Community Service Society

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New York City Council Committee on
Civil and Human Rights Oversight Hearing
Fair Chance Act Challenges and Successes
April 28, 2026 Testimony of
Paul Keefe, Vice President of Legal Services

My testimony today discusses two steps the City government can take to improve reentry and reduce discrimination against people whose criminal conviction records do not reflect the person they are now. First, the City must fully and consistently fund the Commission on Human Rights at $25 million because the agency has the power to create systemic change beyond what individual and class action litigation can accomplish. Second, the City itself should become a model Fair Chance employer.

I have spent the entirety of my 20-year legal career trying to ensure people with criminal records are not irrationally excluded from opportunity when they decide to live a law-abiding life, and I have done so working at both a legal services organization and in government. I began my career where I am now: the Community Service Society of New York, which, for over 180 years, has powered a more equitable New York with a unique combination of research, policy advocacy, and direct services.

In 2015, as an attorney at CSS, I was the lead legal advocate behind the Fair Chance Act, which amended the City Human Rights Law to prohibit employers from inquiring into an applicant's criminal history until after a conditional offer of employment and mandated a "Fair Chance Process" before someone could be denied employment based on their conviction history. I then left CSS for CCHR to enforce the Fair Chance Act, develop its legal guidance, and supervise and train attorneys enforcing that law and other protections against employment discrimination. After seven years, I returned to CSS, where I oversee our Next Door Project ("NDP"), which helps people overcome barriers based on criminal and family legal history, and lead our litigation and policy advocacy on behalf of people with criminal records. The needs of the people I have served in these various roles inform my perspective.

I. The Commission on Human Rights is a powerful force for good that is hobbled by consistent underfunding.

As the government, the Commission is more powerful than a private litigant, even when it represents the interests of an individual New Yorker. Many

businesses force anyone who wishes to work for them to arbitrate any legal claims against the company instead of pursuing them in court.[1] While private arbitration is cheaper for employers than litigation, it facilitates wage theft, results in lower damages in discrimination cases, and prevents systemic change through class action litigation.[2]

In contrast, the Commission is not bound by arbitration clauses and may prosecute a case until it is satisfied with the outcome, and that outcome can include civil penalties with training and policy changes to prevent future discrimination. When I was at the Commission these policy modifications were mandatory, and we achieved settlements that went beyond what a judge would ever order in an individual or class case, like:

- Following the Fair Chance Act throughout New York State or nationwide;
- Exempting certain positions from background checks;
- Ignoring certain types of convictions or convictions more than a set amount of years old;
- Not asking for self-disclosure when an employer is going to run a background check anyway; and
- Targeted hiring through partnerships with reentry organizations.

The Commission can also attach heavy penalties for employers who are repeat offenders. In my current legal services practice, I know certain employers will pay to settle individual cases rather than change their policies, particularly for gig economy and independent contractor positions, where the labor pool is huge. For example, Uber denies people often enough that I know which attorney at which firm to call when a client comes to CSS after being denied. Large corporations like Amazon and FedEx will contract with smaller companies to make deliveries, but those contracts say deliveries for the corporation cannot be made by people with certain records. When these small companies get 100% of their business from the larger corporations, they simply will not hire anyone with a record.

These are all systemic problems that call for a government solution. Unfortunately, the Commission remains severely under-resourced. Since the Comptroller's 2022 *Title Vacant* report,[3] it continues to be among the top five agencies with the highest percentage of vacancies: Over 25% of its funded positions remain unfilled.[4] Additionally, Mayor Mamdani's preliminary budget is

[1] Hugh Baran & Elisabeth Campbell, *Forced Arbitration Helped Employers Who Committed Wage Theft Pocket $9.2 Billion in 2019 from Workers in Low-Paid Jobs*, at 2 (June 2021), *available at* www.nelp.org/app/uploads/2021/06/Data-Brief-Forced-Arbitration-Wage-Theft-Losses-June-2021.pdf.
[2] *Id.* at 3-6.
[3] N.Y.C. Comptroller, Title Vacant at 4, *available at* comptroller.nyc.gov/reports/title-vacant/.
[4] N.Y.C. Comptroller, N.Y.C. Agency Staffing Dashboard, *available at* comptroller.nyc.gov/services/for-the-public/nyc-agency-staffing-dashboard/dashboard/ (last visited Mar. 13, 2026).

the first *decrease* in agency funding in the past five years,[5] though Mayor Adams's incremental increases were nothing to celebrate.

