

Licensing Barriers to Employment Post-Conviction in Rhode Island



A Report of the
Rhode Island Advisory Committee to the
U.S. Commission on Civil Rights

April 2021

Advisory Committees to the U.S. Commission on Civil Rights

By law, the U.S. Commission on Civil Rights has established an advisory committee in each of the 50 states and the District of Columbia. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. More specifically, they are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

Acknowledgements

The Rhode Island Advisory Committee (Committee) thanks each of the speakers who presented to the Committee during their public meetings in connection with this topic, along with their staff who helped make their participation possible. The Committee also sincerely appreciates and recognizes the work of Commission intern Lucia Delaroca for her leadership and work on this project.

**Rhode Island Advisory Committee to the
U.S. Commission on Civil Rights**

The Rhode Island Advisory Committee to the U.S. Commission on Civil Rights submits this report regarding licensing as a barrier to employment post-conviction in Rhode Island. The Committee submits this report as part of its responsibility to study and report on civil rights issues in the state. The contents of this report are primarily based on testimony the Committee heard during an in-person public meeting held on April 30, 2019, as well as virtual meetings held on May 20, 2020 and June 30, 2020. The Committee also included related testimony submitted in writing during the relevant period of public comment.

The following report begins with a summary of the testimony the Committee received on this topic. It then identifies primary findings as they emerged from this testimony. Finally, it makes recommendations for addressing related civil rights concerns. While other important topics may have surfaced throughout the Committee's inquiry, matters that are outside the scope of this specific civil rights mandate are left for another discussion.

**Rhode Island Advisory Committee to the
U.S. Commission on Civil Rights**

Margaux Morisseau, *Chair*, Woonsocket

Donnie Anderson, *Vice Chair*, Providence

Alero Akporiaye, Rumford

Adelita Orefice, Providence

Farid Ansari, Johnston

Elena Shih, Providence

Langdon Clough, Warwick

Jennifer Steinfeld, Providence

Ernest Greco, Providence

William Wray, East Greenwich

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I. EXECUTIVE SUMMARY

On March 8, 2019, the Rhode Island Advisory Committee (Committee) to the U.S. Commission on Civil Rights (Commission) adopted a proposal to undertake a study of licensing barriers to employment post-conviction in Rhode Island and related civil rights concerns. The Committee began its study to examine the ways that formerly convicted people in Rhode Island are excluded from economic opportunities to participate in society once released, with a particular focus on race. Although all formerly incarcerated people can be impacted by licensing barriers to employment, people of color, especially Black and brown people of color, are disproportionately affected by these barriers to full citizenship as they are over-represented in the criminal justice system. The current system for obtaining occupational licenses were examined as one potential barrier towards successful reentry post-conviction.

As part of this inquiry, the Committee heard testimony on this topic during public meetings on April 30, 2019; May 20, 2020; and June 30, 2020.¹ Over the course of hearing testimony, legislation was passed in Rhode Island that may address many of the concerns raised in the testimony.² The “Equal Opportunity and Affirmative Action – Licensing Act,”³ also commonly known as the “Fair Chance Licensing Bill,” creates standards and a process for decisions related to disqualifying an applicant from obtaining an occupational license, permit, certificate, or registration issued by the state if they have a past conviction.⁴ This report focuses on a summary of testimony heard that reflects the pre-Fair Chance Licensing Bill context, and offers recommendations with a forward-looking lens towards successful implementation of the new legislation.

The following report begins with a summary of the testimony the Committee received on this topic. It then identifies primary findings as they emerged from this testimony. Finally, it makes recommendations for addressing related civil rights concerns within the new legislative context. While other important topics may have surfaced throughout the Committee’s inquiry, matters that are outside the scope of this specific civil rights mandate are left for another discussion. This report and the recommendations included within it were adopted unanimously by the Committee on February 10, 2021.

Findings

¹ Transcripts from these meetings are available at the link in the Appendix.

² R.I. Gen. Laws § 28–5.1–14 (2020).

³ *Id.*

⁴ Ahlquist, Steve, “Coalition Celebrates Passage of Fair Chance Licensing Bill.” *Uprise RI*. July 20, 2020. <https://upriseri.com/2020-07-20-fair-chance-licensing/>, (accessed 12/28/20); R.I. Gen. Laws § 28–5.1–14 (2020).

1. A disproportionate number of Black and brown people have criminal records, including people who are eligible for expungements⁵ and people who were arrested but not convicted of a crime.⁶
2. Unemployment is a cause of recidivism.⁷
3. There is little insight into how neighborhoods are policed and how arrests are made.”⁸
4. At three expungement clinics in Providence and Newport, over half of the people were entitled to an expungement of a criminal record but did not know how to pursue expungement.⁹
5. Formerly incarcerated people pursue education towards a career but find that a conviction history prevents them from obtaining a license in that career field.¹⁰
6. There is a psychological burden towards not being able to participate as an employed member of society due to having a conviction history.¹¹
7. There are economic costs to society when formerly incarcerated people are prevented from accessing employment opportunities.¹²

⁵ Peter Neronha, testimony, *Briefing Before the Rhode Island Advisory Committee to the U.S. Commission on Civil Rights, June 30, 2020*, transcript, p. 5 (hereafter cited as *June 30, 2020 Briefing*); Friedlander Testimony, *June 30, 2020 Briefing*, p. 12.

⁶ Anusha Alles, testimony, *Briefing Before the Rhode Island Advisory Committee to the U.S. Commission on Civil Rights, May 20, 2020*, transcript, p. 4 (hereafter cited as *May 20, 2020 Briefing*).

⁷ Monteiro Testimony, *May 20, 2020 Briefing*, p. 10; Neronha Testimony, *June 30, 2020 Briefing*, p. 2.

⁸ Neronha Testimony, *June 30, 2020 Briefing*, p. 5.

⁹ *Ibid.*, 6.

¹⁰ Morales Testimony, *May 20, 2020 Briefing*, p. 8.

¹¹ Monteiro Testimony, *May 20, 2020 Briefing*, p. 10.

¹² Neronha Testimony, *June 30, 2020 Briefing*, p. 2.

8. There is a lack of uniform occupational licensing standards.¹³ Licensing regulations are governed by individual agencies or entities, and licensing boards do not receive consistent guidance around how to consider a conviction if an applicant has a conviction history.¹⁴
9. License application denials are based on subjective moral turpitude, or moral character assessments that are not well-defined.¹⁵
10. It is possible for someone to have been arrested many times with no conviction, and the arrests will show up in an individual's conviction history.¹⁶ Conviction history may be considered by licensing boards even if the person was not convicted of the crime.¹⁷
11. At the time of the Committee's briefing, there was state law that did not forbid licensing boards from considering expunged records, but new legislation forbids state licensing boards from considering expunged records.¹⁸
12. There are industry-specific conviction-related barriers to obtaining a license that should be revisited to assess risk and public benefit.¹⁹
13. Formerly incarcerated people may be uniquely qualified to serve in certain occupations they are prevented from obtaining licensure in due to their conviction history.²⁰
14. It can be challenging to determine which occupations one is barred from accessing a license in due to possessing a conviction history, and many occupations do not consider the relationship between conviction and occupation.²¹

¹³ Friedlander Testimony, *June 30, 2020 Briefing*, p. 11; Sarah Martino, testimony, *April 30, 2019 Meeting*, p. 4. *Meeting of the Rhode Island Advisory Committee to the U.S. Commission on Civil Rights, April 30, 2019*, transcript, p. 4 (hereafter cited as *April 30, 2019 Meeting*).

¹⁴ Martino Testimony, *April 30, 2019 Meeting*, p. 4.

¹⁵ Alles Testimony, *May 20, 2020 Briefing*, p. 4; Martino Testimony, *April 30, 2019 Meeting*, p. 3.

¹⁶ Alles Testimony, *May 20, 2020 Briefing*, p. 4; Neronha Testimony, *June 30, 2020 Briefing*, p. 3.

¹⁷ Neronha Testimony, *June 30, 2020 Briefing*, p. 3; Natalia Friedlander, *June 30, 2020 Briefing*, p. 11.

¹⁸ Friedlander Testimony, *June 30, 2020*, p. 14; R.I. Gen. Laws § 28-5.1-14; (2020).

¹⁹ Neronha Testimony, *June 30, 2020 Briefing*, p. 7.

²⁰ Monteiro Testimony, *May 20, 2020 Briefing*, p. 11.

²¹ Alles Testimony, *May 20, 2020 Briefing*, p. 4; Martino Testimony, *April 30, 2019 Meeting*, p. 3.

15. There is a lack of data available on the basis of which applicants are denied a license.²² The new legislation supports data collection efforts, including demographic requirements that may help illuminate racial bias issues in the future.²³
16. Probation and parole officers need appropriate caseload sizes to ensure the people they support get the attention they need to succeed.²⁴
17. There is strong and convincing anecdotal evidence that formerly incarcerated individuals are discouraged from licensed professions before even going through the license application process.²⁵
18. International trade matters can adversely affect workers²⁶ and federal²⁷ investments have been made to support workers who have been adversely affected by foreign trade.
19. Entrepreneurship can be a ladder of opportunity for citizens who are struggling to find employment after incarceration.²⁸
20. High fees related to having a conviction history may prevent formerly incarcerated people from accessing employment,²⁹ which can include the \$100 fee for non-violent criminal conviction expungement costs.³⁰

Recommendations

²² Friedlander Testimony, *June 30, 2020*, p. 14.

²³ Ibid.

²⁴ Neronha Testimony, *June 30, 2020 Briefing*, p. 3.

²⁵ Morales Testimony, *May 20, 2020 Briefing*, p. 8; Monteiro Testimony, *May 20, 2020 Briefing*, p. 10.

²⁶ Monteiro Testimony, *May 20, 2020 Briefing*, pp. 10-11; Johnny Magdaleno, “Workers Without College Degrees Left Behind in New Providence Economy,” *Next City*, Oct. 26, 2016, <https://nextcity.org/daily/entry/providence-transition-manufacturing-post-grad-economy>

²⁷ U.S. Department of Labor, *TAA Laws* <https://www.dol.gov/agencies/eta/tradeact/laws>.

