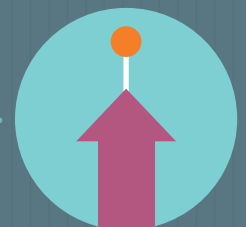
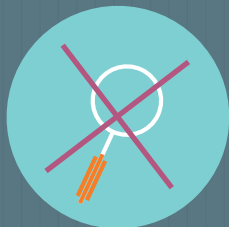


# FAIR-CHANCE HIRING IN PHILANTHROPY

*A Step-by-Step Guide*



OCTOBER 2016

## **ABOUT THE EXECUTIVES' ALLIANCE FOR BOYS AND MEN OF COLOR**

The Executives' Alliance is a network of national, regional, and community foundations driven by the bold vision that all boys and men of color will enjoy full inclusion and opportunity. Through strategic use of collective action and investments, and by elevating the leadership voice of philanthropic executives, the Alliance's members seek to remove structural and systemic barriers and increase economic, educational, civic and health opportunities that strengthen individuals, families, communities, and the nation as a whole. The Alliance is a sponsored project of Rockefeller Philanthropy Advisors. For more information, see <http://www.bantheboxphilanthropy.org/sample-page>.

## **ABOUT THE FORMERLY INCARCERATED & CONVICTED PEOPLE & FAMILIES MOVEMENT (FICPFM)**

FICPFM is a group of national and state-based organizations from across the country comprised of and led by formerly incarcerated people dedicated to ending mass incarceration and the second class status of people with arrest and conviction histories. For more information, see <https://ficpmovement.wordpress.com>.

## **ABOUT THE NATIONAL EMPLOYMENT LAW PROJECT (NELP)**

NELP is a non-profit research and advocacy organization that partners with local communities to secure the promise of economic opportunity for today's workers, including the nearly one in three adults in the United States who has an arrest or conviction record. For more information, see <http://www.nelp.org> and for resources, <http://www.nelp.org/campaign/ensuring-fair-chance-to-work>.

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# ACKNOWLEDGEMENTS

We are grateful for the expertise and assistance from the following dedicated individuals, without whose support this Toolkit would not have been possible.

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Photos courtesy of Scott Braley; Edmund Pettus Bridge photo courtesy of Mickey Welsh, *Montgomery Advertiser*; photo of Kirn Kim courtesy of Hadas Di; photo of Juan Gomez courtesy of Latino Community Foundation

# BAN THE BOX PHILANTHROPY CHALLENGE PARTICIPANTS

The following philanthropic institutions have joined the call to action by accepting the Ban the Box Philanthropy Challenge. Each foundation has eliminated questions regarding convictions or arrests from their application materials and/or adopted another form of a fair-chance hiring policy or practice. For more information about the Challenge or to have your foundation join, visit [www.bantheboxphilanthropy.org](http://www.bantheboxphilanthropy.org).

Akonadi Foundation	NBPA Foundation
Andrus Family Fund	Nellie Mae Education Foundation
Arcus Foundation	Open Society Foundations
Black Belt Community Foundation	Public Welfare Foundation
Butler Family Fund	Robert Wood Johnson Foundation
California Community Foundation	Rosenberg Foundation
Casey Family Programs	Sierra Health Foundation
Community Foundation for Greater Buffalo	Silicon Valley Community Foundation
Consumer Health Foundation	Southern Education Foundation
Deaconess Foundation	The Annie E. Casey Foundation
East Bay Community Foundation	The Atlantic Philanthropies
Edward W. Hazen Foundation	The California Endowment
Evelyn & Walter Haas, Jr. Fund	The California Wellness Foundation
Ford Foundation	The Jacob & Valeria Langeloth Foundation
Foundation for Louisiana	The Kresge Foundation
Foundation for the Mid South	The San Francisco Foundation
Fund for Nonviolence	The Schott Foundation for Public Education
Kapor Center for Social Impact	The Tow Foundation
Liberty Hill Foundation	The Women's Foundation of California
Living Cities	The Skillman Foundation
Lumina Foundation	Tides
Marguerite Casey Foundation	W.K. Kellogg Foundation
Missouri Foundation for Health	Winthrop Rockefeller Foundation
Nathan Cummings Foundation	



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“The following document is a testament to how listening to the people who experience inequality is the surest way to understand it, and find meaningful solutions.”

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## FOREWORD

DARREN WALKER, *PRESIDENT OF THE FORD FOUNDATION*

During the last few years, our national conversation has finally focused on one of America’s most glaring affronts to democracy: a criminal justice system that emphasizes criminalization over justice.

As I write, the United States imprisons some 2 million people—more than any other nation on Earth—many of them with black or brown skin. In fact, as Michelle Alexander has shown in her extraordinary book *The New Jim Crow*, more African Americans are part of the criminal justice system today than were enslaved on the eve of the Civil War.

The result of this crisis is not just limited to the term of a person’s sentence. The effects tear through the fabric of our communities.

Whether it’s by complicating their access to housing, or limiting their educational or economic opportunities, or severing their civic participation, one thing is clear: formerly incarcerated individuals experience inequality acutely, continually, in every aspect of their lives. And these effects are not limited to the individual, either. They destroy families and neighborhoods, and compound upon communities in devastating ways.

It is as heartbreaking as it is unacceptable.

Fortunately, thanks to the work of tireless activists—many of whom are formerly incarcerated individuals themselves—we have also begun to see progress. The movement to “ban the box” has grown over the last several years, culminating in President Obama’s recent proposal to extend the practice to the federal government.

To be sure, this movement must be about more than just banning one box. For starters, this issue should remind us how so many different forms of inequality—be it based on race, gender, sexual orientation, or being among an ethnic or religious minority—can affect an individual’s life in innumerable, intersecting ways. The following document is a testament to how listening to the people who experience inequality is the surest way to understand it, and find meaningful solutions.

These issues are deeply important to me personally. Many of my childhood friends were cousins—boys with passion and potential no different from my own. These cousins, however, found themselves ensnared in the same cycle that has trapped so many young black men. Six of them have spent time in prison, and I learned very early on that the distance between justice and injustice is frighteningly short.

Change is of the essence—and as leaders and funders, institutions like the Ford Foundation have a role to play in it. We can—and must—advocate for it. Many organizations are already funding this important work through initiatives and grants.

But we also must model it, using the power of example. And to do this, we must go beyond compliance. We must set a new standard.

For our part, we have begun to see what's possible when we make our institutions more inclusive, and raise up individual voices. We have started an exciting internship program with the Bard Prison Initiative, and, while this effort is primarily meant to give individuals job skills and work experience, we have been so grateful for the opportunity to learn from these incredible individuals, and for the role they play in breaking down existing stereotypes.

This Toolkit provides a roadmap on how we can continue moving philanthropy forward. It demonstrates how each of us can compassionately and conscientiously extend opportunities to those who may have an arrest or conviction record.

Contained in these seven steps are the guidance and wisdom we need not only to change our hiring practices, but to transform our institutional cultures and alter our sector's approach to formerly incarcerated individuals.

On behalf of my colleagues, I am grateful to the Executives' Alliance for Boys and Men of Color, the Formerly Incarcerated & Convicted People & Families Movement, the National Employment Law Project, and the many individuals who shaped this insightful document. I hope that you find it as instructive and inspiring as I have.

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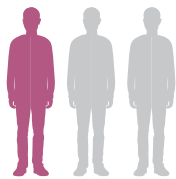


# INTRODUCTION

Mass incarceration and overcriminalization have left 70 million people in the United States—nearly one in three adults—with arrest or conviction records.<sup>1</sup> And punishment does not end with completing a sentence. People with records are subjected to lifelong penalties and discrimination in nearly every facet of life that is essential to the ability to thrive: housing, education, eligibility for social service benefits, family issues, electoral and civic participation, and critically, employment. The cumulative result of being penalized at every turn is “civic death.”<sup>2</sup> Painful family separation, loss of financial stability, and exile from civic participation are just a few of the devastating consequences of mass incarceration and having a prior conviction that have reverberated within our local communities for decades.

The pervasiveness of discrimination against people with records is intertwined with the racial disparities that permeate the entire spectrum of the justice system. Men of color are more likely to be stopped by the police and more severely sentenced than their white counterparts<sup>3</sup> and women of color represent the fastest-growing segment of the incarcerated population.<sup>4</sup>

In the arena of employment, biases in hiring decisions also lead to racial disparities. Among equally qualified candidates for entry-level jobs, employers are more likely to provide job callbacks to white applicants than either Latino or Black applicants even outside the context of having a prior conviction.<sup>5</sup> When a stigmatizing conviction record is added into the hiring process, the racial gap widens significantly. One study comparing job callbacks for white and Black men—both applicants with records and those without records—found that the negative effect of a record was 40 percent greater for Black applicants than for their white counterparts.<sup>6</sup>

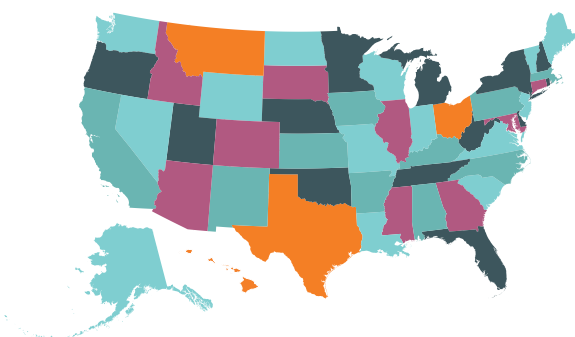


## 1 IN 3 AMERICAN ADULTS HAVE ARREST OR CONVICTION RECORDS.

These disproportionate impacts on communities of color led the U.S. Equal Employment Opportunity Commission (EEOC) to determine that the use of background checks is governed by Title VII of the Civil Rights Act of 1964, which is the nation's foremost federal anti-discrimination employment law.<sup>7</sup>

A national, bipartisan consensus is emerging that recognizes we must reverse the growth of incarceration and its lifetime of punishment. In order to expand economic opportunity and repair the social fabric of our nation, we must shift our approach to the justice system and focus on the consequences it visits upon families and communities. The philanthropic sector has an opportunity to take part in advancing a multi-faceted solution, which will be critical to helping heal the nation and advance racial equity.

One prominent solution founded on anti-discrimination principles is the ban the box movement, which seeks to reengage people with records into all aspects of civil society. In the workplace, the movement aims to prevent stereotypes from encroaching on employment decisions by focusing on an applicant's job qualifications instead of their past mistakes. Fair-chance employment policies lift up ban the box as an initial, but critical step to opening job opportunities for people with records. In addition, when enacted as laws, these policies often incorporate federal anti-discrimination and consumer protection principles, and adopt the best practices and guidance issued by the EEOC.



## OVER 150 CITIES AND COUNTIES AND 24 STATES HAVE EMBRACED BAN THE BOX POLICIES OR FAIR-CHANCE LAWS

Momentum for ban the box efforts is growing. As of October 2016, there were over 150 cities and counties and **24 states** that embraced ban the box policies or fair-chance laws—of those, nine states and over a dozen localities had provisions that applied to private sector employers.<sup>8</sup> President Obama directed federal agencies to ban the box and a growing number of corporations, including Starbucks and Facebook, have adopted the policy. Since April 2016, over 200 private employers have participated in either the White House's **Fair Chance Business Pledge** or the **Fair Chance Higher Education Pledge**. Both efforts comprise a nationwide call to action challenging leaders in education and the private sector to expand opportunity for people who have been impacted by the justice system.<sup>9</sup>

All employers can play a role to promote the movement for restoration of rights, including employers in the philanthropic sector. Many foundations routinely provide funding for policy initiatives. However, it is less common for foundations to leverage their influence as leaders in the community or to publicly align their business practices with their core values and mission. In February 2016, the philanthropic network Executives' Alliance for Boys and Men of Color sought to take action by launching the **Ban the Box Philanthropy Challenge**.

Embracing the Challenge, Alliance members and their allies have ensured that their own hiring policies and practices comply with the laws regulating background checks for employment. Foundations are also creatively implementing employment practices that increase the hiring of people with records and are challenging their colleagues at other foundations to do the same. Nearly 50 of the nation's leading foundations have already joined the call to action.

This Fair-Chance Hiring Toolkit is a practical guide for the philanthropic sector to realize the promise and potential of the Ban the Box Philanthropy Challenge. Its primary goal is to provide best practices as well as strategic and tactical guidance to foundations seeking to develop or enhance a fair-chance hiring policy and achieve tangible results in the hiring of people with records. The Toolkit builds upon the expertise and work of people directly impacted by mass incarceration and structural discrimination, and is a joint project of the Executives' Alliance, the National Employment Law Project (NELP) and the Formerly Incarcerated & Convicted People & Families Movement (FICPFM). It also incorporates the input of employment law experts, foundation professionals, and human resources directors in philanthropy.

## A MOVEMENT LED BY FORMERLY INCARCERATED PEOPLE CELEBRATES A DECADE OF REFORM

The ban the box movement was launched over a decade ago by All of Us or None (AOUON)—a membership organization comprised of formerly incarcerated people with chapters in California and across the United States. AOUON National is a project of Legal Services for Prisoners with Children (LSPC). Since 2003, AOUON has organized and educated across the San Francisco Bay Area and nationally by laying out a broad platform for reform. Its platform includes the full restoration of the rights of the formerly incarcerated to employment, housing, public assistance and the right to vote.

In 2005, AOUON petitioned the San Francisco Board of Supervisors to adopt a resolution to remove the conviction history question from public sector job applications, which resulted in the City and County of San Francisco adopting that policy the following year. AOUON successfully organized for an expanded policy in 2014, extending ban the box and other fair hiring protections to workers employed in the private sector. Under that law, San Francisco also extends a fair chance in public housing to people who are formerly incarcerated.

Dorsey Nunn, who is a founding member of AOUON and executive director of LSPC, explained the significance of the ban the box movement: “At issue is the question of ‘how do formerly incarcerated people get back into society?’ We’re asking for equal access. For fairness.”