Longstanding and continued underfunding sets CCHR up to fail, and important benchmarks are headed in the wrong direction: Between 2025 and 2026, the average age of its caseload has increased to 692 days, up 15% from 592 days, and there were 1,591 open matters, up 26% from 1,262.[6] When "inquiry volumes remain historically high,"[7] the City can expect these numbers to rise absent a funding increase that is both significant and sustained year-over-year. With a $25 million budget, the Commission can address its case backlog and become a responsive and credible force to fight discrimination and promote cultural understanding in New York City.

II. The City must become a Fair Chance employer and build pathways to government employment for people with criminal records.

The City employs over 350,000 people, making it the largest employer in New York City,[8] yet it can—and does—get away with criminal record discrimination much more easily than a private employer. If a private employer discriminates against someone based on criminal history, a person has three years to sue; can win by showing that illegal discrimination motivated part of the decision; and may receive money damages and reinstatement.[9] If a public agency discriminates, a person has only four months to sue; has to show the government agency failed to technically comply with the law, which the Court of Appeals allows agencies to do with records created even *after* being sued;[10] and a judge will only order an agency to make its decision again, not hiring or damages. Even the Commission is no help: It is legally prohibited from pursuing employment discrimination cases based on criminal history against public agencies.[11]

In addition, the Clean Slate Act, which will begin automatically sealing most criminal convictions in November 2027, will not apply to positions with the government and those that require government licenses or clearance.[12] So, the City will continue to be able to consider decades-old convictions and, if it says

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[5] N.Y.C. Mayor's Office of Management & Budget, Preliminary Budget Fiscal Years 2026 - 2030, at 1904 (Feb. 17, 20206), *available at* www.nyc.gov/assets/omb/downloads/pdf/feb26/de2-26.pdf.
[6] JULIA KERSON & DANIEL STEINBERG, PRELIMINARY MAYOR'S MGMT. REPORT MARCH 2026 at 77, *available at* www.nyc.gov/assets/operations/downloads/pdf/pmmr2026/2026_pmmr.pdf.
[7] *Id.*
[8] N.Y.C. Dep't of Citywide Admin. Servs., NYC Government Workforce Profile Report at 4 (2025), *available at* www.nyc.gov/assets/dcas/downloads/pdf/reports/nyc-government-workforce-profile-report-fy-2024.pdf
[9] N.Y.C. Admin. Code § 8-502(a).
[10] *Dempsey v. N.Y.C. Dep't of Educ.*, 25 N.Y.3d 291, 300, 33 N.E.3d 485, 491 (2015), *quoting Acosta v. N.Y.C. Dep't of Educ.*, 16 N.Y.3d at 319, 946 N.E.2d 731, 735 (2011).
[11] N.Y.C. Admin. Code § 8-107(9)(e), (10)(j), (11)(5), (11-a)(h).
[12] N.Y. Crim. Proc. L. § 160.57(1)(d)(xvi), (xvii).

it considered all the legally required factors, will be able to deny employment to anyone with a criminal record.

Given this legal landscape, the City must hold its agencies to a higher standard and put the same amount of resources into creating a pipeline to good-paying government jobs that it does policing, prosecuting, and incarcerating its citizens. In 2011, Mayor Bloomberg issued an Executive Order that prohibited inquiries into criminal history until after the first interview.[13] The Council should urge Mayor Mamdani to take the same step to, at the very least, prevent consideration of criminal records to the same extent Clean Slate does.

This Committee should also hold a hearing to examine the hiring and retention policies of government agencies that can easily employ people with criminal records. Not only should these hearings examine whether the agencies are complying with the law, they should explore opportunities for the agencies to implement some of the hiring policies the Commission obtained through settlements with private employers, discussed above, to make City employment more accessible to people with old or unrelated records.

Based upon the number of people we see denied, the Committee should seek testimony from the Parks Department, Housing Authority, Human Resources Administration, and Department of Homeless Services. And though there are obvious concerns with the Department of Education, it makes up a third of all City employees and has a headcount more than twice the Police Department. People with decades-old convictions who have clearly changed are denied even non-classroom roles.

The City has a key role to play in ensuring the fair treatment of people with criminal records and their reintegration into society, and CSS looks forward to collaborating with the Committee and Council to accomplish these shared goals.

Thank you for the opportunity to testify today.

Paul Keefe
VP of Legal Services

[13] Michael R. Bloomberg, Executive Order No. 151: Consideration of Criminal Convictions in Hiring (Aug. 4, 2011), *available at* www.nyc.gov/assets/records/pdf/executive_orders/2011EO151.pdf. Unsurprisingly, per a Freedom of Information Law response obtained by the author, Executive Order 151 increased the employment of people of color.

