

2014

Seattle Job Assistance Ordinance

JAO Implementation
and Enforcement
June 2013 through April 2014



Seattle Office for Civil Rights

Patty Lally, Director

5/14/2014

TABLE OF CONTENTS

I. INTRODUCTION..... p. 3

II. ORDINANCE IMPLEMENTATION..... p. 3

 A. Stakeholder Panel

 B. Administrative Rule Development and FAQ

III. COMMUNICATIONS CAMPAIGN..... p. 5

 A. Media Campaign

 B. Outreach to General Employers

 C. Outreach to Immigrant Business

 D. Outreach to Applicants and Employees

IV. ENFORCEMENT – CHARGES & RESOLUTIONS DURING FIRST SIX MONTHS..... p. 11

 (November 1, 2013 – April 30, 2014)

 A. Advisory Letters and Charges

 B. Demographics of Charging Parties

V. NEXT STEPS..... p. 15

I. INTRODUCTION

The Seattle Job Assistance Ordinance (JAO) has three goals:

- Increase public safety and job assistance by reducing criminal recidivism;
- Address inequities caused by racial disproportionality in the criminal justice system; and
- Provide a fair chance for employment to people who have paid their debts to society.



John Page of the Defenders Association speaks on impacts of a conviction record in employment at a City Hall forum, 3/16/2011.

The ordinance meets these objectives by regulating the use of arrest and conviction records in employment decisions for jobs that are located in Seattle.

The Seattle Office for Civil Rights (SOCR) was named as the agency responsible for implementing and enforcing the ordinance. To do this, we worked to engage both employers and those impacted by criminal records in the development of Administrative Rules for the ordinance and outreach strategies to inform employers and the general public.

Implementation was coordinated by Brenda Anibarro, SOCR's Senior Policy Analyst.

This report details SOCR's implementation of the ordinance from when it was passed by City Council through the first six months of enforcement.¹

II. ORDINANCE IMPLEMENTATION

The Seattle Job Assistance Ordinance (SMC14.17) was passed by City Council in June 2013 following three years of stakeholder engagement and community dialog on the issue of criminal records as a barrier to employment and housing.² The proposal for legislation originated with women from Sojourner Place Transitional Housing, who faced barriers to housing and employment due to their conviction records. They brought the issue to the Seattle Human Rights Commission, which worked with the group to raise the issue with City Council. Councilmember Bruce Harrell convened employers, legal advocates and members of the Seattle Human Rights Commission to determine the best course of action. The resulting ordinance directed SOCR to convene a panel of stakeholders to help develop appropriate guidelines and regulations.

A. Stakeholder Panel

Members of the Stakeholder Panel were drawn from those who had engaged in the development of the ordinance and who had expressed strong concerns. SOCR sought a balance of perspectives and worked to ensure that the group consisted of employers, immigrant business owners, legal advocates and social service agencies that work with people facing barriers to employment.

The Stakeholder Panel met three times in 2013 (August, September and October) prior to the ordinance's November 1 effective date. The Stakeholder Panel helped develop both the Administrative Rules³ pertaining to the Job Assistance Ordinance and a Frequently Asked Questions (FAQ) document.⁴

The group provided SOCR with a balanced perspective and unique insights into the needs of both employers and employees. While parties did not always agree, the discussion was always rich and respectful. The documents that emerged from the process address stakeholders' concerns and provide both employers and the public with greater clarity on the law.

B. JAO Administrative Rules and FAQ

The Administrative Rules provide guidance on how SOCR interprets parts of the Job Assistance Ordinance that require clarification.

To develop the rules, SOCR held two public meetings – one on August 7 at City Hall and one on September 17 at New Holly Community Center. The City Hall meeting was held in the afternoon in response to feedback received during rule development for the Paid Sick and Safe Time Ordinance the previous year. Many restaurant owners had said that attending an evening meeting was impossible due to the dinner rush.

