



A Fair Chance Alliance Report:

The good news: After a 20 plus year evolution in social constructs fueled by thoughtful activism and education, that justice involved citizens are entitled to a path for success is now well accepted. Accepted as morally right, fiscally right; right as social policy, right as business growth policy.

One way you can confirm that so-called Fair Chance Principles are the cultural norm is that most businesses when questioned now are self-described Fair Chance companies, and claim to agree with or have taken the Fair Chance Business Hiring Pledge.

The bad news: real-world application of these principles is rare.

The core principles of the Fair Chance movement are culturally accomplished but functionally imperceptible, bordering on non-existent.

The data are clear. *There has been no significant change in the under employment, difficulty in employment, under compensation, barriers to housing, recidivism rates or any other metric reflecting the burdens of reintegration of returning citizens.*

Let us make that clear. Again –

**The data are clear - there has been meaningful change in none of these adverse metrics.
None.**

To pretend that Fair Chance Hiring, Housing, or any aspect of the Fair Chance Movement is working is irresponsible. To pretend that merely incremental progress, while important, is sufficient, is irresponsible.

The great news: the data are in, so the reasons for the ineffectiveness of the Fair Chance movement are starkly clear, and thus, **the solutions have become clear.** As clear as that insulin shots help diabetics. As clear as that carbon makes iron steel. As clear as that irrigation makes deserts bloom. And, when you take a look you'll see, it is also clear, the solutions are within our grasp, are as structurally transformative as insulin, carbon and irrigation, and needn't be painful.

Clear.

The Fair Chance Alliance Means Business: Fair Chance For Real Here

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Table of Contents

| | |
|---|-----------|
| Fair Chance Hiring successes are more myth than fact..... | 3 |
| Fair Chance is snatching defeat from the jaws of victory..... | 4 |
| I. THESE are the top 10 reasons or situational certainties for the failure of Fair Chance Hiring to move the needle: | 5 |
| II. THESE are the top 12 changes as to applying procedural improvements (Best Practices and Protocols) and/or correcting mistaken premises, which together will empower Fair Chance Hiring businesses to massively move the needle going forward:..... | 8 |
| III. Beneficial effects of 20 plus years of the Fair Chance Movement has yielded a cultural victory, including as reflected in support from Presidents Bush, Obama, Trump and Biden..... | 11 |
| Fair Chance Alliance Best Practices and Protocols (annotated) | 14 |
| The Strengthened Fair Chance Business Pledge..... | 18 |
| Pledged Fair Chance Alliance Best Practices and Protocols | 19 |

Fair Chance Hiring successes are more myth than fact. Let's change that.

With a clear eyed the-emperor-has-no-clothes-reality check, both the problem and the opportunity will hit you between the eyes. You are a realistic, let's get it done person. You believe, like all successful people do, one has to know from where they are starting to find their way home. So, where is Fair Chance today, really?

Do you really Fair Chance Hire? Or are you a Fair Chance Liar?
Self-identified Fair Chance Hiring businesses, please answer these questions:

1) You keep data, define metrics and perform analytics as to your core business or service of course. Without that, your business would fail.

a) Do you keep data, metrics, and perform analytics as to your Fair Chance Hiring efforts and outcomes? Any at all? If not, how can you possibly be effective in this arena?

b) If you do keep such data, yours is literally one in 1000 companies. Congratulations. Really. If not, you are flying blind, but can we agree, failure here is not an option? Going forward, let's all keep data. For now, please see if you can suss out at least some of this information:

2) How many employees with a criminal record (Justice Involved Individuals, or JII) does your company employ at this moment?

a) like so many, is it 0? If so, that tells the tale doesn't it?

b) if it is a number larger than 0, what is it? Is it where you want it to be?

c) if any more than 0, what is that number as a percentage of your workforce?

d) one third of the prospective workforce has a criminal record. How much short of 33% is the % in c) above?

Fair Chance advocates like you have achieved excellence in business, non-profits, advocacy, civics, politics, the faith community, education, corrections, and other arenas of consequence. Are you going to settle for less here? Are we correct that the statistics from question 2 above are as unacceptable to you as to the rest of us?

Fair Chance Hiring successes are more myth than fact. Let's change that.

Fair Chance is snatching defeat from the jaws of victory.

The Fair Chance movement has been steadily gaining support over nearly a half century, reaching a majority-support tipping point in just the last decade or so. Today Fair Chance principles enjoy super majority-support of 70% - 90% in most every category of business, political groups, and the general public.

The core Fair Chance principle is that, consistent with public safety, every barrier impeding a full re-integration back to society of a returning former offender, or justice involved individual (JII) should be removed. It is right morally, right fiscally, right as social policy, and right as business growth policy.¹ that that individual has the same opportunities that her or his fellow citizens do to a productive, responsible and happy life.

