

From Media to Practice

True Consequences: Lying On Job Applications

Roberta Meyers-Peebles

The HIRE Network on more than one occasion has made strong recommendations concerning the need for job seekers to be truthful on job applications when asked about their criminal histories. We consistently advise workforce development practitioners to encourage their consumers to be honest and accurate about criminal history information, including remembering that an omission can be construed as a false statement. When discussing the implications of lying on a job application, a legal document, we also have mentioned the fact that employers could conceivably bring charges against individuals who lie on their job applications. This fact also holds true for professional licensing agencies.

On Monday, June 20, 2005, this often-unexercised right of licensing agencies was utilized and boldly displayed in newspaper headlines in New Jersey in order to make a point. In the Star-Ledger article, "[Ex-cons seeking security posts accused of lies: Applicant crackdown nets 40](#)," Chandra M. Hayslett reported that 40 individuals were arrested between May 23rd and June 9th for allegedly falsifying their applications for unarmed security guard licenses.

After September 11th, there was a huge outcry in the media and on Capital Hill about the importance of knowing the background of people who are considered to be our first line of defense against terrorism, private security guards.

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Advocacy on the Legal Front

This is a series that highlights the work of individual attorneys, public interest and private law firms, and law schools that represent the interests of qualified workers and job seekers with criminal records.

Community Legal Services, Inc. of Philadelphia, PA

Susan Hallett

For almost 40 years, Community Legal Services, Inc. (CLS) of Philadelphia, PA has provided the highest quality legal assistance to those in need with the ongoing support of the Philadelphia Bar Association and the legal community. The mission of CLS is to help low-income Philadelphia residents with legal problems by providing them with advice and representation in civil matters, advocating for their legal rights, and conducting community education surrounding legal issues. Since 1966, over one million individuals have received direct services through CLS. This is in addition to providing community education to inform low-income communities about their legal rights, conducting policy analysis and advocacy, and filing class-action law suits to help large numbers of poor people facing similar injustices. CLS avoids unacceptable restrictions on their ability to deliver services to the poor by refusing to accept federal funding, the only legal service provider in Pennsylvania to do so.

Community Legal Services works to address the many legal issues faced by people with criminal records as they attempt to reintegrate into the community. They have developed expertise in the civil legal problems faced by their constituency. Although CLS does not have an "ex-offender unit," per se, several of their legal units do provide assistance to people with criminal records with civil legal problems resulting from their criminal history. The units include: Employment; Public Benefits; Family Advocacy (representing parents involved with the Philadelphia Department of Human Services); and Public Housing and Section 8. Community Legal Services has authored informational brochures and pamphlets about the law as it affects individuals with criminal histories, which are available on their website.

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In the Congressional Research Service report for Congress entitled “Guarding America: Security Guards and U.S. Criminal Infrastructure Protection,” (November 2004) Paul W. Parfomak noted that state regulations regarding criminal background checks for security guard licensure vary and that only sixteen (16) states actually have background check regulations for this industry. New Jersey happens to be one of the 16 states that have passed legislation. However, New Jersey has gone a step further in its Security Guard Act of 2005, by allowing the State to prosecute certain individuals who have falsified information on their security guard licensing application.

The unarmed security guard profession, although low-wage and requiring limited training, has mounting criminal record restrictions on the state and federal level. Parfomak also noted in his report that in the 108th Congress there were a number of bills introduced to increase employer access to FBI criminal records checks for all security guard employees. Most State statutes only authorize access to state criminal record repositories. However, states like New York, which recently amended its Security Guard Act to require the fingerprints of applicants for security guard positions to be submitted to the FBI, are increasingly placing more scrutiny on applicants.