SOCR sent notice of the first public meeting to businesses owners registered in the City of Seattle Business License database, over 3,000 community contacts in SOCR's email database and people who

SEATTLE JOB ASSISTANCE ORDINANCE STAKEHOLDER PANEL

George Allen,
Seattle Chamber of Commerce

Katherine Beckett,
University of Washington / Seattle
Human Rights Commission

Chris Benis,
Rental Housing Association

Merf Ehman,
Columbia Legal Services

Peter Gishuru,
African Chamber of Commerce - PNW

Karen Lee, Pioneer Human Services

Josh McDonald,
Seattle Restaurant Alliance

Lawrence Pang, Greater Seattle Chinese
Chamber of Commerce

Cindy Parker, FareStart

Mona Smith,
Greater Seattle Business Association

Lisa Stone, Legal Voice

Laura Rowley, Seattle Jobs Initiative

Dustin Washington,
Youth Undoing Institutional Racism

Justin Walsh, King County
Human Rights Commission

Pastor Lawrence Willis, Truevine of
Holiness Missionary Baptist Church

had signed up at earlier JAO forums or Council meetings. SOCR also posted a notice in the Daily Journal of Commerce.

Over 150 people attended the first public meeting, including employers, social service providers and the general public. SOCR provided a presentation on the law, held a Q&A session and offered attendees a chance to submit questions and comments to inform the development of the rules. The Seattle Channel recorded the meeting for televised airing and web streaming. Following the first public meeting and input from the JAO Stakeholder Panel, SOCR posted the first draft of the rules on our website on August 30 and notified our database and JAO contacts.

A second public meeting was held in the evening on September 17 at New Holly Community Center to ensure participation by community members and employers who were unable to attend a daytime meeting. Fifty people attended. The bulk of the meeting was spent on public comment and questions, which resulted in a valuable dialog between employers and community residents who had criminal records. More than one employer encouraged residents with records to apply for work with their companies. The second meeting also was recorded by the Seattle Channel for televised airing and web streaming. The comments from the second public meeting and further stakeholder input led to the final draft of the Administrative Rules, which were posted on October 25. Everyone in our database and those who had attended the public meetings received a notice.

The Administrative Rules provide greater clarity on:

- Exemptions (definition of vulnerable adults, unsupervised access, etc.).
- Categorical Exclusions.
- Initial Screening.
- Types of verifiable information to be considered by employer.
- Definition and examples of categorical exclusions.

The FAQ document provides an accessible overview of the ordinance requirements, as well as information on issues that the rules do not address, but which were raised by the public and the Stakeholder Panel.

- Why the ordinance was passed.
- What the ordinance requires.
- Types of employers that must comply with the ordinance.
- Types of job positions covered by the ordinance.
- Scenarios to provide examples of exemptions.
- Information on factors to be considered by employers when determining legitimate business reasons.
- How SOCR enforces the ordinance, including what individuals can do if they feel the law has been violated, and how employers can receive free technical assistance from SOCR.

III. COMMUNICATIONS CAMPAIGN (JUNE 2013 – APRIL 30, 2014)

The JAO communications campaign required a multi-pronged approach aimed at employers and the broader community to build partnerships, provide assistance and increase awareness of the law.

The campaign strategy used mass outreach to the public combined with targeted efforts to employers, including immigrant business owners, social service providers and re-entry professionals.

A. Media Campaign

The media campaign was developed to reach the public and employers. SOCR created a four-minute video about the ordinance as well as a 50-second public service announcement video dubbed in Spanish, Vietnamese, Somali and Mandarin. The videos are used for television and in trainings, and can be viewed on SOCR's website.



The media campaign included the following:

- King County Metro bus ads (ads ran 12 weeks from November 4 – January 21).
- Radio PSA's – Kiss 106.1, KMPS, La Gran D 99.3 (ran for 4 weeks from October 1- November 1).
- Television PSA's – Seattle Channel
- News ads and articles: *International Examiner*, *Seattle Chinese Post*, *NW Asian Weekly*, *Seattle Gay News*, *The Facts*, *Real Change* (ads and articles ran October – January). A Notice of Rules was posted twice in the *Daily Journal of Commerce*.

B. Outreach to General Employers

SOCR Business Liaison Karina Bull provided technical assistance to over 100 employers, met with over 30 organizations to discuss outreach and collaboration, and led 10 JAO presentations. The most recent presentation, an employment law breakfast on PSST and JAO with WorkSource and Seattle's Office of Economic Development, drew almost 100 registrants. Ms. Bull also appeared in a nationally televised feature on JAO by Al Jazeera America in late December 2013.



Karina Bull, SOCR Business Liaison, provides information to employers at the Chinese Chamber of Commerce

1. Presentations

- 2 public meetings for employers and employees for JAO Rules at City Hall and NewHolly.
- Pacific Associates Employment Law Breakfast.
- WorkSource Seattle-King County and Office of Economic Development Employment Law Breakfast.
- Terra Staffing Webinar.
- Seattle Chinese Chamber Luncheon.
- 2 community briefings with Seattle Chinatown International District PDA in partnership with Chinatown-International District Business Improvement Area (CIDBIA) at New Hong Kong Restaurant and Asian Resource Center.
- PACT, King County behavioral health employment service providers.
- Tabor 100 business association.