²⁸ U.S. Department of Commerce, Minority Business Development Agency, *SBA to Launch \$1.2 Million Aspire Challenge for Entrepreneurship Training and Microloans to Help Previously Incarcerated Citizens*, <https://archive.mbda.gov/news/news-and-announcements/2016/12/sba-launch-12-million-aspire-challenge-entrepreneurship-training.html>.

²⁹ Dick M. Carpenter II, Ph.D., Lisa Knepper, Angela C. Erickson and John K. Ross, “Rhode Island,” *License to Work: A National Study of Burdens from Occupational Licensing* 2nd Edition, *Institute for Justice*, <https://ij.org/report/license-work-2/ltw-state-profiles/ltw-rhode-island/> (accessed January 12, 2020).

³⁰ R.I. Gen. Laws § 12-1.3-3 (2017).

Among their duties, advisory committees of the Commission are authorized to advise the Agency (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws, and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.³¹ In keeping with these responsibilities, and in light of the testimony heard on this topic, the Rhode Island Advisory Committee submits the following recommendations to the Commission.

1. The U.S. Commission on Civil Rights should issue the following recommendations to the Rhode Island State Legislature in light of the recent implementation of Rhode Island's Fair Chance Licensing Legislation³² to:
 - a. Consider investigating how employers, schools, and training programs also participate in reinforcing occupational licensing barriers, not just licensing boards.
 - b. Ensure that each agency, commission, or board that issues licenses (relevant licensing entities) reports data by race and ethnicity as required in the new legislation to help inform efforts to combat potential disparate impact and subjective license denials.
 - c. Ensure that relevant licensing entities report the number of initial applicants, the number of granted licenses, the number of denied, including documentation describing why an application for a license is denied.
 - d. Ensure that relevant licensing entities provide documentation connecting a disqualifying criminal conviction to the type of work the license permits the applicant to conduct.
 - e. Consider drafting legislation to staff and train state probation and parole officers at levels similar to federal probation and parole officer caseloads in order to support reintegration efforts that include successful employment.
2. The U.S. Commission on Civil Rights should issue the following recommendations to the Rhode Island Department of Labor and Training to:
 - a. Consider including easily accessible information on job-seeker facing websites to streamline information about what occupational licenses may have conviction-related barriers, and where to access more information or help in navigating post-release employment resources.

³¹ 45 C.F.R. § 703.2 (2018).

³² R.I. Gen. Laws § 28-5.1-14 (2020).

- b. Work with relevant licensing entities to develop reentry programming and materials, including booklets or pamphlets, that provide examples of occupational opportunities available to persons with felony convictions, and what steps might be required to review before pursuing a particular occupation.
 - c. Review challenges within the labor market itself in addition to incarceration and work with the Department of Corrections and the Department of Education to support workers impacted.
3. The U.S. Commission on Civil Rights should issue the following recommendations to the Rhode Island Department of Education to:
- a. Conduct outreach and provide support to formerly incarcerated students.
 - b. Apply for funding that could help meet the needs of formerly incarcerated students in obtaining education that supports their employment opportunities.
 - c. Support organizations that help meet the needs of formerly incarcerated students in obtaining education that supports their employment opportunities.
 - d. Ensure educators and staff at community colleges receive training and/or access to materials that help them connect formerly incarcerated students with available resources that help further occupational opportunities.

II. BACKGROUND

Civil rights advocates have had longstanding concerns about the effects of the criminal justice system on vulnerable populations, including people of color. While criminal justice concerns include policing and the adjudicatory process broadly, the Rhode Island Advisory Committee sought testimony focused on post-conviction challenges as part of its inquiry. Specifically, the Committee examined occupational licenses as a potential barrier that prevents formerly incarcerated people in Rhode Island from fully participating in society upon leaving prison.

Having a conviction history prevents people from obtaining a license in many occupations.³³ Barriers to citizenship for adults with felony convictions are authorized in many states.³⁴ The impact of these barriers is that ex-offenders have greater difficulty getting a job or a professional

³³ Nick Sibilla, “Barred From Working: A Nationwide Study of Occupational Licensing Barriers for Ex-Offenders,” *Institute for Justice*, August 2020, p. 3, <https://ij.org/wp-content/uploads/2020/08/Barred-from-Working-August-2020-Update.pdf>. Accessed 1/12/2021.

³⁴ “Occupational Licensing Final Report: Assessing State Policies and Practices”, National Conference of State Legislatures, last modified, December 4, 2020 <https://www.ncsl.org/research/labor-and-employment/occupational-licensing-final-report-assessing-state-policies-and-practices637425196.aspx>. Accessed 1/12/2021.

license, obtaining a loan, and securing housing. Underemployment and unemployment may cause recidivism and may have costs to the individual as well as society.³⁵ In its 2017 report on occupational licensing, the National Conference of State Legislatures noted that only five percent of workers in the 1950s needed a license, but as of 2017, that percentage has risen to 25 percent more recently,³⁶ while a 2020 Institute of Justice report highlights that the number of adults with a felony conviction as increased tenfold since 1950.³⁷

There are also economic reasons towards preventing people from accessing licenses, such as high fees.³⁸ While the Attorney General's Office has tried to alleviate many of the burdens and barriers to expungement with its clinics, a significant barrier remains the court fee, which is \$100 as of February 2021.³⁹ In 2020, the Attorney General introduced legislation to, among other things, eliminate this fee.⁴⁰ He intends to introduce this legislation again in 2021. It can be challenging to understand what licenses may have a conviction barrier, and why a license is denied.⁴¹ As part of its study, Committee sought to understand the burdens imposed by the state licensing agencies that

³⁵ Nick Sibilla, "Barred From Working: A Nationwide Study of Occupational Licensing Barriers for Ex-Offenders," *Institute for Justice*, August 2020, p. 3, <https://ij.org/wp-content/uploads/2020/08/Barred-from-Working-August-2020-Update.pdf>. Accessed 1/12/2021.

³⁶ "Assessing State Policies and Practices"; U.S. Department of Treasury Office of Economic Policy, Council of Economic Advisers and Department of Labor. *Occupational Licensing: A Framework for Policymakers* (Washington, D.C.: The White House, 2015), p. 6, https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf. Accessed 1/12/2021.

³⁷ Nick Sibilla, "Barred From Working: A Nationwide Study of Occupational Licensing Barriers for Ex-Offenders," *Institute for Justice*, August 2020 p. 3, <https://ij.org/wp-content/uploads/2020/08/Barred-from-Working-August-2020-Update.pdf>. Accessed 1/12/2021.

³⁸ Dick M. Carpenter II, Ph.D., Lisa Knepper, Angela C. Erickson and John K. Ross, "Rhode Island", *License to Work: A National Study of Burdens from Occupational Licensing 2nd Edition*, *Institute for Justice*, <https://ij.org/report/license-work-2/tw-state-profiles/tw2-rhode-island/>. Accessed January 12, 2020.

³⁹ R.I. Gen. Laws § 12-1.3-3, <https://www.courts.ri.gov/Courts/districtcourt/PDF/DistrictCriminalExpungeStatutes.pdf>. Accessed February 3, 2021; State of Rhode Island Office of the Attorney General. "Expungement Information." State of Rhode Island. <http://www.riag.ri.gov/homeboxes/expungement-info.php>., Accessed February 3, 2021.

⁴⁰ Identification And Apprehension Of Criminals RI S2586 (2020); <http://webserver.rilin.state.ri.us/BillText/BillText20/SenateText20/S2586.pdf>; Identification And Apprehension Of Criminals RI H7713 (2020); <http://webserver.rilin.state.ri.us/BillText/BillText20/HouseText20/H7713.pdf>.

⁴¹ Nick Sibilla, "Barred From Working: A Nationwide Study of Occupational Licensing Barriers for Ex-Offenders," *Institute for Justice*, Aug. 2020, 1, <https://ij.org/wp-content/uploads/2020/08/Barred-from-Working-August-2020-Update.pdf>. Accessed 1/12/2021.

prohibit those with criminal records from working in certain fields, even when the criminal offense has no apparent risk to the job.⁴²

Although all formerly incarcerated people can be impacted by having a conviction history that prevents them from obtaining a license, people of color, especially Black and Brown people, are disproportionately affected; they are incarcerated at greater rates and are over-represented at every stage in the criminal justice system.⁴³ More than 60 percent of the people in prison today are people of color. Black men are six times as likely to be incarcerated as white men and Hispanic men are 2.7 times as likely.⁴⁴ According to a 2017 Demography report, eight percent of all adults, and 33 percent of Black adult males have a felony conviction.⁴⁵

Advocates from across the political spectrum have joined together in challenging the collateral consequences imposed on ex-offenders. In addition, as litigation challenging collateral consequences has developed in recent years, courts have tended to find some of these measures, e.g., the "box" that requires disclosure of ex-felon status, violate civil rights laws. In July 2020, Rhode Island passed a Licensing Reform bill which addressed many of the issues within occupational licensing.⁴⁶ Whether the new legislation works as intended remains to be seen. In this context, the Committee submits this report to the Commission regarding the licensing barriers to employment post-conviction in Rhode Island.

III. SUMMARY OF TESTIMONY

The public meetings on April 30, 2019, May 20, 2020, and June 30, 2020, included testimony from advocates, attorneys, community members, and individuals impacted by licensing barriers with informed perspectives on licensing barriers for formerly incarcerated people.

⁴² Ibid., 3.

⁴³ Shannon, S. S., Uggen, C., Schnittker, J., Thompson, M., Wakefield, S., & Massoglia, M. (2017). The Growth, Scope, and Spatial Distribution of People With Felony Records in the United States, 1948-2010. *Demography*, pp. 1-24.

⁴⁴ "Trends in U.S. Corrections", *The Sentencing Project*, Aug. 2020, <https://www.sentencingproject.org/wp-content/uploads/2020/08/Trends-in-US-Corrections.pdf>. Accessed January 15, 2021.

