

# SETTING THE



# RECORD STRAIGHT



WORKERS WITH CRIMINAL RECORDS MIGHT BE AN UNTAPPED SOURCE OF LABOR FOR SCRAP RECYCLERS—IF EMPLOYERS PUT IN THE TIME.

BY MEGAN QUINN

**M**ailek Sharpe recalls the first few months after he was released from prison as “chaotically stressful.” He had no job, nowhere to live, and court fees and child support to pay. He had limited options and limited time: Failure to pay his bills would land him back in prison.

He knew potential employers would ask about his criminal history, and he knew they probably wouldn’t hire him once they learned about his felony record. “I must have filled out five to 10 applications a day, and I got no calls back,” he says.

Sharpe weighed his options. He could stay at a men’s shelter, but only if he stood in line for hours to make sure he got a bed before the shelter was full. Sometimes, people would walk down the line to look for day laborers. If he accepted a job, he would have quick money but nowhere to sleep at the end of the workday. “You can do one-day labor, but that only helps you eat for one day,” he says. He could not seem to get ahead.

That changed when he accepted a day-labor job at Queen City Metal Recycling & Salvage (Charlotte, N.C.), where owner Michelle Coffino routinely offers both weeklong and permanent jobs to people on parole and work release. Sharpe says he didn’t expect to work there more than a day or so, but Coffino says his work ethic made an impression on her. She hired him permanently about a year ago, and “he’s been here ever since,” she says.

Coffino and other recyclers say hiring people with criminal records can benefit businesses and employees alike. It can help lower the employee turnover rate, according to research by the American Civil Liberties Union, and doing so might even qualify you for business tax credits. Such hiring programs also support the community by helping formerly incarcerated workers become productive community members, reducing the

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likelihood of their returning to prison. Yet hiring ex-offenders comes with its own set of challenges. You must understand the legal requirements in your city and state, be open to communicating with parole officers and workforce support organizations, and be prepared to work more closely with such employees to help them succeed. “It takes a lot of trust from both sides,” says Craig Litman, vice president and co-owner of Texas Recycling (Dallas).

### HIRING AND RETENTION BENEFITS

Coffino takes the perspective that her employees have served their time in prison and don’t deserve further punishment when they get out. Many of the ex-offenders she employs have felt the punishing effects of being broke and homeless once they leave prison, she says. “The odds are stacked against them the moment they are released,” she says. “They have maybe less than \$100 to their name. They’re expected to find employment and a place to live in 30 or 60 days. They have no clothes, and maybe they are not educated. They might have mental health problems and need medication. That all sets them up for failure.” Coffino adds that racism and inequality make it even harder for people of color to find jobs after prison compared with their white counterparts. According to the ACLU, African-Americans and Latinos make up a disproportionate share of jail and prison inmates, and their felony-conviction stigma follows them once they leave prison.



Queen City Metal Recycling & Salvage owner Michelle Coffino (second from left) says she considers ex-offenders the lifeblood of her scrapyards. Nine of her 14 permanent employees have spent time in prison or are on work release, including (clockwise from left) Shannon Lewis, James Russell, Alice Looney, and Anthony Perez.

Coffino began hiring workers with criminal records when she opened Queen City in 2013. Of her 14 permanent employees, nine have either spent time in prison or are on work release. She also hires five or more temporary workers each month to clean and organize the scrapyards. “When you give gentlemen the opportunity to learn a new trade, you become an active community partner,” she says. “We have to give individu-

***“I don’t take this job for granted because I had to really struggle for it,” says James Russell, who spent 24 years in prison.***

als a new way of life. That’s been my mantra.”

Community and social responsibility drive Coffino’s passion for hiring ex-offenders, but the company receives an economic benefit as well. She applies for the Work Opportunity Tax Credit, a federal workforce program that offers incentives for businesses to hire a more diverse workforce. The credit applies to workers convicted of a felony “under any statute of the United States or any state” who were hired within a year of their conviction or release from prison and work at least 120 hours a year, according to the Federal Interagency Reentry Council. For each ex-felon hired, the credit is 25 percent of qualified first-year wages or up to \$1,500. If the employee works more than 400 hours a year, the credit is 40 percent or up to \$2,400. You can apply for this tax credit through your state workforce agency.

Sharpe says the tax credit is mutually beneficial. Businesses can only get the tax credit for new hires who have been convicted or released from prison in the previous year, so it helps ex-convicts who are racing to get a job fresh out of jail.

Employee retention is another major business benefit, proponents say. Employees who have been in prison seek stability and continuity in their lives, says James Russell, who spent 24 years in prison. He has worked at Queen City for four years—the longest he has ever held a job. “You should know an ex-offender is going to work hard ... because ex-convicts have the most to lose by losing their job,” he explains. Further, some ex-prisoners have limited work experience and have faced educational or training barriers, meaning they have fewer job prospects on top of the stigma of a felony conviction. When they snag a job, they want to keep it. “I don’t take this job for granted because I had to really struggle for it,” he adds.