There are many professional licensing applications that require applicants to provide notarized affidavits to confirm their reported statements on the application, particularly criminal history information. Unfortunately, prosecuting individuals who falsify, misrepresent, or omit is a trend that may catch on in other states and in other industries. Therefore, we once again strongly urge our constituency and other stakeholders to be reminded that job seekers with criminal histories must be adequately prepared to list and discuss information regarding their criminal histories no matter what their career choice may be. Omitting information may lead to a job in the short run, but as we see in New Jersey, it may also lead to a criminal charge! ❖

An important victory recently won by CLS was the lawsuit challenging the constitutionality of Pennsylvania law prohibiting rehabilitated people with criminal records from working in care-giving jobs (*Nixon v. Commonwealth of PA*). As a result of this lawsuit, a new statute concerning the employment of ex-offenders will be written. CLS’ advocacy for sound public policy in this area will hopefully influence the outcome of any new legislation. CLS will continue to follow developments in this area closely.

For almost four decades the staff of CLS has fought tirelessly for the rights of those forgotten or left behind by the system. For more information on the work done by Community Legal Services, visit their website, www.clsphila.org. ❖



Hot Off the Press: Recent Reports

Discrimination in Low-Wage Labor Markets: Evidence from an Experimental Audit Study in New York City, by Devah Pager and Bruce Western of Princeton University. This study considers the implications of three distinct trends for the prevalence of discrimination against young men in low-wage labor markets. Rising inequality, sharply increasing incarceration rates, and growing numbers of immigrants each contribute to a population of low-wage workers with characteristics very different from those who may employ them. The low levels of trust characteristic of these employment relationships may be associated with discriminatory hiring practices that limit the employment opportunities available to certain groups of workers. Our paper reports new results from a novel study of employers, reporting the reactions to minority and formerly-incarcerated job seekers.

To read the preliminary results, go to <http://paa2005.princeton.edu/download.aspx?submissionId=50874>.

Civil Penalties, Social Consequences, by Christopher Mele and Teresa A. Miller. Since the advent of the Wars on Drugs and Terror, the volume of criminal convictions, incarceration rates, and deportations has increased dramatically, and the legislation imposing new collateral civil penalties—legal restrictions stemming from certain felony convictions—or strengthening older ones has proliferated. As a result, collateral penalties have become not only more severe but also “unhinged” from the traditional justifications for their imposition.



H.I.R.E. on the Hill

Alexa Eggleston and Gabrielle de la Gueronniere

Legislation to Remove the Disparity in Sentencing Between Crack and Powder Cocaine Offenses Introduced in Congress

Congressman Charles Rangel (D-NY) recently introduced the “Crack-Cocaine Equitable Sentencing Act of 2005.” The legislation, H.R. 2456, would remove the distinction in sentencing between crack cocaine and powder cocaine offenses. Currently mandatory minimum sentences in the federal law require significantly longer sentences for offenses involving crack cocaine than for offenses related to powder cocaine.

H.R. 2456 would:

- * Amend the Controlled Substances Act and the Controlled Substances Import and Export Act to make sentencing requirements for trafficking in, possession, importation, or distribution of crack cocaine the same as those requirements for powder cocaine-related offenses.
- * Make an individual’s first offense for possession of crack cocaine exempt from the existing federal mandatory minimum sentencing structure.
- * Require that the United States Sentencing Commission promulgate amendments to the Sentencing Guidelines that reflect these changes after this legislation is signed into law.

Congressman Rangel first introduced legislation to remove the distinction between sentencing for powder and crack cocaine in 1993 and has introduced similar legislation in each consecutive Congressional session. After introduction, H.R. 2456 was referred to the House Judiciary, and Energy and Commerce Committees where the legislation awaits review.

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As the distinguished contributors to *Civil Penalties, Social Consequences* demonstrate, these penalties—including sanctions on certain types of employment, housing, education, welfare eligibility, parental rights, and protections from deportation—have come to hinder, in very real ways, the life chances for a large number of disadvantaged individuals, their families and communities in the poorest sections of U.S. cities. To learn more or order the book, visit http://www.njisj.org/pubdocs/red_063005_civilpenalties_book.pdf.

