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**Submitted to the U.S. House Committee on Education and Labor  
Subcommittee on Higher Education and Workforce Investment**

**Hearing on  
“Workforce Innovation and Opportunity Act Reauthorization: Examining Successful  
Models of Employment for Justice-Involved Individuals”  
Tuesday, June 15, 2021**

**Introduction**

Chairwoman Wilson, Ranking Member Murphy, and distinguished members of the U.S. House Education and Labor Subcommittee on Higher Education and Workforce Investment, thank you for holding this important hearing and for inviting me to testify. I appreciate the opportunity to highlight the SHRM Foundation’s work related to second chance hiring and your leadership on this important issue.

The SHRM Foundation is the 501(c)(3) nonprofit affiliate of the Society for Human Resource Management (SHRM), the world’s largest professional society for human resource leaders. As the voice of all things work, workers and the workplace, SHRM is both a convener and thought leader on issues affecting today’s evolving workplaces. With more than 300,000 HR and business executive members in 165 countries, SHRM impacts the lives of more than 115 million workers and families globally.

The SHRM Foundation’s purpose is to elevate and empower HR as a social force, with a mission of mobilizing the power of HR and the generosity of donors to lead positive social change impacting work, workers and the workplace, and to create a vision for the world of work that works for all. It is this vision that serves as a guidepost in determining the SHRM Foundation’s strategic priorities. A pillar of SHRM’s work is advancing policy that creates a more equitable world of work; SHRM Foundation programs and initiatives contribute to the amplification and activation of SHRM’s mission in that regard. The SHRM Foundation’s development of strategies and programming to help HR professionals provide equitable opportunities to individuals seeking the dignity of work enables businesses, communities, and people to thrive.

Prior to the COVID-19 pandemic, U.S. businesses were experiencing one of the tightest talent markets in history, with many organizations struggling to find and retain the employees they needed to succeed. As the economy and the labor market recover from COVID-19, employers will confront a mismatch between the talent necessary to survive and thrive in the new economy and what they find in the marketplace. Employers that are effective in identifying and tapping into workers outside their traditional talent pipelines will create a more inclusive and equitable workplace while also gaining an important competitive advantage in the race for talent.

### **Getting Talent Back to Work**

One of the most effective and least-utilized solutions to addressing equity gaps as part of Diversity Equity & Inclusion (DE&I) strategies is to actively recruit and retain individuals unfortunately and unfairly left out of consideration for employment due to biases and misconceptions, including individuals with a criminal record. Too many employers, people managers, and co-workers underestimate and overlook the productivity, loyalty, and value people with a criminal record provide. These individuals present unique opportunities and value to organizations willing to make the effort to seek them out. Unnecessary barriers to employment for individuals who have completed a period of incarceration or who have a criminal record create societal problems where citizens are deprived of employment opportunities and organizations are deprived of qualified talent, creating harmful downstream consequences for millions of people.

The Getting Talent Back to Work Initiative (GTBW or the Initiative), initially launched in 2019 by SHRM and now operated by the SHRM Foundation, was a call to action for the business community asking CEOs, HR executives and industry leaders to publicly pledge to consider qualified individuals with criminal histories for employment following the passage of the First Step Act of 2018. Initially, the Initiative consisted of the following: a Pledge and a digital tool kit, including information related to legal factors to consider when employing applicants with a criminal background; evidence-based leading practices in hiring applicants with a criminal background; and practical guidance from industry leaders in acquiring, developing, and promoting talent with a criminal background.

In late December 2020, the Foundation relaunched GTBW with a revitalized digital toolkit practical resources, and targeted marketing communications, and public relations strategies designed to better tell the story and benefits of hiring individuals with criminal records. This included the launch of an organizational self-assessment tool that provides customized materials and reports relevant to the organization and a 10-hour HR certificate program. The Getting Talent Back to Work Certificate empowers HR professionals to: (1) Create organizational strategies and processes to recruit, hire, retain, and advance people with criminal and/or conviction records; (2) Contribute to the growth of those reentering the workforce after incarceration by fostering an inclusive environment; (3) Remove or work around barriers that limit the success or potential of individuals with conviction histories; (4) Educate stakeholders to break down barriers and reduce bias toward individuals with criminal and/or conviction records; and (5) Ensure HR professionals use their position to lead positive social change.

