

Fair Chance Hiring at Yale

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Since 2019, The Justice Collaboratory (JC) at Yale Law School has advocated for the creation of a fair chance hiring policy at Yale University for candidates with justice-impacted backgrounds. In the absence of a written policy, we knew that highly qualified candidates were being turned away from working at the university with little to no recourse. To resolve this problem, the JC and other stakeholders worked alongside Yale's Human Resources department to create a hiring policy to make Yale a fairer and more equitable employer while increasing economic opportunities for New Haven residents.



The lack of a fair chance policy created many hurdles for those with justice-impacted backgrounds attempting to apply for staff positions, such that qualified applicants were being denied employment or experiencing hiring delays, which negatively affected the applicant, the hiring manager, and research teams. The JC began looking into this matter after one of its faculty members attempted to hire a candidate as a casual employee to serve as a community-based researcher at the SEICHE Center for Health and Justice.¹ Even with the tremendous support of the hiring manager and team at SEICHE, letters of support and recommendation from the community, and an understanding from the funder that the researcher role was to be filled by someone with a justice-impacted background, hiring was extremely difficult due to the lack of a fair chance hiring policy at Yale.

The JC delved into the issue by conducting multiple interviews with formerly justice-impacted staff and hiring managers at SEICHE, finding other faculty members overseeing research in different departments who had also faced challenges when attempting to hire qualified applicants with criminal backgrounds. Our findings revealed that applicants required a significant amount of support from hiring managers to complete Yale's online application due to a lack of technology or comfort level using a computer, and it was common for those filling out the background check to be unsure of exact dates of arrest or convictions, required details which could nullify an offer of employment.

The JC also reviewed Yale's Human Resources policies relating to background checks and evaluated the external agency responsible for conducting those checks (Hire Right). We found multiple challenges for applicants ranging from a confusing process to a lack of transparency in internal decision-making

policies. We also found examples of other academic institutions struggling with the issue of fair chance hiring and institutions like Johns Hopkins working to address this issue. The JC presented its findings to Yale's Human Resources department and together we have been working in tandem to create a fair chance hiring policy.

The new fair chance policy drafted by Yale's Human Resources team importantly states that a prior criminal conviction does not preclude an offer of employment and that the pre-employment screening process be handled consistently and in a non-discriminatory fashion. The policy defines what steps are taken if a background check results in information that requires further review, details the various types of background checks Yale requires for specific roles, describes the overall process for applicants, and includes information on how to remediate disputes on a background check. It also clearly defines the final decision-makers at Yale to approve candidates with a justice-impacted background: The Pre-Employment Review Committee (PERC).

The PERC is made up of members from Yale's General Counsel office, Human Resources, and Risk Management department and has the final say on employment offers. The group had been in place before the creation of the new fair chance policy, however, it did not include a member with a broad understanding of the criminal legal system. The newly proposed policy adds a member from Yale's Public Safety department to the committee who will bring their law enforcement background to help the committee better understand any charges listed on a candidate's background check.

Resources provided to candidates in the new policy also include a thorough FAQ of the hiring process that addresses specific questions justice-impacted applicants may have, such as:

- What is the policy on hiring applicants with a criminal record?
- Do you have to be out of prison for a specific amount of time to be considered for employment?
- What information appears on a criminal background check?
- How many years back does the criminal background check search?
- What if I can't remember the exact date and or charge of my conviction, arrest, etc., and will this automatically disqualify me from employment?
- What roles require additional types of screening, including drug, motor vehicle, and unscored credit checks?

By including the voices of key stakeholders who have navigated Yale's employment process without a fair chance policy, many challenges for justice-impacted applicants have been addressed in the new policy. We see this as a first step in a process that we hope will also see data tracking, monitoring, and evaluation to ensure the policy stays up to date, is successful, and is best in class. Our hope is that Yale's work on fair chance hiring will become a model to influence human resources policy at other academic institutions across the United States.

Background

Research confirms that justice-impacted people are heavily discriminated against by potential employers, notably those of Black, Latin, and Indigenous descent (Agan & Starr, 2017; Pager, 2003; Pager et al., 2009; Uggen et al., 2014) For persons living in communities such as New Haven with high rates of incarceration (Widra et al., 2022), there is an added rate of discrimination against Black and Latin applicants who may sometimes be ruled against based on an assumption that they will likely have a criminal record (Doleac & Hansen,

2016). Thus, employment opportunities for persons post-release are disproportionately skewed against people of color, impacting an individual's economic potential and overall housing, healthcare, and education opportunities.

