17</sup> U.S. Office of Management and Budget, Memorandum for the Heads of Departments and Agencies, “Updated Implementation Guidance for the American Recovery and Reinvestment Act of 2009” (April 3, 2009), at page 5.

<sup>18</sup> The Newark First Source Ordinance is codified as 2:4-20 of the City Code, available at <https://ndex.ci.newark.nj.us/dsweb/Get/Document-156762/First+Source+Ordinance.pdf>.



efforts” in meeting the hiring requirement. Although the ordinance does not specifically target people with a conviction history, one in six adult residents in Newark has a criminal record,<sup>19</sup> and are thus often major beneficiaries of the local hiring policy.

### ***Los Angeles Project Labor Agreement Promotes Union Apprenticeships***

The Community Redevelopment Agency of Los Angeles is responsible for spending public dollars to promote development in Los Angeles communities. With the strong support of local community organizations (including the Los Angeles Alliance for a New Economy) and labor unions, the agency negotiated a particularly comprehensive project labor agreement (PLA) on publicly subsidized development projects that promotes local hiring and job quality standards.<sup>20</sup> The PLA targets “disadvantaged workers,” including anyone who has a “criminal record or other involvement with the criminal justice system.” It also calls on construction unions to “exert their best efforts to recruit and identify Local Residents...and Disadvantaged Workers, and to assist such individuals in qualifying and becoming eligible for...apprenticeship programs.”

### ***Portland’s Green Jobs Initiative Targets People with Criminal Records***

Government officials and key stakeholders in Portland, Ore., have signed on to the “Community Workforce Agreement on Standards and Community Benefits in the Clean Energy Works Portland Pilot Program,” which sets up an initial 470-home pilot weatherization program with the potential of reaching 100,000 qualifying homes county-wide.<sup>21</sup> The Portland agreement establishes a goal of hiring 80 percent of program employees from the local community. The agreement also seeks to ensure that 30 percent of all those hired under the program represent low-income communities, including “formerly incarcerated individuals seeking new opportunities for responsible citizenship and economic self-sufficiency.” Finally, the agreement, which has been endorsed by various city council resolutions, also creates strong standards regulating both the quality of the jobs and the quality of product.

## **V. Expanding Bid Incentive Programs to Promote Local Hiring Priorities**

Another helpful strategy for cities to promote employment of people with criminal records is the local bid incentive process through which private employers compete to win government contracts. The traditional process for awarding construction contracts requires selection of the contractor with the lowest bid price that meets minimum qualifications. However, more cities have adopted “best value contracting,” awarding projects to contractors that meet the best combination of price and technical qualifications that take into account local hiring and other policy priorities.<sup>22</sup>

Investments in workers, including job training, workplace safety and pension and health care provisions are often addressed in the best value contracting process. In addition, the process provides an opportunity for cities to promote outcomes that benefit the local community, including diversity initiatives, local hiring and apprenticeship requirements. For example, in response to certain labor shortages, Madison, Wisc., adopted this approach to stimulate greater private investments in apprenticeship and training programs for the next generation of skilled workers.<sup>23</sup> The City of Boston passed a similar ordinance in 1998, also requiring private employers seeking contracts with the city to submit affirmative action plans.<sup>24</sup>

19 Jacobs, Andrew, “Seeking the Key to Employment for Ex-Cons,” *New York Times* (April 27, 2008), available at [http://www.nytimes.com/2008/04/27/nyregion/27excons.html?\\_r=1&scp=1&sq=%22seeking%20the%20key%20to%20employment%20for%20ex-cons%22&st=cse](http://www.nytimes.com/2008/04/27/nyregion/27excons.html?_r=1&scp=1&sq=%22seeking%20the%20key%20to%20employment%20for%20ex-cons%22&st=cse).

20 The Los Angeles agreement is available at <http://74.10.59.52/laane/projects/ConstructionCareers/CRAPLA09062008.pdf>.

21 The agreement, dated September 24, 2009, is available at <http://www.portlandonline.com/bps/index.cfm?a=265161&c=50152>. Another helpful “community benefits agreement” targets San Diego’s low-income residents. The Ballpark Village Project Community Benefits agreement includes a first-source hiring provision that also requires business tenants in the development area to engage with the “Rehabilitated Ex-Offender Training Program” to promote employment of people with criminal records. The San Diego agreement is available at <http://www.communitybenefits.org/downloads/Ballpark%20CBA.pdf>.

22 General information on best value contracting is available at [http://www.clmwcisc.com/Best\\_Value\\_Contracting.htm](http://www.clmwcisc.com/Best_Value_Contracting.htm).