⁴⁵ Sarah K.S. Shannon, Christopher Uggen, Jason Schnittker, Melissa Thompson, Sara Wakefield and Michael Massoglia, "The Growth, Scope, and Spatial Distribution of People With Felony Records in the United States, 1948–2010," *Demography*, Sept. 2017, 1795, http://users.soc.umn.edu/~uggen/Shannon_Uggen_DEM_2017.pdf (accessed January 12, 2021).

⁴⁶ R.I. Gen. Laws § 28–5.1–14 (2020).

A. Civil Rights and Related Concerns

Panelists shared that a disproportionate number of black and brown people have criminal records, including people who are eligible for expungements⁴⁷ and people who were arrested but not convicted of a crime.⁴⁸ The American Bar Association defines expungement as “the process by which a record of criminal conviction is destroyed or sealed from state or federal record.”⁴⁹ An expungement order directs the court to treat the criminal conviction as if it had never occurred, essentially removing it from a defendant’s criminal record as well as, ideally, the public record. This results in a disproportionate number of Black and other people of color who are denied occupational licenses for employment.⁵⁰ Natalia Friedlander, Staff Attorney at the Rhode Island Center for Justice, shared that the primary purpose of occupational licensing is to safeguard public health and safety, and to protect consumers.⁵¹ Licensing requirements are barriers for people with criminal records⁵² that materially harm⁵³ individuals with criminal records trying to seek gainful employment, psychologically⁵⁴ and economically. The committee heard testimony that some requirements and criteria for many occupational licenses in Rhode Island were broad, vague, and had no rational relationship to the license sought.⁵⁵ There are many licensing boards and commissions which operate independently, as noted by Ms. Friedlander and she emphasized that they operate without explicit statewide and uniform statutory protection for applicants with criminal records.⁵⁶ Sarah Martino, Deputy Director of the Center for Health and Justice Transformation in Rhode Island, highlighted that “there is no consistency in how any of these laws are implemented or regulated.”⁵⁷

Attorney General Peter Neronha stated in his testimony that these licensing requirements were very stringent, and in his view, “bar people who could be working in many different capacities, in

⁴⁷ Neronha Testimony, *June 30, 2020 Briefing*, p. 5, Friedlander Testimony, *June 30, 2020 Briefing*, p. 12

⁴⁸ Alles Testimony, *May 20, 2020 Briefing*, p. 4.

⁴⁹ American Bar Association, “What is Expungement?” *American Bar Association*, https://www.americanbar.org/groups/public_education/publications/teaching-legal-docs/what-is-expungement/ (accessed March 16, 2021).

⁵⁰ Jeffery Williams Testimony, *June 30, 2020 Briefing*, p. 9.

⁵¹ Friedlander Testimony, *June 30, 2020 Briefing*, p. 11.

⁵² Alles Testimony, *May 20, 2020 Briefing*, p. 3-4.

⁵³ Friedlander Testimony, *June 30, 2020 Briefing*, p. 11.

⁵⁴ Monteiro Testimony, *May 20, 2020 Briefing*, p. 10.

⁵⁵ Friedlander Testimony, *June 30, 2020 Briefing*, p. 11.

⁵⁶ *Ibid.*, 11.

⁵⁷ Martino Testimony, *April 30, 2019 Meeting*, p. 4.

many different occupations, unnecessarily.”⁵⁸ Ms. Friedlander stated that Rhode Island was rated as “one of the worst states in the U.S. for barriers to employment in terms of how many professions are licensed and how burdensome the licenses are in mandatory fees, education and experience” in a 2017 study by the Institute of Justice.⁵⁹ As noted in the background to this memorandum, the Committee heard three days of testimony prior to the July 2020 passing of the Fair Chance Licensing Bill, an amendment to the Equal Opportunity and Affirmative Action Act that addresses some of the concerns that panelists shared and takes effect on January 1, 2021.⁶⁰

Ms. Anusha Alles, Organizer at Direct Action for Rights and Equality (DARE), discussed the impact of licensing barriers on Rhode Island’s economy, “especially low-income communities and black and brown communities.”⁶¹ She shared that the unemployment rate in the United States for people with convictions is five times higher than that of the general population, comparable to the rate of unemployment during the Great Depression.⁶² James Monteiro, Founder and Director of the Reentry Campus Program, highlighted in his testimony that “at least 30% percent of Rhode Islanders have a criminal conviction.”⁶³ Ms. Alles noted that over 40% of the fastest growing industries in Rhode Island require occupational licenses,⁶⁴ adding that it means that “one third of our state's population is being shut out of stable employment.”⁶⁵ Mr. Monteiro mentioned the psychological disconnect of feeling locked out of society in “a state whose motto is hope.”⁶⁶

Ms. Alles shared that licensing agencies and boards have not been required to document the reason an application was denied, nor were they required to inform an applicant why they were denied.⁶⁷ At the time of the briefing, Ms. Alles noted that there was no provision in state law that forbid licensing boards from considering expunged records.⁶⁸ Ms. Friedlander stated that “there is at least

⁵⁸ Neronha Testimony, *June 30, 2020 Briefing*, p. 3.

⁵⁹ Friedlander Testimony, June 30, 2020, p. 13; Dick M. Carpenter II, Lisa Knepper, Kyle Sweetland, and Jennifer McDonald, “License to Work: A National Study of Burdens from Occupational Licensing, 2nd Ed.” *Institute for Justice*, Nov. 2017, <https://ij.org/report/license-work-2/lw-state-profiles/lw2-rhode-island/>, Accessed 12/28/2020.

⁶⁰ R.I. Gen. Laws § 28–5.1–14 (2020).

⁶¹ Alles Testimony, *May 20, 2020 Briefing*, p. 4.

⁶² *Ibid.*, 3.

⁶³ Monteiro Testimony, *May 20, 2020 Briefing*, p. 10.

⁶⁴ Alles Testimony, *May 20, 2020 Briefing*, p. 3.

⁶⁵ *Ibid.*, 4.

⁶⁶ Monteiro Testimony, *May 20, 2020 Briefing*, p. 10.

⁶⁷ Alles Testimony, *May 20, 2020 Briefing*, p. 4.

⁶⁸ Friedlander Testimony, *June 30, 2020*, p. 14.

one agency in Rhode Island that does require the disclosure of expunged records and that does, at least see those and consider those in deciding whether to grant licenses.”⁶⁹

Ms. Alles stated that licensing agencies did not have any accountability to applicants to say, for example, “we’re making the decision based on arrest.”⁷⁰ Ms. Alles added, “we know that it’s mostly black and brown folks being denied because we know the history of mass incarceration and we know the history around policing. We don’t have any hard numbers because right now, the agencies don’t have to collect that data and they don’t have to report that to anybody.”⁷¹ Accountability and data reporting concerns are addressed in new Fair Chance Licensing legislation.⁷²

Of addressing systemic racism in the criminal justice system, Attorney General Peter Neronha stated, “I don’t think anyone who has been involved in it, certainly as long as I have been, can comfortably say that there is not systemic racism in our criminal justice system. I think the results and the numbers bear that out.”⁷³ Attorney General Neronha also stated that when people who leave prisons do not enter the workforce with good jobs or businesses, they are likely to re-offend and re-enter prison, at an economic cost to society.⁷⁴ He emphasized that reducing the barriers for formerly incarcerated people to re-enter society is a critical component of what prosecutors do when they advocate for people who are incarcerated.⁷⁵

1. Unemployment as a Cause of Recidivism

Panelists provided insight into the backgrounds of formerly incarcerated people who encountered barriers in obtaining occupational licensing. A study by the Institute for Justice noted that when it came to influencing recidivism rates, licensing burdens were second only to the overall labor market climate.⁷⁶ Mr. Monteiro stated that in Rhode Island cities like Providence, Central Falls, and Woonsocket, “the biggest employer of most of these individuals, especially teenagers, is not Walmart, it’s not Apple, it’s not these major corporations, it’s the drugs.”⁷⁷ He continued, “for most

⁶⁹ Ibid.

⁷⁰ Alles Testimony, *May 20, 2020 Briefing*, p. 4.

⁷¹ Ibid., 5.

⁷² R.I. Gen. Laws § 28–5.1–14 (2020).

⁷³ Neronha Testimony, *June 30, 2020 Briefing*, p. 5.

⁷⁴ Ibid., 2.

⁷⁵ Ibid.

⁷⁶ Nick Sibilla, “Barred from Working: A Nationwide Study of Occupational Licensing Barriers for Ex-Offenders.” Institute for Justice, August 2020, p. 3. <https://ij.org/wp-content/uploads/2020/08/Barred-from-Working-August-2020-Update.pdf>, accessed: 12/28/20.

⁷⁷ Monteiro Testimony, *May 20, 2020 Briefing*, p. 10.

of these people, this is what they have access to for employment that will to pay them somewhat of a livable wage but yet at the same time, it just keeps us in this cycle of going in and out of prison and all the stuff that comes along with that.”⁷⁸

He noted that Providence in particular is seeing a shift away from manufacturing jobs, where workers without college degrees are being left behind.⁷⁹ A 2012 news article reported that Rhode Island has lost more than 37 percent of its manufacturing jobs in that decade, the biggest decline in the nation.⁸⁰ The article highlighted one company who once employed 15,000 people and moved the jobs overseas.⁸¹ The U.S. Department of Labor also highlights that international trade matters can also adversely affect workers and the federal Trade Adjustment Assistance Program (TAA Program) provides assistance to workers who have been adversely affected by foreign trade.⁸² Grants were designed to help workers eligible for job training under the Trade Adjustment Assistance (TAA) for Workers program, such as The Adjustment Assistance Community College and Career Training (TAACCCT), a major investment to increase the ability of community colleges to address the challenges of today's workforce.⁸³ The SAMI program was organized by Rhode Island's New England Institute of Technology in 2013 to provide education and training services to “unemployed workers in industries and occupations hardest hit with job losses from international trade and the Great Recession.”⁸⁴

⁷⁸ Ibid.

