



Job Assistance Ordinance: Summary of First Year (Nov 2013 to Nov 2014)

In June 2013, Seattle City Council passed the Job Assistance Ordinance (SMC14.17) following three years of stakeholder engagement and community dialog on the issue of criminal records as a barrier to employment and housing. The ordinance, administered by the Seattle Office for Civil Rights (SOCR), regulates the use of arrest and conviction records in employment decisions for jobs in Seattle. The ordinance has three goals:

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

This report, the second installment of a year-long summary, provides a high-level overview of JAO implementation and highlights accomplishments from the last six months.

A. Outreach to general public.

SOCR offers three types of JAO trainings
(1) Customized presentations at staff or coalition meetings;
(2) Civil Rights 101 for Social Service Providers; and
(3) JAO/PSST for Community Advocates.
In the first year of JAO implementation, SOCR conducted 18 JAO trainings to job applicants and employees.

18 applicant trainings
13 employer trainings
125 technical assistance calls for business
Labor Standards Advisory Group
50-page Labor Standards Research Report
Purple Justice collaboration
National collaboration with other cities

B. Outreach to employers.

SOCR provided technical assistance to over 125 employers, met with over 30 organizations to discuss outreach and collaboration, and led 13 JAO presentations. A partnership with the Office for Economic Development and WorkSource drew nearly 200 business participants for two trainings.

C. Special Projects: May 1, 2014 through November 1, 2014

1. **Labor Standards Advisory Group:** SOCR staffed a Labor Standards Advisory Group (LSAG) comprised of employee, labor and business representatives convened by City Council and the Mayor to recommend ways to increase compliance with JAO and other Seattle labor standards.

SOCR is actively referencing the LSAG final report as the office considers approaches to outreach and enforcement.

2. **Local labor standards research:** To support LSAG work, SOCR researched and drafted an extensive report that examined local and nationwide approaches to enforcing labor standards. As with the LSAG report, SOCR is actively referencing this research as the office considers approaches to outreach and enforcement.
3. **Purple Justice collaboration:** SOCR is providing technical assistance to Purple Justice, a group of students in Seattle University’s Executive Leadership program who are advocating for ordinances similar to JAO across Puget Sound and Washington State. The group recently sent a letter to five suburban mayors urging them to take action to provide protections for people with criminal records.
4. **Technical assistance to other jurisdictions:** SOCR provided information on JAO implementation to a number of cities across the US who are exploring “ban the box” policies.

D. Enforcement : SOCR offers the following options for employees who report JAO violations: advisory letter, individual charge and Director’s charge. During the first year of implementation, SOCR responded to 56 employee inquiries, initiated 36 enforcement actions (13 advisory letters and 23 charges) and closed 19 complaints (11 advisory letters and 8 charges). SOCR closed advisory letters within an average of 14 days and charges within 118 days. SOCR’s goal is to close advisory letters within 30 days and charges within 180 days.

56 employee inquiries
36 enforcement actions
19 closures
\$18,500

- **Advisory Letters:** SOCR closed 11 advisory letters. Nearly half of employers (45%) receiving advisory letters modified their policies and/or practices to achieve compliance.¹

- **Charges:** SOCR closed eight charges. Three charges were settled; three charges resulted in a “reasonable cause” finding and notices of violation; one charge resulted in a “no cause” finding and one charge was dismissed. Four charges resulted in a Notice of Infraction.

11 Director’s charges for craigslist job postings that excluded applicants with criminal history records

- **Compensation:** Although the ordinance has limited remedies that only apply for second and subsequent employer violations, SOCR facilitated recovery of \$18,500 for charging parties in settlements of two charges.

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).

E. Demographics.

SOCR distributed demographic questionnaires for JAO charges and received the following information from eight charging parties (e.g. job applicants and/or employees who filed complaints).

- **Gender:** 56% male; 33% female; 11% two-spirit
- **Age:** 12% 18-25 years; 50% 26-39; 38% 40-54 years
- **Race:** 50% White; 38% African-American; 12% Hawaiian/Pacific Islander
- **Housing:** 62% rent; 25% homeless, transitional; 13% own

F. Next Steps

- 1. Centralized Office of Labor Standards:** The City of Seattle will create a centralized Office of Labor Standards (OLS) to administer the Job Assistance Ordinance along with Paid Sick and Safe Time, the Minimum Wage Ordinance and a new Administrative Wage Theft Ordinance. In 2015, the proposed OLS will staff one Division Director, two outreach liaisons, and two investigators; two additional investigators will be added in 2016.