However, hiring applicants with justice-impacted backgrounds makes sense for both Yale and the greater New Haven community as it reduces recidivism and increases public safety while adding to the community tax base by employing and housing more individuals (Atkinson & Lockwood, 2016). In terms of the reliability of hiring those with a justice-impacted background, retention rates are higher, turnover is lower, and employees are proven to be responsible and loyal (Atkinson & Lockwood, 2016). Given that costs associated with recruitment are high, researchers have found that employees with a justice-impacted background are a safe and good choice of candidates for employers ("New Survey Shows Openness to Second Chance Hiring Is Increasing, but Gains Are Still Needed," 2021).

Research from Solomon (2012) finds that background checks may often be overly broad in that they also might include extraneous details, like arrests that did not lead to a conviction, which then also excludes applicants from being hired. According to the 2013 testimony of a Justice Department official (Adams, 2013), a startling one in three Americans has some sort of criminal record, which often includes an arrest that did not lead to a conviction, a conviction that did not result in jail time, or a conviction for a non-violent crime. Yale's proposed policy states that in its assessment, PERC considers the nature of the position, the relationship of the offense to the job duties, the time passed since the offense, and the completion of any sentence. This new language will make an easier pathway for individuals qualified for positions but previously excluded from employment opportunities because of their background.

¹ SEICHE Center for Health and Justice. <https://medicine.yale.edu/seiche/>

Additionally, since the beginning of the JC's involvement with this project, the United States has gone through a period of labor shortages and economic hardship due to the Covid-19 pandemic. The inability to fill vacant roles impeded Yale's hiring capabilities on both its university and hospital campuses (Porayouw, 2022), impacting its research, science, and healthcare delivery efforts. These difficulties continue to this day with 600 staff positions on average per month (pre-pandemic averages were 400 open positions per month). One solution for this is to look within the New Haven community for applicants who may otherwise be overlooked, a strategy that makes economic sense for both Yale and the city. In 2021, Yale committed \$140 million toward economic growth in the city (Shelton, 2021). existing collaborative programs such as New Haven Promise² and New Haven Works.³

The university's position on hiring formerly incarcerated individuals stands in sharp contrast to that of Yale New Haven Health System, which partnered with the Connecticut NAACP in 2021 on The One Million Jobs Campaign⁴ in committing to hire 5% of its entry-level positions from a pool of formerly justice-impacted individuals. Additionally, our research found that other universities, such as Johns Hopkins (Paulk, 2015), has committed to hiring justice-impacted individuals as an important step of their recruitment to fill roles and improve community safety and vitality in Baltimore.

CASE STUDIES

To vividly illustrate the challenges at Yale, we provide the following case studies of hiring candidates with a criminal record. The names of employees have been changed to protect their privacy.

Personal Implications: Joe's Story

In the spring of 2019, Joe was living in a halfway house in New Haven after his release from Connecticut state prison. He had spent most of his adult life behind bars since being incarcerated as a teenager, and as his release date became closer, Joe would lie in his bunk thinking about a future in the working world. During his time in prison, he focused on improving not only his own life but the lives of others and became a certified life and addiction recovery coach, a forensic peer support specialist, and a mentor for those returning to the community. His work while incarcerated translated into skills he could use upon his release.

One evening Joe attended a men's support group led by a community health worker from the Transitions Clinic.⁵ The clinic provides healthcare and social support to people reentering their communities post-incarceration. The community health worker was impressed by Joe's enthusiasm and encouraged him to lead other group sessions for the clinic. It was during one of these sessions that he encouraged Joe to apply as a temporary casual employee to work on an important research study at SEICHE.

One year later, the SEICHE team secured new grant funding to hire justice-impacted individuals to act as community-based

researchers interviewing individuals returning home from incarceration for the RadxUP⁶ study, and Joe made perfect sense to hire for this project. However, for applicants with a history of incarceration, or anyone with limited computer literacy, Yale's online hiring platform, STARS, can be daunting to complete. Just like other applicants with limited technology skills, Joe required help to complete both the application and the background check. With the help of the staff at SEICHE, Joe applied for the job and waited to hear back about when he could start as a Yale researcher, focusing on improving lives for those released from incarceration — exactly the type of work he was uniquely qualified for. While the weeks and then months dragged on, he found out that the delay was with Hire Right, the university's external background check system, who had flagged his application due to a prior conviction. Joe persisted with his application and presented documentation of the work he did while incarcerated and after his release to help other incarcerated/formerly incarcerated men. Despite this additional information, he received a confusing letter in the mail explaining that his application would not move forward and noting minor discrepancies in the employment dates he provided (e.g., providing the months of employment, but not the exact start and end dates) and the month he received his GED. Both were errors that anyone trying to recall precise dates for events might get wrong, but the letter had no mention of his prior criminal record, although PERC had inquired about it via email prior to the denial. The lack of clarity around what the committee's policy was made it challenging for applicants to know what to expect and left them unprepared to address the concerns of the university.