⁷⁹ Monteiro Testimony, *May 20, 2020 Briefing*, pp. 10-11, Johnny Magdaleno, “Workers Without College Degrees Left Behind in New Providence Economy.” *Next City*. October 26, 2016. Available at: <https://nextcity.org/daily/entry/providence-transition-manufacturing-post-grad-economy>, accessed 12/28/2020. This statement is supported by a 2015 statement from U.S. Senator Sheldon Whitehouse: “Our tax code is riddled with giveaways and special deals for the biggest corporations and top earners, and that special treatment hurts hardworking Rhode Islanders. Multi-national corporations stash assets and profits abroad to avoid paying a fair share in taxes. Companies ship jobs overseas and get a tax break for doing it.” *See*: U.S. Senator Sheldon Whitehouse, “Whitehouse Releases Tax Fairness Plan,” Jan. 12, 2015, <https://www.whitehouse.senate.gov/news/release/whitehouse-releases-tax-fairness-plan>, Accessed 1/25/2021.

⁸⁰ Elaine Quijano, “In Rhode Island, manufacturing workers hit hardest by high unemployment.”, May 2012, *CBS News*, <https://www.cbsnews.com/news/in-rhode-island-manufacturing-workers-hit-hardest-by-high-unemployment/>”, Accessed 1/25/21.

⁸¹ Ibid.

⁸² U.S. Department of Labor, *TAA Laws*, <https://www.dol.gov/agencies/eta/tradeact/laws>.

⁸³ U.S. Department of Labor, *Trade Adjustment Assistance Community College and Career Training*, <https://www.dol.gov/agencies/eta/skills-training-grants/community-colleges>.

⁸⁴ Center for Labor Markets and Policy Drexel University, “Impact Evaluation of New England Institute of Technology’s Shipbuilding/Marine Advanced Manufacturing Institute (SAMI) Program TAACCCT II Grant”, 2016, <https://drexel.edu/~media/Files/clmp/SAMI%20TAACCCT2%20Impact%20Report%20Final%20Oct%207%202021.6.ashx?la=en>, Accessed 1/26/21.

Attorney General Neronha noted, “96% of everyone incarcerated there is coming home and if we don't get those people back into the workforce and get them back into the workforce quickly with good jobs, or with good employment or businesses, then really several things are going to happen. Number one, they are very likely to re-offend, the data shows us that.”⁸⁵

Studies show that steady employment is a key means of preventing re-offending and states with more burdensome licensing laws saw their average recidivism rates jump by 9%.⁸⁶ This can include focusing on employment opportunities business ownership that may require a license for the owner: In 2015, the Small Business Administration announced funding to connect formerly incarcerated individuals with training related to entrepreneurship, noting that approximately 60% of formerly incarcerated individuals in federal prisons are unemployed one year after their release, “raising the risk of recidivism and resulting in lost lifetime earnings.”⁸⁷ The announcement highlighted that “entrepreneurship and small business ownership are proven paths toward wealth creation and financial independence, especially for people who might otherwise feel trapped by their circumstances,” said Tameka Montgomery, Associate Administrator for the SBA’s Office of Entrepreneurial Development in at the time of the announcement.⁸⁸ She continued, “entrepreneurship can even be a ladder of opportunity for citizens who have served their debt to society but are struggling to find employment after incarceration.”⁸⁹ In 2016, SBA’s Program for Investment in Microentrepreneurs (PRIME) placed special emphasis on applications with projects providing training and technical assistance to support entrepreneurship among ex-offenders in the criminal justice system; no organizations in Rhode Island received this funding.⁹⁰

⁸⁵ Neronha Testimony, *June 30, 2020 Briefing*, p. 2.

⁸⁶ Nick Sibilla, “Barred from Working: A Nationwide Study of Occupational Licensing Barriers for Ex-Offenders.” *Institute for Justice*. August 2020, p. 3. Available at: <https://ij.org/wp-content/uploads/2020/08/Barred-from-Working-August-2020-Update.pdf>, accessed: 12/28/20.

⁸⁷ Small Business Administration, *Aspire Challenge: Finding Solutions to Empower Formerly Incarcerated Individuals with Entrepreneurship Training and Access to Microloans*, 2015, <https://www.challenge.gov/challenge/aspire-challenge/>. See also U.S. Department of Commerce, Minority Business Development Agency, *SBA to Launch \$1.2 Million Aspire Challenge for Entrepreneurship Training and Microloans to Help Previously Incarcerated Citizens*, <https://archive.mbda.gov/news/news-and-announcements/2016/12/sba-launch-12-million-aspire-challenge-entrepreneurship-training.html>.

⁸⁸ U.S. Department of Commerce, Minority Business Development Agency, *SBA to Launch \$1.2 Million Aspire Challenge for Entrepreneurship Training and Microloans to Help Previously Incarcerated Citizens*, <https://archive.mbda.gov/news/news-and-announcements/2016/12/sba-launch-12-million-aspire-challenge-entrepreneurship-training.html>.

⁸⁹ *Id.*.

⁹⁰ U.S. Small Business Administration, *FY2016 PRIME Awardees*, https://www.sba.gov/sites/default/files/2017-10/2016_PRIME_Awardee_Profiles.pdf.

2. *Policing and Subjective Arrests*

Alexis Morales, Behind the Walls Committee Member and Recovery Coach at The Providence Center, described his upbringing and interactions with the criminal justice system in South Providence. He shared, “I grew up in poverty and surrounded by a lot of policing and a lot of violence. I was exposed to it at an early age so that led me into the criminal justice system by the age of 19. My first incarceration I did about six months.”⁹¹ Ms. Alles added, “black and brown people especially are being stopped constantly by the police being arrested when they haven't done anything.”⁹² About policing, Attorney General Peter Neronha said, “one thing that totally struck me is how little insight we [prosecutors] have into how neighborhoods are policed, how arrests are made and how that distinction, or that decision point, or that discretion, is used on the front line.”⁹³ Attorney General Neronha mentioned that there are “arrests for crimes where other crimes end up being charged because when the original arrest was made, it wasn't for the right crime.”⁹⁴

Attorney General Peter Neronha stated that the decision to make an arrest, “as opposed to not make an arrest, has been made without the prosecutors input 99% of the time. We [prosecutors] almost always see a case one step removed. By the time we see a case for potential prosecution, the initial cut has already been made, if you will.”⁹⁵

3. *Expungements*

Attorney General Neronha discussed his findings about the people served at three expungement clinics, one in Newport, two in Providence.⁹⁶ He stated, “what we found was that over half of those people were entitled to an expungement of a criminal record. They were entitled to it, just didn't know how to do it.”⁹⁷ Providing further details on the aid provided by the expungement clinics, Mr. Neronha said that, during the clinics, the Office's staff was able to “run their record, let them know that they were eligible, if they weren't immediately eligible, let them know when they would be and then also help them fill out the paperwork, get their signature notarized, and get them really to the 10 yard line so that they could punch it over the goal line and get their record expunged.”⁹⁸

⁹¹ Morales Testimony, *May 20, 2020 Briefing*, p. 8.

⁹² Alles Testimony, *May 20, 2020 Briefing*, p. 4.

⁹³ Neronha Testimony, *June 30, 2020 Briefing*, p. 5.

⁹⁴ *Ibid.*, 3.

⁹⁵ *Ibid.*, 5.

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*, 6.

⁹⁸ Neronha Testimony, *June 30, 2020 Briefing*, p. 6; R.I. Gen. Laws § 12-1.3-3

At the time of the Committee’s briefing, Ms. Friedlander noted that there was “no provision in state law that forbids licensing boards from considering expunged records, and in fact at least one agency in Rhode Island [did require] the disclosure of expunged records.”⁹⁹ She noted that licensing boards were able to see and consider those records in deciding whether to grant licenses.¹⁰⁰ In January 2021, the new Fair Chance Licensing legislation will go into effect which forbids state licensing boards to consider expunged records.¹⁰¹

4. Training and Education

Mr. Morales stated that after his first period of incarceration at the age of 19, “I came out - no, I came *up* - ready to try to change. I heard education helps so let me try to go get my education.”¹⁰² Mr. Morales said that while at the Community College of Rhode Island, he discovered his passion for working with people and helping others, and he sought out to become a registered nurse.¹⁰³

I ended up getting a meeting with the Director of the nursing program at CCRI [Community College of Rhode Island] so I had a meeting with her. We had conversations, I told her I wanted to be a registered nurse. She was excited but towards the end, I told her I had a record and she basically told me it was impossible to become a nurse because of my record. Once she told me that, all my dreams shattered, I felt like a failure. I felt like it was basically, I didn't have no chance of obtaining that license because of what she said and she was the Director of the whole nursing thing so I felt like she knew better. As soon as she told me that I ended up going into this cycle and then going back into the [system]...I was stuck in there for about 10 years and that's in and out of prison, constantly interacting with police officers.¹⁰⁴

Motivated by his son, Mr. Morales said that in his last time incarcerated, he wanted to pursue another career in the field of counseling and enrolled in counseling courses.¹⁰⁵ Mr. Morales said, “I came up looking for work and it was difficult. It was very difficult. There were so many barriers put in place. ‘How do we know you changed?’ ‘Look at your record.’ ‘How do we know you're still not this person?’”¹⁰⁶

⁹⁹ Friedlander Testimony, *June 30, 2020*, p. 14.

¹⁰⁰ *Ibid.*, 14.

¹⁰¹ R.I. Gen. Laws § 28–5.1–14 (2020).

¹⁰² Morales Testimony, *May 20, 2020 Briefing*, p. 8.