More than any other, access to a fair chance at employment is the metric by which the success of the Fair Chance movement is sensibly judged. If one were to judge that success by its widespread support, then Fair Chance hiring and housing would be accomplished. Only the most reactionary of dinosaurs objects to a fair chance to employment as long as public safety is respected. **Yet, skyrocketing support has not shown up in real world results, which, counterintuitively, are unchanged. We must examine why.**

A major study found that more than 80% of workers and customers would feel comfortable working with or being served by formerly incarcerated co-workers or employees.² Other studies have found similar results, and when questions were framed in the context of Corporate Social Responsibility, over 90% of respondents said they would prefer to work for or do business with employers who supported the Fair Chance principles than those who did not.³

[A] poll from Public Opinion Strategies, [] found more than 80% of respondents supported the Fair Chance Act.⁴ The support was high across the board, with 72% of Republicans, 85% of Independents, and 91% of Democrats saying they support the proposal. By a margin of nearly four-to-one, Americans said they were more likely to re-elect their Member of Congress if they voted for the Fair Chance Act.⁵

But when one analyzes any claim that barriers to Fair Chance Hiring are functionally removed, or even improving, the data are clear that Fair Chance Hiring successes are statistically nonexistent, despite individual stand up and

¹ Source: US Chamber of Commerce

² Source: SHRM

³ Source: Harvard Business School Online Business Insight Blog

⁴ Codifying Fair Chance into law

⁵ Justice Action Network commissioned study

cheer exceptions. Ex-offenders, JII, still have an unemployment rate of over 27%, which is higher than the total US unemployment rate of any period, including the Great Depression.⁶ That is slightly worse over the last 10 years than previously.⁷ Unemployment for the population generally is at 4.2% as of this writing.

What are the reasons for the level of support for Fair Chance Hiring from the public and business communities - 70%, 80%, and 90% - versus the abject lack of results - 0% improvement - in actual justice involved individuals being hiring?

Here are the top 10:

I. THESE are the top 10 reasons or situational certainties for the failure of Fair Chance Hiring to move the needle:⁸

1) Businesses don't connect their Fair Chance aspirations or good intentions to accomplished results - are ex-offenders actually hired? Instead most self-described Fair Chance business pledge companies have been merely using an amorphous generalized definition of their Fair Chance responsibilities - usually just that the company's hiring policy is not to consider a criminal record as a bar to applying, or sometimes not be considered at all until after a job offer is made. This is like pouring a cup of water on a wild fire and saying you're a fire fighter.

2) Ban-the-box or consider-criminal-history-only-after-a-job-offer reforms are insufficient by themselves to conquer the problem of unfair hiring discrimination. They are ideas that seem to be sufficiently powerful only until you think about their real-world application for a minute. That real world application, the data proves, is 0% effective.

3) More, there is not even an approved or standard Fair Chance job application template for this first step, which on its own does not work. Stunningly, almost 50% of Fair Chance Hiring companies have not in fact "banned the box". When FCA contacted HR to get, or stopped by stores or other employers, or reviewed applications on line, for a 40-business deep test, many companies admitted with chagrin they still had the unmodified question, often near the top of the form right after name, address, and contact information, "Have you ever been convicted of a crime". Another large percentage had the question, but with an added disclaimer that a criminal record was not an automatic bar to employment.

⁶ Source: Prison Policy Initiative

⁷ Source: Id.

⁸ As statistically indicated from an amalgam of qualitative and quantitative data from businesses, including owners and executives offering their best guess explanations to their lack of Fair Chance Hiring results.

4) Middle large to large companies universally use AI and hiring algorithms to sort potential hires' applications. Those candidates whose applications don't make the cut never get looked at by a real human being. This never-looked-at group includes literally EVERY returning justice involved individual. A recent Harvard Business School's study's authors identify a number of factors blocking people from employment, but say automated hiring software is one of the biggest. These programs are used by 75 percent of US employers (rising to 99 percent of Fortune 500 companies), and were adopted in response to a rise in digital job applications from the '90s onwards. Technology has made it easier for people to apply for jobs, but also easier for companies to reject them. **One of the most common filters kicks applicants whose job history has longer than a six-month gap, which applies to 100% of formerly incarcerated folks.**

5) And there are many more such filters with similar effects on the Fair Chance Hiring population. While predictive hiring tools like AI and algorithms rarely make final affirmative hiring decisions, functionally they do automate final rejections by removing applicants from the pool. No population is more adversely affected, and most certain to be eliminated from being considered, than justice involved individuals.

