



**Testimony of**

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**Before the United States House of Representatives  
Committee on Education and the Workforce  
Subcommittee on Workforce Protections**

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Chairman Walberg and Ranking Member Courtney, it is a great privilege for me to appear before the House Subcommittee on Workforce Protections in honor and in memory of my sister, Sue Weaver, and, for other innocent victims whose tragic deaths could well have been prevented had an employer done a criminal background check before hiring an individual.

My name is Lucia Bone, and I am the Founder of The Sue Weaver C.A.U.S.E., Consumer Awareness of Unsafe Service Employment. Founded in 2004, C.A.U.S.E. is a non-profit organization proactively keeping you and your family safe by preventing tragedy one service worker at a time.

The Sue Weaver C.A.U.S.E. promotes the importance of proper annual criminal background checks on anyone working in our homes or with vulnerable populations. We educate you, the consumer, on the importance of knowing whom you hire to work in or near your home and your family.

The Sue Weaver C.A.U.S.E. does not actually conduct criminal background checks. We are an honorary member of the National Association of Professional Background Screeners (NAPBS), a trade association of professional background screening companies who conduct background checks for employment purposes. We have worked closely with NAPBS to develop our C.A.U.S.E. Certified background screening guidelines. C.A.U.S.E. Certification is a free resource for consumers to search for safer workers in their area that have been properly vetted through an annual criminal background investigation conducted by a professional background screening company.

At one time or another, we all need to invite a stranger into our home for maintenance or delivery. Did you know that your safety or the safety of your family might be endangered the next time you need service work done? Many people believe hiring a company that is “bonded and insured” protects them. In truth, it is only an insurance policy and it does not mean the employer has done criminal background checks on their workers. Regardless, most of us trust the company we hire to send safe workers into our homes. But how do we know if that trust is well-placed? My sister, Sue Weaver, thought it was. She was wrong.

My sister hired a reputable Florida department store, Burdines, to have her air ducts cleaned. No criminal background checks were done on the workers they sent into their customers’ homes. The work was subcontracted out and two convicted felons were sent into Sue’s home to do the service work. A single woman, home alone, two convicted felons. ... Six months later one of the workers, Jeffrey Hefling, a twice-convicted sex offender on parole, returned to rape and murder Sue. He then set her body and home on fire in an attempt to destroy the DNA evidence. Had a criminal background check been conducted it would have shown that both men were not suitable to be working in customers’ homes due to their criminal history and my sister might still be alive today.

Since Sue’s death in 2001, I have campaigned tirelessly to educate and bring awareness to the importance of proper background investigations and the importance of knowing whom you hire. Not only do background checks make good business sense, they save lives. It is absurd that a person with multiple convictions for violent sexual assaults should be engaged as a home repairman, yet it happens over and over again.

Everyone has the right to work—but not every job is right for everyone. Criminal background investigations provide employers an invaluable tool to help them place employees in job appropriate positions, better protecting coworkers and customers. Background checks prevent tragedies.

Although we still have a long way to go, legislators do understand the importance of criminal background checks and the need to mandate appropriate guidelines for certain positions. In the last decade, we have witnessed a dramatic upsurge in federal, state and local laws mandating background checks in many areas, often to better screen those working with children or other vulnerable populations. Unfortunately, we must ask ourselves if the EEOC gets it.

I believe the EEOC focused its 2012 Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions (“Guidance”) on helping ex-offenders seeking employment, without regard to consumer safety. Everyone deserves a second chance, but not at the expense of innocents such as my sister. Employers need to know who they are hiring and background checks are an appropriate risk mitigation tool that help them do so.