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*

Mr. Morales noted that he is now in school to become a social worker, but has had discussions with current social workers who told him that because there are felonies on his record, it would be very difficult for him to get a job as a social worker.¹⁰⁷ He said, “I’m basically going into this blindfolded, I might spend four or five years trying to obtain this degree and then get a license as a social worker, and possibly not even be able to obtain that because of my past. That gets frustrating at times, but I just have faith that something will change. Hopefully, if things do change with the licensing situation, the occupational license, that would definitely change everything in the society I live in today and for those around me.”¹⁰⁸

5. *Psychological Consequences*

Echoing the goal to pursue education as means of successful re-entry and economic opportunity, Mr. Monteiro said that the mission of Reentry Campus Program is to “help currently and formerly incarcerated people finish the postsecondary education that they started behind prison walls once they are released.”¹⁰⁹ He added, “we know that most people today enrolled in the educational and certification programs designed behind walls will not be able to finish just because of the classroom space or course availability and other things, so we try to help them to finish.”¹¹⁰ He noted the challenges, sharing that the reason he directs the program is “because I understand fully what it’s like to be locked up in prison but I, more so, understand what it’s like to be locked out of society, and it is a lot harder to be locked out of society than it is to be locked up in prison.”¹¹¹ The reason why I say that is because everybody in prison is pretty much on the same playing field, there’s really no class differentiation,¹¹² but to be locked out of society, to watch people being able to enjoy themselves at the mall and you as an individual, who’s locked out, are not able to participate in this because you do not have access to employment that pays you adequate wage, it’s a lot harder. Psychologically, it is a lot harder.”¹¹³

A review of specific studies from communities that experienced significant job losses, found that lack of work was “strongly associated with higher levels of psychiatric symptoms” and further, the

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Monteiro Testimony, *May 20, 2020 Briefing*, p. 10.

¹¹⁰ Ibid., 10-11.

¹¹¹ Ibid.

¹¹² Ibid.

¹¹³ Ibid.

symptoms dissipated when the subjects returned to work.¹¹⁴ Disagreement about whether pre-existing mental health conditions are the cause of unemployment has been repudiated in studies.¹¹⁵ Studies also highlight that depressive symptoms are a result of, rather than a cause of, unemployment and social skills do not prevent depressive reactions during unemployment.¹¹⁶ Numerous long-term studies in various European nations have positively correlated unemployment to higher rates of mental illness including depression, anxiety, apathy, lowered self-esteem and sleep disorders. Differences between singular instances of unemployment in adult years and longer term unemployment in youth note life-long impacts from early absence from the employed population.¹¹⁷

Work is an important mechanism in re-integrating formerly incarcerated individuals into society, providing social bonds, a sense of economic independence, and conferring a social status that can replace that of “ex-convict.”¹¹⁸ Unemployment post-release varies with level of education, but “evidence of discrimination in low-wage labor markets where minority job seekers with prison records meet greater obstacles to employment than white [job seekers].”¹¹⁹

6. Economic Consequences

Attorney General Neronha noted that there are economic costs to society when formerly incarcerated people aren’t entering the workforce quickly with good jobs or businesses,¹²⁰ saying “we have to pay to incarcerate them again, and of course if the crime, the new crime, involves a victim, then there’s a cost to the victim as well. So, everybody wins if we get people back into society as seamlessly as possible, and I believe employment is among the most critical components

¹¹⁴ Liem, R., & Rayman, P., 1982, Health and social costs of unemployment: Research and policy considerations. *American Psychologist*, 37(10), 1116–1123. <https://doi-org.ccriezp.idm.oclc.org/10.1037/0003-066X.37.10.1116>

¹¹⁵ Pelzer, B., Schaffrath, S., & Vernaleken, I, 2014, Coping with unemployment: The impact of unemployment on mental health, personality, and social interaction skills. *Work: Journal of Prevention, Assessment & Rehabilitation*, 48(2), pp. 289–295.

¹¹⁶ Liem, R., & Rayman, P., 1982, Health and social costs of unemployment: Research and policy considerations. *American Psychologist*, 37(10), 1116–1123. <https://doi-org.ccriezp.idm.oclc.org/10.1037/0003-066X.37.10.1116>

¹¹⁷ Strandh, M., Winefield, A., Nilsson, K., & Hammarström, A. (2014). Unemployment and mental health scarring during the life course. *European Journal of Public Health*, 24(3), 440–445. <https://doi-org.ccriezp.idm.oclc.org/10.1093/eurpub/cku005>

¹¹⁸ Western, B., Braga, A. A., Davis, J., & Sirois, C., 2015, “Stress and hardship after prison,” *American Journal of Sociology*, 120(5), 1512–1547. <https://doi-org.ccriezp.idm.oclc.org/10.1086/681301>

¹¹⁹ Ibid.

¹²⁰ Neronha Testimony, *June 30, 2020 Briefing*, p. 2.

to that, if not the most critical.”¹²¹ An initial review of the state’s evidence based programs suggests that targeted investments in vocational education in prison are likely to have relatively large impacts on recidivism reduction.¹²² This assumes that individuals will be likely to find employment after release.¹²³ The data shows otherwise: only 55% of formerly incarcerated people earned anything in the first year after their release.¹²⁴ A review of evidence-based programs suggests that targeted investments in vocational education in prison are likely to have relatively large impacts on recidivism reduction.¹²⁵ This assumes individuals will be likely to find employment after release, but the data shows otherwise: only 55% of ex-prisoners reported earnings in the first year after their release.¹²⁶ Three years prior to incarceration, only 49% of prime-age men are employed, suggesting a need to review challenges within the labor market itself in addition to incarceration.¹²⁷

The Rhode Island Office of Budget and Management reported in their 2015 issue brief that the annual marginal cost per person for an arrest is \$1032 and for adult prison is \$6,842 - \$54,727, depending on the facility.¹²⁸ When asked by the Committee about the extent that race goes into decisions to charge and sentence, Attorney General Neronha said, “One thing that I’m working on here is bringing in sensitivity and implicit bias training so that we are at least more aware of how that may be driving some of the sentences that we recommend, some of the charging decisions we make, but it is a serious question, an important question that we need to do a better job of answering internally here in this office.”¹²⁹

B. Lack of Uniform Occupational Licensing Standards

Ms. Friedlander noted that there are many licensing boards that operate independently without explicit statewide statues that provide standards for occupational license applicants with criminal

¹²¹ Ibid.

¹²² Looney, Adam., and Turner, Nichols, March 2018, “Work and Opportunity before and after incarceration,” The Brookings Institute, pp. 1-2, <https://www.brookings.edu/research/work-and-opportunity-before-and-after-incarceration/>. Accessed February 23, 2021.

¹²³ Ibid.

¹²⁴ Ibid.

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ Ibid.

¹²⁸ RI Office of Management and Budget, 2015, “Results First – Adult & Juvenile Justice Cost Evaluation”, <http://www.omb.ri.gov/documents/performance/results,-first/Results%20First%20Program%20Inventory%20September%2020152.pdf> (last accessed Feb. 8, 2021).

¹²⁹ Neronha Testimony, *June 30, 2020 Briefing*, p. 6.

records.¹³⁰ Ms. Martino highlighted this issue as well, saying “there is no consistency in how any of these laws are implemented or regulated.”¹³¹

Ms. Friedlander stated that a recent Institute of Justice report¹³² ranked Rhode Island “dead last in conviction-related barriers to occupational licenses. Rhode Island's licensing board can consider arrests that didn't lead to a conviction and criminal records going back indefinitely. They are not required to consider the relationship between the conviction and the license sought, or evidence of the applicant's rehabilitation, their age at the time the crime was committed, their employment history or testimonials.”¹³³

She added that there is limited due process protection for applicants who are denied licenses due to conviction history, and that some licensing board also look into expunged convictions.¹³⁴ Ms. Friedlander said that Rhode Island licensing boards “allow for vague, discretionary character standards like good moral character or moral turpitude” and Rhode Island is one of only 10 states that scored a zero on exclusion criteria in this report, the first edition of which was published before the Fair Chance Licensing Bill passage in July 2020.¹³⁵

C. Discretionary Nature of Licensing Application Denials

Ms. Alles stated that there are laws in Rhode Island that say that licensing boards and agencies can consider moral turpitude in licensing applications,¹³⁶ referring to the possibility of judging suitability for work in an occupation using subjective standards. Ms. Alles says this consideration is dangerous because “moral turpitude” or “moral character” is not well-defined within legal code and added that it allows an agency to make a subjective assessment and look at anything on a

¹³⁰ Friedlander Testimony, *June 30, 2020 Briefing*, p. 11.

¹³¹ Martino Testimony, *April 30, 2019 Meeting*, p. 4.

¹³² Nick Sibilla, “Barred from Working: A Nationwide Study of Occupational Licensing Barriers for Ex-Offenders.” *Institute for Justice*, Aug. 2020, pp. 89-90. <https://ij.org/wp-content/uploads/2020/08/Barred-from-Working-August-2020-Update.pdf> (last accessed Dec. 28, 2021).

¹³³ Friedlander Testimony, *June 30, 2020 Briefing*, p. 12.

¹³⁴ *Ibid.*

¹³⁵ Friedlander Testimony, *June 30, 2020 Briefing*, p. 12; Nick Sibilla, “Barred from Working: A Nationwide Study of Occupational Licensing Barriers for Ex-Offenders” *Institute for Justice*, Aug. 2020, pp. 89-90, <https://ij.org/wp-content/uploads/2020/08/Barred-from-Working-August-2020-Update.pdf>

¹³⁶ Alles Testimony, *May 20, 2020 Briefing*, p. 4; Examples of laws that refer to moral turpitude include R.I. Gen. Laws § 5-60-14 and 5-60-14 R.I. Gen. Laws § 5-37.2-15.

person's conviction history when determining whether they should be able to obtain a particular license.¹³⁷

She said, "They can make a subjective assessment on whether you're a good person or not and whether you are a good enough person to have this occupational license based on anything on your record."¹³⁸ Ms. Martino added that there are also a number of disqualifications for people who have been convicted of crimes of moral turpitude for occupational licenses, adding that the term "moral turpitude" is not defined anywhere in state law.¹³⁹

This echoes Ms. Alles' concerns that this opens up a tremendous amount of discretion for the licensing board to be able to decide what that means.¹⁴⁰ Ms. Martino shared that there are disqualifications that can be made on an individual's ability to prove that they have good moral character built into occupational licenses.¹⁴¹ When Ms. Martino looked into case law on the issue from other states, she found that showing good moral character is sometimes used as a substitute for providing conviction history.¹⁴²

Ms. Alles said, "it is possible for somebody to have a lot of arrests on their record but no conviction. All of that shows up on a conviction history."¹⁴³ Attorney General Peter Neronha confirmed this when he stated, "there are lots of things on a record today, [including] arrests that never turn into prosecutions."¹⁴⁴ He continued to say, "[b]ut the records can be misleading and those of us in prosecution and law enforcement, we know how to sort through that, but an employer may not."¹⁴⁵ Ms. Alles said that an arrest record with no conviction could be used to justify a denial, emphasizing the point that all arrests show up on a conviction history if a licensing agency gets access to it.¹⁴⁶

¹³⁷ Ibid.