### SEEKING PARTNERSHIPS

Taking a chance on an employee with a criminal past might be a huge step for a scrapyard that is also trying to keep its daily operations running. That's why Texas Recycling's Litman recommends working closely with a community agency like Goodwill or a community workforce organization that can support both the worker and your business objectives.

Texas Recycling works in a close partnership with the Dallas Leadership Foundation, an organization that mentors incarcerated men and women and helps them create action plans for reentering the community after they are released from prison. When Texas Recycling moved to a new neighborhood about a year and a half ago and began meeting the new neighbors, Litman met James Reed, the reentry director for the foundation. The organization was looking for businesses that could hire some of the previously incarcerated people enrolled in their workforce program. Litman says he was intrigued but cautious. "I was supportive of trying to help people get back on their feet, but we had had some bad experiences years ago with guys who had criminal backgrounds," he remembers. After a tour of DLF's transitional housing, however, Litman was impressed with how hard the men worked to get a fresh start. One of the men he met was James Camarata, who lives in transitional housing and now works for Texas Recycling as part of his rehabilitation program. For most of his adult life, Camarata says, he struggled with drugs and alcohol and turned to theft to pay for his addictions. He joined the DLF program before he left prison, and it has helped motivate him to stay clean and show up regularly to work as a baler operator as he has for the last year, he says. "This is the longest I've ever held a job. I have the tools to manage my life now."

Joel Litman, Texas Recycling's president and co-owner, says DLF's support of the employees who are



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part of the program added a level of accountability that Texas Recycling didn't have when it hired ex-offenders on its own. To get a job, DLF parolees must live in transitional housing and follow other DLF rules, such as staying sober. If program participants break the rules, they lose their job. "In the past, there wasn't a group behind us to keep people accountable, so we knew this time that there was strength in working together" with DLF, he says.

## GIVING EX-OFFENDERS A SHOT

One in three Americans has a criminal record—about 70 million people, according to the U.S. Department of Justice Bureau of Justice Statistics. About 640,000 people are released from prison each year, but nearly 75 percent of them are still unemployed a year after their release, in part because of the stigma of having a criminal record, the American Civil Liberties Union says. A lack of a stable job increases the likelihood that someone will return to prison. In fact, joblessness is the "single most important predictor of recidivism," according to the National Reentry Resource Center. But both large and small companies have a history of hiring workers with felony records. Major employers such as Home Depot and Starbucks have "fair chance" hiring policies that include such workers.

Consider reviewing your hiring process to create "fair chance" policies that don't create barriers for people with criminal records to apply for jobs in your scrapyard. The National Employment Law Project and the U.S. Equal Employment Opportunity Commission offer these recommendations:

**Work with a human resources manager or lawyer.** That person can make sure your policies are in line with state and federal requirements, including any ban-the-box initiatives that may apply.

**Include an equal opportunity statement.** Tell applicants that a criminal record will not automatically disqualify them from a job unless there is a specific legal exclusion. For jobs where a background check is necessary, make it clear that you will conduct a background check for those specific jobs.

**Remove inquiries about convictions from job applications.** Consider delaying such inquiries until after you make a conditional offer of employment.

**Consider which jobs require background checks.** Positions where employees work directly with the public, work with money, or require special licenses might require background checks, while some jobs around the yard might not, employers say.

**Only consider convictions related to job duties.** Also, when examining criminal records, do not consider sealed, dismissed, or expunged convictions, or misdemeanor convictions where no jail sentence was imposed.

**Inform applicants if they are rejected because of a criminal record.** Provide them with a written notice of the specific conviction that is considered job-related and provide them with a copy of the report. Background checks can have inaccuracies, so this practice allows an applicant to challenge or confirm the information.

**Provide applicants who have a criminal record an opportunity to show evidence that they have rehabilitated.** This could include letters of recommendation or copies of certificates from programs or classes.

## STRATEGIES FOR SUCCESS

While your new employee is busy doing his or her job, you may need to do some extra work to make this new hire successful, the Litmans say. That might mean checking in with that employee's support system, such as a workforce program—the Litmans speak with DLF once a week or so—and also discreetly checking in with the employee from time to time. Some employees with felony records have limited job experience, meaning they might need more coaching or training than typical hires, but Craig Litman cautions that it's important to do these check-ins in a way that doesn't single employees out. "I don't think a lot of the guys who work here know these guys' background," he says.

Coffino does such face-to-face check-ins as well, noting that these check-ins can reveal unique challenges ex-offenders face. For example, one of Coffino's employees, who was hired to crush cans, struggled with alcoholism and asked to be switched to a different task so he didn't have to be around beer cans. Coffino said she was glad for his honesty and easily found him a different job to do. "It's better to understand the people who work for you so you can put them in a job where they can be successful," she says.