Good Courts: The Case for Problem-Solving Justice, by Greg Berman and John Feinblatt. Public confidence in American criminal courts is at an all-time low. Victims, communities, and even offenders view courts as unable to respond adequately to complex social and legal problems including drugs, prostitution, domestic violence, and quality-of-life crime. Even many judges and attorneys think that the courts produce assembly-line justice. Increasingly embraced by even the most hard-on-crime jurists, problem-solving courts offer an effective alternative. As documented by Greg Berman and John Feinblatt — both of whom were instrumental in setting up New York’s Midtown Community Court and Red Hook Community Justice Center, two of the nation’s premier models for problem-solving justice — these alternative courts re-engineer the way everyday crime is addressed by focusing on the underlying problems that bring people into the criminal justice system to begin with. To read more or order this publication, visit <http://www.thenewpress.com/books/goodcourts.htm>



Are you interested in submitting an article to H.I.R.E. Network News? Do you have a conference scheduled? Is your agency about to release the findings of an important study? We are always looking for input from our membership! We invite guest writers on a range of subjects. Please email Glenn Martin at gmartin@hirenetwork.org if you are interested in contributing to our newsletter. We look forward to hearing from you. ❖

Full House and Senate Appropriations Committee Approve Spending Bills for Programs in the Department of Justice; House Legislation Provides Mostly Level Funding for Programs that Serve People with Criminal Records; Bill Approved by Senate Committee Would Cut Funding for Several DOJ Programs

The House of Representatives recently voted to approve the funding bill for the Departments of Justice, State and Commerce. The House voted 418 to 7 to approve the FY 2006 spending bill to allocate funds to several programs in the Department of Justice (DOJ) important to people with criminal records and/or addiction histories. Most of the programs would receive level funding, the same amount of funds as appropriated for the 2005 fiscal year. In addition, on June 23rd, the Senate Appropriations Committee approved its spending bill for programs in the Department of Justice; the Senate spending bill includes a number of cuts to programs serving people with criminal records. Once the full Senate approves the Senate DOJ spending bill, representatives from both the Senate and the House will work to reconcile any differences in the spending bills.

Under the House-approved spending bill, the *Residential Substance Abuse Treatment (RSAT)* program that helps states and localities to develop and implement residential substance abuse treatment programs in state and local correctional and detention facilities, would receive level funding of \$25 million, approximately \$19 million less than the President's FY 2006 budget request. The legislation approved by the Senate Appropriations Committee would give the RSAT program \$15 million, representing a \$10 million cut from this year's funding.

In the House spending bill the *Drug Court Program*, which provides financial and technical assistance to state and local governments and courts to develop and implement treatment drug courts, would also be level funded, receiving \$40 million, nearly \$30 million less than the President's budget request. The legislation approved by the Senate Appropriations Committee would give \$25 million to the Drug Court Program, representing a \$15 million cut in funding.

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Funding Opportunities!



The Alston / Bannerman Fellowship Program is committed to advancing progressive social change by helping to sustain long-time activists of color. The program honors those who have devoted their lives to helping their communities organize for racial, social, economic and environmental justice. The program provides resources for organizers to take sabbaticals for reflection and renewal. The Alston/Bannerman Program recognizes that working for social change usually means long hours at low pay, with few tangible rewards and few escapes from the day-to-day pressures. Without time to stop and reflect, the pressures can prove overwhelming, but without resources, it is impossible to take the time. Therefore, the Fellowship Program gives long-time activists of color the financial support and freedom to take a break and recharge.

For more information and application procedures, visit <http://www.alstonbannerman.org/howtoapply.html/>.

DOL Announces \$5 Million for Services to Help Limited English Proficient Clients

The DOL Employment and Training Administration recently announced the availability of \$5 million in demonstration funds to test training strategies to serve Limited English Proficiency (LEP) individuals. Funding will be awarded to initiatives that successfully link language and occupational skills training. Recent reports have shown that integrating English language skills and job training programs is an effective approach to streamlining services offered to jobseekers. Solicitation for Grant Applications (SGA), which appeared in the June 16th Federal Register, will remain open for the next 60 days.