It was at this point The Justice Collaboratory became involved to help the SEICHE Center team make the case for hiring Joe and

to help think through how to advocate for changes to Yale's hiring policy. Joe was the best candidate to fill the research aide role as his history made him uniquely qualified to work with SEICHE's research population. What followed was a multi-month wait that made Joe doubt his ability to qualify for this or any other job. Eventually, in 2021, the university hired Joe after a considerable campaign on his behalf, and he finally became part of the SEICHE team of community researchers. For Joe, the job brought a sense of pride and accomplishment, having gone from being incarcerated to being a researcher at Yale, something that he had never fathomed.

Personal Implications: Michael's Story

Michael first met the team when he was released from federal prison in 2017 and was referred to the Transitions Clinic. After spending much of his life in prison, starting with his first incarceration at age 12, Michael was released to a halfway house, but at 64 years old, had limited prospects of finding work due to his age and criminal history. When he came to the clinic, Michael was feeling discouraged, and after several conversations with the Transitions team, it was clear that he had a lot to contribute to the work and research the SEICHE team was doing.

Michael was asked to join SEICHE on a project as a consultant, focused on healthcare during incarceration and trauma in men recently released from correctional facilities (Elumn et al., 2021). A key component of the project was that men with a history of incarceration would be co-researchers on the project, and Michael was instrumental in this project. He received training in qualitative research, helped to design the

2 New Haven Promise. <https://www.newhavenpromise.org/>

3 New Haven Works. <http://newhavenworkspipeline.org/>

4 The NAACP's One Million Jobs Campaign. <https://www.millionjobscampaign.com/>

5 Transitions Clinic. <https://transitionsclinic.org/>

6 RADx Underserved Populations. <https://www.justicehappenshere.yale.edu/projects/radx>

qualitative interview guide, and led many of the interviews of study participants.

The work was transformative for both Michael and the people he interviewed. He saw that he could use his experience to engage other people with histories of incarceration and that the knowledge gained from his research would shed light on the problems incarcerated people face and could be used to advocate for change in the criminal legal system.

In addition, study participants saw that someone like them could work at Yale as part of a research team, opening the possibilities for their futures.

In 2022, Michael was contacted about returning to work at SEICHE on a new project that was focused on how incarceration affects sleep health. He had found a job where he felt welcomed, and although the team wanted to hire him, the process of applying, completing the background check, and the months of back and forth after the background check made the process frustrating. Requirements such as ensuring the dates of all his previous employment were exactly right, the inability to include any work history from the time he was incarcerated, and issues with verifying his previous work with the team as a consultant added mounting delays.

As part of Yale's background check process, applicants are required to list all previous convictions with dates and charges. For Michael, and many others recollecting these details, this can be challenging. His convictions were long in the past, and he did not remember the exact dates of sentencing or charges, as these often change from arrest to conviction or plea. While the process was taking a long time, there were mounting pressures on Michael. For him, as for many others, the family he was staying with had expectations that he would contribute to the household, and probation also expected him to find a job.

The months that the hiring process took only compounded pressure on Michael as he focused on staying positive but felt his prospects of being hired were minimal. After many months of going through the hiring process and background check review, Michael was finally hired in December 2022.

For Michael, his position was a dream job. When he told people that he worked at Yale, they often assumed that he worked in the dining hall or maintenance. He was proud to be part of a research team working to address the health impacts of mass incarceration. He loved learning from and sharing his expertise with everyone at the SEICHE Center and recently noted that the job saved his life.

Personal Implications: Susan's Story

In 2017, Susan applied for the position of Research Assistant I in the internal medicine department at the Yale School of Medicine. The position was a natural fit for her, as it required someone with good communication, computer and organizational skills, self-motivation, and most importantly knowledge of New Haven from strong community relationships. As a native of New Haven, Susan was very active in community work and felt the position was tailor-made for her.

When Susan was interviewed for the position, she was told that she was considered the top candidate for the job. She had excellent references from people whom she had previously worked with in prior jobs and community work. However, despite all of this, Susan knew that due to her justice-involved history, there was a possibility that a background check could end her career at Yale before it ever had a chance to start.