In a historic meeting in October 2014, the leadership council of FICPFM met with senior staff of the Federal Interagency Reentry Council and White House officials to discuss removing barriers and creating opportunities for people with arrest and conviction histories in the areas of employment, housing, education and civic participation. Over the course of a year, FICPFM convened monthly



*Dorsey Nunn, Executive Director of Legal Services for Prisoners with Children and founder, All of Us or None*

teleconferences and hosted three regional meetings in Atlanta, Oakland, and New York where senior members of the federal government heard directly from the people most impacted by mass incarceration.

As a result of this organizing and advocacy, the federal government **banned the box** in federal hiring and issued guidance to the field on the proper consideration of arrest and conviction histories when making decisions on **college admissions** and **rental housing**.

By embracing the Ban the Box Philanthropy Challenge and taking the steps outlined in the Toolkit, foundation leaders will set the course for the foundation employer community to move past symbolic gestures and instead develop strategies designed to achieve impact. Taking these steps will build on the culture of diversity and inclusion increasingly prioritized by the foundation community.<sup>10</sup>

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**“At the Annie E. Casey Foundation, we recently highlighted how millions of children have suffered from their parents’ incarceration, which has disproportionately impacted families of color. The part of the story that is too often untold has to do with the way families often struggle for stability once an incarcerated parent is released, often due to obstacles to finding gainful employment. We see promoting fair-chance hiring and the Ban the Box Challenge as a natural extension of our mission and values that elevates racial equity and inclusion and supports thriving families.”**

**Patrick McCarthy, President and CEO, The Annie E. Casey Foundation**

---

Foundations utilizing this Toolkit will benefit by:

- Expanding the pool of applicants to include more qualified people who are skilled, dedicated, and have a desire to add value to their communities;
- Aligning foundations’ business practices with their missions and core values of promoting social justice, healthy communities, and equality;
- Understanding requirements for compliance with federal civil rights and consumer protection laws that regulate background checks for employment;
- Adopting an across-the-board approach to ensure compliance in any state or local jurisdiction, including the nine states and over a dozen cities and counties with fair-chance hiring and ban the box laws that apply to private sector employers;
- Advancing a vision of diversity, equity, and inclusion that ensures foundations aim to reflect impacted communities and integrate the expertise and experiences of people with arrest and conviction histories into decision making;
- Establishing foundations as leaders on advancing job opportunities for people with records, and setting an example for their grantees;
- Shifting the public narrative of people with records away from the stereotype of the “dangerous criminal” to upholding the value of human dignity for all; and
- Going beyond compliance by supporting the reentry population with successful reintegration into their communities, thereby reducing recidivism and strengthening families.

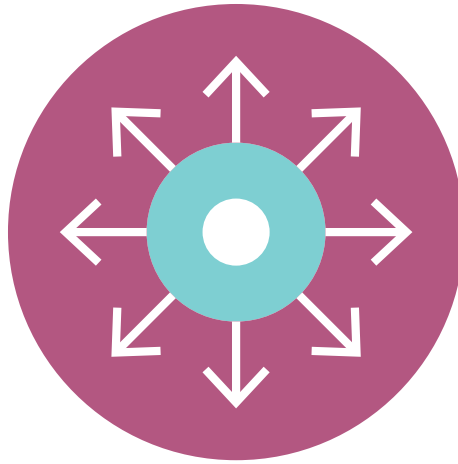
# STEP-BY-STEP FAIR-CHANCE HIRING GUIDE

The *Step-by-Step Fair-Chance Hiring Guide* is organized in sections that mirror the flow of the hiring process. Included in each *Step* is the policy recommendation, the “rationale” or importance of the reform, and guidance on “how to implement.” Icons and numbers along the right margin of the odd-numbered pages indicate the specific *Step*, allowing users to flip through the Toolkit and easily locate sections of interest. Quotations from leaders in philanthropy and vignettes in gray boxes throughout the sections highlight key information. Model language that corresponds to the various *Steps* is cited and located in the Appendices. The Appendices include:

- A. Private Sector Fair-Chance and Ban the Box Laws
- B. Factsheet: Becoming a Fair-Chance Foundation
- C. Model Fair-Chance Personnel Policy
- D. Model Conditional Offer Notice
- E. Model Contractor Compliance Language
- F. Directory of Resources: Organizations Serving People with Records

## SUMMARY OF FAIR-CHANCE EMPLOYMENT POLICY AND PRACTICE

- 1 **Create a fair-chance culture in your foundation and beyond** by cultivating buy-in from staff, board, and trustees; engaging people with records early in the process; mobilizing all stakeholders within the foundation; and being an outspoken, public supporter of fair-chance hiring.
- 2 **Develop skills-based job announcements** that do not automatically disqualify people with records, but instead focus on the skills needed to perform the job and signal openness to hiring people with arrest and conviction histories.
- 3 **Recruit and hire at all levels of responsibility and leadership**, recognizing that people with records span multiple fields of knowledge and expertise.
- 4 **Eliminate or delay inquiries into conviction history** by banning the box on employment applications, not inquiring (if at all) until the conditional offer stage of the hiring process.
- 5 **Limit the use and scope of background checks** to only those job positions where they are legally mandated, narrow the scope of the inquiry, and consider the age of the offense and its job relevance.
- 6 **Provide notice and an opportunity to respond to background-check results**; if there is a potentially disqualifying offense, identify its relationship to the job and provide an adequate opportunity to submit evidence of rehabilitation before a final decision.
- 7 **Establish clear goals**, audit outcomes, and continually innovate for success.



# STEP 1:

## CREATE A FAIR-CHANCE CULTURE IN YOUR FOUNDATION AND BEYOND.

For most institutions, taking a significant step in a new direction comes with the adoption of a policy. This type of clear statement of intent from an institution's leadership is necessary, yet not sufficient. Ensuring the sustained impact of any policy reform within an institution often requires a change in culture. Although known for being insular, philanthropy has untold influence on government, grantees, and others in the private sector. Whether your foundation is at the beginning of its fair-chance hiring efforts or seeking to build upon a long-standing commitment, the following actions can help set the proper tone.

### 1.1 ENGAGE ORGANIZATIONS CREATED BY AND FOR FORMERLY INCARCERATED PEOPLE.

**RATIONALE.** History has shown that the most important shifts in culture and policy have been led by those most impacted.

Advocates in the formerly incarcerated community provide important context for the policy change and can also increase the effectiveness of the training. For example, first-person accounts of their experiences can connect the cumulative history of institutionalized racism in the justice system with the rampant discrimination faced by

people with records in every domain of life. In addition, the increased interactions between foundation staff and people with records can dismantle dehumanizing stereotypes and deepen the impact of policy change.

Foundations will be better informed and positioned to engage the communities most harmed by mass incarceration on the development of more impactful grant-making processes in a broad range of areas, not limited to justice or reentry issues.





**HOW TO IMPLEMENT.** As experienced foundation staff know, philanthropy is an industry that is based upon research and relationships. For this reason, foundation program officers expend significant effort learning about systems and organizations and forging new relationships, often across sectors. A similar approach is essential to developing a fair-chance culture.

First, identify local and national organizations working on behalf of people with records in the jurisdictions where the foundation targets its grantmaking or in other locales that work on issues relevant to the foundation's mission and grantmaking priorities. Prioritize organizations led by people with records, as they often operate in greater proximity to the population served and have a more comprehensive assessment of the issues at stake. Start with the foundation's own grantees, but also look broader. *Appendix F* is a directory of organizations that advocate for the restoration of rights of the formerly

incarcerated; the list includes a number of groups led by people with records.

Next, cultivate genuine, ongoing relationships with these organizations; the first contact should not be the last. Offer to discuss the foundation's mission, strategy and grantmaking priorities. Ensure that foundation staff spend time in person with the organizations' leadership, staff, and members. Respect the groups' expertise by formally engaging them as consultants where appropriate and not simply expecting free advice.

Share *all* job announcements with the organizations—not only those presumed to be closely related to issues faced by people with records. Invite them to distribute widely. As opportunities arise, include the organization in the full spectrum of the foundation's operations, from developing job announcements and hiring policies to building grantmaking portfolios and overall strategic plans.

## 1.2 ADOPT HUMANIZING LANGUAGE.

### **RATIONALE.** Language matters.

In many respects, the manner in which foundations think, talk, and write about people with records defines the bounds of possibility. Even the best-intentioned efforts can be sullied by using deficit-based language such as "ex-felon" or "ex-offender," thereby defining people by their legal status and past mistakes rather than by their skills, talents and potential. Many employers have found that changing the language they use plays a key role in ensuring a policy change is woven into the fabric of the institution. It can be a crucial step in reorienting staff assumptions about jobseekers with records.

The Executives' Alliance has actively promoted changes in the language used by foundations and in the overarching narratives about boys and men of color by challenging negative images generated by the media and shifting to a frame that lifts them up as assets and contributors to society and their communities.

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**"Dominant narratives of boys and men of color constrain how we perceive their potential and limit our expectations of them. In a sense, narratives become reality as boys are irrationally perceived as threatening, students are characterized more by their disruptive behavior than their academic potential, and job applicants are disproportionately passed over."**

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***From Narrative Change: A Toolkit for Foundations (forthcoming Executives' Alliance publication)***

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The same types of narratives can limit opportunity for people with records. This makes attention to language imperative. Leading the way for the private sector to follow, the Office of Justice Programs (OJP)—

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an office in the U.S. Department of Justice that provides economic, technological, and research assistance to state and local governments—has fully committed to the use of humanizing language in all of its public and internal communications.<sup>11</sup>

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“This new [U.S. Department of Justice] policy statement replaces unnecessarily disparaging labels with terms like ‘person who committed a crime’ and ‘individual who was incarcerated,’ decoupling past actions from the person being described and anticipating the contributions we expect them to make when they return. We will be using the new terminology in speeches, solicitations, website content, and social media posts, and I am hopeful that other agencies and organizations will consider doing the same.”

Karol Mason, *Assistant Attorney General and head of OJP*

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**HOW TO IMPLEMENT.** First, establish a standard in your foundation to eliminate dehumanizing language in all internal and external documents and train staff accordingly. Avoid phrases such as “criminal,” “ex-offender,” and “ex-felon,” which center a person’s identity on involvement with the justice system rather than on their humanity, skills, and experiences.<sup>12</sup> Instead, incorporate language that humanizes such as “formerly incarcerated **people**” or “**people** with arrest or conviction records.” If the foundation has a style guide, these principles should be included.

Next, review existing internal and public-facing materials—including grant solicitations, reports, newsletters, the website, and social media—and commit staff time to editing those documents. Going forward, encourage staff, colleagues, grantees, and the media to use this humanizing language in their speeches, publications, and communications. Also, require outside contractors such as strategy and communications consultants to do the same.

## RECOGNIZING THE POWER OF LANGUAGE

“Words matter. They shape perceptions and understanding, both of past and present events and future possibilities,” wrote the late Eddie Ellis, a prominent advocate who was imprisoned for 23 years.

As explained in The New York Times editorial, “**Labels Like ‘Felon’ Are an Unfair Life Sentence**” (May 2, 2016), Mr. Ellis, who died in 2014, catalyzed a movement. In an influential **open letter** Mr. Ellis underscored that the negative labels used for formerly incarcerated people erased their humanity:

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The worst part of repeatedly hearing your negative definition of me, is that I begin to believe it myself “for as a man thinketh in his heart, so is he.” It follows then, that calling me inmate, convict, prisoner, felon, or offender indicates a lack of understanding of who I am, but more importantly what I can be. *I can be and am much more than an “ex-con,” or an “ex-offender,” or an “ex-felon.”*

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### 1.3 MOBILIZE AND TRAIN ALL STAKEHOLDERS WITHIN YOUR FOUNDATION COMMUNITY.

**RATIONALE.** All of the foundation’s stakeholders can play a role in developing and maintaining a fair-chance culture within the institution. This includes board members, trustees, grantees, consultants, and vendors.

As an initial matter, engaging all stakeholders raises awareness about the foundation’s policies and practices, and can also reveal inevitable blind spots and gaps in coverage or the effectiveness of implementation efforts. It can also position them as agents of change, advancing a shared vision throughout the institution while also building awareness that can extend to peers in philanthropy beyond the foundation.

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“Adopting fair-chance hiring policies begins with educating your trustees, board members, your CEO—all of your leadership, about the benefits and importance of considering a job candidate’s qualifications first, without the stigma of a record. Fair-chance policies can benefit everyone—employer, applicant, and community.”

**Julianne Sobral, Senior Vice President of Operations and Talent Development, Council on Foundations**

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Involving board members and trustees in particular can weave fair-chance culture into the fabric of the institution, opening possibilities for transformational change while ensuring continuity through leadership changes at the CEO and staff levels. Staff members often come into contact with a number of prospective applicants. Their awareness and tone can either support or sink efforts to promote a fair-chance culture. Without staff and board alignment with fair-chance principles and internal education

to allay fears sparked by stereotypes and unconscious biases with regard to people with records, a well-intentioned policy can be undermined.

For example, uninformed concerns raised at the board level can have a chilling effect on implementation of the policy. And lack of clarity or fidelity of implementation among even junior staff can significantly limit the effectiveness of even the best policy. Engaging grantees, consultants, and vendors helps to not only optimize the reach and impact of the new approach, but also serves as a public-facing statement and commitment that has the potential to push other foundations forward.

**HOW TO IMPLEMENT.** Start with cultivating buy-in of key stakeholders who have responsibility for serving as leaders or ambassadors of the foundation, such as board members, trustees, the president, CEO, vice-presidents, and directors. The content in *Appendix B, Factsheet: Becoming a Fair-Chance Foundation* can be used as a starting point to begin internal dialogues, create alignment, and develop a consistent internal and external message. Adopting a policy statement or other form of commitment from the highest levels of leadership in the foundation will set a tone that not only ensures legal compliance, but also establishes and reinforces a cultural norm within the foundation. This step is important even if a foundation has previously adopted fair-chance hiring practices.

Next, ensure the ambassadors and all staff receive appropriate training on establishing a fair-chance culture and also on the details of the foundation’s policies and practices, as detailed below. The training is as much about tone-setting as it is practical. One approach to deliver the training is to include it in the type of broad training on human resources issues that may be conducted by outside counsel,

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making ban the box an integral component of how foundations operate. Ensure that the training includes scenarios and examples relevant to the workplace. Also, make sure it is linked to other education efforts focusing on diversity, equity and inclusion. And make sure the knowledge is reinforced by offering or requiring training on an ongoing basis, both to new and tenured staff. In those trainings, be sure to enlist the help of people with records as discussed in *Step 1.1*.