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Presented before

The New York City Council
Committee on Civil and Human Rights

Oversight Hearing – Fair Chance Act Challenges and Successes

April 28, 2026

My name is Anna Arkin-Gallagher, and I am the Associate Director of the Civil Justice Practice at Brooklyn Defender Services (BDS). BDS is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms by the government. For 30 years, BDS has worked, in and out of court, to protect and uphold the rights of individuals and to change laws and systems that perpetuate injustice and inequality. After 29 years of serving Brooklyn, we expanded our criminal defense services in Queens. We are proud to bring the same dedication and excellence to Queens. We thank the Committee on Civil and Human Rights and Chair Nurse for the opportunity to address the Council about the challenges and successes of the Fair Chance Act and Fair Chance for Housing.

BDS's Civil Justice Practice aims to reduce the civil collateral consequences for the people we serve who are involved with the criminal, family, or immigration legal systems. Our practice combats housing instability in a variety of ways: we defend people from eviction in housing court, provide proactive relocation assistance and benefits advocacy, and help people navigate the shelter system. We also fight for the people we serve to keep their jobs and overcome employment discrimination. Through this work we see the profound challenges New Yorkers face in securing and keeping safe, affordable, and permanent housing and meaningful employment.

Brooklyn Defenders

The Fair Chance Act is a critical bill that helps to ensure that New Yorkers have the opportunity to get and keep jobs without their criminal history standing in the way. But even over a decade after the Fair Chance Act was passed, there is still much to do to ensure that the potential of this groundbreaking law is fully realized. Fair Chance for Housing, which took effect in New York City on January 1, 2025, has significant potential but requires robust and timely enforcement to have a meaningful impact on New Yorkers with criminal histories who are seeking housing.

The New York City Fair Chance Act

New York City's Fair Chance Act (FCA), which became law in New York City in 2015, establishes vital protections for New Yorkers with criminal conviction and arrest histories against employment discrimination. However, many of the people we serve still face adverse employment consequences from an arrest or conviction.

In our practice, we represent hundreds of people every year who are suspended or terminated from their jobs as the result of an arrest. Many of the people we represent ultimately have their criminal cases dismissed or resolved with a non-criminal disposition like a disorderly conduct, but the loss of a job during the period when their criminal case is open is devastating, often having effects that extend long beyond the dismissal of the case. Because of long-standing racial inequities in our criminal legal system, Black and brown people are disproportionately impacted by employment discrimination on the basis of an arrest or conviction record. By shutting people out of the city's competitive job market, discriminatory background checks prevent people from stabilizing their lives and perpetuate cycles of homelessness.

1. *The Fair Chance Act and Pending Criminal Charges*

At times, our employment team works with people whose employers or prospective employers comply with the Fair Chance Act. An employer is notified about an arrest or conviction and engages in the prescribed dialogue with the employee to get more information about the charges, circumstances underlying the arrest, and evidence of rehabilitation and good conduct. In many of these cases, our office is able to provide helpful context regarding the criminal charges as well as mitigating factors that help employers understand that hiring or retaining an employee will not present a risk to public safety. For example, Mr. B., who was represented by BDS, had worked for years in the building services industry. While he had an open case, he applied for a maintenance position at an apartment complex and received a Fair Chance Act notice from a potential employer indicating that they had concerns about hiring him. An employment attorney from our office worked with Mr. B's criminal defense team. We were able to explain to the potential employer that the criminal charges were expected to be dismissed, as well as to gather letters of recommendation from Mr. B's prior

employers attesting to his good character and strong skills as a worker. Mr. B was hired for the position, where he remains today.

However, in our experience, stories like Mr. B's are still the exception and not the rule. Many employers either remain unaware of their responsibilities under the Fair Chance Act or know that enforcement of the law is sporadic and slow and consequently discriminate against employees and prospective employees with criminal histories. For example, we find near-universal non-compliance among home health aide employers.

New York State's home health aide and personal care aide ("HHA") workforce is the largest of any state in the country and is the "largest job category in the state."[1] These are hard but steady and meaningful jobs where many people we represent find employment opportunities. Just about every day, an attorney on our employment team receives a referral for a client who works as an HHA.