6) Suppose that a justice involved individual gets an actual interview. Isn't he or she still subject to an overwhelming probability of failing there? Getting a sense of an applicant in a personal interview is a fundamental part of the process before making a job offer. Basic questions about work continuity there would reveal a gap for the time in prison. What would one expect the candidate to say about the missing, say, 10 years? Lie? Prevaricate, as in the unctuous side step of saying, I worked for the state? Most employers would find that kind of tactic disqualifying when finally revealed. Ban the box or defer judgment fig leaves go up in smoke because in real life that don't-ask-don't-tell convention simply can't work. At most they only push a decision as to a criminal record until later in the process.

7) Gaps in work continuity are of course exacerbated by the justice involved individual's resulting shortfalls in experience, skills, education and training. No interviewer would fail to ask about relevant experience the candidate has for a particular opportunity, what relevant education or training she or he has for it, what skills they bring to the table, what reputational strengths (i.e. prior employer praises) they have, and so on. **The premise that someone with years in prison needs only a "fair chance" to successfully compete for the job is heartbreakingly wrong when only traditional hiring metrics are applied.**

8) If, arguendo, a justice involved candidate makes it through these gauntlets and somehow receives a job offer, what then? The theory is (and the actual law in some places is) after a job offer, the prospective employment offer, considered in light of the criminal record, may be withdrawn. Again, an idea that seems to make sense only until you think about its real-world application for a minute.

9) What is a prospective employer or its HR to do with the burden of judging how to weigh a criminal conviction? By what metric? Does a years old domestic violence or assault conviction mean in this moment the employee shouldn't work with others? Does a theft charge mean the person in this moment is untrustworthy, to be kept away from inventory and cash registers? Does a drug conviction mean the person in this moment can't be trusted to be reliable? What about company liability? Does an extraordinary liability attach for any future bad acts by this person? Do the company's insurance terms limit coverage involving an ex-offender? How are prospective employers expected to know the

answers to these and related questions? To find definitive answers is daunting if not impossible. So the result? The almost inevitable default judgment is, as we know from the data, to choose another candidate.

10) UX, UI hurdles in Fair Chance Hiring makes the burden a heavy lift for the three groups of stakeholders - the public, returning citizens, and businesses. UX is shorthand for user experience - is it good (or not) and UI, user interface, which means ease of systems (or not) by those using them. Modern terms, but as old as civilization itself concepts. Needlessly difficult things are resisted and avoided, so their implementation is limited. Make-it-easy procedures always result in great benefits. Fair Chance is painfully difficult to implement, the lack of results show it, and those lack of results affect “user experience” at every level.

- From the public’s perspective, Fair Chance businesses deserve support. But not if they actually hire no one.
- From a job seeker’s perspective, horror stories. They go to Fair Chance claimed hirers, repeatedly, but no job offers are forthcoming, or they are pigeonholed into entry level only jobs. Or worse, get the job only to be let go when a full background check is run.
- And from businesses’ perspectives, who sincerely support the cause,
 - they don’t know how to, or even that they need to, identify and track returning citizens, including how their applications are handled, and the result,
 - don’t know that their algorithms are kicking JII applications from consideration,
 - don’t know of their own training or experience how to help folks make the transition, and so the occasional blind-pig-finds-the-acorn hire has a sometimes bad result,
 - don’t know of their own experience how to fairly weigh a prior conviction,
 - and dozens more details and considerations impede the process

and so the whole Fair Chance Hiring concept uplifts, but implementation becomes a nightmare for everyone.

The Fair Chance movement is all hat and no cattle because in practical essence it asks prospective Fair Chance hirers each to independently shoulder creating an effective hiring system on their own.

That would be like the automotive industry determining that the public liked the concept of having a car to get around in, then asking each prospective car owner to build his or her car, and then a highway to drive it on.

The Fair Chance Alliance is changing that.

Fair Chance Hiring is not easy nor automatic. It can be both, or, at least moved quantum leaps closer.

The data are clear, so let’s use reality to guide us. Let’s take stock of our assets.

- Vast majorities of the public from all sides of the political spectrum, the business community, corrections professionals, economists, and civic and faith leaders recognize that it is morally, fiscally, and policy perspective wrong not to present a path to successful reintegration to returning justice involved individuals.

- The key is in the words “successful reintegration”. That means a) actual jobs b) for employees that are given tools to be good worthwhile hires, and employers the tools to find them.
- Procedures intended to promote that goal are not yielding results. One doesn’t need to look far to see why, as we did above.
- So, let’s change procedures from those we know don’t work to those that will work.

