

U.S. House Committee on Financial Services

Subcommittee on Diversity and Inclusion

Access Denied: Eliminating Barriers and Increasing Economic Opportunity for Justice-Involved Individuals

September 28, 2021

Testimony of Jeffrey D. Korzenik, researcher and author, “Untapped Talent: How Second Chance Hiring Works for Your Business and the Community” (HarperCollins Leadership, April 2021)

Good morning, Chairwoman Beatty, Ranking Member Wagner and members of the U.S. House Financial Services Subcommittee on Diversity and Inclusion. Thank you for the opportunity to testify before the Subcommittee today and for holding this important hearing regarding eliminating barriers and increasing economic opportunities for justice involved individuals.

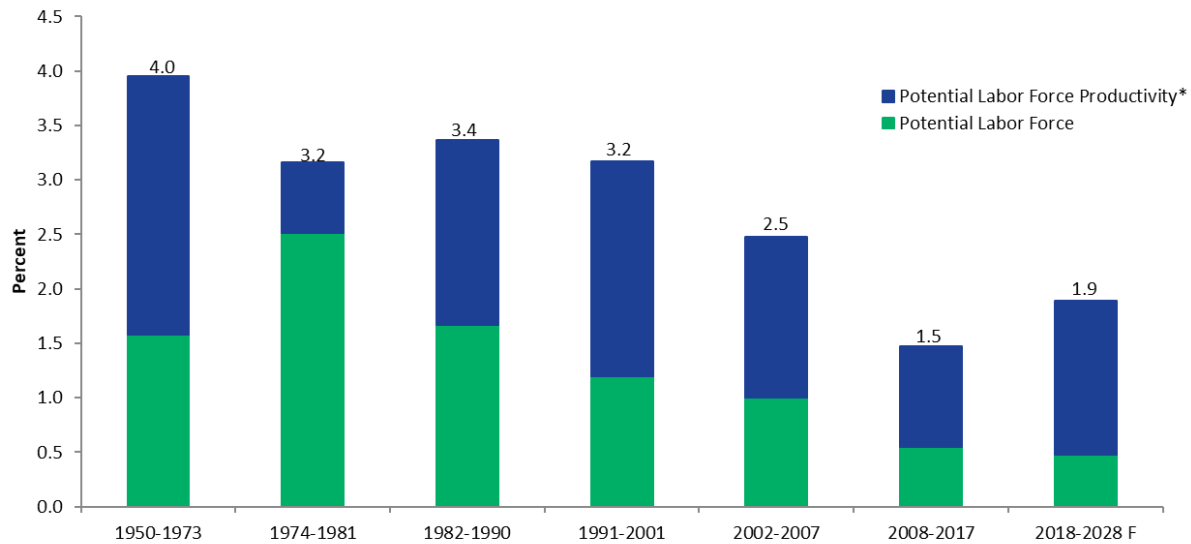
I come before the committee in my private capacity, as a researcher and the author of “Untapped Talent,” a book that shares the business case and best practices for “second chance hiring,” the employment of people with criminal records. Although I am an employee of Fifth Third Bank, my views are my own and do not necessarily reflect the views of my employer.

The criminal justice system is estimated to have left 19 million Americans with felony convictions and many millions more with misdemeanor records. These records represent significant barriers to employment. For example, the most recent calculation of the unemployment rate among those who have left prison incarceration is 27%. In the critical first year after exiting prison, returning citizens are estimated to face an unemployment rate of roughly 50%. These numbers actually underestimate the waste of human capital from justice involvement; a proper accounting of the costs must recognize that even among those employed, the barriers associated with justice involvement restrict economic mobility. Many – and possibly the majority – of even those *with* jobs are “underemployed,” i.e., unable to earn and contribute to the full extent of their capabilities.

Given that criminologists have long understood that employment is foundational to rehabilitation, it is no surprise that we also have tragically high rates of recidivism and rearrest. A widely-cited Bureau of Justice Statistics study found that roughly 68% of those leaving state prisons are rearrested within three years. We must also recognize that the associated burdens of the criminal justice system and its failures are not borne equally; for example, one in three Black men in America has a felony conviction.

The costs of the failure to create more effective systems of reentry is generally thought of in social terms: poor public safety, shattered families, and stressed communities. We, as citizens, and in particular, those of us in the business community, should also understand that this failure is of such a magnitude that it also carries a tremendous economic cost, even to those who have not had personal involvement with the justice system. Our failures in the reentry and reintegration of justice-impacted individuals is also a financial failure.