Almost all of our intakes follow the same pattern after someone is arrested: if the person is employed as a HHA, the Department of Health sends a notice called a "Notification of Charge After Hire" to the employer containing information about the arrest but does not revoke our client's clearance to continue working. Sometimes, an employer just wants more information about the arrest, in which case we provide a letter, and the employer allows our client to return to work. More often, though, the people we represent are automatically suspended and are told they will not be allowed to return to work until their case is resolved, a process that typically takes months. When this happens, we contact the employer to notify them of their obligations under the Fair Chance Act. Sometimes we are able to negotiate a settlement with the employer where the home health aide can return to work and obtain backpay to compensate them for the weeks they were out of work. But if we cannot reach a settlement with the employer, the people we represent typically spend months out of work while we litigate the matter before the New York City Commission on Human Rights (NYCCHR).

2. *Mandatory Disclosure Policies Undermine the Intent of the Fair Chance Act.*

Another employer practice we frequently see is employer requirements that employees self-disclose arrests. For those who work for employers that maintain these policies,

[1] Bill Hammond, Empire Center, "New York's Home Health Workforce Jumps by Another 10 Percent," Apr. 3, 2025, *available at* https://www.empirecenter.org/publications/health-workforce-jumps-by-another-10-percent/.

failure to disclose an arrest almost always results in the person being fired in violation of the New York City Fair Chance Act.

The 2021 amendments to the Fair Chance Act added protections for employees and applicants who inaccurately disclose criminal record information in the hiring process. Before the 2021 amendments, employers tended to treat these inaccurate disclosures as intentional misrepresentations, which in turn allowed an employer to fire or revoke a job offer without having to follow the Fair Chance Process. The 2021 amendments created procedural protections that allow an employee or applicant an opportunity to clarify an employer's concern about an inaccurate disclosure.[2]

We regularly see a practice similar to this "candor trap" that was outlawed in 2021. Many employers maintain a policy whereby an employee has a short amount of time, often as short as 24 or 48 hours after the employee's release from a precinct or courthouse, to disclose their arrest. When we see these cases, there is little we can do because, the employer argues, the termination is not due to the arrest itself, but rather the failure to disclose.

These cases almost exclusively come up where the employer is automatically notified of the arrest by licensing agencies. It is most prominent among security guard companies, private or charter schools, and HHA agencies. An employee's failure to disclose an arrest has no bearing on their trustworthiness or fitness to perform the job because these are, after all, people who are already successfully working for these same employers. This practice compounds the impact of an arrest in the immediate aftermath of a person's contact with the criminal legal system. With a pending court case, a job seeker will have a difficult time securing employment.

3. The New York City Commission on Human Rights

Often our best chance at getting redress for New Yorkers facing employment discrimination is to get involved quickly and–if we cannot get a person we represent back to work–to negotiate a settlement outside of the New York City Commission on Human Rights (NYCCHR) complaint process. Even in a best-case scenario, where we are able to help someone return to work and secure backpay, our clients will be out of work for weeks. In cases where we are unable to secure a return to work and pursue a settlement, that process will typically take at least a few months. And if we are not able to reach a private settlement with an employer who has failed to follow the requirements of the Fair Chance Act, we are forced to rely upon the New York City Commission on Human Rights to enforce the law. As wait times at the Commission have grown over the past several years, we have seen employers less willing to negotiate settlements, as they

[2] N.Y.C. Admin. Code § 8-107(10)(g).

know that they are unlikely to face any repercussions as a result of our filing a complaint at the NYCCHR for years–if ever.

One person we represent, Ms. D, a home health aide, lost her job as a result of an arrest. Her employer did not comply with the Fair Chance Act and fired her when she was arrested for a charge that has since been dismissed, telling her that she was not able to work for their agency with an open case, even though the New York Department of Health never revoked her clearance as a home health aide. Our office attempted to get her back to work shortly after her arrest and later attempted to resolve the matter through a settlement but were unable to do so. An employment attorney from our office then filed a complaint at the NYCCHR on behalf of Ms. D over three years ago. It took the NYCCHR months to assign an attorney to begin investigating her claim. That attorney later left the NYCCHR, and now, over three years after filing the complaint, her case continues to await reassignment to a new attorney.

Ms. D's case is not unique; we have a number of FCA cases at the Commission that have been pending for years, and multiple cases awaiting reassignment to a new NYCCHR attorney. Counsel for employers know that cases will languish for years once they are filed at the Commission. In one case, we were told by the investigator for the Commission that they came across communications in discovery where–in response to settlement discussions where we indicated that we would file a case at the Commission–the attorney for the employer wrote that the case would take so long to resolve that it was not a threat. While we have had some success with cases at mediation at the Commission, getting there can be challenging.