Since the release of the original toolkit in 2019, GTBTW has helped connect over 20,000 users to the relevant resources needed to develop and implement strategies that provide equitable opportunities to individuals with criminal records. Based on the May 2021 Getting Talent Back to Work research report, the Initiative is making a difference. Since 2018, the percentage of HR professionals willing to hire individuals with criminal records grew by more than 43 percent and the percentage of business leaders willing to hire individuals with criminal records grew by more than 15 percent.<sup>1</sup>

HR professionals are leading the way and are succeeding in part because of the **business case** for hiring individuals with criminal records. These employees are loyal as the turnover rate for employees with criminal records is approximately 13 percent lower than for the general population.<sup>2</sup> The savings and productive gains for organizations large and small by harnessing this human capital can be huge. Moreover, the research is clear, as most employers say workers with criminal records perform just as well as or better than employees. According to SHRM research, 81 percent of business leaders and 85 percent of HR professionals believe workers with criminal records perform their jobs about the same or better than workers without criminal records.<sup>3</sup>

To amplify the urgency for advancing employer commitment to second chance employment, SHRM serves as a Founding Partner of the Second Chance Business Coalition (SCBC or the Coalition), a cross-sector coalition of large private-sector firms committed to expanding second chance hiring and advancement practices within their companies. The Coalition is co-chaired by the CEOs of JP Morgan Chase & Co. and Eaton and includes representation from many Fortune 100 businesses. As a partner, SHRM provides support and expertise by leading the Coalition, whose Founding Partners include: the Business Roundtable; Dave's Killer Bread Foundation; Stand Together, and the Georgetown University McDonough School of Business Pivot Program. SCBC promotes the benefits of second chance employment and provides major employers with a set of tools, relationships, and expertise to allow them to successfully hire and provide career advancement and greater economic opportunities to people with criminal records.

## **Diversity Equity & Inclusion**

While the business case for hiring justice-involved citizens is persuasive, it doesn't tell the whole story. Put simply, it is the right thing to do, and it helps create a more inclusive and equitable society. HR professionals can make a difference for their employers and the community by incorporating second-chance employment opportunities for individuals with criminal records into their diversity, equity and inclusion (DE&I) strategies. Employers gain access to an

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<sup>1</sup> SHRM Foundation 2021 Getting Talent Back to Work Report: A Workplace Survey on Hiring and Working with People with Criminal Records (May 2021) (Exhibit 1) <https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/pages/getting-talent-back-to-work-ii.a.spx> The percentage of HR professionals that said they would be willing to hire individuals with criminal records now stands at 53% up from 37% in 2018; the percentage of business leaders stands at 38% up from 33% in 2018.

<sup>2</sup> See Should You Hire Someone with a Criminal Record, Dylan Minor, Nicola Persico, Deborah M. Weiss, Kellogg School of Management at Northwestern University, February 03, 2017, <https://insight.kellogg.northwestern.edu/article/should-you-hire-someone-with-a-criminal-record> (last visited June 11, 2021).

<sup>3</sup> SHRM Foundation 2021 Getting Talent Back to Work Report.

untapped talent pool in an already tight labor market, demonstrate good corporate citizenship, and help build stronger communities.

It was evident to SHRM and the SHRM Foundation that HR could lead positive social change by incorporating second-chance employment opportunities into their DE&I strategies. One in three Black men have a felony record, compared with just eight percent of the general U.S. adult population.<sup>4</sup> Diverse teams typically result in more innovation, faster problem solving, better engagement and increased financial performance.<sup>5</sup> Employers that strive to build and maintain a diverse workforce have access to a larger pool of candidates, thus improving the odds of hiring the best people. In 2019, a McKinsey assessment of more than 1,000 large companies determined that “[c]ompanies that led in ethnic and cultural diversity had 36 percent more profitability than companies without such diversity.”<sup>6</sup>

Greater collaboration between employers and community-based organizations can expand access to talent for employers and access to opportunity for community members. A SHRM study on untapped talent pools found that only 29 percent of organizations currently partner with advocacy or community-based programs related to the employment of untapped talent groups. At the same time more than a third (37 percent) of HR professionals report their organization does not currently have those partnerships but would like to.<sup>7</sup> Fortunately, more employers are choosing to engage; 61 percent plan to partner with community-based organizations to provide additional services and another 61 percent will provide inclusive mentorship and networking opportunities.<sup>8</sup> Incorporating community and advocacy partnerships into reentry will unlock pathways to talent.