¹³⁸ Ibid.

¹³⁹ Martino Testimony, *April 30, 2019 Meeting*, p. 3.

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² Ibid., 4; *See also*: Nick Sibilla, "Barred from Working: A Nationwide Study of Occupational Licensing Barriers for Ex-Offenders" *Institute for Justice*, Aug. 2020, <https://ij.org/wp-content/uploads/2020/08/Barred-from-Working-August-2020-Update.pdf>

¹⁴³ Alles Testimony, *May 20, 2020 Briefing*, p. 4.

¹⁴⁴ Neronha Testimony, *June 30, 2020 Briefing*, p. 3.

¹⁴⁵ Ibid.

¹⁴⁶ Alles Testimony, *May 20, 2020 Briefing*, p. 4.

Ms. Friedlander said, “Rhode Island's licensing board can consider arrests that didn't lead to a conviction and criminal records going back indefinitely. They are not required to consider the relationship between the conviction and the license sought or evidence of the applicant’s rehabilitation, their age at the time the crime was committed, their employment history or testimonials.”¹⁴⁷

D. Licensing Board Regulations

Ms. Martino highlighted that licensing boards fall under umbrella agencies and that within the Department of Health, there are roughly “60 actual, separate licensing boards made up of experts in the field, community members who are responsible for reviewing license applications and none of those licensing boards receive consistent guidance around how to consider a conviction if an applicant has a conviction history.”¹⁴⁸

Ms. Martino shared that separate from the 150 licensing laws, there are many licensing regulations governed by individual agencies or entities, including the Department of Health, the Department of Business Regulation, the Department of Labor and Training, and the Attorney General’s Office.¹⁴⁹ She highlighted, “60% of [all statutes and regulations with licensing-related barriers] don't actually specify a disqualifying conviction that is explicitly related to the licensed occupation. What that means is a felony shoplifting conviction from two decades ago could be disqualifying if you are trying to become a licensed social worker. Any criminal conviction that can be deemed as a crime of moral turpitude which could be, frankly, anything could prevent you from being licensed as a dental hygienist in the State of Rhode Island.”¹⁵⁰

Ms. Alles made the point that licensing boards “don't have any accountability to the person who's applying to say, we're making the decision based on arrest.”¹⁵¹ Ms. Alles also added, “[a]s our laws currently stand, they [licensing agencies] don't have to document why they're denying you, they don't have to let you know why they're denying you.”¹⁵²

¹⁴⁷ Friedlander Testimony, *June 30, 2020 Briefing*, p. 11.

¹⁴⁸ Martino Testimony, *April 30, 2019 Meeting*, p. 4.

¹⁴⁹ Martino Testimony, *April 30, 2019 Meeting*, p. 4; see e.g. 815 R.I. ADMIN. CODE R. § 50-10-3 (Taxicab Operators); and the Rhode Island Department of Children, Youth and Families Criminal Records Check Addendum available at http://www.dcyf.ri.gov/policyregs/criminal_records_checks_addendum.htm (regulations governed by individual agencies or entities).

¹⁵⁰ Martino Testimony, *April 30, 2019 Meeting*, p. 4; see e.g. R.I. GEN. LAWS § 5-60-14 (Athletic Trainers) and R.I. GEN. LAWS § 5-37.2-15 (Acupuncturists) (laws that permit refusal of licensure for crimes involving moral turpitude include).

¹⁵¹ Alles Testimony, *May 20, 2020 Briefing*, p. 4.

¹⁵² *Ibid.*

Right Reverend Dr. Jeffery A. Williams, who has served on 30 boards and commissions both locally and internationally, including the Providence Police Advisory Board and the Providence Licensing Boards, provided testimony to the Committee. He said, “[t]he fact is that there is a latitude that the board has in granting or denying a license, and sometimes the criteria for that isn't something that is written down in black and white. It could simply be what the board feels, or what our particular knowledge is of a person’s history, despite the fact that they served time for that, the fact is that the license could be denied for some other stipulation placed around it simply because the person was formerly incarcerated. And that's the problem too.”¹⁵³ Dr. Williams stated that it has been his experience that often “licenses are granted unfairly or denied unfairly for very capricious reasons. And of course, that's going to be problematic.”¹⁵⁴

E. Industry-Specific Licensing Barriers

Ms. Alles noted that in Rhode Island, over 40% of fastest growing industries require occupational licenses.¹⁵⁵ Ms. Alles identified occupations that require a license, including a plumber, barber, nurse, social worker, doctor, real estate agent, and person who changes fire sprinklers,¹⁵⁶ adding that all of these occupations have conviction-related barriers in Rhode Island.¹⁵⁷ Ms. Martino shared that there are a lot of the laws around obtaining licensure in a healthcare related field, noting, “you can't obtain a license to become a Certified Nursing Assistant if you have any kind of felony conviction.”¹⁵⁸ Ms. Alles highlighted that Rhode Island has a shortage of healthcare workers.¹⁵⁹

Discussing healthcare occupations, Attorney General Peter Neronha testified that although a hospital network is concerned about delivering patient care in a safe environment, “John Hopkins found a way to manage that risk. I think they had on their employment payroll at the time 1,200 returning citizens, people who had served time in prison.”¹⁶⁰ The question is, how big is the risk and are we overstating what the risk is? And realizing that when we overstate risk, it has a negative consequence on everybody.”¹⁶¹

¹⁵³ Williams Testimony, *June 30, 2020 Briefing*, p. 9.

¹⁵⁴ *Ibid.*, 10.

¹⁵⁵ Alles Testimony, *May 20, 2020 Briefing*, p. 3.

¹⁵⁶ *Ibid.*, 4.

¹⁵⁷ *Ibid.*

¹⁵⁸ Martino Testimony, *April 30, 2019 Meeting*, p. 3.

¹⁵⁹ Alles Testimony, *May 20, 2020 Briefing*, p. 4.

¹⁶⁰ Neronha Testimony, *June 30, 2020 Briefing*, p. 7.

¹⁶¹ *Ibid.*

Ms. Martino said that the approach in other states has been to either try to pass broad licensing bills like Rhode Island’s Fair Chance Licensing Bill or to tackle specific occupations or fields where it seems like the burden on justice and poor folks is highest.¹⁶² She added that many other states have started by trying to change law around the CNA license “since that is an entry-level healthcare profession that could be a real growth opportunity for folks with records.”¹⁶³

Mr. Monteiro provided testimony about another health and human services organization willing to hire formerly incarcerated people in his program, noting that Saint Elizabeth Homes has a \$60 million year budget and provides nursing homes for people who are elderly.¹⁶⁴ Mr. Monteiro shared that Saint Elizabeth Homes wanted to build a relationship with his organization and hire members who had shown rehabilitation and were willing to be trained from the ReEntry Campus program. Mr. Monteiro stated, “here you have a population, a program saying ‘we have this workforce that wants work,’ we have a major employer in Rhode Island that says, “not only will we hire them, we’ll train them also,” but yet, because of the state law, these two [entities] can’t have a marriage and people can’t get adequate paying employment.”¹⁶⁵

According to the Rhode Island Executive Office of Health and Human Services in May 2017, there are “serious shortages of behavioral health professionals,” including mental health counselors and substance abuse specialists, and notably those treating the elderly.¹⁶⁶ This is an area that those barred from licenses might be able to enter, mitigating the shortages and obtaining economic opportunities. Ms. Martino stated that a lot of people who have a history of substance use want to become licensed chemical dependency counselors and social workers, particularly those who work directly with people.¹⁶⁷

Mr. Monteiro stated in his testimony that he was told that he was disqualified from becoming a licensed social worker or licensed chemical dependency worker, adding “a lot of people who are incarcerated, are incarcerated due to trauma. By the time we realize this is what is happening to us, you’re hearing that a lot of us are probably some of the best people to work in this field in social services.”¹⁶⁸

¹⁶² Martino Testimony, *April 30, 2019 Meeting*, p. 5.

¹⁶³ *Ibid.*

¹⁶⁴ Monteiro Testimony, *May 20, 2020 Briefing*, p. 11.

¹⁶⁵ *Ibid.*

¹⁶⁶ Rhode Island Executive Office of Health & Human Services and Jobs for the Future, “Healthcare Workforce Transformation: Preparing the Workforce for a Healthy Rhode Island,” May 2017, p. 38, <http://www.eohhs.ri.gov/Portals/0/Uploads/Documents/Workforce/HWT-Report.pdf>.

¹⁶⁷ Martino Testimony, *April 30, 2019 Meeting*, p. 10.

¹⁶⁸ Monteiro Testimony, *May 20, 2020 Briefing*, p. 11.