On more than one occasion, I have written to the EEOC. The following is a excerpt from a letter I wrote 9 months before the issuance of the EEOC Guidance (July 11, 2011) to EEOC Chairwoman Jacqueline Berrien:

As you conduct your upcoming Commission Meeting on Arrest and Conviction Records as a Barrier to Employment, I ask that you consider the other side of the coin and remember my sister’s case. As the Commission considers revising its guidance on the use of arrest and conviction records, consider that background checks are beneficial for employers and they should be conducted more often, not less! Sue didn’t commit the heinous crimes that her killer committed. Burdines should have known about Hefling’s criminal past and not sent him into consumers’ homes. Is this too much to ask, that employers take appropriate steps to ensure the safety of their customers from their employees? Unfortunately, my sister paid the ultimate price because a background check wasn’t conducted... . That doesn’t mean her perpetrator couldn’t have been hired, just that armed with the knowledge of this criminal history, Burdines shouldn’t have sent him to my sister’s or anyone’s home.

I am gravely disappointed that no victims were represented at the July 2011 meeting of the EEOC that preceded the issuance of the Guidance. The Commission did not consider the victims’ side, but solely focused their attention on the plight of the ex-offenders. Unfortunately, the EEOC erroneously: (1) singled out background checks as the leading cause of why minority ex-offenders fail to find a job, ignoring other challenges such as drug or alcohol addictions, lack of education or vocational training and lack of family structure; and (2) ignored the consumer safety and risk mitigation benefits of background screening.

It is my opinion that the EEOC has paid little or no attention to critical issues such as:

- a) Why employers rely on background checks to ensure a safer workforce and workplace;
- b) How its revised criminal record guidance would discourage use of background checks;
- c) The confusion among employers - especially small businesses - engendered by the adoption of a 52 page, footnote-laden document, to replace its far shorter predecessor;
- d) The need to balance the competing interests of ex-offenders re-entering the workplace and the need to protect public safety; and
- e) How victims' advocacy groups felt about any change in policy. I personally attended the 2011 hearing and was greatly disappointed that the EEOC showed no interest in hearing from any victims. It was apparent the hearing was only a formality; their focus was on protecting ex-offenders seeking employment.

In addition, the EEOC made a serious error by failing to allow the public to view and comment on the Guidance before it was issued. I agree wholeheartedly with EEOC Commissioner Constance Barker who dissented from the issuance of the Guidance and bemoaned this lack of transparency.

The proposed revision before us today represents a major shift in the advice we have given the American public for the last 22 years. Yet, we are about to approve this dramatic shift in our interpretation of the rights of job applicants and the obligations of America's businesses under Title VII without ever circulating it to the American public for review and discussion. There is absolutely no justification for totally excluding the American people from this process or for this blatant failure to be transparent in how we conduct our business. ...We are public servants. We work for the American people. What could possibly justify keeping them from knowing what is in this document before we approve it?

I am not an expert in the workings of Congress and regulatory agencies. But common sense leads me to believe that the EEOC needs to suspend implementation of its Guidance and hold the type of transparent, inclusive proceeding that it should have conducted in the first place. This time they need to listen to victims and their families and victims' rights organizations and those representing the vulnerable populations. All views need to be heard and considered *before* a new policy goes into effect. When weighing the risk and benefits of the proposed policy guidance, the Guidance must balance the safety of the public and innocent consumers against the employment concerns of ex-offenders!

While sadly it is too late for my sister, it is not too late for all the others who might become victims. By discouraging background checks used to qualify individuals that work or care for our families or do service work in our home, we are knowingly risking the safety of ourselves and our loved ones.

Sue was no different than your sister, your aunt, your daughter, your neighbor or your best friend. She was my best friend, my inspiration, my idol and my big sister.

Common sense says you wouldn't hire a drug dealer to work in a pharmacy, a thief to work in a bank or a sex-offender to work with vulnerable populations. But under this Guidance the EEOC has made it more difficult for employers to make informed hiring decisions, placing employees and consumers in unsuitable positions and jeopardizing the safety of our families, our homes and workplaces.

Transcript of April 25, 2012 Meeting of the EEOC (comments of Commissioner Barker), available at <http://www.eeoc.gov/eeoc/meetings/4-25-12/transcript.cfm>.