ATTACHMENT 1

On Hiring/Criminal Records Guidance

REENTRY MYTH BUSTER!

A Product of the Federal Interagency Reentry Council

MYTH: People with criminal records are automatically barred from employment.

FACT: An arrest or conviction record will NOT automatically bar individuals from employment.

Title VII of the Civil Rights Act of 1964 makes it unlawful to discriminate in employment based on race, color, national origin, religion, or sex. This law does not prohibit an employer from requiring applicants to provide information about arrests, convictions or incarceration. But, employers may not treat people with the same criminal records differently because of their race or national origin. In addition, in the vast majority of cases, employers may not automatically bar everyone with an arrest or conviction record from employment. This is because an automatic bar to hiring everyone with a criminal record is likely to limit the employment opportunities of applicants or workers because of their race or ethnicity.

If an employer is aware of a conviction or incarceration, that information should only bar someone from employment when the conviction is closely related to the job, after considering:

- The nature of the job,
- The nature and seriousness of the offense, and
- The length of time since it occurred.

Since an arrest alone does not necessarily mean that someone has committed a crime, an employer should not assume that someone who has been arrested, but not convicted, did in fact commit the offense. Instead, the employer should allow the person to explain the circumstances of the arrest. If it appears that he or she engaged in the alleged unlawful conduct, the employer should assess whether the conduct is closely enough related to the job to justify denial of employment.

These rules apply to all employers that have 15 or more employees, including private sector employers, the federal government and federal contractors.

For More Information:

EEOC Policy Guidance and Statements on Arrest and Conviction Records

http://www.eeoc.gov/policy/docs/convict1.html

http://www.eeoc.gov/policy/docs/arrest_records.html

http://www.eeoc.gov/policy/docs/race-color.html#VIB2conviction

FTC Guidance on the Use of Arrest and Conviction Records Under the Fair Credit Reporting Act (FCRA).

The FCRA imposes a number of requirements on employers who wish to use criminal background checks to screen applicants and/or employees. For more information about these requirements, please visit the following websites:

http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre36.shtm

http://business.ftc.gov/documents/bus08-using-consumer-reports-what-employers-need-know

What is a REENTRY MYTH BUSTER? This Myth Buster is one in a series of fact sheets intended to clarify existing federal policies that affect formerly incarcerated individuals and their families. Each year, more than 700,000 individuals are released from state and federal prisons. Another 9 million cycle through local jails. When reentry fails, the social and economic costs are high -- more crime, more victims, more family distress, and more pressure on already-strained state and municipal budgets.

Because reentry intersects with health and housing, education and employment, family, faith, and community well-being, many federal agencies are focusing on initiatives for the reentry population. Under the auspices of the Cabinet-level interagency Reentry Council, federal agencies are working together to enhance community safety and well-being, assist those returning from prison and jail in becoming productive citizens, and save taxpayer dollars by lowering the direct and collateral costs of incarceration.

For more information about the Reentry Council, go to: www.nationalreentryresourcecenter.org/reentry-council