Develop a requirement or recommendation for consultants and vendors to comply with fair-chance hiring laws and to align with the foundation's practices. *Appendix E, Model Contractor Compliance Language*, provides suggested terms. This may also be adapted for grant agreements and commitment letters for grantees.

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**“When the Annie E. Casey Foundation adopted ban the box, the Foundation benefited from a thorough education of its managers, senior leadership team, and supervisors about the relevant laws and how to conduct conviction inquiries. Ideally you would provide ongoing training to help staff understand the rationale of the policy and also so that you never lose sight of the importance of the issue.”**

**Kimberley Brown, Director of Human Resources and Talent Strategies,  
The Annie E. Casey Foundation**

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## **1.4 BE A COURAGEOUS, VISIBLE LEADER.**

**RATIONALE.** Far too many businesses and corporations, even those that have themselves banned the box and are sympathetic to the employment barriers faced by people with records, fear backlash and remain silent. It is imperative that foundations, especially their presidents, CEOs, and human resources directors leverage their individual and collective leadership on this important issue.

As mentioned above, they have the power to extend fair-chance mandates to their grantees, consultants, and vendors, creating a positive ripple effect in the private sector. Without vocal, courageous leaders willing to publicly stand by their decisions for creating an inclusive staff, people with records will continue to face social exile and limited opportunities.

**HOW TO IMPLEMENT.** Be an active participant in the Ban the Box Philanthropy Challenge and communicate to the public that the foundation hires people with records and supports organizations led by those most impacted. Through press releases, media opportunities, case studies, and publications, foundations can share their positive experiences with shifting their policies and hiring people with records. For example, in August 2015 foundation leaders affiliated with the Executives' Alliance joined the movement for fair-chance hiring and restoration of rights. By submitting a letter to President Obama urging him to issue an executive order to ban the box in federal government hiring and in federal contractor hiring, foundation leaders advocated for opening countless employment opportunities in the private sector. Led by the Alliance, this public action and others have been hailed in the press as “a benchmark of foundations trying to be serious about standing with nonprofits calling for public policy changes.”<sup>13</sup>



The Executives' Alliance has also encouraged and supported its members in exercising their individual leadership voices. For example, Alliance member and co-founder Risa Lavizzo-Mourey, President and CEO of the Robert Wood Johnson Foundation, published a notable op-ed connecting the ban-the-box effort to her foundation's mission to ensure health equity for all:

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**“[W]e believe that helping people successfully reintegrate into their communities is good for society as a whole. We also know how important a job is to reaching and maintaining good health. People with criminal records should have a fair chance at getting one.”**

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## EXPANDING FOUNDATIONS' REACH

**Foundations should ensure the commitment to creating a fair-chance culture is also reflected in their grantmaking priorities.**

Given that grantmaking is the core business of foundations, ensuring that the organizations advocating for fair-chance hiring and restoration of rights for formerly incarcerated people receive financial support should also be a priority. Grantmaking portfolios should prioritize organizations serving those communities most directly impacted by mass incarceration and overcriminalization, as well as those organizations led by directly-impacted people. And those organizations should not be treated as a monolith whereby support for one is viewed as a substitute for supporting others, nor should they be pitted against each other. Instead, foundations should actively seek out multiple funding opportunities and support a broad portfolio of organizations and projects led by and serving directly impacted people.

Many advocacy organizations led by people with records have experienced a “quota approach” in which foundations engage only one or two such organizations and cite their support of one in declining to fund others. This approach smacks of tokenism and inadvertently pits organizations against each other, while creating artificial barriers to funding and networking opportunities.

Instead, support must be targeted in a manner consistent with a deep commitment to advancing economic opportunities for people with records. These organizations should be judged by the effectiveness of their strategies and the integrity of their work, without any artificial ceilings on how many such groups might be funded. They should receive the same types and levels of investment that “mainstream” organizations receive and be resourced based upon the needs in the field and the foundation's strategic priorities rather than whether the foundation already funds another group viewed as similar.

In reality, each organization led by formerly incarcerated people brings a unique set of experiences, relationships, and skills. Just as with diversity efforts, working with one person or organization from an affected community is insufficient to make a meaningful impact. Each foundation's approach should be grounded in this reality while also taking into account the ways in which philanthropic support has historically been limited for the formerly incarcerated and communities of color overall.

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## STEP 2:

# DEVELOP SKILLS-BASED JOB ANNOUNCEMENTS.

The elements of a fair-chance culture discussed in *Step 1* must be reinforced by action. With respect to the hiring process, it is important for foundations to not only align their employment policies with their missions and best business practices, but also to ensure that the instruments they use in the hiring process reflect those same values and principles.

### 2.1 REVISE JOB ANNOUNCEMENTS AND ELIMINATE AUTOMATIC DISQUALIFICATIONS FOR PEOPLE WITH RECORDS.

**RATIONALE.** Job announcements or postings typically include the first public-facing language applicants will see. They are the primary means to provide notice and encourage applicants to apply, and they send both implicit and explicit signals regarding who would be desirable candidates.

Foundations should review their job announcements and templates to identify and remove structural barriers to hiring people with records. In addition, taking the steps below can also help ensure that the foundation's policy is not in violation of federal anti-discrimination law or local and state laws that pertain to private employers in those jurisdictions. *Appendix A, Private Sector Fair-Chance and Ban the Box Laws*, provides a summary of those laws.





**HOW TO IMPLEMENT.** As an initial step, edit current job announcements and revise any standard templates for future job announcements to eliminate any automatic prohibitions against hiring an individual with a record or certain convictions, including ambiguous language indicating that the

applicant “must pass background check” or must have “good moral character.” These code words discourage qualified people with records who may otherwise wish to apply and may violate some of the local fair hiring laws.

## 2.2 ENSURE THAT JOB ANNOUNCEMENTS FOCUS ON SKILLS, NOT CREDENTIALS.

**RATIONALE.** Degree requirements are often used as proxies for experience, often inappropriately so. Unless clearly necessary to qualify an individual for the position, the job announcement should not automatically require advanced educational degrees or certifications.

Instead, develop announcements that set forth in concrete language the skills necessary for the job. Sharpening the inquiry in this way can have the effect of opening opportunity to those who have the skills, but not the credentials, while also flagging others who have the credentials, but not the requisite skills or competencies. Other forms of relevant experience outside of the workplace can enhance the candidate’s potential for impact and effectiveness. The end result will be a better personnel fit and a greater likelihood of on-the-job success.

**HOW TO IMPLEMENT.** Consistent with the best practices of a growing number of employers that are actively seeking to increase diversity, job announcements should refrain from being overly prescriptive and from including extended lists of requirements. Eliminate unnecessary degree requirements. Revise all job announcements to focus first on specific skills, talents, and competencies required, rather than proxies such as advanced degrees. When referencing any degrees that the foundation considers necessary in reviewing the individual’s qualifications for a position, also indicate that “comparable work or life experience relevant to the responsibilities of position” will be considered.

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**“In recruiting, we focus our attention on qualities that really matter for success, like leadership competencies and emotional intelligence—qualities you don’t necessarily get from a degree program.”**

**Gail Watts, Director of Human Resources, The California Wellness Foundation**

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Attendees at FICPFM national convening review discussion draft of “Fair Chance Hiring in Philanthropy”

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## 2.3 ADD INCLUSIVE AND AFFIRMING LANGUAGE SIGNALING OPENNESS TO HIRING FORMERLY INCARCERATED PEOPLE.

**RATIONALE.** Let people with records know they are welcome.

Just as employers have come to include equal opportunity language in job announcements as a matter of course to signal their openness to hire women and people of color, so too should they affirm a willingness to hiring people with records. This allows the foundation to go beyond a “do no harm” approach of avoiding discouraging language and aims for a higher level of commitment—the actual employment of people with records.

**HOW TO IMPLEMENT.** Review the equal opportunity and affirmative action statement on the foundation’s job announcements and templates. In addition to listing race, gender, disability, and other factors, the statement should indicate that qualified applicants will be considered for employment without discrimination based on “prior arrest or conviction.”

### EXPRESSING THE FOUNDATION’S COMMITMENT

The non-profit organization Vera Institute for Justice uses the following affirmative language:

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Vera is an equal opportunity/affirmative action employer. All qualified applicants will be considered for employment without unlawful discrimination based on race, color, creed, national origin, sex, age, disability, marital status, sexual orientation, military status, prior record of arrest or conviction, citizenship status, current employment status, or caregiver status.

Vera works to advance justice, particularly racial justice, in an increasingly multicultural country and globally connected world. We value diverse experiences, including with regard to educational background and justice system contact, and depend on a diverse staff to carry out our mission.

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Job postings for the Executives’ Alliance indicate as follows:

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The Executives’ Alliance is a sponsored project of Rockefeller Philanthropy Advisors (RPA), an equal opportunity employer. Returning citizens are encouraged to apply.

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Top: Young leader on panel at FICPFM national convening (September 2016)  
Bottom: Lateefah Simon, President, Akonadi Foundation

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## STEP 3:

# RECRUIT AND HIRE AT ALL LEVELS OF RESPONSIBILITY AND LEADERSHIP.

As foundations move toward a fair-chance hiring culture, there may be a tendency to limit opportunities for people with records to only certain job duties, temporary roles, or entry-level positions. It is critically important, however, that foundations seek to employ people with records at all levels of responsibility and leadership—including considering them for positions as program officers and directors with responsibility for grantmaking dollars.

**RATIONALE.** Relegating people with records to lower-level positions within the organization's hierarchy limits their influence.

By clearing the path to employment for people with records, the philanthropic community will be positioned to tap into a large and diverse pool of talent that can contribute significantly to the core functions and mission of the sector.

Again, foundations can benefit from the example set by the U.S. Department of Justice, which recently appointed the first-ever **Second Chance Fellow**, who has broad responsibility over reentry policy for the U.S. government.

In addition to hiring at all levels of responsibility, foundations should also push to ensure that people with records are duly considered for a broad range of portfolios and subject matter areas, not relegated only to justice and reentry issues. It may sound like common sense, but just as with the general population, the professional and lived experience of people with records spans all areas of expertise.



**HOW TO IMPLEMENT.** Ensuring success in hiring people with records may often require a creative recruitment strategy. Engage in direct outreach to organizations for recruitment purposes. As noted above, a number of organizations throughout the country are dedicated to serving the holistic needs of people with records and many focus on employment opportunity. See Appendix F, *Directory of Resources: Organizations Serving People with Records*.

Foundations that utilize search firms should direct those firms to modify or enhance search efforts and criteria to specifically include people with records and the organizations and individuals who serve them. To the extent the firms do not have connections and competence in this area, foundations should insist that they develop those contacts and skills as a requirement of the contract or continued retention.

Leaders within FICPFM are also exploring the possibility of developing a one-stop job board to assist in this process. This project is still in the design phase and will require thought partners and resources from philanthropy; however, at this time, job postings can still be distributed through individual organizations and multiple listservs.

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**“At the California Community Foundation, we’ve hired people with records into our highly regarded program officer positions. This was a non-event for us. It wasn’t big, bold, and brave—it just made sense. Our program staff who had records were integral to the foundation. They fit into the culture. They contributed just like other staff do.”**

**Nike Irvin, Vice President of Programs,  
California Community Foundation**

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Daryl Atkinson, Second Chance Fellow, U.S. Dep’t of Justice, Office of Justice Programs

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## IF GIVEN A CHANCE...PROFILES OF SUCCESS

*The following stories demonstrate what is possible when philanthropy opens the doors of opportunity and creates pathways to leadership for people with records.*

### CHRISTINA VOIGHT

**Senior Program  
Administration Specialist  
Open Society Foundations**

Less than a month after being released in 2001 from Bedford Hills Correctional Facility for Women, Christina Voight was hired by the Open Society Foundations (OSF) to work as a part-time administrative assistant on the death penalty portfolio. Today, she helps lead the Soros Justice Fellowship—the foundation’s flagship criminal justice fellowship program—as a Senior Administrative Specialist.

Ms. Voight’s OSF connection started when she was still in prison through her participation in the College and Community Fellowship (CCF)—one of the nation’s premier organizations providing college education inside prison and supporting students to gain bachelor’s degrees upon release. Because OSF was committed to funding and supporting organizations led by the formerly incarcerated, the foundation recruited through CCF and hired Ms. Voight the same week she was interviewed.

Finding her stride at a major foundation has been an evolution for Ms. Voight. While incarcerated, she was an advocate on adoption issues and helped organize new programs, including a legal clinic for incarcerated women. Despite her relevant experience, Ms. Voight remarks, “I didn’t realize my worth when I first came home.” Early on at OSF, she juggled raising her 5-year-old son (born while



*Christina Voight*

incarcerated), working part-time, and earning her B.A. at Marymount College.

Fortunately, she was supported and encouraged to excel by her colleagues. Inspired by other formerly incarcerated advocates, she is increasingly asserting her “agency” at OSF and contributing her “real lived experience as well as real educational experience.” It has been a “two-way street,” says Ms. Voight. “I learned from them, but they also learned from my ability to take the community experience into the foundation world.”

Mindful of her personal journey and the barriers to working in elite professional settings, Ms. Voight takes pride in opening up the Soros Justice Fellowship program to talented individuals with direct experience with the criminal justice system. These opportunities create the “social connections” that become the pathway for formerly incarcerated people to access and succeed in the foundation world.

Ms. Voight cautions that “foundations have to step up their game because they are losing out on amazing talent.” It will require educating staff from the top down.

When asked to identify specific actions to help people with records reach senior-level positions, Ms. Voight urged foundations to:

- More heavily weigh the life experience of people with records and reduce reliance on formal educational and field experience requirements;
- Open up internships to people with records to expand their professional networks and relationships with the foundations; and
- Most importantly, contract with organizations led by the formerly incarcerated for a broad range of consulting services, not only on criminal justice issues.