II. THESE are the top 12 changes as to applying procedural improvements (Best Practices and Protocols) and/or correcting mistaken premises, which together will empower Fair Chance Hiring businesses to massively move the needle going forward:⁹

1) The data are clear, the premise that not looking at the fact of a criminal record during the interview process or until a job offer has been made doesn’t work for the target result, giving folks a fair chance to be employed. In real world hiring scenarios a criminal record is a fact that is impossible to hide. More, for all the reasons listed in I above, re-entry to the job force fairness as to JII require special considerations. **Therefore the predicate premise that hiding from or not considering criminal records needs to be rethought.**

2) Ban the Box eliminates one hurdle. But the “fair” in Fair Chance Hiring recognizes that JIIs often require special considerations. The premise should be, “If you are a former justice involved individual, not only is a criminal record not a barrier to employment here, we are a Fair Chance Alliance hirer, and give special consideration to justice impacted individuals.” That means if Ban the Box is insufficient in itself, which the data says is true a vast majority of the time, then Second Look protocols should be employed.

3) Doing this will have an immediate benefit:

- Applications from the pool of JII will no longer be discarded for employment history gaps, or shortfalls in relevant skill, job history, reputational (job references) or other traditional indicators, either by AI or algorithm or staff.
- Instead, each will get an informed contextual look, and an interview for all sensibly potential jobs.

⁹ As developed from an amalgam of qualitative and quantitative data, system analytics from businesses, industrial engineers, and the Fair Chance and Second Chance community, including owners and executives with a consensus agreement as to changes in best practices and protocols that would skyrocket Fair Chance Hiring results.

4) The standard “a fair chance to compete” is better thought of as “a fair chance to be hired”. The data are clear, if customary hiring criteria is the lens through which a JII is judged, that is not a fair chance to be hired. Without Fair Chance Hiring Best Practices and Protocols the playing field is stacked both against the JII candidates and a potential employer knowing how to offer opportunities to worthwhile JII candidates. These are the tools needed to know which JII candidates are indeed worthwhile, and to make the process uncomplicated, plain sailing. Success here is win-win.

5) Fair Chance Hirers ought to make a determination as to the viability of a candidate based on behavioral science and data. Relying on tropes and stereotypes as to a job offer or not based on a years old criminal act often leads to wrong conclusions. For example, where is there any empirical evidence that a person convicted of an assault 20 years ago is any more likely to commit an assault today than a non-justice involved individual? Where is there any evidence that a person convicted of a theft fifteen years ago is inherently untrustworthy, and today is a greater risk of being dishonest than any other candidate? Where is there a credible study that validates those generalizations and stereotypes as to predicting the behavior of any individual person, or even the JII population as a whole?

6) The one single trope, bromide, generalization, stereotype, concept, call it what you will; call it what it is – the one prejudice – that hurts so many, that hurts all of us, is that a person convicted of a crime has a propensity, a persistent moral defect, a continuing character flaw, that makes it likely that that behavior will re-occur. This premise ought not continue to be a baseline for approaching how to deal with folks with criminal records. The data establishes it is simply untrue in the abstract as applied to the JII population as a whole; basic humanity and moral principles scream that it is wildly untrue in the particular as to any individual person.

7) The fact is that JII make great employees, and (landlords please take note) great tenants. But to prove each fact, and for businesses and landlords to experience the benefits, JII must be hired and/or become tenants. One protocol or default premise that is holding Fair Chance back is that a JII must prove she or he is worthy before they get a job or are permitted to be a renter. That ought to be flipped – she or he should be assumed worthy. Consider this – in US states or in countries that require an opt-in for organ donors, the donor rate is less than 15%. In US or in countries that require an opt-out, the donor rate is more than 90%. Let’s not have the protocol be to opt-in to offer a Fair Chance job, so to speak. The job should be offered unless there is a reason not to.

8) Thus, a Fair Chance Hirer should not consider a criminal record to have weight as to a job offer at all unless there is a compelling reason to do so. Put another way, the data shows no greater propensity to repeat criminal conduct than in the general population. The exceptions are so few as to be statistically sensibly non-actionable. Are there just evil people? Psychopaths and narcissists and the empathy-less? Yes. Among JII and the general population too. Are there psychological and mental illness pathologies? Yes. Among both populations, but the numbers of such in the general population dwarf those in the JII population. For example, temper management or impulse control issues. But all are easily flagged, and in the case of JII likely would have been under the close scrutiny of prisons.

9) For example, take an assault with severe bodily harm by a drug addled young gang banger. Twenty years later on release, this individual has aged out of crime, has cured his addiction, has a history of accomplishment and has been under corrections and

parole supervision. He is *less* likely to commit an assault than a person from the general population. Again, were there on going mental or behavioral issues, they likely would have manifested themselves in the JII's prison history.

10) Make studies and fact sheets available to Fair Chance Hirers and Landlords. The bromide or stereotype as to prior criminal behavior being part of a person's character 5, 10, and 20 years later is just not supported by the facts. But the extraordinarily productive, low turnover, and loyal performance of JIIs *is* data provable. And landlords please note, the data shows you will have less issues with JII tenants than a non-JII tenant and her or his family, not more.