23 See [http://www.cityofmadison.com/news/view.cfm?news\\_id=200](http://www.cityofmadison.com/news/view.cfm?news_id=200).

24 *Id.*

### ***Indianapolis Bid Incentive Program Targets People with Criminal Records***

In September 2008, the Indianapolis City Council unanimously adopted an ordinance to establish a bid incentive program for city procurement that specifically promotes hiring of people with criminal records. The ordinance promotes the policy of the “city and county to employ residents of the county who previously were incarcerated for or convicted of a felony.”<sup>25</sup> It directs the city’s purchasing division to give preference to vendors who train or employ people with criminal records. To comply with the ordinance, employers must also have in place records that ensure effective tracking to determine the success of those qualifying workers who have been employed by the contractor. The ordinance provides for sanctions in the event of contractor non-performance.

## **VI. Financial Incentives for Private Employers to Create Jobs for People with Criminal Records**

In recent years, more cities have also created new financial incentives for private employers to hire people with criminal records in their local communities. These incentives have taken the form of supplemental tax credits that build on the federal Work Opportunity Tax Credit (WOTC) available to employers that hire people with criminal records,<sup>26</sup> and bonding programs that protect employers against certain legal liabilities.

### ***Philadelphia Tax Credit Program Joins Forces with the Reentry Initiative***

In January 2008, the City of Philadelphia adopted the Philadelphia Re-Entry Employment Program, which allows any local business that hires someone with a conviction history to apply for a \$10,000 credit for three years against the city’s Business Privilege Tax. The tax credit is available for each qualifying employee hired. The Mayor’s Office for the Reentry of Ex-Offenders developed the program in partnership with the Philadelphia Workforce Development Corporation and local chamber of commerce. The program, which is capped at 1,000 workers, specifically provides incentives for the hiring of people who are on probation or parole. It also requires that they be employed full time “with an hourly rate, excluding benefits, of at least 150 percent of the federal minimum wage” and receive “an employment benefit package that includes the same benefits” provided to other full-time employees, along with tuition support to advance the employees’ educational goals.<sup>27</sup>

### ***San Francisco Adopts Bonding Program for “At Risk” Workers***

In 2007, the San Francisco Board of Supervisors passed an ordinance establishing a fidelity bonding program for employers that hire “at-risk” workers, including people who face barriers to employment based on a criminal history. Fidelity bonds are business insurance policies protecting private employers against damages and liabilities connected with “employee dishonesty,” such as theft, forgery, larceny or embezzlement of money or property. The ordinance authorized the city’s Department of Workforce Development to enter into a purchase agreement with the Federal Bonding Program to provide bonds up to \$25,000 to prospective employers. The ordinance also requires the city’s Public Defender, District Attorney and Probation and Sherriff’s Departments to conduct outreach about the program to potential job applicants who avail themselves of city workforce services.<sup>28</sup>

---

25 The meeting minutes and language of the Indianapolis ordinance are available at <http://www.indy.gov/eGov/Council/Meetings/Council/Documents/09-08-08min.pdf>.

26 U.S. Department of Labor, Employment & Training Administration, Work Opportunity Tax Credit Website Resources available at <http://www.doleta.gov/business/incentives/opptax/>.

27 Information on Philadelphia’s program is available online at [http://www.phila.gov/Revenue/pdfs/PREP\\_Application.pdf](http://www.phila.gov/Revenue/pdfs/PREP_Application.pdf).

28 The San Francisco bonding policy is available online at <http://sfgov.org/site/frame.asp?u=http://www.oewd.org>.

## VII. Conclusion

Most city governments and private employers have a long way to go in removing barriers to employment for people with criminal records. In just the past five years, however, a growing number of city leaders have made impressive strides in developing and implementing new initiatives that give hope and opportunity to those coming home from prison who need a job to get back on their feet and do right by their communities.

Typically, these policies have been developed as part of a comprehensive, “smart on crime” agenda, often under the leadership of city appointees designated to craft more effective reentry policies or one of a growing number of “reentry councils” and city caucuses that represent the diverse interests and perspectives of the community. In the process, these bold steps by city leaders to reshape their own municipal hiring policies also set an important example for — and send a much-needed signal to — employers in the private sector.

To be sure, severe economic struggles pose yet another challenge for cities seeking to open up employment opportunities for workers from all walks of life, including those who have had contact with the criminal justice system. However, as a result of innovative efforts within cities across the country, a new roadmap now exists to provide full and fair employment options for all members of the community when the economy and job growth rebound.

---

### Acknowledgements

The authors wish to thank the Annie E. Casey Foundation for its generous support for all phases of the reentry collaboration between National Employment Law Project and the National League of Cities (NLC).