These measures will allow foundations to experience the talent of people with records, which is the first step toward breaking the “glass ceiling” of limited access to senior-level positions.

Aware that philanthropy remains a credential-oriented industry, Ms. Voight is in the final phase of seeking her Ph.D. “Being formerly incarcerated,” she says, “we always think we have to be better—one step ahead.”

## GLENN E. MARTIN

**President and Founder  
JustLeadershipUSA**

**Former Board Member  
New York Foundation**

Glenn Martin is no fortune-teller, but he can see into the future. As the President and Founder of JustLeadershipUSA (JLUSA), an organization dedicated to cutting the U.S. correctional population in half by 2030, he is part of the vanguard of advocates working to make that future a reality. What's more, he is accomplishing this goal by amplifying the voice of the people most impacted, and positioning them as reform leaders. At its core, Mr. Martin has said, JLUSA challenges the assumption that formerly incarcerated people lack the skills to thoughtfully weigh in on policy reform. Rather, JLUSA is based on the principle that people closest to the problem are also the people closest to its solution.

Mr. Martin speaks from personal experience, having spent six years incarcerated in a New York State prison in the early 1990s. That experience has informed his remarkable career, which is studded with honors such as the Robert F. Kennedy Human Rights Award and the Echoing Green Black Male Achievement Fellowship. Prior to founding JLUSA, he was the Vice President of The Fortune Society, one of the most respected reentry organizations in the country, the Co-Director of the National HIRE



*Glenn E. Martin*

Network at the Legal Action Center, and one of the Co-Founders of the Education from the Inside Out Coalition.

His bold, unflinching leadership has drawn interest from the foundation community. Mr. Martin served on the Board of Directors of the New York Foundation from 2011 to 2014. According to the foundation's Executive Director Maria Mottola, "Glenn's perspective as a trustee was invaluable to our foundation. His knowledge of the justice system informed our thinking about how the field was evolving. He helped other trustees understand why it was critical for the foundation to provide patient support to community leaders starting new organizations."

Despite these accolades and achievements, Mr. Martin has continued to experience the stigma of a record, even while being recognized as a national justice reform leader. He was invited to the White House in 2015 to discuss mass incarceration and law

enforcement issues. Before being allowed to enter, he was separated from his colleagues by the Secret Service and required to wear a special credential and have an escort—all due to his past conviction. After this embarrassing episode, he was ushered into his scheduled meeting late, after all other guests had been seated and the justice reform meeting had already begun without him. The irony was not lost on Mr. Martin. Leveraging his national platform, he published an open letter to President Obama in the Wall Street Journal, explaining that this type of treatment "erodes the life" of principles of justice and fairness. He was later invited back to the White House to speak on a panel and meet with President Obama. Today Mr. Martin continues to use his multiple platforms to influence justice policy and lift up the voices of those most impacted.

## KIRN KIM

### **Communications Coordinator The California Endowment**

Kirn Kim knows about second chances. Today, he is a Communications Coordinator at The California Endowment, the state's largest health foundation. But just a few short years ago, he was incarcerated. At the age of 16, he was tried as an adult and would spend the next two decades being imprisoned as a "juvenile lifer."

Mr. Kim was committed to furthering his education while incarcerated. Through a combination of correspondence courses and "challenge exams," he obtained associates degrees in Accounting and Humanities and a Bachelor of Science in Business Administration. Plus, he served as an informal mentor and counselor to others in prison. His efforts earned positive commendations from correctional officers and staff. He eventually earned his release after two denials by the parole board.

Since his release, Mr. Kim has brought his experience and insight to advance fairer justice policies. Whether it's as an intern, volunteer, or mentor in such groups as the Anti-Recidivism Coalition, the Post-Conviction Justice Project at the University of Southern California, and Project 4R, he's pushing to end mass incarceration conditions and improve reentry outcomes. His expertise was recognized when he was chosen as an inaugural fellow with the Justice Policy Network.



*Kirn Kim*

Despite the accolades, educational pedigree, and demonstrated abilities, Mr. Kim still encountered job barriers. He found odd jobs through friends, but was repeatedly turned away by employers unwilling to look past his record. Through his advocacy activities, Mr. Kim spoke on panels and gave advice as an expert. But when seeking work in the social justice space, he never received a job interview due to his lack of a public policy degree or non-profit work history. Mr. Kim had given up his career search and enrolled in school to study computer science when the opportunity with The California Endowment arose.

For the past year at The California Endowment, Mr. Kim has worked on video production and offered his wealth of talents. A self-described "computer geek," he has been advising on technical issues in communication strategy, something the communications department has lacked in the past. In addition, Mr. Kim's accounting skills have been utilized to assist with grant and contract processing.

Mr. Kim's work also extends to the programmatic arena. For example, when the L.A. County Board of Supervisors was voting on whether to end solitary confinement for juveniles, Mr. Kim addressed that body on his personal experience and the trauma it causes, having spent fifteen months in isolation. And he has traveled the state as part of the foundation's Schools Not Prisons tour, speaking publicly and in facilities to people who are still incarcerated.

Mr. Kim does not see himself as extraordinary. Instead, he sees his success as demonstrating the potential for anyone given an opportunity. "I hope I have been able to help change people's minds about the formerly incarcerated." He added, "The criminal justice reform movement is picking up. We need to come out of the shadows and show we can make a difference."

## JUAN GOMEZ

**Director of Programs and Innovation  
MILPA (Motivating Individual Leadership  
for Public Advancement)**

**Former Health Equity Fellow  
The California Endowment**

Juan Gomez identifies as a raza/indigenous surfer, community advocate, and movement supporter. Yet like many teenagers, he found trouble. After spending seven years in a detention facility operated by the infamous California Youth Authority, it was his duty to “transform into an unapologetic expert voice” for juvenile justice reform, he says. “I understood the importance of having community leadership at the table, not just on the menu.”

He worked on innovative policy issues such as restorative justice and other alternatives to detention. His expertise attracted policymakers, philanthropists, and system leaders locally and nationally. The lessons from reading while incarcerated—including African history, Asian strategy classics, European thinkers, and Native philosophy—were his tools for mentoring youth and keeping them on the right path. At the same time, he aggressively pushed policy and systems change to make that path more open and fairer.

While he was thriving, fate had other plans. He took the rap for possession of contraband in order to shield youth who were involved. He spent less than a year incarcerated, but faced long-term consequences after his release. “For six months I could not get a

job. There was a huge stigma,” he said. “Living and working in the ‘hood without any social and emotional support, without much guidance or someone to help with my internal dialogue ‘spirit’ and professional life was hard.”

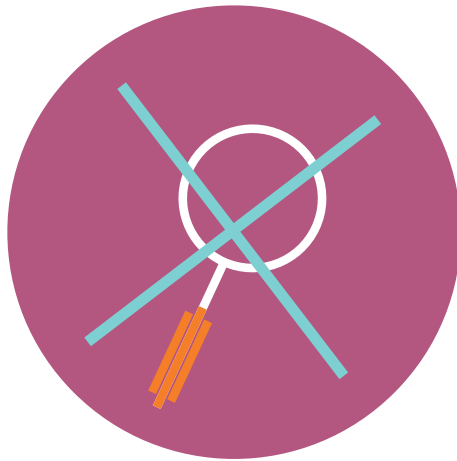
Finally, Barrios Unidos in Santa Cruz took a chance and hired him. He developed the connection between civil rights, base-building, and spirituality, and found renewed purpose. But his biggest break came from The California Endowment. He was initially invited to apply for a program manager position but, despite his record, was instead selected as the foundation’s inaugural Health Equity Fellow—a role that would provide unique opportunities for his development. He worked on statewide and national initiatives for boys and men of color focused on racial healing, racial equity, and rites of passage for developing healthy masculinity. He was also a trouble-shooter, working directly with young men supported by the foundation’s Sons and Brother’s initiative. When they experienced challenges, he was called in to help by conducting nightly fireside discussion circles.



Juan Gomez

Although the fellowship was not permanent, the opportunity was a game-changer. “I was exposed to a network, of movers and shakers I would not have met otherwise,” Mr. Gomez shared. “I learned about grant-writing, grant-making but more importantly change-making. Since then I’ve been able to help a number of organizations build their capacity and resources.” After successfully completing his fellowship, he co-founded Motivating Individual Leadership for Public Advancement (MILPA)—an organization in East Salinas, California comprised primarily of formerly incarcerated leaders focused on building next-generation infrastructure, leadership, and analytics for organizations involved in movement building. Mr. Gomez has parlayed his experience in philanthropy to become a leader in the non-profit sector, bringing issues facing Latino men and boys to the national forefront. With smarts, drive, and an entrepreneurial spirit, he is committed to using these platforms to disrupt the status quo. “Now, our folks are not just getting fellowships, they are creating fellowships.”





## STEP 4: ELIMINATE OR DELAY INQUIRIES INTO CONVICTION HISTORY.

The central component of most fair-chance hiring policies is the elimination of inquiries into conviction history on job applications or the delay of such inquiries until later in the hiring process. Many of the best-intentioned employers find themselves unaware of such questions, which are often hidden in plain sight in employment applications. This is also a common blind spot for foundations. Even some of the foundations that joined the **Ban the Box Philanthropy Challenge** were initially unaware of the provisions on their own forms.

### 4.1 BAN THE BOX AND DELAY ANY INQUIRIES INTO CONVICTION HISTORY UNTIL A CONDITIONAL OFFER.

**RATIONALE.** Forgoing of delaying questions about a jobseeker's conviction history helps to focus the hiring process on what matters most—finding the best fit for the job in terms of skills, experience, and likelihood of on-the-job success.

Delaying inquiries about prior records is a best practice under the U.S. Equal Employment Opportunity Commission (EEOC) guidance and is legally required of private employers in nine states and in prominent jurisdictions across the country, including Baltimore,

Chicago, the District of Columbia, New York City, Philadelphia, San Francisco, and Seattle. These laws may apply to your foundation if it has any operations, including grantees, in these jurisdictions. Hawaii and a number of cities and counties, including the District of Columbia and New York City, require private employers to wait until the conditional-offer stage prior to a conviction record inquiry.<sup>14</sup> *Appendix A, Private Sector Fair-Chance and Ban the Box Laws*, provides a list of jurisdictions with fair-chance hiring laws applicable to private employers.





“One of the easiest and most cost-efficient ways to help this group find employment is to get rid of the box on job applications that asks about criminal history. We back this initiative wholeheartedly. So, imagine our surprise when we checked our own Robert Wood Johnson Foundation (RWJF) application forms. There it was, right on Page 1: ‘During the last 10 years, have you ever been convicted of, or pled guilty to, a crime other than a minor traffic offense?’ . . . How could it be that even as we funded fair-chance programs . . . our own hiring policy created barriers for the very same population?”

**Risa Lavizzo-Mourey, President and CEO, Robert Wood Johnson Foundation**  
(from op-ed, *Ban the Box for Better Health*)

Delaying a review of conviction history until a conditional offer ensures that the employer has been able to consider a person’s job qualifications to the fullest extent possible, without the stigma of the record affecting the employer’s assessment of the candidate. Transparency in the hiring process is a benefit to both the job candidate and to the employer. Making the inquiry at the beginning of a hiring process can lead employers to conflate concerns about conviction history with questions about a person’s ability to perform the job in question. However, if the inquiry is delayed until the conditional-offer stage, the candidate can be assured that up until that point, his or her merits, accomplishments, and skill set were considered fairly.<sup>15</sup>

**HOW TO IMPLEMENT.** As a basic but important step, eliminate any questions about arrest or conviction history from the foundation’s employment application. Instruct all employees involved in the hiring process to refrain from asking any questions about convictions, especially in screening or in-person interviews. Ensure that any inquiry regarding convictions (if it is even necessary, which it may not be) takes place in a disciplined and structured manner and only at the conditional-offer stage.<sup>16</sup> Appendix C, *Model Fair-Chance Personnel Policy*, provides an example policy that governs this process.

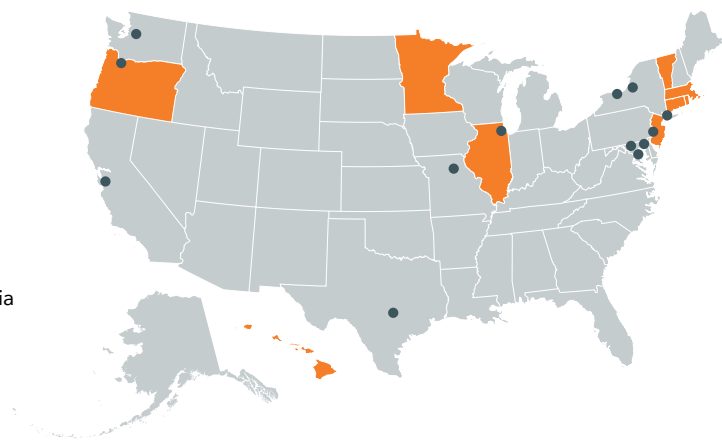
#### PLACES WHERE PRIVATE EMPLOYERS ARE REQUIRED TO BAN THE BOX

##### PRIVATE EMPLOYER STATE LAWS

Connecticut, Hawaii, Illinois, Massachusetts, Minnesota, New Jersey, Oregon, Rhode Island, Vermont

##### PRIVATE EMPLOYER LOCAL LAWS

Austin, TX	Baltimore, MD
Buffalo, NY	Chicago, IL
Columbia, MO	District of Columbia
Montgomery Cnty., MD	New York, NY
Philadelphia, PA	Portland, OR
Prince George’s Cnty., MD	Rochester, NY
San Francisco, CA	Seattle, WA



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## 4.2 ELIMINATE SELF-DISCLOSURE “TRUTH TEST.”

**RATIONALE.** Indirect questions designed to ascertain conviction history can have a negative effect.

Some employers, even those who may not conduct background checks, will include questions that ask applicants to “self-report” about conviction history. The rationale for requiring self-disclosed information may be based on a belief that applicants should be forthcoming about their past as an indicator of taking responsibility. However, an applicant’s hesitation to self-disclose her traumatic past in a job interview is not a reliable measure. And discrepancies between self-disclosed information and background check reports are not a gauge of truthfulness. Processing in the justice system is often confusing; applicants may not accurately recall the disposition reflected in their records, and background reports vary in content and accuracy.