## THE HIRING PROCESS

Hiring someone with a criminal record and someone without one might not look that much different. Like they would for any job, the candidates must meet the qualifications. Federal law does not prohibit you from asking applicants about their criminal history, but by law, you cannot treat candidates with similar criminal records differently because of their race, national origin, or other background.

In an effort to level the playing field for workers with felonies and reduce discrimination based on criminal history, some states and municipalities have introduced ban-the-box laws, which specify that employment applications cannot ask about criminal history. Such laws don't prevent employers from rejecting applicants because of their past convictions, advocates point out. Instead, prospective employers must wait to ask the question or run a background check until after a job interview or initial job offer. As of August 2017, over 150 cities and counties have adopted a version of this policy for government employees. Nine states, including Illinois, New Jersey, and Minnesota, have extended these rules to private

employers, according to the National Employment Law Project. Though the rules vary from place to place, the laws typically allow questions about criminal records on applications for jobs that require background checks for safety or security reasons, such as in schools or law enforcement. In the private sector, jobs that require background checks for safety or licensing reasons, such as drivers with commercial driver's licenses, also are typically exempt.

Advocates for ex-offenders say ban-the-box initiatives work for employees and employers because they put less weight on a candidate's past and allow an employer to consider a candidate's true qualifications. Sharpe says he has mixed feelings about such laws. He doesn't necessarily believe removing the check box would have made his job search easier—after all, potential employers still would have asked about his background in later interviews and might not have offered him a job anyway. Yet he believes telling an employer about his background face to face might have allowed him to put his conviction in context and show more of his true self. "But if you can't get that interview so you can tell your story, there's no point," he says. He believes he got the job at Queen City because Coffino had already made it clear that she hires people with criminal records. "She said, 'I don't care [about] your background, do you want to come work for us?'" There just need to be more [employers] like her."

Coffino says learning the details of her employees' convictions has helped her be a better manager and coach to them. She believes employers should make an effort to learn more about job candidates' backgrounds and give them a chance to tell their side of the story, even though that can take more time and effort than when hiring a more typical candidate.

This information also can help you match each new employee with the right job for work to get done quickly,

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Texas Recycling co-owner Craig Litman (left) has hired James Camarata and other workers through the Dallas Leadership Foundation, which helps people find jobs after prison.

efficiently, and safely, she adds.

Background checks have obvious merits when hiring whether or not the application tells you of a criminal conviction. You might want to avoid hiring someone with a recent drunk-driving record for a truck-driving position, for example. Local law prohibits Texas Recycling from hiring people convicted of sex offenses because it is located on the same block as an elementary school. It's also essential to know about past convictions to avoid a "negligent hiring" claim. For example, if one employee assaults another employee, and a background check of the first employee reveals he or she has been convicted of assault or another violent charge, the second employee could sue, claiming the company was negligent in hiring the first employee, says Mark Lies, a lawyer who specializes in employment law for Seyfarth Shaw (Chicago). However, you cannot use the background check as a reason not to hire someone if it does not help the employer "accurately decide if the person is likely to be a

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responsible, reliable, or safe employee,” according to the U.S. Equal Employment Opportunity Commission. Lies says an employer’s background inquiries “should be appropriate to the work,” meaning something unsavory but unrelated—such as finding out a potential employee has filed for bankruptcy in the past—isn’t a reason not to hire the person for a job as a driver, for example.

Like they do with other employees, scrapyards sometimes fire ex-offender employees. Several scrapyard managers say they have hired people with criminal records and have fired them for reasons unrelated to their past convictions, such as stealing or not showing up on time. Coffino says one ex-offender didn’t do anything illegal on the job “but just didn’t want to do the work.”

Queen City’s Russell says he understands why businesses might hesitate to hire former prisoners, especially ones with a violent past. “If someone was in [prison] for assault or stabbing someone, they’ll think, ‘What happens if he gets mad? Will he hurt someone?’ And everyone else

will say, ‘Why did you hire him? You know what he did.’” He knows employers’ uneasiness with hiring ex-offenders firsthand: He was convicted on several counts of violent assault and attempted murder. “I was robbed, and I retaliated,” he says. Those offenses raised red flags for almost every employer he went to. “I couldn’t even get an easy job, a dishwashing job,” he says. He ended up finding temporary work through Goodwill, which hired him for a 90-day work program before referring him to Queen City. “I just said, ‘Give me a chance,’” he says.

When ex-offenders feel set up for success, they can become an integral part of the scrapyard, Camarata, Russell, and Sharpe say. They all know more workers with records who are waiting for an opportunity to prove themselves if they can successfully get hired somewhere. “What I would say to employers is just to give us a chance,” Russell says. “We’ll show you what we can do.” ■

*Megan Quinn is reporter/writer for Scrap.*

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