2. Collaboration and Relationship Development

- City
 - City Personnel Background Check Committee
 - Office of Immigrant and Refugee Affairs
 - Office of Economic Development
 - Financial and Administrative Services, Business Licensing
 - Seattle Women's Commission
- Community
 - K&L Gates
 - King County Workforce Development Council
 - Chinatown-International District Business Improvement Area (CIDBIA)
 - Columbia Legal Services Re-entry Clinic
 - Fare Start
 - Greater Seattle Business Association
 - Greater Seattle Chinese Chamber of Commerce
 - Horn of Africa
 - King County Program for Assertive Community Treatment (PACT), Supported Employment Service Providers
 - Legal Voice
 - Pacific Associates
 - Pioneer Human Services
 - New York Community Services Society
 - Rainier Development Community Fund
 - Rental Housing Association

- Seattle Chamber Herman McKinney Economic Empowerment Forum
- Seattle Chamber Multicultural and Small Business Development
- Seattle Chamber Policy Hash
- Seattle Chamber Retailer Roundtable
- Seattle Gymnastics Academy
- Seattle Chinatown International District PDA
- Seattle Jobs Initiative
- Small Business Fair hosted by Councilmember Sally Clark
- Tabor 100
- Terra Staffing
- Verifications (3rd Party Screening Company)
- Seattle Restaurant Alliance
- Washington Small Biz Fair in Renton
- Washington State Labor Education and Research Center
- WorkSource of Seattle-King County

C. Outreach to Immigrant Business

SOCR developed targeted outreach to immigrant business owners with the assistance of GreenShoots Inc. Working in partnership with Greenshoots, SOCR created fact sheets, newspaper ads and public service announcements.



Erica Chung, principal of Greenshoots, held 21 meetings with immigrant business owners and chambers. Meetings included sharing information on the law with staff and when possible, with constituents or members.

- African Chamber of Commerce of the Pacific Northwest
- Greater Seattle Chinese Chamber of Commerce
- Chinatown-International District Business Improvement Area
- Chinatown-International District Preservation and Development Authority

- Taiwanese Chamber of Commerce of Seattle
- Vietnamese Friendship Association
- Friends of Little Saigon
- Greater Seattle Vietnamese Chamber of Commerce
- Filipino Chamber of Commerce of the Pacific Northwest
- Eastern European-American Chamber of Commerce
- WA State Korean American Chamber of Commerce
- City of Seattle Office of Immigrant and Refugee Affairs
- City of Seattle Department of Executive Administration
- King County Hispanic Chamber of Commerce
- Latino Program of Washington CASH.

“Is not enough to send a flyer. We get so much paper. It was helpful to talk one on one about how this new law could impact my business and where to go for help.”

*International District
business owner*

Outreach resulted in community briefing sessions, informational events and a radio interview on the ordinance:

- Seattle Chinese Chamber - 1/10/2014
- Chinese community briefing in collaboration with the Chinatown International District Business Improvement Area (CIDBIA) - 2/12/2014
- Vietnamese community briefing in collaboration with the Seattle Chinatown International District Preservation and Development Authority (SCIDpda) - 2/13/2014
- Chinese Lunar New Year Festival – 2/01/14
- Vietnamese TET Festival – 02/07/14
- SOCR staff Jacque Larrainzar spoke on the Spanish radio station KXPA 1540 to discuss the ordinance. She answered callers’ questions including one from an owner of a bakery located in Renton who wanted to know if the ordinance applied to his delivery drivers who made stops in Seattle – 02/01/14

D. Outreach to Applicants and Employees

In order to maximize our outreach to applicants and employees, SOCR focused community outreach on re-entry groups, social service providers including job placement programs, legal aid and community advocates.



1. Trainings

SOCR offered three types of training:

- Customized presentations at staff or coalition meetings.
- Civil Rights 101 for Social Service Providers (3 hrs. on all laws SOCR enforces including JAO).
- Seattle Job Assistance Ordinance and Paid Sick and Safe Time for Community Advocates (2 hours focused solely on JAO and PSST).