To view DOL's press release, visit:

<http://www.dol.gov/opa/media/press/eta/eta20051080.htm>. ❖

The portion of the *President's Reentry Initiative (PRI)* overseen by the DOJ would be level funded in the House spending bill; DOJ would receive \$10 million for the PRI, \$5 million less than the President's budget request. Although Congressman Danny Davis (D-IL) did propose an amendment to the bill during floor debate to provide an additional \$5 million for the PRI, he later withdrew his amendment. Introducing the amendment gave Congressman Davis the opportunity to speak about the importance of programs for people coming out of the criminal justice system and engage in a discussion with Congressman Frank Wolf (R-VA), chairman of the Appropriations Subcommittee with jurisdiction over DOJ program funding. Congressman Wolf voiced his continued support for reentry programs despite not supporting the amendment. Under the Senate Appropriations Committee spending bill, the DOJ would \$3 million for this initiative.

The *Byrne Memorial Justice Assistance Grant (JAG)* program, slated for elimination in the President's budget, would receive \$348.46 million according to the House spending bill. The Senate Appropriations Committee-approved legislation would give \$530 million to the JAG program. Funds from the JAG program are authorized for a number of different programs, including prevention and education programs, corrections and community corrections programs, and drug treatment programs. It is unclear when the full Senate will consider the DOJ spending bill, but it is possible that it will be considered and approved later this summer.

House Government Reform Committee Approves Bill to Reauthorize the Office of National Drug Control Policy; Bill Contains Provisions Concerning Drug Ban for Student Federal Financial Aid

On Wednesday, June 15th, the House Government Reform Subcommittee on Criminal Justice, Drug Policy and Human Resources held a hearing on reauthorizing the Office of National Drug Control Policy (ONDCP). Led by Subcommittee Chairman Mark Souder (R-IN), the Subcommittee heard testimony from ONDCP Director John Walters, Steve Pasierb, President of the Partnership for a Drug-Free America, and Director Tom Carr of the National High Intensity Drug Trafficking Areas (HIDTA) Directors' Association.

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Upcoming Conferences of Interest

August 6-8, 2005

American Correctional Association 2005 Conference

Baltimore Convention Center

Baltimore, MD

Contact: <http://www.appa-net.org>

Tel: 301-918-8198

September 11-14, 2005

National TASC Conference on Drugs and Crime Developing Safe and Healthy Communities: Recover, Reenter, Restore

Renaissance Cleveland Hotel

Cleveland, OH

Contact: www.NationalTASC.org

September 18-21, 2005

6th Annual Conference on Addiction and Criminal Behavior

Marriott Downtown Hotel

St. Louis, MO

Contact: GWC, Inc.

Tel: 800-851-5406

Email: info@gwcinc.com

October 8-11, 2005

7th National Conference on Preventing Crime: Power of Prevention

Hilton Washington

Washington, DC

Contact: <http://www.ncpc.org/pop>

October 11, 2005

2005 Ohio Criminal Justice Research Conference: Theory and Application of Evidence Based Practices in Criminal Justice

The Midwest Hotel and Conference Center

Columbus, OH

Contact: <http://www.drc.state.oh.us/web/conference.asp>

Correction: This conference was listed in last month's issue as a "Reentry" conference. While there is a session on reentry, the conference is primarily about research.

Subcommittee members participating in the hearing included Representative Elijah Cummings (D-MD), Ranking Member of the Subcommittee, and Representatives Diane Watson (D-CA), John Mica (R-FL), and Eleanor Holmes Norton (D-DC). The following day, June 16th, the full House Government Reform Committee considered legislation to reauthorize the ONDCP, H.R. 2829, and voted to approve the legislation.

Subcommittee Hearing on ONDCP Reauthorization

In his testimony to the Subcommittee, ONDCP Director John Walters testified about the ONDCP's role in reducing demand for illegal drugs. Contending that the government's campaign to reduce illegal drug use has been quite successful, Director Walters emphasized that successful programs need to be strengthened and that reforms to the system also need to continue. Director Walters spoke about how programs that provide drug abuse prevention and addiction treatment services are a critical part of the Administration's strategy to reduce drug use. Director Walters highlighted the Access to Recovery (ATR) drug-voucher program as an innovative program that the Administration believes will effectively meet the needs of many people with addiction to alcohol and other drugs. In particular, Director Walter cited recent data reported from Idaho, an ATR grantee, which suggests that the number of non- and for-profit providers in that state has nearly doubled since the state was granted ATR funds. Director Walters stated that ATR is a promising program because the state can better measure success rates by tracking the voucher, thereby controlling cost and ensuring the quality of services. Emphasizing the need for additional accountability measures within drug treatment services, Director Walters argued that more accountability would enable more slots to become available for people in need of treatment services.