Also, if a background check will be conducted anyway, there is no benefit to this additional step that trips up well-intentioned job applicants. This trap is inconsistent with the culture change needed to end the

practice of judging applicants by their past records. Voluntary or self-reported disclosure undermines the fundamental premise of the policy—an applicant should be evaluated on job qualifications and ability to perform the duties, rather than being evaluated by the specter of an unchangeable past. Combined with other unnecessary roadblocks to employment, the self-disclosure test illustrates the underlying need for foundations to shift away from those practices that have historically contributed to bias against hiring people with records.

**HOW TO IMPLEMENT.** The “truth test” example demonstrates that a careful, detailed review of all forms is advisable. Pay special attention to any legacy forms, some of which may have been in place for many years, or templates adapted from third party software or services. As discussed below in *Step 6.2*, if an employer is seeking information about an individual’s past to understand her level of rehabilitation, then there is a place for that discussion in the screening process.

## 4.3 RESTRICT USE OF SOCIAL MEDIA TO SCREEN CANDIDATES.

**RATIONALE.** Social media can provide a valuable resource to help publicize and recruit for job openings, but it should not be used improperly.

Using social media to screen applicants can undermine the foundation’s concerted efforts to hire qualified candidates with records. Inappropriate use of social media can also raise privacy and other legal issues that could create liability concerns.

**HOW TO IMPLEMENT.** Foundation staff should refrain from using social media, such as Facebook, to screen candidates. To the extent social media is used as part of the hiring process, the foundation should limit its inquiry to an applicant’s public profile developed for professional activities, such as a LinkedIn profile. *Appendix C, Model Fair-Chance Personnel Policy*, provides an example policy on social media.



## EXPOSING THE MYTH: “BAN THE BOX DOES MORE HARM THAN GOOD”

**MYTH:** Recent studies prove that ban the box policies cause “**more harm than good**” and should be abandoned because these policies exacerbate racial discrimination in hiring for young men of color who do not have a conviction record.

**FACT:** These studies do not show that ban the box policies are costing Black applicants job opportunities. Instead, they spotlight the problem of entrenched racism in the hiring process, which often manifests as racial profiling of Black people as “criminals”.

When closely examined by a former **White House economist**, the studies were found to be “not nearly as convincing as [the authors of the papers] think they are.” In fact, research shows that ban the box policies significantly benefit people of color, as well as people with records. Thus, ban the box is working, both by increasing employment opportunities for people with records and by changing employer attitudes toward hiring people with records—a disproportionate number of whom are people of color.

As a way forward, we must work to expand opportunity for people with records and remove barriers triggered by all kinds of discrimination in the hiring process. Dismantling successful policy remedies is not the answer. The nation cannot afford to turn back the clock on a decade of reform that has created significant job opportunities for people with records. Instead of being abandoned, ban the box should be a launchpad for even more robust changes in hiring practices.

These studies require **exacting scrutiny** to ensure that they are not irresponsibly seized upon at a critical time when the nation is being challenged to confront its painful legacy of structural discrimination and the criminalization of people of color.



Panelist at FICPFM National Convening (September 2016)

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## STEP 5:

# LIMIT THE USE AND SCOPE OF BACKGROUND CHECKS.

### 5.1 BEFORE CONDUCTING A BACKGROUND CHECK, QUESTION WHETHER IT IS NECESSARY.

**RATIONALE.** Background checks are not typically mandated by law except in limited circumstances and they may be unnecessary for the particular position in question. Some employers use background checks because the position involves unsupervised access to vulnerable populations or the handling of certain types of unusually sensitive information. However, this circumstance does not apply to the vast majority of foundation roles.

Moreover, research does not show that the existence of conviction history is predictive of poor job performance. In other words, simply because an applicant has a record does not mean she or he will be an employee with negative work behavior. Yet, using a conviction record as a screening tool introduces highly stigmatizing information into the hiring process. Consider that focusing on objective job qualifications and essential duties, rather than using a biased hiring screen, is the best means to create an inclusive workplace. If the background check is not legally required, it may be cost-saving to forego as well.



**HOW TO IMPLEMENT.** Evaluate the necessity of a background check and consider the rationale for the screening by answering the following questions:

- Is a background check legally mandated for the specific job at issue?
- Considering the essential job qualifications, would a background check provide the information to assess whether the individual possesses the knowledge and skills necessary to perform the job duties?

If the answers to these questions is “no,” a background check may not be necessary.

Prior convictions may have no bearing on the job of certain program officers or directors, or even program assistants and administrative support staff. However, even if a background check is legally mandated (e.g., for an operating foundation that places staff in the child welfare system), foundations can still adopt the majority of the practices outlined here. Work with internal and outside legal counsel as needed to dispel myths about potential legal liability. Also keep in mind the financial motivation of companies in the background check industry; resist their attempts to persuade the foundation to conduct background checks needlessly.



Youth leadership panel at FICPFM National Convening (September 2016)

## EXPOSING THE MYTH: “ALL EMPLOYEES WITH RECORDS ARE A LIABILITY CONCERN”

**MYTH:** Our foundation will be exposed to negligent hiring liability if we hire someone with a record.

**FACT:** Despite the common perception, which is often fomented by the marketing of commercial background check companies, negligent hiring liability is not a substantial risk to employers that hire people with records. As one article co-authored by a federal magistrate judge concluded, “[n]o research has shown that workplace violence is generally attributed to employee[s with records] or that hiring [people with records] is causally linked to increased workplace violence.” By applying the EEOC guidance on the use of arrest and conviction history information, most employers will be exercising the necessary due diligence to reduce liability risk, while also protecting themselves from exposure for civil rights violations.

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## 5.2 EVEN IF A BACKGROUND CHECK IS DEEMED NECESSARY, LIMIT THE SCOPE OF INQUIRY.

**RATIONALE.** Because any record is deeply stigmatizing, developing a carefully tailored, limited inquiry is key to mitigating the danger of bias in the hiring process. Once an employer sees information about prior convictions, even if minor ones, the information poisons the process. Stay ahead of this potential problem by narrowly tailoring the searches.

Limiting the scope of inquiry includes restricting both the **types** of conviction records included in the search, as well as limiting the **length** of the look-back at a conviction history to a specified time period. The scope and time period limitations can work in concert. Some state and local laws already limit certain records. Categories of off-limits information may include arrests not leading to conviction; convictions for minor offenses; juvenile court adjudications; dismissed, expunged, or sealed convictions; or older records. For example, in Philadelphia and San Francisco the law prohibits the consideration of misdemeanor or felony convictions more than seven years old.<sup>17</sup>

By reducing the scope of inquiry, most people with records should pass the screening.

**HOW TO IMPLEMENT.** As a best practice, and consistent with the EEOC guidance, foundations should limit the scope of background screening by (1) identifying the specific position for which a background check is deemed necessary and (2) developing a select group of job-related convictions for those positions that warrant an “individualized assessment.”<sup>18</sup>

Instead of an overly broad inquiry that may surface irrelevant, stigmatizing information, the hiring managers should develop a narrowly tailored list of potentially disqualifying, job-related offenses that trigger additional scrutiny. Only these job-related offenses would be subject to review; other information would be off-limits for consideration. An applicant

without any job-related offenses would be cleared through the screening process at this stage.

Step 5.3 and Appendix C, *Model Fair-Chance Personnel Policy*, provide a more detailed description of how to conduct a job-related analysis. Sample language of off-limits conviction history information is included in Appendix C as well.

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“The California Wellness Foundation performs limited background checks for only a few positions—for example, high-level financial positions that are authorized to transfer investment funds. When we review the reports, we’re looking for convictions that are related to the responsibilities of the role, such as theft or misappropriation of funds placed in one’s trust. This approach has worked well for us.”

Gail Watts, *Director of Human Resources,*  
*California Wellness Foundation*

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Unlimited look-back periods for conviction history screening are disfavored under the EEOC guidance as they hinder consideration of the passage of time, efforts at rehabilitation, and other factors. To determine the length of the look-back period, some corporate employers have referred to the standard in California of **seven years**. However, California’s law does not prevent employers from utilizing a shorter period. Indeed, to maximize the policy impact, advocates have recommended a period limited to three years, which is the number of years researchers often use to assess the rate of recidivism. In addition, research has indicated that after three years of no contact with the justice system, individuals in some age groups that have committed certain



offenses are no more likely to re-offend than the general population.<sup>19</sup> To that end, this Toolkit recommends a three year look-back period as a default. See *Appendix C, Model Fair-Chance Personnel Policy*.

In any case, foundations that use the services of commercial background check companies should be highly directive, insisting upon customized searches. Ideally these searches would limit the scope and look-back periods

for each individual position. Do not accept the pre-packaged terms offered by these companies as they may be overly inclusive, leading to irrelevant information that can cause bias in the hiring process. Prior to engaging a background check company, evaluate its efforts at legal compliance, standards of accuracy, and the occurrence of “false positives.”

### 5.3 IF ASSESSING A RELEVANT CONVICTION, THEN CONSIDER THE NATURE OF THE JOB, THE RELATIONSHIP TO THE OFFENSE, AND THE TIME PASSED SINCE THE OFFENSE.

**RATIONALE.** By adhering to the process outlined in the EEOC guidance, employers will be on the pathway to compliance with federal civil rights law and several of the state and local fair-chance laws.

As described in *Step 5.2*, limiting the scope of inquiry to only job-related convictions is consistent with the EEOC guidance. If the employer develops a narrowly tailored list of relevant convictions, then the background check report will include only a short list of offense types. If one of those offenses is revealed in the report, the employer should assess job-relatedness and individual factors in relation to the individual candidate as described below in *Step 6.2*.

**HOW TO IMPLEMENT.** The **2012 Equal Employment Opportunity Commission (EEOC) guidance** on the consideration of arrests and convictions in employment decisions directs employers to consider the following factors in determining if an offense is job-related:

- The nature and gravity of the offense;
- The time that has passed since the offense or the completion of the sentence;
- The nature of the job held or sought.

Commonly referred to as a job-relatedness analysis, **San Francisco Fair Chance Ordinance’s** further elucidation of these factors requires the employer to consider

whether the offense “has a direct and specific negative bearing on that person’s ability to perform the duties or responsibilities necessarily related to the employment position” and whether the “position offers the opportunity for the same or a similar offense to occur and whether circumstances leading to [the offense] will recur.” New York’s law (Penal Code, Article 23-A), which protects against discrimination of people with records, requires a “direct relationship” between the offense and the individual’s ability to perform the duties of the job. *Appendix C, Model Fair-Chance Personnel Policy*, provides a detailed description of the job-related analysis.

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“We have a common sense approach to hiring. For a professional who’s never had the opportunity to work with a person with a record, I can understand that they may not know where to start. However, it’s quite simple once you break it down: understand what the record means relative to the job duties, consider the totality of the person and the position and evaluate whether this person fits into the culture.”

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Jolisa Jones-Corey, *Director of Human Resources and Administration, California Community Foundation*

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## STEP 6: PROVIDE NOTICE AND OPPORTUNITY TO RESPOND TO BACKGROUND-CHECK RESULTS.

Employers who obtain background check reports often rely upon the services of private companies, which are regulated by the **Fair Credit Reporting Act** (FCRA). A federal consumer protection law, the FCRA requires employers to obtain an applicant's authorization prior to acquiring a report from a private background check company. In addition, the FCRA requires that prior to any adverse action, the employer must provide the applicant a copy of the background check report and a summary of rights under the law. Additional requirements have been incorporated in local and state fair-chance laws and policies to strengthen transparency and accountability in the process. *Appendix D, Model Conditional Offer Notice*, contains a model notice to the applicant about the fair-chance policy.

### 6.1 IF A JOB APPLICANT HAS A POTENTIALLY DISQUALIFYING RECORD, INFORM THE APPLICANT OF THE RATIONALE FOR THE DETERMINATION OF JOB-RELATEDNESS.

**RATIONALE.** No record—even a job-related offense—should be automatically considered disqualifying unless legally mandated by law.

If a job-related offense is revealed as part of a background check, provide an explanation to the applicant of how the offense is job-related.

Applying this structure to the process not only holds the employer accountable to conducting the analysis, but also permits the applicant to tailor her response to the identified concerns. This type of rigor and transparency in the decision making process guards against the undue influence of biases.





**HOW TO IMPLEMENT.** Before a final hiring decision is made, provide the applicant a copy of the report, identify the specific job-related

item in the background check report, and explain in writing how the offense is job-related. Also, heed the contents of Step 6.2.

## 6.2 PROVIDE THE APPLICANT THE RIGHT AND SUFFICIENT TIME TO RESPOND AND EXPLAIN WHY THE POTENTIAL DISQUALIFICATION SHOULD NOT APPLY.

**RATIONALE.** As signaled in Step 6.1, if a job-related conviction is revealed, the applicant should still have an opportunity to dispute the accuracy of the record and submit mitigating information or evidence of rehabilitation to demonstrate why the disqualification should not apply to his or her individual circumstances.

Background check reports can be rife with errors or inaccuracies. In addition, understanding the circumstances of the offense and the applicant's rehabilitation efforts and accomplishments since the time of conviction also provide a more comprehensive perspective. Taking this step will align the hiring practice with the EEOC guidance's recommendation to provide an individualized assessment of the candidate.

**HOW TO IMPLEMENT.** The EEOC guidance recommends the use of individualized assessments to allow employers to consider more complete information and includes these examples:

- The facts or circumstances of the offense;
- Evidence of work history;
- Rehabilitation efforts, such as education and training, including any educational, vocational, and substance abuse or behavior health interventions completed in prison;
- Employment or character references; and
- Whether the individual is bonded.

Consistent with the EEOC guidance, the Fair Trade Commission (FTC) requires employers to provide a pre-adverse action notice, which allows an applicant "the opportunity to review the report and explain any negative information."<sup>20</sup>

To ensure that the individual has the time to respond, provide a timeline for the applicant and hold the position open until the review is complete. As one example, the **San Francisco Fair Chance Ordinance** requires an employer to provide an applicant seven days to respond, although offering more time would be preferred. Also, ensure that the applicant has information about your policy, the FCRA summary of rights, and any relevant state or local laws. After considering the evidence of mitigation or rehabilitation, if the foundation determines that the conviction record disqualifies the applicant, then the foundation should send a letter notifying the applicant that the offer is being rescinded with an explanation of the determination.

