Collateral Consequences: Barriers to Employment Upon Re-entry

In the last three decades, the “war on drugs,” mandatory minimum sentences, and over-criminalization have had devastating and disparate effects on people of color and low income people, including rising numbers of women.

Some facts about prison re-entry & employment:

- This year, nearly 700,000 people will leave prisons nationwide.¹
- One in five U.S. adults has a criminal record on file with the states.²
- A Los Angeles survey found that over 60% of employers would “probably not” or “definitely not” be willing to hire an individual with a criminal record.³
- Racial disparities persist: while Native Hawaiians are about 9% of the state’s population, they are anywhere from 22% to 45% of the prison population.⁴
- In Maui County, native Hawaiian women disproportionately comprise 61% per cent of inmates in work furlough.⁵
- The number of women with convictions (especially low-level drug-related convictions) has skyrocketed. From 1985 to 2007, the number of women in prison increased at nearly double the rate of men.⁶
- The incarceration of some Hawaii prisoners on the mainland makes re-entry following prison even more difficult.⁷

How we can all help:

- **Employers**: be sure your recruitment process considers all individuals equally, including those with criminal records. Everyone deserves a chance to work. Uphold individuals’ rights under Hawaii’s state laws protecting employees from being fired because of a prior conviction that is unrelated to the job.

- **Workers or applicants**, assert your rights under Title VII of the Civil Rights Act and the U.S. Equal Employment Opportunity Commission (EEOC)’s policies limiting employer ability to refuse to hire ex-offenders. Know your rights under Hawaii’s state laws protecting employees from being fired because of a prior conviction that is unrelated to the job. Bring your grievances to the EEOC.

- **Visit the U.S. EEOC** at [http://www.eeoc.gov/], or the Honolulu local office: 1-800-669-4000.

- **For more information** about re-entry employment discrimination, contact the ACLU Women’s Rights Project

A nationwide civil liberties initiative by the ACLU Women’s Rights Project

125 Broad St., 18th Floor NY, NY 10004 (202)549-2644 <womensrights@aclu.org>

*This information is general in nature & does not constitute legal advice. Consult an attorney for legal advice.*
People with legal histories face dramatic and unfair barriers to gaining employment.

The ACLU Women’s Rights Project, in conjunction with the ACLU of Hawaii, is launching an initiative to tackle the ways in which people with criminal records are barred from rebuilding their lives through employment.

• People with records face widespread employment discrimination. Criminal records have become easily accessible and widely available to employers. For a few dollars, employers can download them from the internet. Now a big business for hundreds of companies, background reports are often riddled with errors, and people find it difficult to correct all copies of a report containing incorrect records, or records that should have been sealed or expunged.

• A handful of companies manage criminal history databases with more than 100 million criminal records. 80% of large employers conduct criminal background checks.

• Many states impose statutory bans on people with certain convictions working, for example, in nursing, childcare, and home health care – fields in which many poor women and women of color are often concentrated. People who have worked with children or the elderly for decades can find themselves abruptly disqualified due to even old and minor convictions.

• The EEOC and some courts have held that employers’ bans on hiring people with convictions or arrests can violate Title VII of the federal Civil Rights Act of 1964 in the absence of a “business necessity,” because such bans have a disproportionate impact on people of color. Notwithstanding EEOC’s policy statements, the employment rights of people with legal histories have rarely been enforced in court.

• In addition, Hawaii statutory and state Supreme Court law prohibits firing someone because of a previous conviction unless the employer can show that the conviction is related to the job. Wright v. Home Depot, 142 P.3d 265 (Hawaii 2006).