In his opening statement, Congressman Cummings expressed his support for provisions in the ONDCP reauthorization legislation that seek to allow students convicted of drug-related offenses to be eligible for federal financial assistance as long as the conviction did not occur while they were receiving federal

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October 11-13, 2005

Collaboration between Fatherhood and Domestic Violence Programs in Communities of Color: A Focus on Prevention

Wyndham St. Anthony Hotel
San Antonio, TX
Contact: imedaris@cffpp.org

October 15-19, 2005

11th Annual National Workshop on Adult & Juvenile Female Offenders: "Clearing the Path for Girls and Women: A Call for Action"

Minneapolis Marriott Airport Hotel
Bloomington, MN
Contact: <http://www.doc.state.mn.us/ajfo>

October 28-30, 2005

Transition of Prisoners, Inc. 4th Annual National Prisoner Re-Entry Conference: "Refreshing the Fire"

Sheraton Nashville Downtown Hotel
Nashville, TN
Tel: 313-875-3883 x27
Contact: www.topinc.net

November 2-5, 2005

National Network of Sector Partners 2005 National Conference: "Bridges to Prosperity: Building the Economy Through Partnerships and Innovation"

Drake Hotel
Chicago, IL
Contact: www.nedlc.org/nmsp
Tel: 510-251-2600 ext. 130 ❖

We are pleased to announce that Laurie Parise, Equal Justice Works Fellow and Director of HIRE's Youth Reentry Project, is the first recipient of the LexisNexis Martindale Hubbell Legal Fellowship. The fellowship was designed to embrace those individuals and associations that are dedicated to the advancement of the legal profession, especially those focused on education, the practice of public interest law and diversity in the profession. Semi-annually, an award of \$15,000 is presented to the recipient chosen from the submissions placed through the www.martindale.com/ratings website. Ms. Parise will use the fellowship to expand her project, which addresses employment barriers faced by youth emerging from the juvenile and/or criminal justice systems. ❖

student aid. H.R. 2829 would preclude the ONDCP Director from certifying any budget that requests funding to enforce the section of the Higher Education Act (HEA) with respect to convictions for drug-related offenses not occurring during a period of enrollment for which the student was receiving any Federal grant, loan or work assistance. In addition, the legislation also seeks to require the ONDCP Director to formulate a plan for providing expedited consideration of student loan applications for all individuals who applied for federal financial aid and were denied aid because of a conviction that did not occur during the time the individual was receiving federal financial aid.

Full Committee Review (Mark-Up) and Approval of Legislation Reauthorizing ONDCP

Following the Subcommittee hearing on June 16th, the full House Government Reform Committee considered H.R. 2829, legislation to reauthorize the ONDCP. Subcommittee Chairman Mark Souder and Congressman Tom Davis (R-VA), Chairman of the Full House Government Reform Committee are the sponsors of H.R. 2829. Following debate, the full Committee voted to approve the legislation.

During consideration of H.R. 2829, the full Committee approved three amendments, including one amendment concerning scientific research on needle-exchange programs. Congressman Henry Waxman (D-CA), Ranking Member of the full House Government Reform Committee offered an amendment that would require the ONDCP to consider the best science before making policy decisions regarding needle-exchange programs. Congressman Waxman's amendment, approved by the Committee, would require the ONDCP Director to consult with the National Academies of Science about the effect of needle-exchange programs. Several Republican members expressed support for the amendment but emphasized that they doubted the efficacy of needle-exchange programs in slowing the spread of disease, and that they expected that respected scientific research would confirm their beliefs that needle-exchange programs are not effective.