New Office of Labor Standards
CBO partnerships
Targeted outreach
Focus on employer accountability
Director's charges
Directed investigations
Labor Standards Advisory Commission

- 2. Partnerships with community based organizations:** To expand outreach and intake referrals, OLS will partner with community based organizations (CBOs) in 2015 by providing funding through a comprehensive Request for Proposal (RFP) process modelled after SOCR's very successful RFP process for RSJI structural racism grants. The OLS's community liaison will work closely with the CBOs receiving grants, develop ways to expand the office's intake capacity (e.g. mobile intake centers, community legal clinics) and build relationships with communities who are disproportionately impacted by this ordinance, including communities of color and immigrants and refugees.
- 3. Targeted Outreach:** OLS will seek ways to better collect, track, and report labor standards data to guide outreach to employees and employers. For example, analysis can show if employers need simple messaging to boost basic awareness of the ordinance or detailed messaging regarding the more complex provisions of the ordinance. The enforcement team will seek ways to increase the collection of demographic information, including asking for it verbally at the first point of contact with front desk (rather than intake) and via web-based intake forms.

Local media coverage

“City wants felons hired; some businesses say no,”
KIRO TV.com November 11, 2014

4. Focus on Employer

Accountability: During initial JAO implementation, SOCR focused on individual grievances and future compliance. Moving

forward, OLS will adopt a more rigorous approach to enforcement with the following priorities:

- More formal charges; limited use of advisory letters.
- Director’s charges for company-wide investigations when there is reason to believe that a violation has occurred (e.g. job postings that exclude applicants with criminal history).
- Automatic “Notice of Infraction” for an employer’s first violation. All first violation cases, even if settled, will include a Notice of Infraction to ensure that subsequent violations can result in penalties.
- Monitored settlement agreements that require retroactive damages and full compliance.

5. **Director’s charges:** OLS will increase use of Director’s charges as a tool for increasing compliance. Seattle has a workforce of almost 500,000 individuals, of which 125,000 may have criminal records. Yet SOCR has only received 56 JAO complaints and has initiated 36 enforcement actions. Community organizations have reported that clients still encounter job ads that violate the ordinance, but are uncomfortable filing complaints due to fears of retaliation. Further, SOCR’s review of craigslist revealed numerous job postings that exclude applicants with criminal history, but few applicants reporting noncompliance. In the future, OLS will continue to check job postings for noncompliant language and file Director’s charges when appropriate.

6. **Directed investigations:** Directed investigations are initiated by an enforcement office rather than by a complaint. OLS will begin filing directed investigations after developing criteria and performing research to determine the appropriate area(s) of concentration. For example, the U.S. Department of Labor’s Wage and Hour Division files directed investigations for certain types of business that meet criteria regarding (1) large numbers of vulnerable workers, (2) sectors where workers would be reluctant to step forward, and (3) sectors where proactive action would be likely to change employers’ behavior on a large and long-lasting scale. Research conducted by Dr. David Weil shows that directed investigations yield 10% fewer violations, but significantly higher back wages.

7. **Labor Standards Advisory Commission:** For all of these steps, OLS will seek input from a proposed Labor Standards Advisory Commission comprised of business, labor and community representatives.

JAO Case Summaries

Craigslist job postings exclude applicants with criminal history

In October 2014, SOCR filed 11 Director's Charges for craigslist job postings that excluded applicants with criminal history. **Result:** As of November 20, 2014, 1 Notice of Infraction issued and settlement agreement to remove exclusion from job postings.

- "We are a felon-free and drug-free company" (Construction Estimator and Project Manager)
- "No Criminal Record" (dog sitter)
- "No Criminal history" (insurance, carpenter, mobile locksmith, delivery driver, tech support engineer, software trainer)
- "No Criminal background" (landscape construction)
- "Clean criminal record" (dog walker)
- "Stable work history & clean criminal record & driving record" (manager of business development)

Criminal history questions prevented person from applying to job

A man was interested in an Assistant Manager position with a property management company but did not submit his application because the application had questions regarding criminal history. The questions had a chilling effect on the job applicant. The employer thought that the questions were permissible because the position was exempt from the ordinance. However, the investigation did not find that the position met the criteria for an exemption. **Result:** Notice of Infraction.

Criminal history questions prevented person from applying for job

A man was interested in an Administrative Assistant/Leasing Consultant with a property management company but did not submit his application because the application had questions regarding criminal history before determining whether he had the minimum qualifications for the job. **Result:** Notice of Infraction and settlement agreement that company would change application and screening procedures.

Applicant denied chance to explain criminal history record

A man applied for a position as a graveyard freight crew position with a grocery store. After conducting a background check, a manager notified the applicant that he would not be hired but did not provide a reason. Several weeks later, the applicant received a letter from the Fair Credit Reporting Act indicating that he was not hired due to his criminal history. The applicant filed a charge and the investigation determined that the employer did not follow ordinance requirements for providing notice of an adverse action due to criminal history and a chance to explain the situation. **Result:** Notice of Infraction.

Long-time employee fired without chance to explain a 25-year old conviction

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. **Result:** Settlement agreement for \$18,500.