PERC contacted Susan to inform her that due to her prior criminal history, she was being denied the position. Susan was not deterred and continued to advocate for herself by



making a case for her employment. While Susan did not dispute what was reported in her background check, she did make a case that the description of the research position that she applied for mentioned “first-hand experience as a formerly incarcerated individual,” which would suggest applicants have a justice-impacted history, and that Susan was the right candidate for the job.

Finally, after many months of delays and confusing correspondence from PERC and with tremendous support from the team at SEICHE, Susan was offered a position. She has now been at the university for over five years, has been promoted, and acts as a project manager on an NIH-funded study. Her work has opened up a career path that Susan never thought was possible and has led to some of the most fulfilling and impactful work she has ever done, and relationships that she will value for a lifetime.

Team Implications

The SEICHE Center for Health and Justice is a collaboration between the Yale School of Medicine and the Yale Law School and performs a combination of research, advocacy, and clinical care for people recently released from prison. Including the voices of persons directly impacted by mass incarceration is central to the work and research at SEICHE, and delays in hiring staff result in stress and delays for the team as a whole. Workloads may increase as the team waits for new staff to be approved and hired, which can lead to burnout as team members juggle multiple responsibilities that would have been filled by the new member. This also impacts the amount of time and attention the SEICHE team can provide to the formerly incarcerated population they serve through research, clinical work, and advocacy. When the team is stretched because of hiring delays, non-urgent endeavors that advance

important research may have to be put aside until the team is back up to appropriate staffing levels. Team members who have been through the background check review process on prior occasions may also be retriggered, as they see others face the same obstacles over and over again. It can also set up unrealistic expectations for the new person being hired, as there was so much effort advocating for their hire and highlighting their strengths, that there may be heightened expectations for their performance.

Hiring Manager Perspectives

The hiring process, which can already be long, is significantly extended when hiring an individual with a history of incarceration. Variation in the process each time there is a new position can also lead to frustration for the hiring manager. The process can also drain the hiring manager's time as they may need to assist the applicant as they move through the process, work with the HR specialist, and ensure that the team's work continues. Also, advocacy burnout can result from repeating the process with each new hire.

For teams hiring for positions on research studies with specific time frames and deliverables, delays of several months in the hiring process may have wide-reaching impacts. Positions can go unfilled for many months, putting strain on existing study staff and the study's principal investigator. In addition, funders require regular reports on study progress and can retract funds if projects are not progressing.

As some of our past applicants have noted, there can be intense pressure to find a job from probation and parole officers, from family, and for basic survival. Hiring managers often risk losing the best applicants because the process takes so long. The applicant needs to decide

whether to wait for a job that they may not get or to take another job where they could start quickly. For those with limited employment options, this long wait can mean the difference between a potentially successful future in a coveted position at Yale or a return to criminal activity for survival.

Best practices from Johns Hopkins

Johns Hopkins Medicine, an alliance of the Johns Hopkins Health System (JHHS) and the Johns Hopkins University School of Medicine, leads as a model of fair chance hiring in higher education, with a proven history of employing individuals with justice-impacted backgrounds (Paulk, 2015). The HopkinsLocal Initiative was created in 2015 to leverage the university's power to expand and enhance economic growth in the Baltimore, Maryland area via employment and investment using measurable goals. The number of justice-involved, or what they refer to as "returning citizens" hired through this initiative through FY22 was 1,131 (*HopkinsLocal Progress*, n.d.).

Their hiring process follows a path from application and interview, where there are no questions about past arrests or convictions, to a conditional offer where an offer is contingent on a universal background check. If an application is flagged during this stage, an individual assessment is conducted if prior offenses are considered to be job-related. In addition, various other factors are considered including the time, nature, number of convictions, attempts at rehabilitation, and the time passed between conviction and decision to hire. If the assessment is deemed unfavorable for the candidate, HR will allow the candidate to either provide further clarification or encourage the applicant to submit for other opportunities including adult internships⁷ to gain more experience.

In addition, all Johns Hopkins job postings contain standard language stating their commitment to hiring formerly justice-involved individuals: "The successful candidate(s) for this position will be subject to a pre-employment background check. Johns Hopkins is committed to hiring individuals with a justice-involved background, consistent with applicable policies and current practice. A prior criminal history does not automatically preclude candidates from employment at Johns Hopkins University. In accordance with applicable law, the university will review, on an individual basis, the date of a candidate's conviction, the nature of the conviction, and how the conviction relates to an essential job-related qualification or function."⁸

Because of their initiatives and policies, Johns Hopkins has become one of the nation's leading institutions at the forefront of pushing toward better economic and community vitality for residents of the East Baltimore community where Johns Hopkins Medicine is located. The alignment of these values with its mission to improve the health of the community has led to various follow-up studies showing the success of its hiring program including one that found that justice-impacted staff were more likely to stay in their jobs for more than three years than non-offenders (Quinton, 2017).