Maurice Emsellem, policy co-director at the National Employment Law Project (NELP), served as the author of this paper, with extensive research assistance provided by NELP staff attorney Madeline Neighly. NELP also thanks Jessie Warner, formerly of NELP, for her early work on this project. A survey of municipal hiring practices conducted by Eric Reid, 2008-09 National Urban Fellow at NLC’s Institute for Youth, Education and Families (YEF Institute), provided valuable information from surveys of city officials that has been incorporated into the paper. Clifford M. Johnson, the YEF Institute’s executive director, provided editorial direction and helpful feedback. Alexander Clarke was responsible for the publication’s design and layout.

# Appendix

## SELECTED LOCAL HIRING POLICIES THAT APPLY TO PEOPLE WITH CRIMINAL RECORDS

	Job Application Protections			Selection Criteria Adopts EEOC Standards	Hiring Policies Apply to Contractors	Private Sector Hiring Incentives & Community Agreements
	Banned the Box	Limited to Felony Convictions	Time Limits on Consideration of Convictions			
<b>ARIZONA</b>						
Tempe						
<b>CALIFORNIA</b>						
Alameda County	X					
Berkeley	X			X		
Los Angeles						Project labor agreement (10% of total hours to be worked by disadvantaged workers, including those "having a criminal record or other involvement with the criminal justice system")
Oakland	X					
San Francisco	X			X	X	Bonding
<b>CONNECTICUT</b>						
Bridgeport	X			X		
Hartford	X			X	X	
New Haven	X			X	X	
Norwich	X					
<b>FLORIDA</b>						
Jacksonville	X			X		Bid incentives (no contract with the city over \$200,000 is awarded unless the contractor agrees to identify potential job opportunities for ex-offenders, report to the City on the employment practices & experiences of hiring ex-offenders, and cooperate with the City in securing employment for ex-offenders)
<b>GEORGIA</b>						
Atlanta	X					
Savannah*	X					
<b>ILLINOIS</b>						
Chicago	X			X		
<b>INDIANA</b>						
Indianapolis						Bid incentives (affords additional weight to bids that have programs for training/hiring persons convicted of or incarcerated for felonies)
<b>KENTUCKY</b>						
Edgewood*	X					
Lyndon*	X					
<b>MARYLAND</b>						
Baltimore	X					
<b>MASSACHUSETTS</b>						
Boston	X			X	X	Bid incentives
Cambridge	X			X	X	
Worcester	X			X	X	
<b>MICHIGAN</b>						
Battle Creek				X	X	
Kalamazoo	X					

Promising Reentry Policies that Promote Local Hiring of People with Criminal Records

	Job Application Protections			Selection Criteria Adopts EEOC Standards	Hiring Policies Apply to Contractors	Private Sector Hiring Incentives & Community Agreements
	Banned the Box	Limited to Felony Convictions	Time Limits on Consideration of Convictions			
<b>MINNESOTA</b>						
Minneapolis	X					
St. Paul	X					
<b>MISSOURI</b>						
Berkeley		X	10 years			
St. Louis						First source hiring, bonding of people with records
<b>NEW JERSEY</b>						
Newark						Bid incentives, CBAs, first source hiring, tax breaks
<b>NORTH CAROLINA</b>						
Creedmoor						
Lumberton		X	7 years			
<b>OHIO</b>						
Centennial				X		
Dublin	X					
<b>OKLAHOMA</b>						
Oklahoma City		X				
<b>OREGON</b>						
Multnomah Cnty	X			X		
Portland	X			X		
Salem						
<b>PENNSYLVANIA</b>						
Philadelphia						Tax breaks
Wilkes-Barre						
<b>RHODE ISLAND</b>						
Providence	X					
<b>SOUTH CAROLINA</b>						
North Charleston		X	7 years			
<b>TENNESSEE</b>						
Farragut		X				
Memphis	X					
Nashville*	X					
<b>TEXAS</b>						
Austin	X					
Lubbock			7 years	X		
Travis County	X					
<b>UTAH</b>						
South Ogden						Bid incentives, first source hiring
<b>WASHINGTON</b>						
Seattle	X					
<b>WISCONSIN</b>						
Madison						Bid incentives

\* Employment application not online but City's response to NLC survey indicates they do not request criminal history information on initial job application









1301 Pennsylvania Avenue, NW | Washington, DC 20004 | (202) 626-3000 | [www.nlc.org](http://www.nlc.org)



75 Maiden Lane, Suite 601 | New York, NY 10038 | (212) 285-3025 | [www.nelp.org](http://www.nelp.org)