11) Carrots and sticks need to be part of the process. The extra effort to be a Fair Chance Hirer or Fair Chance Landlord should be recognized. And non-Fair Chance businesses and landlords do not deserve the trade of the huge majority of Americans that support Fair Chance principles. Accreditation and the right to use the Fair Chance Alliance logo in marketing and to be listed in a central registry that can be accessed by consumers as well as JII job seekers underscore the benefits and creates a way to avoid a looming liability. Given similar price and quality, 90% of consumers are likely to switch brands to one associated with a good cause.¹⁰ CSR (corporate social responsibility) is expected and drives consumer behavior. CSR scoring is a rapidly growing phenomenon, and there is no better way for a business to have a high CSR score than being a Fair Chance hirer. Making it easy for Fair Chance Alliance businesses to reap the benefits from, and avoid the opprobrium of the market place is just good sense and the right thing to do. Objective Accreditation is needed.

12) The key to effective, result-oriented Fair Chance Hiring going forward is to make a track to run on for businesses easy to accomplish, where the goals are defined, the systems defined, all procedures defined. A Fair Chance Hiring business does not want to shoulder the burden of creating procedures, like how to weigh criminal records, or anything other than that reflecting an open heart and mind to the issue of providing jobs. Shame on us if we continue to make Fair Chance Hiring murky and burdensome. No one wants to have to build a clock just to find out what time it is. Especially no one in the business community.

**Together we can uncomplicate Fair Chance Hiring.
The Fair Chance Alliance is answering that need.**

¹⁰ Cone Ebiquity CSR Report

III. Beneficial effects of 20 plus years of the Fair Chance Movement has yielded a cultural victory, including as reflected in support from Presidents Bush, Obama, Trump and Biden.

That the aspirational vision of previous Fair Chance pledges have had an effect is to be commended. We restate, culturally the war is won. The roots of that cultural victory include Fair Chance Pledges, Ban the Box campaigns, and so much more.

Among other places, the cultural victory is reflected in the specific decades long support now of all recent U.S. presidents, starting with George H.W. Bush despite his Willie Horton beginnings, and President Clinton now renouncing his crime bill. He and Hillary Clinton are now Fair Chance advocates. Later presidents have been with the cause from the beginning, George W. Bush, Obama, Trump and Biden.

President George W. Bush signed the Second Chance Act in 2007¹¹, after saying at his 2004 inauguration, "America is the land of second chance, and when the gates of the prison open, the path ahead should lead to a better life."¹²

President Trump signed the Fair Chance Act into law; Headlines and articles touted **“Trump Calls for Second Chances in Criminal Justice Reform Push”** And, “Having signed into law a major criminal justice reform bill last year, President Donald Trump on Monday said his administration will shift its focus to making it easier for people to get jobs and successfully rejoin their communities after prison.”¹³

President Biden proclaimed April, 2021 Second Chance Month, and has promised to fund reentry programs and enforce the Fair Chance Act: “We must remove these barriers. Every person leaving incarceration should have housing, the opportunity at a decent job, and health care. A person’s conviction history should not unfairly exclude them from employment, occupational licenses, access to credit, public benefits, or the right to vote.”¹⁴

States and local government are increasingly involved. I.e., California and other governments have a Fair Chance Act, Fair Chance Business Pledges have been modeled in New York and Maryland, all taking their form from the original White House pledge.

Though they had their beneficial effects, the shortcomings now loom large. **This is the Fair Chance Business Pledge**¹⁵ **as defined by the Obama White House:**

The pledging business “...applauds the growing number of public and private sector organizations nationwide who are taking action to ensure that all Americans have the opportunity to succeed, including individuals who have had contact with the criminal justice system. When almost 70 million Americans – nearly one in three adults – have a criminal record, it is important to remove unnecessary barriers that may

¹¹ White House Archives

¹² Id.

¹³ Court House newswire, April 1 2019

¹⁴ ESR News

¹⁵ To see full White House Fair Chance archives, including more than 300 claimed Fair Chance Pledge companies, go to www.fairchancealliance.org, alliance-strong page, hit Learn More button.

prevent these individuals from gaining access to employment, training, education and other basic tools required for success in life. *We are committed to providing individuals with criminal records, including formerly incarcerated individuals, a fair chance to participate in the American economy.*”

President Obama’s White House Fair Chance pledge, transforming as much as reflecting the times, is aspirational. **But today, it’s time for more.** Notably, it doesn’t define in any way what specific actions “being committed” to “a fair chance to participate in the American economy” are **required**.

Though nothing was required, the transforming effort was prescient enough to provide suggestions of what might be useful, including:

1) Promote Fair Chance Hiring Practices: The most important contribution businesses can make to this effort is to give a fair chance to all applicants, to ensure that information regarding an applicant’s criminal record is considered in proper context, and to engage in hiring practices that do not unnecessarily place jobs out of reach for those with criminal records.