In exploring opportunities to elevate HR, the vision of SHRM and the SHRM Foundation is global. For example, a multi-national retailer based in the United Kingdom is at the forefront of rehabilitating the formerly incarcerated. Ten percent of its 5,500 employees were hired from prison. Candidate interviews are also held in prisons, with job offers taking effect within days of a new hire's release.<sup>9</sup>

### **City of Charlotte Pilot**

In addition to providing HR professionals the tools necessary to succeed in recruiting and retaining individuals, the SHRM Foundation is committed to partnering on the ground with local

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<sup>4</sup> See FACT SHEET – Barriers to Successful Re-Entry of Formerly Incarcerated People, The Leadership Conference <http://civilrightsdocs.info/pdf/criminal-justice/Re-Entry-Fact-Sheet.pdf> (last visited June 11, 2021).

<sup>5</sup> See SHRM Online Resource “Viewpoint: How to Create a More Diverse, Equitable and Inclusive Workplace,” Jeremy Mittman and Corey Singer (August 27, 2021), <https://www.shrm.org/ResourcesAndTools/legal-and-compliance/employment-law/Pages/promoting-diversity-equity-and-inclusion.aspx> (last visited June 12, 2021).

<sup>6</sup> See Diversity wins: How inclusion matters, Sundiatu Dixon-Fyle, Kevin Dolan, Vivian Hunt, and Sara Prince, McKinsey, May 19, 2020, <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-wins-how-inclusion-matters#>

<sup>7</sup> SHRM Foundation beneath the Surface: A Unified Approach To Realizing the Value Of Untapped Talent (2020) <https://shrm.org/foundation/about/Documents/SHRM%20Foundation%20Walmart%20Untapped%20Research.pdf>

<sup>8</sup> Id.

<sup>9</sup> See Employing the Formerly Incarcerated: A Global Perspective, the Society for Human Resource Management, August 02, 2019 <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/global-second-chance-employment.aspx> (last visited June 11, 2021).

community-based organizations to build a Getting Talent Back to Work Employment Ecosystem in Charlotte, North Carolina. The SHRM Foundation anticipates partnering with the Center for Community Transitions (CCT), a nonprofit organization founded in 1974 to help strengthen the community and reduce recidivism by providing people with criminal records and their families tools and resources to rebuild their lives.

CCT is committed to improving the lives of people with criminal records and their families. While conducting the Charlotte pilot, the SHRM Foundation will also engage in efforts to pave the way for expanding this program to additional cities. This will include a national digital storytelling campaign around the power and impact of hiring people with criminal records. This will serve to reinforce the activities happening in Charlotte and build momentum for scaling the program. Additional research will be conducted to determine what specifically changes employers' attitudes around employing people with criminal records. More extensive evaluation metrics will also be introduced related to the number of people with criminal records interviewed, hired, and retained by local employers.

### **Policy Recommendations**

As Congress considers reauthorizing the Workforce Innovation and Opportunity Act (WIOA) and how best to help returning citizens reenter the workplace more generally, I offer three recommendations. First, evaluate all program providers or grant recipients based on employment, earnings, and recidivism or incarceration reduction. Intervention strategies that have demonstrated promise, such as subsidized or transitional employment, should be prioritized. Second, ensure there is a close relationship between Reentry Employment Opportunities (REO) supported programs and employers by requiring individuals responsible for candidate recruitment and initial assessment to be partners in any REO-funded grantmaking. Third, recognizing that the Work Opportunity Tax Credit (WOTC) represents a form of subsidized employment, promoting the availability of this tax incentive, and making available the data necessary to evaluate the program's efficacy in facilitating the hiring of individuals convicted of a felony.