The economic growth potential of any economy is based on two factors, and two factors alone: workforce growth and productivity growth. While many considerations, including policy, will influence these factors, in the end, our economic growth potential boils down to people and their potential. When the past mistakes of so many millions of Americans create barriers to employment, this slows workforce growth. Barriers to economic mobility should be understood as drags on productivity, whether these prevent access to education, to the ability to switch employers, or to get financing to support entrepreneurial initiatives.



Source: Congressional Budget Office
 Compound annual growth rates over the specified periods calculated using calendar year data
 *The ratio of potential GDP to the potential labor force

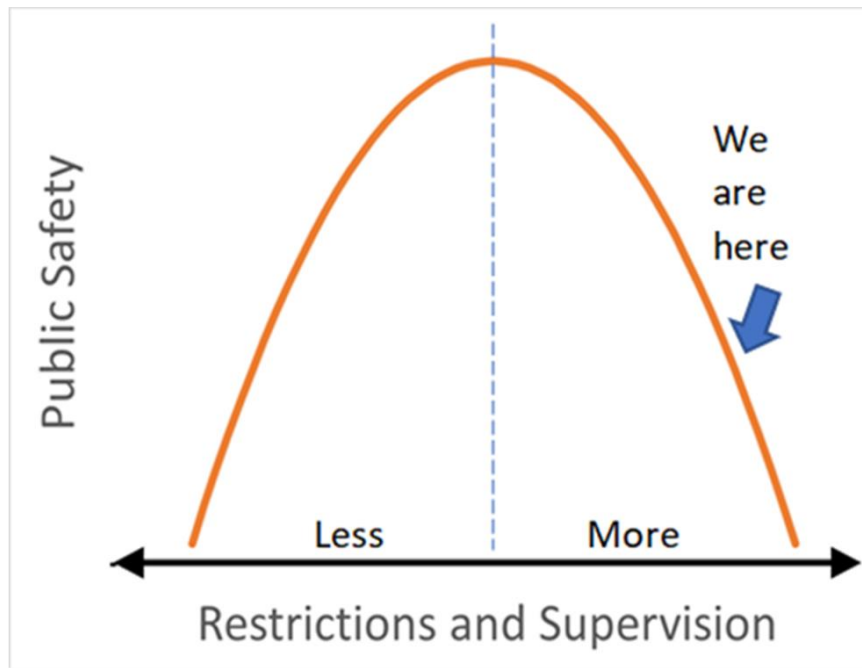
Even using conservative assumptions as to the work-readiness of this justice-involved population, the costs of our failures to reintegrate people with criminal records into the economy should be measured in the hundreds of billions of dollars of growth that we forsake. All of us will benefit economically if people with criminal records have the opportunity to participate fully in our workforce, and to contribute to our shared economy.

Safety vs Justice

The challenge, of course, is in creating viable pathways to opportunity that work for the employee, the employer and the general public. Criminal justice reforms are often perceived as offering a tradeoff between public safety and greater justice for people with criminal records. This is a false choice and a way of thinking that could ultimately undermine progress on both fronts. Understanding the important role that employment plays in rehabilitation and the barriers to such employment offers a new framework for evaluating public policies.

Many of our current criminal justice policies actually inhibit employment, most directly through professional licensing restrictions and other regulatory barriers to employment. Other practices disrupt employment — required meetings with parole officers during working hours, court appearances and driver license suspensions can render justice-involved individuals de facto unemployable. More insidious are the vast array of restrictions that affect not just employment but housing, access to credit, access to government facilities or even private facilities fulfilling

government contracts. The National Institute for Justice estimates that 44,000 such “collateral consequences” can exist



for people with criminal records; some are suitably grounded in protecting the public, but many are not.

Nationwide, movements to lower incarceration and eliminate employment barriers are translating into policies like the elimination of cash bail, early release and record expungement. Given our high recidivism rate, it might appear that this puts public safety at risk. We should balance that

Source: Jeffrey D. Korzenik, “Untapped Talent: How Second Chance Hiring Works for Your Business and the Community” (HarperCollins Leadership, April 2021)

concern with the recognition that excessive

supervision and restrictions can actually reduce public safety by undermining the employment of people with records. There is a tradeoff, where selectively reducing restrictions will actually improve public safety. Freeing those resources would also allow for more focused supervision on those who present a true danger.