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*"As a community foundation that works with underserved populations, it was natural for us to hire people with records because their experiences actually prepared them for their work here. Their backgrounds help them interact with the community in an authentic way; it's not a stretch for them."*

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**Antonia Hernández, President & CEO,  
California Community Foundation**

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## STEP 7: ESTABLISH CLEAR GOALS, AUDIT OUTCOMES, AND INNOVATE.

To root out discrimination and bias against people with records, foundations should set measurable goals and incorporate a system of monitoring, evaluation, and ongoing assessment of the outcomes of the fair-chance hiring policy to ensure progress.

### 7.1 ESTABLISH CLEAR GOALS, DEVELOP AN INTERNAL ACCOUNTABILITY SYSTEM, AND MEASURE RESULTS.

**RATIONALE.** As the foundation community has recognized in promoting greater diversity, racial equity and inclusion in staff and leadership positions, data collection and transparency are critical components of a successful reform agenda.<sup>21</sup>

This data collection policy will also signal to grantees that the foundation has prioritized the issue and is committed to holding itself accountable, just as it has the same expectation of its grantees.

**HOW TO IMPLEMENT.** In establishing goals, consider dividing them into interim goals, such as policy and process changes that can demonstrably reduce barriers, and long-term goals, such as increases in the hires of people with records. This approach will allow the foundation to assess whether and how its policies and processes are making a difference. Also consider tracking both quantitative and qualitative indicators.



For example, in order to measure whether the foundation is increasing the hiring and promotion of people with records, start by establishing a baseline. Although it is essential to maintain confidentiality of individuals' conviction histories and to minimize the personnel with access to this information, confidential, anonymous surveys may be one source to help foundations understand the baseline of their current employees. Such information should measure not just the number of positions occupied by people with records, but also the breakdown by level of responsibility.

Tracking process-orientated steps can help assess the qualitative elements of developing a fair-chance culture. For example:

- Has the foundation formally adopted a fair-chance hiring policy?
- Has the foundation conducted training for all staff on its fair-chance hiring policy?
- Does the foundation review and include fair-chance language in internal and external communications?
- Has the foundation adopted a new equal opportunity employment statement that references fair-chance hiring?

And some tracking can also focus simultaneously on quantitative and qualitative factors. For example:

- Has there been a reduction in the number of positions for which background checks are used/deemed necessary?
- Has there been a reduction in the use of background checks?
- Has there been a reduction in the number of instances in which an applicant was adversely impacted by the results of a background check?

If individuals are denied job opportunities because of their records, track the disqualifying convictions to assess whether the job-related analysis can be tightened.

In addition, the foundation should measure the impacts realized by its grantees, consultants, and vendors. If the foundation has encouraged or required the adoption of fair-chance hiring practices, it should request information on the number and percentage of people with records on the organization's staff and board, incorporated into the information routinely collected on other demographic groups. *Appendix C, Model Fair-Chance Personnel Policy*, provides an example of data points to collect.

## 7.2 INNOVATE FOR RESULTS.

**RATIONALE.** If the new policy is not impacting the hiring decisions and people with records are not being hired, then the policy should be revisited.

Once a policy is encapsulated in a document or initial steps are taken, the momentum is often lost. Tangible gains can only be made through a dedicated, sustained commitment.

**HOW TO IMPLEMENT.** Explore innovative initiatives such as partnering with community groups that train and develop people with records, making concrete hiring commitments, exploring apprenticeships, or revamping recruitment. In other words, be willing to make the foundation's new fair-chance employment policy a practice that can be continually improved.

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## PROTECTING CONFIDENTIALITY WHILE PROMOTING CULTURE CHANGE

Confidentiality of information related to an individual's record is critically important both to the integrity of the screening process and to jobseekers with records.

Thus, access to an individual applicant's arrest and conviction records should be centralized among the HR staff and not shared more broadly. This will create a firewall between the foundation's background check functions and other information shared as part of the hiring process. Any aggregate computation of data by centralized HR staff for reporting purposes must also protect employee confidentiality. Foundations with large staffs may consider utilizing anonymous surveys.

At the same time, those individuals with a record who are hired by the foundation should have the choice to disclose their record after being hired in furtherance of the foundation's efforts to promote employment opportunities for people with records.

HR staff should be extremely sensitive to the needs of the individual, while also creating a safe space to explore the employee's preferences. Even with a strict confidentiality policy, a person's background may become known through online searches by coworkers. To avoid uneducated fears from guiding behavior, preempt any negative dynamics by firmly establishing a fair-chance culture.



Panelists at FICPFM National Convening (September 2016)





Top: Leonard Nosiette, Director, Justice Fund, Open Society Foundations  
Bottom: Participants at FICPFM National Convening (September 2016)

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## CONCLUSION

Our aspirations for this Toolkit are simultaneously bold and modest. We believe the Toolkit and the corresponding Ban the Box Philanthropy Challenge can help establish fair-chance hiring as a new standard throughout the philanthropic sector. By making the steps clear and the entry points accessible, many more foundations can join in this effort.

At the same time, we understand that the cumulative impact of centuries of structural racism and systemic oppression cannot be remedied with one policy or challenge. Evidence of the broader problem exists in the long-standing efforts to promote diversity and inclusion in foundation hiring, retention, and promotion. The latest reports on diversity efforts within the philanthropic sector suggest we have come a long way, but still have much work to do as an industry. And additional evidence exists in the compelling research that illustrates both the possibility of hiring people with records in the private sector, as well as the depths of continuing discrimination against these returning citizens.

As you consider taking steps to establish or enhance fair-chance hiring within your foundation, we urge you to contextualize this effort. Ask yourself what it will take to build and sustain a fair-chance culture shift within your foundation, not just now, but for many years to come. We look forward to partnering with you on this journey.



*Advocates march across the iconic Edmund Pettus Bridge in Selma, Alabama*



## ENDNOTES

- 1 Anastasia Christman and Michelle Natividad Rodriguez, "Research Supports Fair-Chance Policies," NELP (April 2015) ([www.nelp.org/publication/research-supports-fair-chance-policies](http://www.nelp.org/publication/research-supports-fair-chance-policies)).
- 2 See Dr. Manning Marable, "Race-Ing Justice, Disenfranchising Lives: African Americans, Criminal Jus-tice And the New Racial Domain" Fayetteville State University Lecture (Nov. 14, 2006).
- 3 See Michelle Natividad Rodriguez and Beth Avery, "Unlicensed and Untapped: Removing Barriers to State Occupational Licenses for People with Records," NELP (April 2016) at page 8.
- 4 Elizabeth Swavola, Kristine Riley and Ram Subramanian, "Overlooked: Women and Jails in an Era of Reform," Vera Institute of Justice (Aug. 2016) (<http://www.safetyandjusticechallenge.org/wp-content/uploads/2016/08/overlooked-women-in-jails-report-web.pdf>).
- 5 Devah Pager, Bruce Western, and Bart Bonikowski, "Discrimination in a Low-Wage Labor Market: A Field Experiment" *Am. Sociol. Rev.* 74(5): 777-799 (Oct. 2009) (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2915472>).
- 6 Devah Pager, *The Mark of a Criminal Record* 108 *Am. J. Soc.* 937, 960 (2003) ([http://scholar.harvard.edu/files/pager/files/pager\\_ajs.pdf](http://scholar.harvard.edu/files/pager/files/pager_ajs.pdf)).
- 7 U.S. Equal Employment Opportunity Commission, "Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964" (2012) ([https://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](https://www.eeoc.gov/laws/guidance/arrest_conviction.cfm)).
- 8 Numbers were accurate as of October 2016. See NELP, "Ban the Box: U.S. Cities, Counties, and States Adopt Fair Hiring Policies to Reduce Barriers to Employment of People with Conviction Records" (Oct. 2016) (<http://www.nelp.org/publication/ban-the-box-fair-chance-hiring-state-and-local-guide>).
- 9 Factsheet: White House Launches Fair Chance Business Pledge (April 11, 2016) ([www.whitehouse.gov/the-press-office/2016/04/11/fact-sheet-white-house-launches-fair-chance-business-pledge](http://www.whitehouse.gov/the-press-office/2016/04/11/fact-sheet-white-house-launches-fair-chance-business-pledge)); Factsheet: White House Announces New Commitments to the Fair Chance Business Pledge (Aug. 16, 2016) (<https://www.whitehouse.gov/the-press-office/2016/08/16/fact-sheet-white-house-announces-new-commitments-fair-chance-business>).
- 10 D5 Coalition, "State of the Work: Stories from the Movement to Advance Diversity, Equity, and In-clusion" (2015) (<http://www.d5coalition.org/wp-content/uploads/2016/04/D5-SOTW-2016-Final-web-pages.pdf>).
- 11 Karol Mason, Guest Post: Justice Dept. agency to alter its terminology for released convicts, to ease reentry, *Wash. Post* (May 4, 2016) (<https://www.washingtonpost.com/news/true-crime/wp/2016/05/04/guest-post-justice-dept-to-alter-its-terminology-for-released-convicts-to-ease-reentry/>).
- 12 Eddie Ellis, President of the Center for NuLeadership on Urban Solutions, drafted the seminal piece on the use of humanizing language for formerly incarcerated people, entitled "Words Matter: Another Look at the Question of Language."
- 13 Rick Cohen, "27 Foundation Executives Call for President Obama to 'Ban the Box,'" *Nonprofit Quarterly*, (Aug. 14, 2015) (<https://nonprofitquarterly.org/2015/08/14/27-foundation-executives-call-for-president-obama-to-ban-the-box>).
- 14 See Michelle Natividad Rodriguez and Nayantara Mehta, "Fair-Chance Hiring Best Practice: Delaying Inquiries Until Conditional Offer" (Sept. 2015) ([www.nelp.org/publication/fair-chance-hiring-best-practice-delaying-inquiries-until-conditional-offer](http://www.nelp.org/publication/fair-chance-hiring-best-practice-delaying-inquiries-until-conditional-offer)).
- 15 *Id.*
- 16 Inquiries into conviction histories may take multiple forms. Here we refer not to formal background checks by private providers, but rather informal inquiries made by employers such as human resources professionals or other staff. Just as background checks may be unnecessary, so too may these informal inquiries be unnecessary as well.
- 17 See NELP ([www.nelp.org/publication/ban-the-box-fair-chance-hiring-state-and-local-guide](http://www.nelp.org/publication/ban-the-box-fair-chance-hiring-state-and-local-guide)).
- 18 See EEOC guidance ([www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm)) ("Individualized assessment generally means that an employer informs the individual that he may be excluded because of past criminal conduct; provides an opportunity to the individual to demonstrate that the exclusion does not properly apply to him; and considers whether the individual's additional information shows that the policy as applied is not job related and consistent with business necessity.")
- 19 Alfred Blumstein and Kiminori Nakamura, "'Redemption' in an Era of Widespread Criminal Background Checks" *NIJ Journal: Issue No. 263*, pages 10-17 (2009) ([www.ncjrs.gov/pdffiles1/nij/226872.pdf](http://www.ncjrs.gov/pdffiles1/nij/226872.pdf)).
- 20 "Background Checks: What Employers Need to Know," Joint Publication of EEOC and Fair Trade Commission (2014) ([www.eeoc.gov/eeoc/publications/upload/eeoc\\_ftc\\_background\\_checks\\_employers.pdf](http://www.eeoc.gov/eeoc/publications/upload/eeoc_ftc_background_checks_employers.pdf)).
- 21 D5 Coalition, "State of the Work," at page 8.

## APPENDIX A

# PRIVATE SECTOR FAIR-CHANCE AND BAN THE BOX LAWS

The following jurisdictions require private employers to adopt various fair-chance hiring practices.

Location	Ban the Box	Background checks only for some positions	Background check only after conditional offer	EEOC-type criteria	Appeal or complaint (A); Copy of record (C); Look-back limit (L); Notice of denial (N)
<b>STATES</b>					
Connecticut	●				A
Hawaii	●		●	●	A, L
Illinois	●				A
Massachusetts	●				A, C, L, N
Minnesota	●			●	A
New Jersey	●				A
Oregon	●				A
Rhode Island	●				A
Vermont	●				A
<b>LOCAL</b>					
Austin, TX	●	●	●	●	A, N
Baltimore, MD	●	●	●	●	A
Buffalo, NY	●			●	A
Chicago, IL	●			●	A
Columbia, MO	●		●	●	A
District of Columbia	●		●	●	A
Montgomery County, MD	●				A, C, N
New York, NY	●		●	●	A, C, N
Philadelphia, PA	●		●	●	A, C, N
Portland, OR	●		●	●	A, N
Prince George's County, MD	●			●	A, C, N
Rochester, NY	●			●	A
San Francisco, CA	●			●	A, C, N
Seattle, WA	●			●	A, C, N



## APPENDIX B

# FACTSHEET: BECOMING A FAIR-CHANCE FOUNDATION

**How to use:** The following two pages comprise a factsheet that makes the case for adopting a fair-chance employment policy. Use this factsheet to begin a conversation with stakeholders in your foundation.

## BECOMING A FAIR-CHANCE FOUNDATION

Mass incarceration and overcriminalization have left **70 million** people in the United States—nearly one in three adults—with arrest or conviction records. People with records are subject to discrimination in nearly every facet of life. In the employment arena, a record reduces the likelihood of a job callback for an applicant by at least **50 percent**. Racial bias compounds the negative impact, especially for Black applicants.

One prominent solution founded on anti-discrimination principles is the ban the box movement. In the workplace, the movement aims to prevent stereotypes from encroaching on employment decisions by focusing on an applicant's qualifications instead of past mistakes. Fair-chance employment policies lift up ban the box as a first critical step and incorporate guidance from the **U.S. Equal Employment Opportunity Commission**.

All employers, including foundations, can play a role. In February 2016, the Executives' Alliance for Boys and Men of Color launched the **Ban-the-Box Philanthropy Challenge**. To realize the Challenge's promise and potential, it has created a practical guide, the Fair Chance Hiring Toolkit.