Consistent with the mission of WIOA, Congress should require that the Department of Labor (DOL) evaluate grantees based on the employment, earnings, and recidivism reduction of the returning citizens they serve. Individuals with a criminal record deserve a fair chance at employment, but there may be challenges like a lack of work experience or technical skill development that the workforce system can help employers and returning citizens address collaboratively. While the 2015 evaluation of the Re-Integration of Ex-Offenders program (the predecessor to the REO program) found the program did not reduce recidivism and had small effects on employment, subsidized employment programs have shown promise in reducing recidivism and incarceration, particularly for individuals at higher risk of recidivism.<sup>10</sup> I encourage the Committee to prioritize subsidized employment opportunities targeting high-risk individuals in any authorization of the REO program.

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<sup>10</sup> See Evaluation of the Re-Integration of Ex-Offenders (RExO) Program: Two-Year Impact Report, Andrew Wiegand, SPR, Jesse Sussell, SPR, Erin Valentine, MDRC, Brittany Henderson, MDRC, Social Policy Research Associates, May 2015, [https://www.mdrc.org/sites/default/files/ETAOP\\_2015-04.pdf](https://www.mdrc.org/sites/default/files/ETAOP_2015-04.pdf) (last visited June 11, 2021).

Given the evolution of the workplace and the hiring process, it is essential to ensure that REO-supported grant recipients have a demonstrated relationship with HR professionals. HR professionals have access to the latest labor market data, play a critical role in identifying potential job candidates, and understand any licensure or legal barriers that may preclude an individual with a criminal record from pursuing a career in a particular occupation or industry. While WIOA requires the inclusion of individuals with optimal hiring authority, any authorization of the REO program should include representation of individuals responsible for candidate recruitment and initial assessment.

Finally, Congress should better optimize the WOTC to support reentry into the labor market for individuals with criminal records. Designed to encourage a return to work for workers facing barriers to employment, WOTC provides employers a tax credit for hiring individuals with specific barriers to employment. Employers are eligible for a tax credit up to \$2,400 based on the earnings and hours worked of a former felon in the first year of their employment. Fundamentally, WOTC operates as a subsidized employment program at a lower cost than direct employment subsidies. While the lack of a uniform data set precludes uniform analysis of the WOTC program, evidence from other countries suggests that hiring subsidies can have a greater positive effect on increasing employment than training programs.<sup>11</sup>

Unfortunately, the variability and temporary nature of the WOTC tax credit affects the ability of employers to fully incorporate it into their hiring strategies. While the extension of the tax credit authorization through fiscal year 2025 is helpful for employers, Congress should consider making it permanent. Additionally, the Department of Labor could do more to promote awareness of the tax credit, as the availability of the tax credit could play a significant role in the number of employers who intentionally recruit justice-involved individuals as part of their human capital management strategies.

## **Conclusion**

SHRM and the SHRM Foundation are committed to working with Congress to find responsible solutions to bringing the formally incarcerated into the workplace. In the United States, one in three adults has a criminal record and each year nearly 700,000 people are released from prison.<sup>12</sup> Unfortunately, this population experiences an unemployment rate five times the national average. A disproportionate share of these returning citizens are people of color, LGBTQ individuals, and people with histories of abuse or mental illness. Without employment, reintegration into society will be extremely difficult for them, and many will find themselves back behind bars as a result. SHRM and the SHRM Foundation are committed to creating a society and world of work that allows all workers and job seekers to thrive and look forward to partnering with you in this endeavor.

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<sup>11</sup> See Assessing WOTC: Executive Summary, National Conference of State Legislatures, [https://www.ncsl.org/documents/Task\\_forces/Assessing\\_The\\_Work\\_Opportunity\\_Tax\\_Credit.pdf](https://www.ncsl.org/documents/Task_forces/Assessing_The_Work_Opportunity_Tax_Credit.pdf) (last visited June 11, 2021).

<sup>12</sup> The Leadership Conference, Barriers to Successful Re-Entry of Formerly Incarcerated People.