None of this absolves policymakers from the responsibility of formulating prudent policy changes. Risk assessments of the type being developed through the federal First Step Act or those being employed, for example, in New Jersey in conjunction with the elimination of cash bail are important tools for lowering public safety risks. Most states offer some form of judicially-granted “certificates of rehabilitation” that create relief from professional licensing restrictions.

Policymakers must also support employer-friendly legislation, reducing negligent hiring liability risks and offering inducements for more inclusive hiring, beyond traditional tax incentives. For example, Cook County in Illinois offers a pricing advantage in contract bidding to potential vendors whose workforce is majority comprised of underemployed categories, including people with criminal records.

There is plenty of “low-hanging fruit,” programs that can improve employment outcomes without increasing safety risk; often these involve training and education behind bars. The enormous size of our justice-involved population and the “law of large numbers” guarantees that there will be mistakes made. Some of these mistakes will be tragic and innocents will be victimized. This risks a backlash to the entire criminal justice reform movement — a rollback of newly instituted reforms or a hardening of opposition to prospective reforms. Any such policy-

induced episodes should be balanced against the crimes that did not happen — reduced recidivism due to improved employment and other outcomes. Thoughtful criminal justice reform fosters not only a more just society, but a safer and more prosperous one, too.

Talent Acquisition, Talent Development, and Risk Mitigation

However, good policy should be seen as a necessary, but not necessarily sufficient, ingredient of better outcomes. Even with the optimal regulation and policy, given the foundational role that employment plays in rehabilitation, employers ultimately must lead the way. Since talent acquisition, talent development, and risk mitigation are at the core of good business practices it seems only right for business to use their skills in this area.

Many social service nonprofits already offer opportunities, but with other nonprofit sectors, with the government and with private sector firms, involvement has been more limited. The absence of private sector participation is sorely felt. Not only does this group represent the largest amount of employment in our country, the sheer volume of American companies creates the chance for experimentation and the prospect of bringing the problem-solving capabilities of this group to bear on this pressing issue.

Fortunately, we do have the example of numerous pioneering businesses owners that have developed processes that work. Through their practices, they have created gainful employment for thousands of returning citizens as well as others who had been marginalized from the workforce through criminal records, past battles with addiction, or simply deep poverty.

It is important to stress that one of the hallmarks of these successful second chance employment practices is profitability. Businesses cannot reasonably be expected to hire people who cannot contribute to the bottom line of the enterprise; companies will write checks to charity, but only hire if it is profitable to do so. Certainly, without such hires being profitable, second chance hiring can never be scaled to a size sufficient to address our societal challenges.

We live in a period of unusual opportunity for those of us who hope to see more second chance employment. The current labor shortage, where job openings exceed the number of job seekers, is prompting employers to explore hiring from this demographic. It is important however, that these employers view these workers not as a last resort, but as a pool of true talent that must be judged on an individual basis, sourced intelligently and supported appropriately. Fortunately, the leadership in the business community is rising to this task – among the notable groups supporting this effort are the National Association of Manufacturers, the Society of Human Resource Management and the newly-formed Second Chance Business Coalition.

Special Considerations for the Financial Services Industry

With respect to the industry within the committee's purview, Financial Services, there are special considerations that impact this industry. There are three major categories of objections to second chance hiring: 1) safety/liability, 2) quality of work, and 3) reputation risk. The first two concerns are universal, but the third concern is heightened in financial services. The success of our financial system relies not only upon the actual safety and soundness of the institutions, but also the public perception of that stability. However, arguments that the inclusion of workers

with criminal records in financial institutions could undermine confidence in the industry appear to be unsubstantiated given, for example, the very public second chance hiring efforts of the nation's largest bank, J.P. Morgan & Company.

Conclusion

Second chance hiring, done right, is business, not charity. Good policy can reduce barriers to these practices without compromising public safety or institutional soundness. Second chance hiring paves the road to a more prosperous economy, stronger families and safer communities. When wise policies are coupled with the talents of the private sector and nonprofit partners, we can move toward our national aspiration to be truly a land of opportunity for ALL.

I again thank the Subcommittee for the opportunity to address this important issue and I am very happy to answer any questions you may have around my research or experiences at the appropriate time.