SOCR provided 10 trainings and has more scheduled in the future:

- Sept-Dec 2013: 6 trainings
- Jan-May 2014: 4 trainings; 4 more scheduled between June and Dec 2014. SOCR will provide additional trainings on request throughout 2014.

SOCR trained staff at the following agencies (not an inclusive list):

- CareerBridge
- Casa Latina
- Downtown Emergency Service Center
- DSHS Juvenile Justice & Rehabilitation Administration
- El Centro de la Raza
- Horn of Africa
- King County Promotores Network Meeting - SOAR
- OneAmerica
- Oromo Cultural Center
- Pioneer Human Services
- Seattle Housing Authority
- Seattle Human Services Department Aging and Disability Services
- Seattle Jobs Initiative
- SW Youth and Family Services
- WorkSource WA

“The Advocate Training is the best tool to educate the community. It will bring more topics to your awareness.”

– Training participant

“I appreciated the facilitator’s knowledge base and ability to explain complex situations to everyday folks.”

– Training participant

2. Public meetings

In addition to trainings, SOCR held two public meetings prior to the ordinance's going into effect. Staff presented on ordinance requirements and administrative rules, and provided opportunities for attendees to comment.

- August 7, 2013 at Seattle City Hall (150 participants).
- September 21, 2013 at New Holly Community Center (50 participants).

3. Mailings/Fact Sheet Distribution

SOCR created a fact sheet on the ordinance translated into Spanish. The fact sheet can be combined with the employer card, which is translated into eight languages. In September 2013 SOCR sent the JAO fact sheets and Public Meeting Notice to:

- All Neighborhood Services Centers (6)⁵
- All Community Centers (40)
- All Libraries (28)
- Customer Service Bureau in City Hall
- Community groups, including job placement, re-entry and social services identified by SOCR and the Stakeholder Panel. The mailer included fact sheets plus offer of workshops/presentations.

4. Events

To provide awareness and answer questions about the ordinance, SOCR tabled at 9 community events in 2013 and 2014, including (not an inclusive list):

- Bridging the Gap Resource Fair serving SHA residents.
- Puget Sound Regional Re-entry Conference.
- Juvenile Justice and Rehabilitation Administration, DSHS, First AME Resource Fair and Classic Car Show.
- Over the Rainbow Washington LGBTQ Aging and Long Term Care Summit.

IV. ENFORCEMENT – CHARGES AND RESOLUTIONS (NOV 1, 2013 – APRIL 30, 2014)

The Job Assistance Ordinance includes a provision that requires SOCR to maintain data on the number of JAO complaints filed, demographic information on the complainants, the number of investigations SOCR conducts and the disposition of all complaints and investigations. The ordinance also directs SOCR to submit this information to City Council every six months for the two years following the date the ordinance took effect.

SOCR received an anonymous tip about a job application with criminal history questions. SOCR sent the business an advisory letter, explained the problem and the business promptly removed the question from the application.

A. Advisory Letters and Charges

SOCR offers the following options for employees who report JAO violations: technical assistance, advisory letter, individual charge and Director’s charge.

SOCR has had tremendous success with PSST enforcement by quickly resolving complaints with advisory letters that permit employees to remain anonymous for part of all of the enforcement process. In March 2014, SOCR extended the advisory letter process to JAO enforcement after receiving reports from a community organization that applicants and employees did not feel comfortable filing a charge against a business with whom they hoped to gain employment. The advisory letter notifies a business of a reported violation and requests necessary action within 30 days. This process allows the charging party to maintain anonymity and provides the business a brief period to achieve compliance, if necessary. SOCR follows up with the business, but if the issue is not resolved within 30 days, the applicant or employee may file a formal charge. SOCR also may file a Director’s charge against the business if there is reason to believe that the ordinance has been violated. Thus far, SOCR has not filed a Director’s charge in response to the stakeholder panel’s recommendation for a six month “soft launch” of enforcement that enables greater flexibility in resolving compliance problems with technical assistance.

A national chain bakery fired a longtime employee who had a 25-year old criminal conviction. The company terminated her immediately, rather than follow the procedures in the law that would have given the employee a chance to explain her situation. After the employee filed a complaint with SOCR, the company offered her a financial settlement and revised its policies to comply with the Job Assistance Ordinance.

In the six months of JAO’s implementation, SOCR has responded to 36 employee inquiries (mix of questions and complaints), sent 11 advisory letters and filed seven charges.