H.R. 2829 was also referred to the House Judiciary, Energy and Commerce, and Permanent Select

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Intelligence Committees where the legislation awaits review. Although the House passed legislation to reauthorize the ONDCP during the 108th session of Congress, the Senate did not take action on the legislation last session. It is unclear whether the Senate will take action on legislation to reauthorize the ONDCP during this first session of the 109th Congress. More information about H.R. 2829 can be found at <http://thomas.loc.gov>.

Legislation to Create Office of Correctional Public Health Introduced in the House of Representatives; Legislation Focuses on Public Health Concerns Including Addiction Disorders, and HIV/AIDS

Recently, Congressman Ted Strickland (D-OH) introduced H.R. 2737, the "Office of Correctional Public Health Act of 2005." The legislation would amend the Public Health Service Act establishing an Office of Correctional Public Health that would be overseen by the Secretary of the Department of Health and Human Services (HHS).

Noting the high prevalence of HIV/AIDS, alcohol and drug addiction disorders, mental illness, hepatitis and additional diseases in prisons and jails, the legislation would create an office within HHS's existing Office of Public Health and Science that would focus specifically on public health concerns related to individuals living and working in correctional facilities. The Office of Correctional Public Health would carry out public health activities for individuals in federal, state or local penal or correctional institutions, or for employees of these institutions. These health activities would include activities regarding disease prevention, health promotion, service delivery, research, and education about various health professions.

H.R. 2737 would also:

- Allow grants to States for the purpose of providing for correctional populations screenings, immunizations, and treatment for hepatitis A, B, and C.
- Require that the Secretary of HHS coordinate all correctional health programs within HHS; provide technical support to State and local correctional agencies on correctional health issues; cooperate with other Federal agencies carrying out correctional health programs to ensure coordination of such programs; consult with, and provide outreach to, State directors of correctional health and providers of correctional health care; facilitate the exchange of information regarding correctional health activities; and facilitate collaboration between correctional facilities and State and local health departments.

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- Require that the Secretary of HHS submit an annual report describing the status of correctional health activities in the United States as well as a description of the activities.

Additional co-sponsors of H.R. 2737 are Representatives Jose E. Serrano (D-NY), Henry A. Waxman (D-CA), Tim Holden (D-PA), Donald M. Payne (D-NJ), Donna Christensen (D-VI), Alcee L. Hastings (D-FL), Jim McDermott (D-WA), Sherrod Brown (D-OH), Raul M. Grijalva (D-AZ), and Edolphus Towns (D-NY). H.R. 2737 was referred to the House Committee on Energy and Commerce where it awaits review.

House of Representatives Approves Labor, Health and Human Services, and Education Spending Bill

On Friday, June 24th, the full House of Representatives approved the FY 2006 Labor, Health and Human Services, and Education spending bill by a vote of 250 to 151. The spending bill, which was approved by the House Appropriations Committee the previous week, contains the same funding levels as those approved at the Committee level. Although amendments to the legislation were offered on the House floor, none were directly relevant to funding for substance abuse prevention, addiction treatment, and research or education programs. Highlights from the bill include:

- The Substance Abuse Prevention and Treatment (SAPT) Block Grant would be level funded, granting the President's budget request for \$1.7756 billion.
- The Center for Substance Abuse Treatment (CSAT) would receive \$409.4 million, representing a nearly \$13 million cut from last year's funding and nearly \$38 million less than the President's budget request. This amount includes approximately \$100 million for the Access to Recovery (ATR) program.
- The Center for Substance Abuse Prevention (CSAP) would receive \$194.95 million, \$3.7 million less than FY 2005 funding, but \$10.6 million more than the President's budget request.
- \$400 million for the Safe and Drug Free Schools and Communities program, \$37 million less than last year's funding.

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- NIDA would receive \$1.010 billion, representing a \$3.711 million increase from last year, which is equal to the President's budget request
- NIAAA would receive \$440.333 million, also equivalent to the President's budget request, a \$2.056 million increase from last year's funding.
- The Ryan White AIDS program was increased by \$10 million over FY05 with total funding of \$2.1 billion, the same as the budget request. ❖

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