Specifically, [the White House went on to say] you can commit to:

- Banning the Box by delaying criminal history questions until later in the hiring process;
- Training human resources staff on making fair decisions regarding applicants with criminal records and reporting data on the number of applicants hired;
- Ensuring jobs, internships and job training are available to individuals with criminal records;
- Using reliable background check providers to help ensure accuracy;
- Hosting a Fair Chance and Opportunity Job Fair.

2) Taking Action in Your Local Community. While the focus is on fair chance opportunity, there are other important ways for businesses to contribute this effort, such as:

- Supplying tools for success (business clothing, cell phones, internet service, transit cards, or child care services);
- Offering support to regional reentry facilities;
- Providing mentors to children of incarcerated parents

Sadly, literally no business, including none of the 100 plus White House originally listed businesses who supported the pledge, have done even 50% of what was suggested by the White House. Not virtually. Literally. NOT ONE OF THEM.

And these companies are the best of the best. They have, all of them, done at least a little.

Most have not done even that little. What outrages many, and disappoints all, when you search the internet for Fair Chance Hiring or Second Chance Hiring you will find literally thousands of businesses, some large, some middling, some small, making that claim (that they are Fair Chance Hirers) or allowing job search sites to make that claim about them in every area of the country. **Those claims are real-world untruthful and dishonest even if the businesses believe otherwise.**

Thousands of these companies have never hired a single JII. Many say they will consider it, but not knowing how to judge a criminal background, or how to apply non-traditional metrics in hiring, or succumbing to the issues described in Section I above, they never, or very rarely only, hire JII. Returning citizens go to interview after interview with self-described fair chance hirers, never to get an offer, or only offers far below their capabilities. Businesses miss out on a stunning talent pool.

These are not Fair Chance businesses, even if they think they are. Some even claim to be “certified Fair Chance” businesses, but don’t have an explanation as to, “certified Fair Chance” by whom, and underneath what standards?

Let’s grant these folks have good intentions. They intend to do good, they intend to hire, but don’t. This disconnect need not be accepted.

Again, that the aspirational vision of previous Fair Chance pledges has had an effect is to be commended. We restate, culturally the war is won. The roots of that cultural victory include Fair Chance Pledges, Ban the Box campaigns, and so much more.

But now is the time for real world victories.

IV. Sweeping changes are needed to turn talk-the-talk mythical Fair Chance into walk-the-walk Fair Chance For Real. Implementing Best Practices and Protocols underneath the Strengthened Fair Chance Business Pledge will result in millions more JIIs being hired in 2022 and forward; boom in employment will boost economy; recidivism will plummet.

Our transforming new pledge is, therefore, simply, We Pledge our commitment to adopting the Strengthened Fair Chance Best Practices and Protocols.

Fair Chance Alliance Best Practices and Protocols (annotated)

1) Commit to a specific number of JII hires for the upcoming quarter/year. The purpose of Fair Chance is to hire. Focus and perspective matter. When Fair Chance Hiring starts with that commitment, appropriate to each businesses' knowledge of its own capacity, progress is assured. When looked at from this perspective, to claim to be a Fair Chance Hirer and not be able to find worthy JIIs to hire among that giant population is an absurdity.

2) Keep Fair Chance data, with at least these metrics:

- a) How many JII are currently employed at your company?
- b) What percentage of your workforce does that number represent?
- c) How many JII applied this year?
- d) Of that group of applicants, how many were hired?

Without data, that the problem may not be being solved at a particular Fair Chance Ally may be too amorphous to register. But, count the applications, resulting hires, determine their percentage, and Fair Chance Allies will know when they are on track, and, by the same token, know when more attention needs to be paid.

3) Identify a go-to individual or several individuals to be responsible for Fair Chance (JII) job applications for your company. In larger businesses especially, it can be needlessly expensive to train all of your HR or all of your hiring managers to be Fair Chance Hiring Experts (FCHE). The number one complaint of JII is they don't know whom to talk to, to establish that they are worthy hires, when they are facing obstacles or have been turned down. The number one burden of businesses who want to be effective is it is complicated to get Fair Chance Hiring protocols understood. Having specific go-to folks who can be given necessary information cures both these hurdles.

4) The designated FCHE should be prepared to evaluate JII by metrics reflecting the potential of this population of applicants, not only by traditional hiring standards. Your FCHE should be certified. The data are clear that merely allowing JII applications to float through the hiring system doesn't bring the results intended. JII have employment gaps, experience gaps, training gaps, education gaps, re-socialization burdens, and all kinds of specific, unique-to-this-population, issues. When judged by non-traditional hiring standards, like noticing their achievements in the context of incarceration, like intentionality, like focus, like how to weigh their prison write-up histories or lack thereof, JII potential can be seen with clearer eyes.