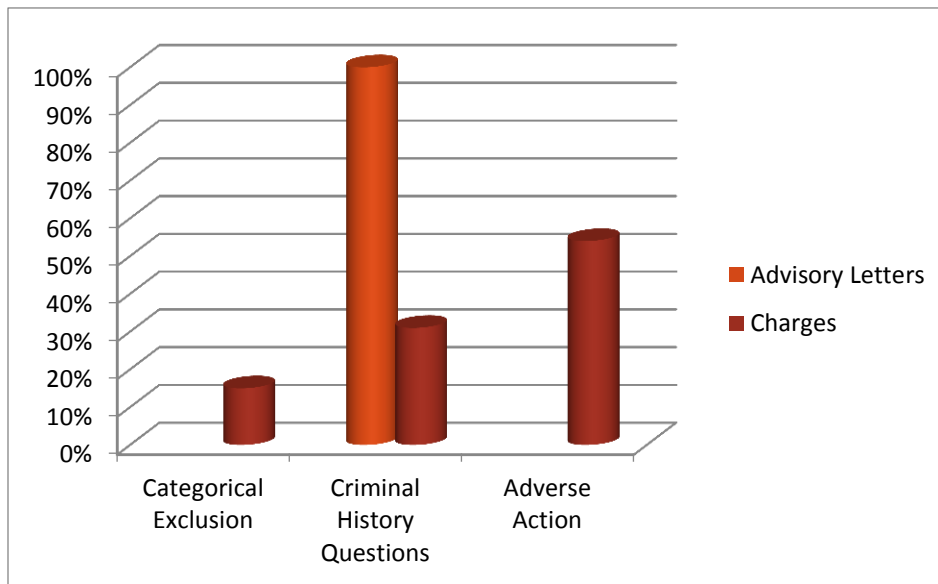
Employee reports of non-compliance fell into three categories that sometimes overlapped:

- Categorical exclusions in job postings (e.g. no criminal history, no felons) ;
- Criminal history questions on job applications; and
- Adverse actions (e.g. failure to move forward with the hiring process, termination) without holding the job open for two days and providing a chance to explain the criminal record.

Most employee complaints (16 out of 18) involved pre-employment situations. All of the advisory letters reported job applications with criminal history questions. All of the charges alleged an adverse action with a mix of additional allegations regarding non-compliant job postings and applications. For example,

- Two charges had three allegations: categorical exclusion, criminal history questions on the application and failure to move forward with the hiring process when the applicant provided criminal record information.
- Two charges had two allegations: criminal history questions on the application and failure to move forward with the hiring process
- Three charges had one allegation: adverse action after providing criminal record information. Of these three charges, two involved adverse actions (i.e. termination and failure to promote) that happened during existing employment.

TABLE 1: JAO Enforcement - COMPLAINTS



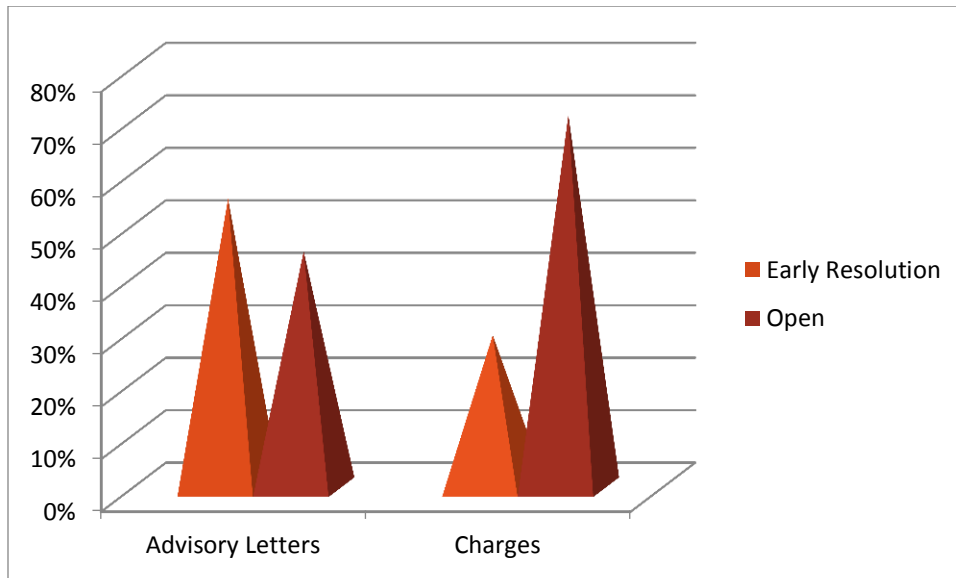
Of the 18 enforcement actions, SOCR closed six advisory letters and two charges. On average, SOCR closed the letters within 13 days and the charges within 83 days. SOCR’s goal is to close advisory letters within 30 days and charges within 180 days).