F. Conviction-Specific Barriers

Ms. Martino said, “[i]n Rhode Island general law, there are approximately 150 conviction-related barriers built into licensing statutes. You have 150 specific barriers in licensing law related to having a criminal record.”¹⁶⁹ Ms. Alles referred to this type of legal barrier as a “blanket ban,”¹⁷⁰ where an application for a license will be automatically barred if a person has certain kinds of convictions on their records: “[t]hey don't look at your application at all.”¹⁷¹

Ms. Martino reported that many of the licensing statutes disqualify people based on specific convictions, adding that “sometimes that's related to the profession for which the license is being requested. So, for example, if you are applying for a license related to banking and the financial industry, if you've been convicted of some sort of banking-related fraud, that is a related restriction.”¹⁷² However, Ms. Martino stated that she had a list of convictions that appear in many different licensing statutes that are not always related to the purpose of the occupation that is being licensed.¹⁷³ She added, “a lot of our licensing statutes have specific conviction restrictions built into them that are just from an arbitrary-seeming list of convictions that range in seriousness, from murder to [burglary].”¹⁷⁴

Ms. Martino said that the approach in other states has been to either try to pass broad licensing bills like Rhode Island's Fair Chance Licensing Bill or to tackle specific occupations or fields where it seems like the burden on justice and poor folks is highest.¹⁷⁵ She added that many other states have started by trying to change law around the CNA license “since that is an entry-level healthcare profession that could be a real growth opportunity for folks with records.”¹⁷⁶

¹⁶⁹ Martino Testimony, *April 30, 2019 Meeting*, p. 3.

¹⁷⁰ Alles Testimony, *May 20, 2020 Briefing*, p. 4.

¹⁷¹ *Ibid.*

¹⁷² Martino Testimony, *April 30, 2019 Meeting*, p. 3.

¹⁷³ Martino Testimony, *April 30, 2019 Meeting*, p. 3; *e.g.* R.I. GEN. LAWS § 5-40-13 (Physical Therapists) and R.I. GEN. LAWS § 5-35.2-10 (Opticians) (examples of laws where licensing statutes disqualify licensees for convictions unrelated to the purpose of the occupation for which the license is sought).

¹⁷⁴ *Ibid.*

¹⁷⁵ *Ibid.*, 5.

¹⁷⁶ *Ibid.*

G. Panelist Recommendations

1. *Fair Chance Licensing Legislation*

Mr. Morales said that the passing of the Fair Chance Licensing Bill would change many lives by giving those with felony records a choice, adding “we don't really have an opportunity if we don't have a choice. If we had a choice to get that license, then things would be a lot different for everyone around us in our community.”¹⁷⁷ Ms. Friedlander said that passing the Fair Chance Licensing bill will not “level the playing field for applicants with criminal records, but it will make it a bit more even and it will ensure that licensing boards are guided not by subjective moral and ethical considerations or factors unrelated to someone’s ability to do their job.”¹⁷⁸ Of licensing boards, Ms. Friedlander said that they are “not juries or sentencing courts evaluating whether someone ‘deserves’ to be part of the workforce. Instead, they will be able to focus on a narrow task that they are charged with considering, [which is] the ability of the applicant to safely, effectively, and proficiently do their job.”¹⁷⁹ The new Fair Chance Licensing legislation requires state licensing agencies to consider that relationship between conviction and occupation, and to justify, document, and notify an applicant of a denial and appeal process.¹⁸⁰

2. *New Processes for Assessments*

Considering paths forward, Dr. Williams said, “anything that we can do as a society to create a proper system whereby the questions could be asked, the assessments could be made whether or not someone is going to be a good fit for a license based upon their ability, not based upon their past, I think would go a long way to bringing about some social justice when it comes to economic opportunities.”¹⁸¹ The Fair Chance Licensing bill will require licensing boards to allow applicants to submit information about circumstances relative to crime or crimes, including “mitigating circumstances, their age at the time the crime or crimes were committed,” according to Ms. Friedlander.¹⁸² The new Fair Chance Licensing legislation requires state agencies to consider all circumstances relative to the crime.¹⁸³

Attorney General Neronha strongly supported this bill, because “[i]t really requires a licensing agency to think very carefully about why they're denying the license and really requires them,

¹⁷⁷ Morales Testimony, *May 20, 2020 Briefing*, p. 9.

¹⁷⁸ Friedlander Testimony, *June 30, 2020 Briefing*, p. 14.

¹⁷⁹ *Ibid.*

¹⁸⁰ R.I. Gen. Laws § 28–5.1–14 (2020).

¹⁸¹ Williams Testimony, *June 30, 2020 Briefing*, p. 10.

¹⁸² Friedlander Testimony, *June 30, 2020*, p. 12; R.I. Gen. Laws § 28–5.1–14 (2020).

¹⁸³ R.I. Gen. Laws § 28–5.1–14 (2020).

forces them if you will, to go through a series of factors that they really have to apply in determining whether or not they're going to issue a license or not. And when they don't, they have to issue an opinion which describes exactly why they didn't."¹⁸⁴

The new legislation requires state agencies to consider evidence of rehabilitation.¹⁸⁵ Ms. Alles posed the question about a someone with a possession charge, "one could argue that might impact their ability to be a pharmacist but what if that possession charge was 12 years earlier?"¹⁸⁶

The Fair Chance Licensing legislation will still allow a licensing authority to consider an applicant's criminal history, but Ms. Friedlander noted that, "rather than making entirely subjective moral judgments as to whether someone has good moral character, it would be explicitly focused on the purposes of licensing to safeguard public health and safety and to protect consumers."¹⁸⁷

3. Consider Licenses in the Context of the Conviction

Attorney General Neronha says that the Fair Chance Licensing Bill is designed to ensure that when a licensing authority is analyzing whether to give someone a license, that they put the requisite thought into it to decide whether or not denying that license really is the right thing to do."¹⁸⁸ The new legislation requires that a disqualifying criminal conviction is related to the kind of work that the license would allow one to do.¹⁸⁹ Mr. Neronha gave an example highlighting that someone with a child abuse conviction should not receive a license to run a daycare facility."¹⁹⁰ Ms. Alles says that the conviction should impact somebody's ability, giving the example of a drug possession charge, "what bearing does that have on someone's ability to be a real estate agent?"¹⁹¹

4. Document and Notify Applicants of Denials

Ms. Alles noted that the new Fair Chance Licensing legislation has requirements around documentation notification, requiring that agencies notify applicants about why they are being denied and how they can appeal the denial.¹⁹² Ms. Friedlander shared that the new legislation would require state agencies to issue a final decision in writing and have a formal appeals

¹⁸⁴ Neronha Testimony, *June 30, 2020 Briefing*, p. 4.

¹⁸⁵ R.I. Gen. Laws § 28-5.1-14 (2020).

¹⁸⁶ Alles Testimony, *May 20, 2020 Briefing*, p. 5.

¹⁸⁷ Friedlander Testimony, *June 30, 2020 Briefing*, p. 12.

¹⁸⁸ Neronha Testimony, *June 30, 2020 Briefing*, p. 3.

¹⁸⁹ *Ibid.*

¹⁹⁰ *Ibid.*

¹⁹¹ Alles Testimony, *May 20, 2020 Briefing*, p. 5.

¹⁹² Alles Testimony, *May 20, 2020 Briefing*, p. 5.

process.¹⁹³ Ms. Friedlander says that this process, including “appeals of administrative decisions, or decisions with the officers or taking it to superior or district court, and this process can be quite onerous and inaccessible to applicants.”¹⁹⁴ She continued, “[t]his is one of the reasons why it is so important to challenge bias and ensure fairness at the front end. In other words, the post adjudication appeals process is not a solution to these problems.”¹⁹⁵

5. *Report Data on Denials*

Ms. Friedlander noted that one of the challenges in determining racial bias exists is “precisely that we just simply don't have that much data on the basis by which applicants are denied.”¹⁹⁶ The Fair Chance Licensing bill would require agencies to report on an annual basis:

- the number of initial applicants for every occupational license permit with certificates under their jurisdiction within the previous calendar year,
- including how many applicants were granted or denied licenses
- and to the extent available the demographic breakdown of the applicants between race, ethnicity and gender and city or town of residence.¹⁹⁷

Ms. Alles said that this part of the bill “gets to the social justice core of it.”¹⁹⁸

6. *Consider Caseloads of Probation and Parole Officers*

Attorney General Neronha stated that he’s long advocated for strong re-entry programs “supported by good, hardworking probation and parole officers that have the kind of bandwidth they need to make sure people succeed when they get released.”¹⁹⁹ He noted that is a reason he thinks there is “much better success in the federal system than in the state system is because the caseloads for probation and parole officers are so much lower in the federal system.”²⁰⁰ Also, his office is working on a project which would change the way background checks are issued for purposes of employment, adding, “the record that we issue to somebody when they're coming in for a

¹⁹³ Friedlander Testimony, *June 30, 2020*, p. 14.

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

¹⁹⁶ Ibid.

¹⁹⁷ Friedlander Testimony, *June 30, 2020*, p. 14; R.I. Gen. Laws § 28-5.1-14 (2020).

¹⁹⁸ Alles Testimony, *May 20, 2020 Briefing*, p. 5.

¹⁹⁹ Neronha Testimony, *June 30, 2020 Briefing*, p. 3.

²⁰⁰ Ibid.

background check would be more representative of what the record really is. It would be accurate as opposed to misleading, which is the way many of them are right now.”²⁰¹

7. *Final Words*

Mr. Monteiro said in response to the issues he has seen, “[w]e need to find a way, a better way to provide opportunity access and employment opportunities on the other side of educational attainment, certification training, individuals who are coming home from prison.”²⁰² Attorney General Neronha said, “everybody wins if we get people back into society as seamlessly as possible, and I believe employment is among the most critical components to that, if not the most critical.”²⁰³

IV. FINDINGS AND RECOMMENDATIONS

A. Findings

In keeping with their duty to inform the Commission of (1) matters related to discrimination or a denial of equal protection of the laws; and (2) matters of mutual concern in the preparation of reports of the Commission to the President and the Congress,²⁰⁴ the Rhode Island Advisory Committee submits the following findings to the Commission regarding licensing barriers to employment post-conviction in Rhode Island. This report intended to highlight salient civil rights themes as they emerged in testimony during the Committee’s inquiry. The following findings result directly from the testimony received and reflect the views of the cited panelists. While each assertion has not been independently verified by the Committee, panelists were chosen to testify due to their professional experience, academic credentials, subject expertise, and/or firsthand knowledge of the topics at hand. The complete meeting transcripts are included in the Appendix for further reference.