5) Ban the box was a transformational first step; it remains important as an icon, as a beacon, and to allow a select subset of JIIs to receive job offers. (See 6 below). Individual success stories inspire, but by itself the data are now clear that if ban the box is the only proactive step taken the hiring results are insufficient on a macro level. As applied in hiring scenarios ban the box only permits the applicant to be considered in

light of that one filter. But, for the anomalies from incarceration like employment gaps, experience gaps and so on, or if, when the criminal record becomes germane in the process it is disqualifying, then your company's metrics will reveal that. And the steps in 6 through 13 below are the medicine needed to cure the problem.

6) The company should examine the effect of HR benchmarks - especially including AI and algorithms - as to disproportionate elimination of JII on job continuity, job experience, and other factors affected by that individual having been incarcerated. **JII need to be identified before their applications are rejected on grounds that shouldn't apply to them, or at least not be the exclusive barometers. Second Look can be the safety net here.**

7) The company should adopt Second Look protocols which require a Second Look at a JII's application, applying the nontraditional criteria that should come to bear. That includes contextual considerations like in-prison conduct, relative achievement in a prison milieu, focus, and a sense of the JII's intentionality. Other considerations are, if this individual would benefit from in-company mentorship or training to help make the transition. **If given a Second Look by contextually trained FCHE, the worthy individual may find a work home, and the business may find a great employee.**

8) At all times the FCHE should keep in mind the extraordinary beneficial characteristics of JII hires, such as no more, and often less, management issues than in non JII hires, higher productivity, higher reliability, higher loyalty and less turnover.¹⁶ **It is the right thing to do, and it is also great business sense.**

9) Accredited Fair Chance Alliance Job application forms should have this legend:

"We are a Fair Chance Hirer, and embrace ban the box. Another Fair Chance step we take is, we are a Second Look hirer. We understand that traditional criteria like job continuity, on the job experience, former employer references, training, education and other factors may not be the strongest part of your lived experience as a Justice Involved Individual. AI and application processing algorithms, which used to kick applicants who checked the criminal history box, still kick over 90% from the filters flowing from these criteria.

"If you have a criminal record, and have not been successful in your job application with us, please let us know by submitting a Second Look request, and we will have our staff offer an individualized, contextually informed Second Look at your application." **A trained FCHE can look for indicators for an informed JII hiring decision, and will be**

¹⁶ Multiple studies and sources; i.e., Department of Defense tracking of military recruits with felonies, higher rate of promotions; SHRM, higher rates of productivity, loyalty, and retention, Northwestern University, same, ubiquitous HR publications and studies.

informed, for example, as to how to weigh a prior conviction in the context of the job offer.

10) The presumption should be that a criminal record is very rarely a sensible bar to employment. The bromide, on an individualized case by case basis, in the real-world means disproportionate rejection if that judgment is being made by a non FCHE.¹⁷ Not knowing, for example, how to collect and weigh the detail of a crime in context causes a disproportionate rejection of qualified JII. A hypothetical: a non-trained HR person would reject a person convicted of a violent assault 15 years earlier for being perhaps dangerous. A FCHE would find out the circumstances (say here, the victim was the JII's stepfather, who had beaten the JII's younger sister and had, coming home drunk, threatened him), learn of the JII's proactive prison experiences (for example, volunteering to take 7 Habits on the Inside and involvement in church, getting his GED, being write-up free), know about aging out of crime (older men grow increasingly, staggeringly less likely to resort to violence), the JII's support network, his focus and intentionality. The result, your company might hire instead of reject a person who could be 20% more productive and 30% less likely to leave the job than a so called "normal" hire.

11) The data are clear that prior criminal behavior is not an indicator of current risk except in extremely rare cases. The prejudice as to prior criminal behavior being part of a person's character 5, 10, and 20 years later is just not supported by the evidence. Again, the importance of having a FCHE in your company.

12) At any time in the hiring process if a non FCHE interviewer identifies that an applicant is a JII, the process should be turned over to the company's FCHE. Wrong decisions are not made only based on lack of knowledge. Sometimes it is "knowledge" that we think is true, but isn't, like the belief that 15 or 20 years later a person is likely to repeat the prior offense. Except in rare situations, they aren't.

13) Keep metrics on other aspects of your Fair Chance responsibilities. Responsibilities as a Fair Chance company do not end only in corporate self-awareness and self-improvement. Paying your fair share for Fair Chance, such as for the cost of being registered, accredited, and to help beyond mere job offers is part of what works and is needed. Sponsoring Best Practices is also your Pledge to step up. Like support in the form of training, or outreach to the families of the incarcerated, or outreach to the political community advocating to eliminate unneeded barriers to work.