The Fair-Chance Hiring Toolkit outlines how foundations can:

- 1 Create a fair-chance culture in your foundation and beyond** by cultivating buy-in from staff, board, and trustees; engaging people with records early in the process; mobilizing all stakeholders within the foundation; and being an outspoken, public supporter of fair-chance hiring.
- 2 Develop skills-based job announcements** that do not automatically disqualify people with records, but instead focus on the skills needed to perform the job and signal openness to hiring people with arrest and conviction histories.
- 3 Recruit and hire at all levels of responsibility and leadership**, recognizing that people with records span multiple fields of knowledge and expertise.
- 4 Eliminate or delay inquiries into conviction history** by banning the box on employment applications, not inquiring (if at all) until the conditional offer stage of the hiring process.
- 5 Limit the use and scope of background checks** to only those job positions where they are legally mandated, narrow the scope of the inquiry, and consider the age of the offense and its job relevance.
- 6 Provide notice and an opportunity to respond to background-check results**; if there is a potentially disqualifying offense, identify its relationship to the job and provide an adequate opportunity to submit evidence of rehabilitation before a final decision.
- 7 Establish clear goals**, audit outcomes, and continually innovate for success.

By embracing the Ban the Box Philanthropy Challenge and taking the steps outlined in the Toolkit, foundation leaders will set the course for the foundation employer community to move past symbolic gestures and instead develop strategies designed to achieve impact. For more information and to learn about the Ban the Box Philanthropy Challenge, visit <http://www.bantheboxphilanthropy.org>.

# FREQUENTLY ASKED QUESTIONS

## Q. Who supports fair-chance employment policies?

**A.** Fair-chance policies are supported by policymakers and groups across the political spectrum. The U.S. Equal Employment Opportunity Commission also endorsed the policy and President Obama directed federal agencies to formally adopt ban the box.

## Q. Who has adopted fair-chance employment policies?

**A.** As of October 2016, there were over 150 cities and counties and 24 states that embraced ban the box policies or fair-chance laws; many of them apply to private sector employers such as foundations. A growing number of corporations have adopted the policy, including Starbucks, Facebook, and others. At last count, 185 employers had participated in the White House's Fair Chance Business Pledge, which highlights some of the leaders in the private sector.

## Q. Why should foundations be leaders on fair-chance employment?

**A.** It is imperative that foundations, especially their presidents, CEOs, and human resources directors leverage their individual and collective leadership on this important issue. Foundations have the power to extend fair-chance mandates to their grantees, consultants, and vendors, creating a positive ripple effect in the private sector. Without vocal, courageous leaders willing to publicly stand by their decisions to create an inclusive staff, people with records will continue to face social exile and limited opportunities.

## Q. How will foundations benefit from adopting a fair-chance employment policy?

**A.** Foundations will benefit by:

- Expanding the pool of applicants to include more qualified people who are skilled, dedicated, and have a desire to add value to their communities;
- Aligning foundations' business practices with their missions and core values;
- Understanding requirements for compliance with federal civil rights and consumer protection laws that regulate background checks for employment;
- Adopting an across-the-board approach to ensure compliance in any state or local jurisdiction, including those with fair-chance and ban the box laws that apply to the private sector;
- Advancing a vision of diversity, equity, and inclusion that ensures foundations reflect their local communities and integrate the expertise of people with records into decision-making;
- Establishing themselves as leaders on advancing job opportunities for people with records, and setting an example for their grantees;
- Shifting the public narrative about people with records away from the stereotype of the "dangerous criminal" and towards the value of "human dignity" for all; and
- Going beyond compliance by supporting the reentry population with successful reintegration into their communities, thereby reducing recidivism and strengthening families.

## APPENDIX C

# MODEL FAIR-CHANCE PERSONNEL POLICY

### OVERVIEW

**How to use:** For an HR department with minimal documentation of its hiring process, this Overview could serve as a simplified personnel policy in its entirety. For a more detailed model policy, see Sections 1-7 below.

The foundation will create a fair-chance culture as well as hiring practices that promote and support the employment of people with records, while leveraging its leadership position to influence the hiring practices of the foundation's consultants, vendors, and grantees.

The foundation will not conduct background checks on applicants or employees (hereinafter "applicants") unless it is required by law or the foundation has made a good faith determination that the relevant job position is of such sensitivity that a background check is warranted. The foundation will limit the scope of any conviction history inquiry to only job-related convictions.

Applicants will be considered for employment opportunities based on the merits, skills, and experience related to the position sought. Applicants will not be denied employment solely because of a prior conviction. If the foundation has determined that a background check is warranted for the position, the background check will be conducted after the foundation has made a conditional offer of employment.

If a background check yields information that is determined to be job-related, the applicant will have an opportunity to review the background check report (including the specific disqualifying offense), the explanation of job-relatedness, and present information regarding inaccurate information, mitigating circumstances, and/or rehabilitation. The foundation will then provide an individualized assessment before a final decision is made.

The foundation will fully comply with federal, state, and local laws regulating background checks for employment, including Title VII of the Civil Rights Act of 1964, the Fair Credit Reporting Act, and all applicable state and local fair-chance laws. The foundation will follow the best practices in the 2012 U.S. Equal Employment Opportunity Commission's (EEOC) Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions to ensure its policies fully comply with federal law.

**How to use:** Sections 1-7 below provide a high degree of specificity to further augment and strengthen the application of the Step-by-Step Fair-Chance Hiring Guide's recommendations. Included are examples, model language, and content that could be integrated into your Fair-Chance Employment Policy.

### (1) JOB ANNOUNCEMENT.

**How to use:** Below are some examples that may be incorporated into job announcements to encourage people with arrest and conviction records to apply for available positions.

- When background checks are not conducted, inform job applicants: "No background check is required nor will an applicant's arrest or conviction record be used to disqualify any applicants for this position."

- When background checks are conducted, inform job applicants: “Only these offenses listed below may be potentially disqualifying for the position: [LIST ONLY POTENTIALLY DISQUALIFYING OFFENSES]. However, these offenses will not automatically disqualify applicants. Any other convictions or arrest record information will not be used to disqualify any applicants for this position.”

The job announcement’s affirmative action statement will also reflect the policy of the foundation to promote employment of people with records by indicating: “The foundation is an equal opportunity/affirmative action employer. All qualified applicants will be considered for employment without discrimination based on [INSERT PROTECTED CATEGORIES], or prior record of arrest or conviction.”

## ***(2) APPLICATION PROCESS AND SCOPE OF INQUIRY.***

**How to use:** The detailed procedures in Sections 2-4 could be adopted into an existing personnel policy, modified, or simplified.

- 1. No inquiries regarding conviction history during the application process.** There will be no written or oral inquiry during the application process into a conviction history. If the applicant seeks to voluntarily disclose any information related to a conviction history, the interviewer will instead direct the applicant to the description of the foundation’s Fair-Chance Employment Policy and delay any conversation until after a conditional offer of employment.
- 2. Notice of Fair-Chance Employment Policy.** For those job positions that require a conviction history inquiry, the foundation will provide the applicant with a written conditional offer, description of the Fair-Chance Employment Policy, follow the federal Fair Credit Reporting Act, 15 U.S. Code Section 1681, et seq., (and any applicable state or local laws), and request authorization to conduct a background check, if so required.
- 3. Limitation to conviction history.** The foundation will not use or access the following conviction or arrest records at any time in relation to a background check for employment:
  - a. Records of arrest not followed by a valid conviction;
  - b. Sealed, dismissed, or expunged convictions;
  - c. Juvenile adjudications;
  - d. Infractions; and
  - e. Convictions older than three years;
- 4. Consider job-related convictions only.** The foundation will limit any background check inquiry to only consider pre-determined, job-related convictions. No other conviction or arrest record information will be considered. No person will be disqualified from employment, solely or in part, because of a prior conviction, unless it is a job-related conviction. A job-related conviction will not automatically disqualify any candidate.

5. **The job-related analysis.** The foundation will consider the following factors and questions to determine whether an offense is job-related:

**Factors:**

- a. The nature and gravity of the offense;
- b. The time that has passed since the offense or the completion of the sentence; and
- c. The nature of the job held or sought.

**Questions to guide analysis:**

- a. Does the offense have a direct and specific negative bearing on the applicant's ability to perform the duties or responsibilities necessarily related to the position?
- b. Does the position offer the opportunity for the same or a similar offense to occur?
- c. Will the circumstances leading to the offense likely recur?

6. **Restrict use of social media to screen candidates.** The foundation will refrain from using social media or internet searches to screen candidates for employment, except with regard to the use of platforms (such as LinkedIn) that display public profiles developed specifically for professional activities. The foundation will inform its employees of this policy.

***(3) PRE-ADVERSE ACTION NOTICE AND BACKGROUND CHECK REPORT.***

If an applicant's conviction history contains job-related information that may be the basis for rejecting an applicant, the foundation shall provide the applicant with the following:

- a. Identification of the job-related conviction item(s) that is (are) the basis for the potential adverse action;
- b. Explanation of the how the offense is job-related;
- c. A copy of the conviction history report, if any;
- d. A request for the applicant to voluntarily provide any mitigation or rehabilitation evidence;
- e. A list of acceptable evidence of mitigation or rehabilitation; and
- f. A description of the individualized assessment as described below.

***(4) OPPORTUNITY TO RESPOND AND EVIDENCE OF REHABILITATION.***

- 1. **Individualized assessment.** A job-related conviction will not disqualify the applicant if he or she can show evidence of mitigation or rehabilitation and demonstrate fitness to perform the duties of the position sought.
- 2. **Timeline.** The applicant will have ten (10) business days, after issuance of the pre-adverse action notice, to respond with any information rebutting the basis for the adverse action. This response includes challenging the accuracy of conviction history information and submitting mitigation or rehabilitation evidence. The foundation will hold the position open

until it makes the final employment decision based on an individualized assessment of the information submitted by the applicant and the factors recommended by the U.S. Equal Employment Opportunity Commission.

- 3. Factors considered.** Examples of individualized assessment factors include, but are not limited to:
- a. The facts or circumstances of the offense;
  - b. Evidence of work history;
  - c. Whether the individual is bonded; and
  - d. Evidence of mitigation or rehabilitation, which includes the following:
    1. Evidence showing that at least one year has elapsed since release from any correctional institution without subsequent conviction of a crime, and evidence showing compliance with terms and conditions of probation or parole; or
    2. Any other evidence of mitigation or rehabilitation or present fitness, including, but not limited to, participation in educational or training programs (including any educational, vocational, and substance abuse or behavioral health interventions), employment or character references, and evidence of community service.

**How to use:** Sections 5-7 are intended to help implement the recommendations from the Step-by-Step Fair-Chance Hiring Guide included in Step 1 and Step 7. These sections may not be essential to a personnel policy, but they provide practical suggestions as to how to implement confidentiality, data collection, and elevate the commitment to training.

#### ***(5) CONFIDENTIALITY OF RECORDS.***

Any information pertaining to an applicant's background check obtained in conjunction with the hiring process will remain confidential, centralized in the Human Resources Department, and will not be used, distributed, or disseminated by the foundation, any of its agencies, or any of the agencies' consultants or vendors, to any other entity, except as required by law.

#### ***(6) DATA COLLECTION AND AUDITING OUTCOMES.***

- 1. Applicant and hiring tracking.** While preserving confidentiality of identity-revealing information, the foundation is committed to increasing the hiring and promotion of individuals with records by auditing its policy. To gauge its progress, the foundation will set goals and assess its hiring and promotion outcomes regularly and consistently.

The Human Resources Department will maintain a record of the number of positions requiring background checks. To ensure success, the Department will maintain records for each position requiring a background check, which will include the following information:

- a. The total number of applicants who were provided a conditional offer and the total number of applicants with a record who were provided a conditional offer;
- b. The total number of applicants with a record who were provided a pre-adverse action notice;

- c. The total number of applicants who provided evidence of mitigation or rehabilitation during the application process;
  - d. The total number of applicants with a record who were provided a final adverse action notice;
  - e. The total number of applicants with a record who were hired, broken down by level of responsibility and leadership within the foundation; and
  - f. Demographic information on all of these data points.
2. **Surveying foundation staff.** The Human Resources Department will periodically conduct an anonymous survey of the foundation staff to determine the number of people with records and their positions in the foundation.
3. **Tracking grantees, consultants, and vendors.** The foundation will develop and implement a protocol for collecting information from grantees, consultants, and vendors on their fair-chance hiring practices, while also requiring the reporting of information on the number of people with records hired broken down by level of responsibility and leadership.

#### ***(7) STAFF AND BOARD TRAINING AND MONITORING.***

The foundation will develop and implement training and monitoring regime for the foundation staff and board to ensure full compliance with the policies and procedures included here.



## APPENDIX D

# MODEL CONDITIONAL OFFER NOTICE

**How to use:** Below is an example of a conditional offer notice to an applicant explaining the foundation's Fair-Chance Employment Policy. The foundation may adapt this to its purposes.

Dear [APPLICANT]:

We are writing to extend a conditional offer of employment for the [INSERT POSITION]. We have determined that the position for which you are being considered requires a background inquiry for conviction records. Please find attached the authorization for the background check and a summary of your rights under the Fair Credit Report Act [and a summary of your rights under the San Francisco Fair Chance Ordinance if appropriate].

The foundation has adopted a Fair-Chance Employment Policy that includes a limitation on the scope of the background inquiry for the [INSERT POSITION]. This letter serves as a notice of the basic components of that policy.

**1. Information that is NOT considered:**

- a. Records of arrest not followed by a valid conviction;
- b. Sealed, dismissed, or expunged convictions;
- c. Juvenile adjudications;
- d. Infractions; or
- e. Convictions older than three years.

**2. Conviction history that is considered.** The scope of the background check inquiry will focus on the following potentially disqualifying offenses, but these offenses will not be automatically disqualifying:

[LIST NARROWLY TAILORED OR LEGALLY MANDATED DISQUALIFYING OFFENSES].

After obtaining your conviction history, we will determine whether any relevant conviction falls into this category of potentially disqualifying offenses. If any conviction record information does not fall into these potentially disqualifying categories, then that information will not be considered for the employment decision.