1. A disproportionate number of Black and brown people have criminal records, including people who are eligible for expungements²⁰⁵ and people who were arrested but not convicted of a crime.²⁰⁶

²⁰¹ Ibid.

²⁰² Monteiro Testimony, *May 20, 2020 Briefing*, p. 11.

²⁰³ Neronha Testimony, *June 30, 2020 Briefing*, p. 2.

²⁰⁴ 45 C.F.R. § 703.2 (2018).

²⁰⁵ Neronha Testimony, *June 30, 2020 Briefing*, p. 5, Friedlander Testimony, *June 30, 2020 Briefing*, p. 12.

²⁰⁶ Alles Testimony, *May 20, 2020 Briefing*, p. 4.

2. Unemployment is a cause of recidivism.²⁰⁷
3. There is little insight into how neighborhoods are policed and how arrests are made.”²⁰⁸
4. At three expungement clinics in Providence and Newport, over half of the people were entitled to an expungement of a criminal record but did not know how to pursue expungement.²⁰⁹
5. Formerly incarcerated people pursue education towards a career but find that a conviction history prevents them from obtaining a license in that career field.²¹⁰
6. There is a psychological burden towards not being able to participate as an employed member of society due to having a conviction history.²¹¹
7. There are economic costs to society when formerly incarcerated people are prevented from accessing employment opportunities.²¹²
8. There is a lack of uniform occupational licensing standards.²¹³ Licensing regulations are governed by individual agencies or entities, and licensing boards do not receive consistent guidance around how to consider a conviction if an applicant has a conviction history.²¹⁴
9. License application denials are based on subjective moral turpitude, or moral character assessments that are not well-defined.²¹⁵
10. It is possible for someone to have been arrested many times with no conviction, and the arrests will show up in an individual’s conviction history.²¹⁶ Conviction history may be considered by licensing boards even if the person was not convicted of the crime.²¹⁷

²⁰⁷ Monteiro Testimony, *May 20, 2020 Briefing*, p. 10; Neronha Testimony, *June 30, 2020 Briefing*, p. 2.

²⁰⁸ Neronha Testimony, *June 30, 2020 Briefing*, p. 5.

²⁰⁹ *Ibid.*, 6.

²¹⁰ Morales Testimony, *May 20, 2020 Briefing*, p. 8.

²¹¹ Monteiro Testimony, *May 20, 2020 Briefing*, p. 10.

²¹² Neronha Testimony, *June 30, 2020 Briefing*, p. 2.

²¹³ Friedlander Testimony, *June 30, 2020 Briefing*, p. 11; Martino Testimony, *April 30, 2019 Meeting*, p. 4.

²¹⁴ Martino Testimony, *April 30, 2019 Meeting*, p. 4.

²¹⁵ Alles Testimony, *May 20, 2020 Briefing*, p. 4; Martino Testimony, *April 30, 2019 Meeting*, p. 3.

²¹⁶ Alles Testimony, *May 20, 2020 Briefing*, p. 4; Neronha Testimony, *June 30, 2020 Briefing*, p. 3.

²¹⁷ Neronha Testimony, *June 30, 2020 Briefing*, p. 3; Natalia Friedlander, *June 30, 2020 Briefing*, p. 11.

11. At the time of the Committee’s briefing, there was state law did not forbid licensing boards from considering expunged records, but new legislation forbids state licensing boards from considering expunged records.²¹⁸
12. There are industry-specific conviction-related barriers to obtaining a license that should be revisited to assess risk and public benefit.²¹⁹
13. Formerly incarcerated people may be uniquely qualified to serve in certain occupations they are prevented from obtaining licensure in due to their conviction history.²²⁰
14. It can be challenging to determine which occupations one is barred from accessing a license in due to possessing a conviction history, and many occupations do not consider the relationship between conviction and occupation.²²¹
15. There is a lack of data available on the basis of which applicants are denied a license.²²² The new legislation supports data collection efforts, including demographic requirements that may help illuminate racial bias issues in the future.²²³
16. Probation and parole officers need appropriate caseload sizes to ensure the people they support get the attention they need to succeed.²²⁴
17. There is strong and convincing anecdotal evidence that formerly incarcerated individuals are discouraged from licensed professions before even going through the license application process.²²⁵
18. International trade matters can adversely affect workers²²⁶ and federal²²⁷ investments have been made to support workers who have been adversely affected by foreign trade.

²¹⁸ Friedlander Testimony, *June 30, 2020*, p. 14; R.I. Gen. Laws § 28–5.1–14; (2020).

²¹⁹ Neronha Testimony, *June 30, 2020 Briefing*, p. 7

²²⁰ Monteiro Testimony, *May 20, 2020 Briefing*, p. 11.

²²¹ Alles Testimony, *May 20, 2020 Briefing*, p. 4; Martino Testimony, *April 30, 2019 Meeting*, p. 3.

²²² Friedlander Testimony, *June 30, 2020*, p. 14.

²²³ Ibid.

²²⁴ Neronha Testimony, *June 30, 2020 Briefing*, p. 3.

²²⁵ Morales Testimony, *May 20, 2020 Briefing*, p. 8; Monteiro Testimony, *May 20, 2020 Briefing*, p. 10.

²²⁶ Monteiro Testimony, *May 20, 2020 Briefing*, pp. 10-11; Johnny Magdaleno, “Workers Without College Degrees Left Behind in New Providence Economy,” *Next City*, Oct. 26, 2016, <https://nextcity.org/daily/entry/providence-transition-manufacturing-post-grad-economy>

²²⁷ U.S. Department of Labor, *TAA Laws* <https://www.dol.gov/agencies/eta/tradeact/laws>.

21. Entrepreneurship can be a ladder of opportunity for citizens who are struggling to find employment after incarceration.²²⁸
19. High fees related to having a conviction history may prevent formerly incarcerated people from accessing employment,²²⁹ which can include the \$100 fee for non-violent criminal conviction expungement costs.²³⁰

B. Recommendations

Among their duties, advisory committees of the Commission are authorized to advise the Agency (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws, and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.²³¹ In keeping with these responsibilities, and in light of the testimony heard on this topic, the Rhode Island Advisory Committee submits the following recommendations to the Commission.

1. The U.S. Commission on Civil Rights should issue the following recommendations to the Rhode Island State Legislature in light of the recent implementation of Rhode Island's Fair Chance Licensing Legislation²³² to:
 - a. Consider investigating how employers, schools, and training programs also participate in reinforcing occupational licensing barriers, not just licensing boards.
 - b. Ensure that each agency, commission, or board that issues licenses (relevant licensing entities) reports data by race and ethnicity as required in the new legislation to help inform efforts to combat potential disparate impact and subjective license denials.

²²⁸ U.S. Department of Commerce, Minority Business Development Agency, *SBA to Launch \$1.2 Million Aspire Challenge for Entrepreneurship Training and Microloans to Help Previously Incarcerated Citizens*, <https://archive.mbda.gov/news/news-and-announcements/2016/12/sba-launch-12-million-aspire-challenge-entrepreneurship-training.html>.

²²⁹ Dick M. Carpenter II, Ph.D., Lisa Knepper, Angela C. Erickson and John K. Ross, "Rhode Island", *License to Work: A National Study of Burdens from Occupational Licensing 2nd Edition*, *Institute for Justice*, <https://ij.org/report/license-work-2/ltw-state-profiles/ltw2-rhode-island/> (last accessed January 12, 2020).

²³⁰ R.I. Gen. Laws § 12-1.3-3 (2018).

²³¹ 45 C.F.R. § 703.2 (2018).

²³² R.I. Gen. Laws § 28-5.1-14 (2020).

- c. Ensure that relevant licensing entities report the number of initial applicants, the number of granted licenses, the number of denied, including documentation describing why an application for a license is denied.
 - d. Ensure that relevant licensing entities provide documentation connecting a disqualifying criminal conviction to the type of work the license permits the applicant to conduct.
 - e. Consider drafting legislation to staff and train state probation and parole officers at levels similar to federal probation and parole officer caseloads in order to support reintegration efforts that include successful employment.
 2. The U.S. Commission on Civil Rights should issue the following recommendations to the Rhode Island Department of Labor and Training to:
 - a. Consider including easily accessible information on job-seeker facing websites to streamline information about what occupational licenses may have conviction-related barriers, and where to access more information or help in navigating post-release employment resources.
 - b. Work with relevant licensing entities to develop reentry programming and materials, including booklets or pamphlets, that provide examples of occupational opportunities available to persons with felony convictions, and what steps might be required to review before pursuing a particular occupation.
 - c. Review challenges within the labor market itself in addition to incarceration and work with the Department of Corrections and the Department of Education to support workers impacted.
 3. The U.S. Commission on Civil Rights should issue the following recommendations to the Rhode Island Department of Education to:
 - a. Conduct outreach and provide support to formerly incarcerated students.
 - b. Apply for funding that could help meet the needs of formerly incarcerated students in obtaining education that supports their employment opportunities.
 - c. Support organizations that help meet the needs of formerly incarcerated students in obtaining education that supports their employment opportunities.
 - d. Ensure educators and staff at community colleges receive training and/or access to materials that help them connect formerly incarcerated students with available resources that help further occupational opportunities.

V. APPENDIX

All materials are available at:

https://securisync.intermedia.net/us2/s/folder?public_share=409J0xbKeIQ2vuMJBvQond0011ef58&id=L1JJ

- A. April 30, 2019 Meeting Transcript
- B. May 20, 2020 Briefing Transcript
- C. June 30, 2020 Briefing Transcript
- D. April 30, 2019 Meeting Agenda and Minutes
- E. May 20, 2020 Briefing Agenda and Minutes
- F. June 30, 2020 Briefing Agenda and Minutes

**Rhode Island Advisory Committee to the
United States Commission on Civil Rights**



U. S. Commission on Civil Rights

Contact: Regional Programs Coordination Unit
 U.S. Commission on Civil Rights
 230 S. Dearborn Street, Suite 2120
 Chicago IL, 60604
 (312) 353-8311

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