14) Fair Chance Alliance Strengthened Business Pledge businesses should wear the badge of your Corporate Social Responsibility proudly. Keep your accreditation current, and make sure you are listed in the Fair Chance Registry. Fair Chance Alliance spotlights businesses that walk the walk, and encourages the public to give

¹⁷ But see instructive results for Greyston Bakery, www.greyston.org, which has a no background check, hire all policy.

their business only to businesses that have a high Corporate Social Responsibility index score, and withhold it from those with a low CRS score, like many non-Fair Chance businesses. The eager and motivated and deep JII work pool will make FCA businesses their first calls when looking for work, and consumers will vote with their dollars. **The time is not far distant when consumers will rarely do business with a company without checking their CSR score.**



The Strengthened Fair Chance Business Pledge

Strengthened by Fair Chance Best Practices and Protocols.

The core Fair Chance principle is that, consistent with public safety, every barrier impeding a returning former offender - or justice involved individual (JII) - from a full re-integration back to society should be removed. Vast majorities of the public from all sides of the political spectrum, the business community, corrections professionals, economists, and civic and faith leaders recognize that it is morally, fiscally, and business-growth-policy wrong not to present a path to successful reintegration to returning justice involved individuals.

Years ago our company led by taking the Fair Chance Business Pledge. Today we lead again by committing to the Strengthened Fair Chance Business Pledge, also known as the Fair Chance Alliance Business Pledge.

In doing so, we add to our original commitment, that “We are committed to providing individuals with criminal records, including formerly incarcerated individuals, a fair chance to participate in the American economy.”¹⁸

Great progress has been made, but even more is needed. This Strengthened Fair Chance Business Pledge provides an added level of focus that experience has taught is needed for ever more effective results by adding Strengthened Fair Chance Best Practices and Protocols.

Therefore, we Pledge our commitment to adopting the Strengthened Fair Chance Best Practices and Protocols.

- Among the strengthening additions is a commitment to Ban the Box, and not consider a job applicant’s justice system involvement until after a job offer is made.
- A second Fair Chance step we will now take is to become a Second Look hirer. We understand that traditional hiring criteria may not offer a fair representation of a Justice Involved Individual. If a JII has not been successful in a job application, he or she can submit a Second Look request, and we will have staff offer an individualized, contextually informed Second Look at their job application.
- A third Fair Chance step is keeping upgraded records and adhering to a policy of transparency. We need to know, and the public and returning JII need to know, our track record of success. The first part is assembling upgraded data ourselves of JII interviews, hires, and other relevant metrics. And the second part is making sure that information is available to help us to continue improving outcomes, and available to the JII community and to the general public in making judgments about how we are doing.

¹⁸ White House Fair Chance Business Pledge

Pledged Fair Chance Alliance Best Practices and Protocols

- 1) Commit to a specific number of JII hires for the upcoming quarter/year.**
- 2) Keep Fair Chance data, with at least these metrics:**
 - a) How many JII are currently employed at your company?**
 - b) What percentage of your workforce does that number represent?**
 - c) How many JII applied this year?**
 - d) Of that group of applicants, how many were hired?**
- 3) Identify a go-to individual or several individuals to be responsible for Fair Chance (JII) job applications for your company. In larger businesses especially, it can be needlessly expensive to train all of your HR or all of your hiring managers to be Fair Chance Hiring Experts (FCHE).**
- 4) The designated FCHE should be prepared to evaluate JII by metrics reflecting the potential of this population of applicants, not only by traditional hiring standards.**
- 5) Ban the box was a transformational first step; it remains important as an icon, as a beacon, and to allow a select subset of JIIs to receive job offers. (See 6 below). Individual success stories inspire, but by itself the data are now clear that if ban the box is the only proactive step taken the hiring results are insufficient on a macro level.**
- 6) The company should examine the effect of HR benchmarks and especially AI and algorithms as to disproportionate elimination of JII on job continuity, job experience, and other factors affected by that individual having been incarcerated.**
- 7) The company should adopt Second Look protocols which require a Second Look at a JII's application, applying the nontraditional criteria that come to bear. That includes contextual considerations like in-prison conduct, achievement, focus, and a sense of the JII's intentionality. Other considerations are, if this individual would benefit from in-company mentorship or training to help make the transition.**
- 8) At all times the FCHE should keep in mind the extraordinary beneficial characteristics of JII hires, such as no more, and often less, management issues than in non JII hires, higher productivity, higher reliability, higher loyalty and less turnover.¹⁹**
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“If you have a criminal record, and have not been successful in your job application with us, please let us know by submitting a Second Look request, and we will have our staff offer an individualized, contextually informed Second Look at your application.”

10) The presumption should be that a criminal record is very rarely a sensible bar to employment. The bromide, on an individualized case by case basis, in the real-world means disproportionate rejection if that judgment is being made by a non FCHE.²⁰

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