**3. The job-relatedness of any potentially disqualifying convictions will be analyzed.** We will consider the following factors and questions.

**Factors:**

- a. The nature and gravity of the offense;
- b. The time that has passed since the offense or the completion of the sentence; and
- c. The nature of the job held or sought.

**Questions:**

- a. Does the offense have a direct and specific negative bearing on that person's ability to perform the duties or responsibilities necessarily related to the position?
- b. Does the position offer the opportunity for the same or a similar offense to occur?
- c. Will the circumstances leading to the offense likely recur?

- 4. If any conviction is job-related and potentially disqualifying, you will have the opportunity to respond.** We will inform you of the specific potentially disqualifying offense, provide you with an explanation of why the offense is job-related, and provide you a copy of the background check report. After this notice, you will have ten (10) business days to provide evidence of inaccuracy and any mitigating information or evidence of rehabilitation. Please contact Human Resources to indicate that you intend to submit such evidence or notify Human Resources if an extension is being requested. The following are examples of such evidence:

- a. The facts or circumstances of the offense;
- b. Evidence of work history;
- c. Whether you are bonded; and
- d. Evidence of mitigation or rehabilitation, which include the following:
  - 1. Evidence showing that at least one year has elapsed since release from any correctional institution without subsequent conviction of a crime, and evidence showing compliance with terms and conditions of probation or parole; or
  - 2. Any other evidence of mitigation/rehabilitation or present fitness, including, but not limited to, participation in educational or training programs (including any educational, vocational, and substance abuse or behavioral health interventions), employment or character references, and evidence of community service.

Once we review the evidence you have submitted, we will make an individualized assessment of whether to finalize the conditional offer or to rescind the offer based on the conviction information. We will provide this decision in writing.

- 5. If we rescind the offer, we will provide the rationale and inform you of whether there are other available jobs for which you may qualify.**

If you are not satisfied with the decision, contact the Director of Human Resources.

## APPENDIX E

# MODEL CONTRACTOR COMPLIANCE LANGUAGE

**How to use:** The foundation may have contract language developed for its consultants and vendors to ensure compliance with employment laws and other legal and policy mandates. Below is an example of a policy that was adapted from a major non-profit organization for the foundation to ensure that its consultants and vendors follow fair-chance hiring practice.

You must comply with the foundation's workplace policies, the terms of any contracts that govern the work you participate in, and any restrictions that the foundation imposes on your activities. Without limiting the foregoing, you must comply with the foundation's Non-Discrimination, Anti-Harassment, and Fair-Chance Employment Policies, copies of which are attached to this letter. The foundation is committed to creating a work environment where all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that prohibits discrimination and discriminatory practices, including harassment.

This commitment extends not only to the foundation, but also to other places where foundation-funded activities are conducted. The foundation will not tolerate discrimination or harassment by employees, associates, consultants, vendors, partners, or clients on the basis of race, color, ethnic or national origin, sex, sexual orientation, gender identity or expression, pregnancy, age, disability, marital status, religion, creed, citizenship or alienage status, prior arrest or conviction history, genetic predisposition or carrier status, history as a victim of domestic violence, sex offenses or stalking, history of substance abuse, veteran status, or any other characteristic protected by law. The foundation prohibits and will not tolerate any such discrimination or harassment.

## APPENDIX F

# DIRECTORY OF RESOURCES: ORGANIZATIONS SERVING PEOPLE WITH RECORDS

**How to use:** The organizations and projects listed below support and develop the leadership of directly-impacted people and their families. Most of them are led by people with records. This directory is a draft in progress.

## NATIONAL RESOURCES

### Formerly Incarcerated, Convicted People and Families Movement (FICPFM)

FICPFM is a group of national and state-based organizations from across the country comprised of and led by formerly incarcerated people dedicated to ending mass incarceration and the second class status of people with arrest and conviction histories. FICPFM's member organizations can be found below.

### National Exhodus Council

The National Exhodus Council aims to assist people coming out of the prison system and give them the resources they need to resist recidivism.

### Unprison

Unprison is a blog primarily maintained by Bruce Reilly, deputy director of Voice of the Ex-Offender in New Orleans, LA. It raises issues surrounding the mega-billion dollar Prison Industrial Complex that has mechanized the suffering of too many people. They fight to imprison. We fight to unprison.

## ALABAMA

### The Ordinary Peoples Society (TOPS) (Dothan, AL)

TOPS is a nonprofit, faith-based organization that offers hope, without regard to race, sex, creed, color, or social status, to individuals and their families who suffer the effects of drug addiction, incarceration, homelessness, unemployment, hunger and illness, through comprehensive faith-based programs that provide a continuum of unconditional acceptance and care.

## CALIFORNIA

### A New Way of Life (Los Angeles, CA)

A New Way of Life's Founder and Director, Susan Burton, is herself a formerly incarcerated woman who understands the challenges people face leaving prison. Susan came to understand that real change could only happen through a powerful, grassroots community organizing effort—one that could amass enough political power to bring an end to discriminatory practices, and shift public attitudes in a way that would break the cycle of mass imprisonment.

**All of Us or None (AOUON)***(San Francisco, CA)*

All of Us or None is a grassroots civil and human rights organization fighting for the rights of formerly and currently incarcerated people and our families. We are fighting against the discrimination that people face every day because of arrest or conviction history. The goal of All of Us or None is to strengthen the voices of people most affected by mass incarceration and the growth of the prison-industrial complex. Through our grassroots organizing, we are building a powerful political movement to win full restoration of our human and civil rights.

**California Coalition for Women Prisoners (CCWP)***(San Francisco, CA)*

CCWP is a grassroots social justice organization, with members inside and outside prison, that challenges the institutional violence imposed on women, transgender people, and communities of color by the prison industrial complex (PIC). We see the struggle for racial and gender justice as central to dismantling the PIC and we prioritize the leadership of the people, families, and communities most impacted in building this movement.

**Legal Services for Prisoners with Children (LSPC)***(San Francisco, CA)*

LSPC organizes communities impacted by the criminal justice system and advocates to release incarcerated people, to restore human and civil rights, and to reunify families and communities. We build public awareness of structural racism in policing, the courts, and the prison system and we advance racial and gender justice in all our work. Our strategies include legal support, trainings, advocacy, public education, grassroots mobilization, and developing community partnerships.

**Transgender Gender Variant and Intersex Justice Project***(San Francisco, CA)*

TGI Justice Project is a group of transgender people—inside and outside of prison—creating a united family in the struggle for survival and freedom. We work in collaboration with others to forge a culture of resistance and resilience to strengthen ourselves for the fight against imprisonment, police violence, racism, poverty, and societal pressures. We seek to create a world rooted in self-determination, freedom of expression, and gender justice.

**Underground Scholars Initiative***(Berkeley, CA)*

The Underground Scholars Initiative (USI) was created to support all prospective and current UC Berkeley students impacted by issues of mass incarceration, imprisonment, and detainment of any kind. The goal of USI is to bridge the topic of mass incarceration that is highly popularized in academia with one that is grounded in the lived experiences of UC Berkeley students. USI has the unique opportunity of making UC Berkeley a catalyst for the development of a Prison to School pipeline within the University of California educational system.

**Young Women's Freedom Center***(San Francisco, CA)*

Since 1993, the Young Women's Freedom Center (formerly known as the Center for Young Women's Development) has worked with over 38,000 low-income and system involved young women in San Francisco providing them with leadership opportunities, training, employment, and conducting organizing and advocacy work around issues that directly affect their lives.

**Youth Justice Coalition (YJC)**  
(Los Angeles, CA)

YJC is working to build a youth, family, and formerly and currently incarcerated people's movement to challenge America's addiction to incarceration, and race, gender, and class discrimination in Los Angeles County's, California's and the nation's juvenile and criminal injustice systems.

**ILLINOIS**

**National Alliance for the Empowerment of the Formerly Incarcerated (NAEFI)**  
(Chicago, IL)

The National Alliance for the Empowerment of the Formerly Incarcerated (NAEFI) is a community based organization serving the citizens living in the State of Illinois. The program involves partnering male and female formerly incarcerated participants with a trained Reentry Coach, educators and presenters providing group and one-on-one mentoring, through counseling, life skills workshops, leadership training and peer support.

**LOUISIANA**

**V.O.T.E. NOLA (VOTE)**  
(New Orleans, LA)

VOTE is a grassroots, membership based organization founded and run by Formerly Incarcerated Persons in partnership with allies dedicated to ending the disenfranchisement and discrimination against formerly incarcerated people. Through civic engagement and educating formerly incarcerated people about how to maneuver the legal system, draft and advocate for policy and legislation as well as other job and technical skills, VOTE will mobilize a strong group of leaders that will transform of our city's criminal justice system.

**MASSACHUSETTS**

**National Council for Incarcerated and Formerly Incarcerated Women and Girls**  
(Boston, MA)

The National Council for Incarcerated and Formerly Incarcerated Women and Girls supports the work of incarcerated and formerly incarcerated women and girls who are contributing to changing the criminal justice system by working individually or within organizations. The Council is engaging formerly incarcerated and currently incarcerated women and girls in federal and state prisons, county and state jails, and immigrant detention centers. Members support one another by sharing their knowledge and powerful experiences. By bringing together policy makers, academics, researchers, and the public in dialogue with Council members, the Council strives to ensure that when policies, laws, practices, organizing and services about women and girls who are or were incarcerated are decided upon, their voices and ideas are included.

**MICHIGAN**

**HOPE**  
(Detroit, MI)

HOPE pledges to overcome racism, poverty and injustice, and to build a community where people of all colors, national origins, and economic backgrounds can live in harmony

**MINNESOTA**

**Council on Crime and Justice**  
(Minneapolis, MN)

We seek a criminal justice system that is equitable and just, treats people with compassion and dignity, and allows for second chances, creating a safe and thriving community. We ground our work in direct advocacy, inform it with rigorous research and evaluation, power it with legal expertise, and implement it by bringing the community together.



## **NEW YORK**

### **Bard College Prison Initiative**

*(Annandale-on-Hudson, NY)*

The Bard Prison Initiative (BPI) creates the opportunity for incarcerated men and women to earn a Bard College degree while serving their sentences. The academic standards and workload are rigorous, based on an unusual mix of attention to developmental skills and ambitious college study. The rate of post-release employment among the program's participants is high and recidivism is stunningly low. By challenging incarcerated men and women with a liberal education, BPI works to redefine the relationship between educational opportunity and criminal justice.

### **Center for NuLeadership**

*(New York, NY)*

The Center for NuLeadership on Urban Solutions (CNUS) is an independent think tank founded and developed by formerly incarcerated professionals working to create new paradigms for achieving Human Justice, a concept developed by CNUS in 2012 to transcend the existing, traditional, criminal and social justice paradigms.

### **College and Community Fellowship**

*(New York, NY)*

The College and Community Fellowship is an organization of educators, social justice workers, and policy changers dedicated to helping formerly incarcerated women succeed in college, career, family, and life. The Fellowship offers scholarship programs, professional and college counseling, mentorship and networking opportunities, as well as support services.

### **Just Leadership USA (JLUSA)**

*(New York, NY)*

JLUSA is a national leadership training and advocacy organization dedicated to cutting the US correctional population in half by 2030, while reducing crime. Through their advocacy campaigns and leadership training of formerly incarcerated people, JLUSA empowers the people most affected by incarceration to drive policy reform.

### **Riverside Church Prison Ministry**

*(Harlem, NY)*

The Riverside Church Prison Ministry is an organization of volunteers that conducts advocacy and outreach programs on behalf of people in prison, their families and the community from which most come and to which most return. The volunteers—lay people, community workers, students, family members and people formerly incarcerated—work inside the prisons as well as on the outside worshipping, assisting families and sponsoring prison reform.

### **Women On The Rise**

#### **Telling Her Story (WORTH)**

*(New York, NY)*

WORTH is an association of currently and formerly incarcerated women who have been empowered by our own experiences. Through leadership development, organizing, mentoring, mutual support, and telling our stories, WORTH transforms the lives of women affected by incarceration and changes public perception and policy.

## **NORTH CAROLINA**

### **Southern Coalition for Social Justice** (Durham, NC)

The Southern Coalition for Social Justice is a 501(c)3 nonprofit organization founded in August 2007 in Durham, North Carolina by a multidisciplinary group, predominantly people of color, who believe that families and communities engaged in social justice struggles need a team of lawyers, social scientists, community organizers, and media specialists to support them in their efforts to dismantle structural racism and oppression

## **OHIO**

### **Women's Re-Entry Network (WREN)** (Cleveland, OH)

The mission of Women's Re-Entry Network is to enhance the quality of life for women involved in the criminal justice system, their families, and the community by helping participants to re-enter society in such a way as to enhance self-sufficiency and access to resources, increase positive social supports and family ties, overcome barriers to goal achievement, and reduce the risk of recidivism

## **PENNSYLVANIA**

### **National Council for Urban Peace and Justice (NCUPJ)** (Pittsburgh, PA)

NCUPJ advocates for justice in housing, education, community-police relations, health care, family development, politics, the environment, and the economy. It also provides services for people and communities facing the threat of drug and/or gang-related violence.

### **The Time is Now to Make a Change** (Philadelphia, PA)

The Time Is Now To Make A Change, Inc. is assisting in the effort to get one million voter registrations done while educating folks on their right to vote, and then getting those same one million folks to participate.

### **X-Offenders for Community Empowerment** (Philadelphia, PA)

X-Offenders seeks to empower formerly convicted people to mobilize the community to address issues confronting it and reduce recidivism.

## **RHODE ISLAND**

### **Direct Action for Rights and Equality (DARE)** (Providence, RI)

DARE organizes low-income families in communities of color for social, economic and political justice.

## **TEXAS**

### **League of United Latin American Citizens, Council 4994 (LULAC)** (San Antonio, TX)

LULAC is the largest and oldest Hispanic organization in the United States. LULAC advances the economic condition, educational attainment, political influence, housing, health, and civil rights of Hispanic Americans through community-based programs operating at more than 1,000 LULAC councils nationwide. The organization involves and serves all Hispanic nationality groups.