All of the closures resulted in early resolution of the complaint (i.e. informal agreement or formal settlement). Most employers (75%) modified their policies and/or practices to achieve compliance; the balance of employers had no apparent violation.¹ Charging parties recovered a total of \$18,500 in settlements of the two charges. All of this money was distributed to the charging parties; SOCR did not impose or collect penalties.

TABLE 2: JAO Enforcement - OVERVIEW

Total # Employee inquiries	36
Total # JAO Enforcement Actions	18 (11 advisory letters and 7 charges)
Total # of Closures	8
Total \$ Recovered by Charging Parties	\$18,500

TABLE 3: JAO Enforcement - OUTCOMES⁶



¹ SOCR did not conduct an investigation in these situations, but received information from the employer that indicated compliance (e.g. criminal history questions were removed from job application).

B. Demographics

Demographics of three charging parties who filed charges under the Seattle Job Assistance Ordinance, SMC Chapter 14.17.

Questions	Answers
Location of Incident	Green Lake 98115 West Seattle West Seattle
Gender	Male Male Female
Sexual Orientation	Straight Straight Straight
Age	27 29 44
Race	African American White White
Born in United States	Yes No (Saudi Arabia) Yes
Primary Language	English English English
Person with a Disability	No No No
Type of Housing	Transitional housing/shelter Own Housing Rent
Source of Referral to SOCR	Friend DSHS SOCR Web site

V. NEXT STEPS

Moving forward, SOCR will continue its work of supporting employers with technical assistance/training and responding to employee complaints with enforcement options that permit anonymity and encourage swift resolution.

SOCR also will develop mechanisms for addressing internal concerns that employer compliance with the ordinance may be too low. These concerns arise from the relatively modest number of employee inquiries about JAO. As mentioned above, the office has only received about 36 employee inquiries and initiated 18 enforcement actions. Anecdotally, SOCR has received reports from community service organizations that their clients still encounter job ads that violate the ordinance, but are uncomfortable contacting SOCR and filing complaints due to fears of retaliation. For example, seven of the 11 advisory letters were generated from a community organization rather than people contacting our office. In-house review of local job postings bears out reports of on-going violations: there are numerous Craigslist job advertisements with categorical exclusions for applicants with criminal history, but few applicants are contacting SOCR with complaints.

SOCR will consider ways to increase compliance through additional outreach efforts, partnerships with community organizations, increasing ways that applicants and employees can contact our office, further developing our enforcement of anonymous complaints and considering the use of Director's charges. SOCR's business liaison will analyze enforcement data (types of allegations, enforcement outcomes) to provide policy guidance on appropriate outreach. For example, analysis can show whether employers need simple messaging to boost basic awareness of the ordinance or detailed messaging regarding the more complex provisions of the ordinance. Analysis also will focus on the types of industries receiving complaints to prioritize business sectors for outreach.

SOCR also will seek ways to increase the collection of demographic information, keeping in mind that some customers are reluctant to share this type of information. Currently, our office asks for this information at the intake stage through a paper questionnaire handed or mailed to the charging party. Thus far, our office has received responses from three of seven charging parties. We will collaborate with our office's Race and Social Justice Change Team in thinking about effective ways to collect this information.

For all of these steps, SOCR will continue to seek guidance and input from our stakeholder group of employer and employee representatives.

¹ Outreach and enforcement information was collected from June 2013 through April 30, 2014.

² Community forums included events on 11/30/2010 at Garfield Community Center and 3/16/2011 at City Hall.

³ Seattle Office for Civil Rights Rules, Chapter 80.

http://www.seattle.gov/civilrights/Documents/SeattleJobAssistanceOrdinance_AdministrativeRules_FINAL.PDF

⁴ FAQ document, http://www.seattle.gov/civilrights/Documents/JAO_FAQ_FINAL_10-24-13.pdf

⁵ SOCR redistributed printed information to these locations during the week of March 3, 2014.

⁶ SOCR's goal is to close charges within 180 days from date of filing. All open JAO charges were filed in 2014 and are within the 180 day case closure goal.