Findings

Before the creation of a fair chance hiring policy, we found many obstacles for Yale's justice-impacted candidates to overcome, especially for those applying without the support of a faculty or hiring manager to assist with their application or advocate heavily on their behalf. During our involvement, the Justice

Collaboratory built relationships with justice-impacted staff, hiring managers, Yale's Human Resources Department, as well as members of the President's Committee on Diversity, Inclusion, and Belonging. Together, we were able to push for the creation of a fair chance hiring policy.

The primary issue was a lack of clarity of policy on both background checks and the PERC committee, which goes against what federal Equal Employment Opportunity Commission guidance advises employers to do. Namely, to develop a narrowly tailored "written policy and procedure for screening applicants and employees for criminal conduct" (Equal Employment Opportunity Commission, 2012). The policies on background checks have since been addressed on Yale's new Background Check FAQ site.⁹

After Joe's application was flagged by Hire Right and then denied by PERC, the JC asked to see where the committee's policies were posted, learning that they were not publicly posted anywhere. The JC will continue to push for transparency from the committee so that hiring managers and applicants are clear about Yale's policies. This remains one of our top priorities moving forward as the policies of PERC are not included on the new FAQ site, which was created after we presented our findings to Human Resources.

Our remaining recommendations have since been addressed on the new FAQ website as well as in the Fair Chance Policy FAQ section. Those include:

⁸ Quoted from a Johns Hopkins August 2023 job posting #110265 (Sr Administrative Coordinator).

⁹ Background Checks | It's Your Yale. (2023). <https://your.yale.edu/work-yale/manager-toolkit/recruiting-and-hiring/hiring-guide/background-checks>

⁷ Adult Community Programs. Human Resources Johns Hopkins Hospital & Health System. <https://www.hopkinsmedicine.org/human-resources/education-programs/adult>

JC Recommendation

Add a criminal legal expert to the Pre-Employment Review Committee (PERC). Before the creation of the Fair Chance Policy, the committee was made up of a representative from Yale's Risk Management, General Counsel's office, and Human Resources.

Limit the scope of background check inquiries.

Assess each relevant conviction, considering the nature of the job and its relationship to the offense, and time passed since the offense.

Provide notice and an individualized assessment that includes consideration of rehabilitative steps (e.g., education and work experience) since the conviction.

Provide adequate notice of disqualification and refer to another opportunity.

Take affirmative steps to reach qualified job seekers with criminal records.

Track data, similarly to HopkinsLocal, of successes in outreach and hiring of job seekers with criminal records.

Fair Chance Policy Result

A new member from the Yale Police Department has been included in the committee.

Yale has and will continue to consistently require background checks for all new hires which include a criminal history check, previous employment, verification of education and social security number, and in some instances a credit check. The Fair Chance Policy continues this practice, however, lists what positions will also include an unscored credit, motor vehicle, medical, or drug testing checks.

According to the Fair Chance Policy, the PERC committee will "consider the nature of the position, the relationship of the offense to the job duties, and the time passed since the offense and completion of any sentence" when deciding on applicants flagged by Hire Right as being justice impacted.

Any education or employment skills gained both pre- and post-incarceration are considered valid experiences by the PERC committee and will be included on a candidate's resume.

For future consideration

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Looking ahead

Our work with Yale's Human Resources team and senior leadership has led to promising progress in the hiring of people with a history of incarceration. Initially, we had proposed the creation of a multidisciplinary committee of faculty and staff who would center persons who were justice-impacted to make recommendations to create a new fair chance hiring policy, and we hope that a committee is formed to track and review data and progress of the new policy and to make recommendations for future revision. Yale's Human Resources team met with SEICHE staff members and faculty to hear from those directly impacted by a lack of clear policy and appropriately addressed

issues raised in the policy FAQ. In addition, Human Resources also engaged in deep dives with both Hire Right and PERC as part of their review to create the Fair Chance Policy. A draft was sent to the JC and SEICHE Center teams for feedback in late spring 2023, and Yale's Human Resource department is now in the process of reviewing the feedback and incorporating changes for approval in 2024. The movement forward in the last year is encouraging news for the JC, the SEICHE Center and its staff members, and most importantly for residents of New Haven and the surrounding area who have a history of involvement in the criminal legal system.



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