The FCA is a tremendously impactful law, but for it to be most impactful the agency charged with enforcing the law must be able to enforce it.

4. Fair Chance for Housing

Fair Chance for Housing is a relatively new law that protects applicants for housing from discrimination on the basis of their criminal convictions. As of January 1, 2025, covered housing providers that choose to use criminal background checks can do so only after reviewing tenant or buyer general eligibility and making a conditional offer. Housing providers can only review limited convictions as part of this criminal background check, and if–after doing a background check–a covered housing provider wants to revoke a housing offer or decline to renew a lease, they must follow the notice and process requirements of the Fair Chance Housing Law and make their decision in writing based on a review of an individual's entire application, including any supporting information provided by an applicant.

The Council's passage of the Fair Chance for Housing Act in 2024 was an important milestone to combat housing discrimination against New Yorkers with criminal conviction and arrest histories. This is crucial because access to housing lowers recidivism, allows people to support themselves and their families, and makes our city safer. We know that access to housing is the foundation of thriving communities. However, as with all of our robust anti-discrimination laws, these laws are only as strong as our ability to enforce them and to educate the public on their rights and responsibilities.

Our office assists hundreds of New Yorkers every year who are searching for new housing. Many of our clients, by virtue of being represented by a public defense office, have had encounters with the criminal legal system and have conviction histories. Without robust enforcement from the NYCCHR, this protected status is meaningless for tenants. Engagement with discriminatory housing providers who are violating the Fair Chance for Housing Act requires quick action and intervention to have a meaningful impact on would-be tenants—without prompt and robust enforcement, prospective tenants will lose apartments to delays on top of the initial discrimination.

Recommendations

In light of these challenges faced by those seeking housing and employment while having had contact with the criminal legal system, we urge the city to make the following investments and policy changes:

Adequately fund the NYCCHR

The New York City Commission on Human Rights, which is tasked with enforcing and educating the public about the city's anti-discrimination laws, has been systemically underfunded. It is both underfunded and understaffed compared to similar agencies in smaller cities.[3] The current Fiscal Year 2026 budget of $14.9 million has been drastically insufficient to enforce these laws and prosecute claims of discrimination, let alone engage in vital preventative and educational outreach.

The Commission's staff has consistently decreased, leading to ballooning workloads and delays in investigating complaints.[4] Our understanding is that a significant backlog of complaints began at the beginning of the COVID-19 pandemic, when many staff members left, and this backlog persists due to staff shortages. Although the Commission is supposed to conduct an investigation once a complaint is filed and

[3] For example, the Seattle Office of Civil Rights had a budget of $7,863,947 in 2025 and serves a city of about 755,000.

[4] The City Council's "Report on the Fiscal 2026 Executive Plan and the Fiscal 2026 Executive Capital Commitment Plan for the New York City Commission on Civil and Human Rights," *available at* https://council.nyc.gov/budget/wp-content/uploads/sites/54/2025/05/Commission-on-Civil-and-Human-Rights.pdf, indicates that the NYCCHR had a vacancy rate of 24.6% as of March 2025.

answered, the case backlog results in significant delays. We have felt the NYCCHR's diminished capacity in our practice. BDS has complaints that have been pending at the NYCCHR for years, with little to no progress made and no Commission staff assigned. The city should invest in the NYCCHR to ensure they are adequately funded to hire additional staff, and more quickly investigate and prosecute claims.

Appropriately staff the NYCCHR to allow for early resolution of claims

We believe that many of the cases we file would benefit from early resolution through an early intervention team or through mediation. Early resolution or mediation–where appropriate–would be an efficient use of funding because it would allow the NYCCHR to resolve complaints without the need for a full investigation or litigation, and could ensure that people get back to work more quickly or are housed in new apartments, eliminating the need to file a complaint and for the lengthy complaint resolution process to play out. Quick investigation and intervention is particularly crucial for enforcement of housing discrimination to allow would-be-tenants to have a meaningful opportunity to apply for and be considered for apartments in New York City's fast-moving rental market.

At a successful recent mediation, we learned that many of our employment cases that are pending at the Commission have never been considered for mediation. We believe that almost all of our cases would be successfully resolved with the assistance of the Commission's mediation program. We recommend a more robust internal referral system to the Commission's mediation staff.

Ensure that the NYCCHR engages in community outreach and education

It is critical that the NYCCHR receive full funding across the entire agency, which must also ensure that the Commission has resources to conduct comprehensive and ongoing community outreach and education about our anti-discrimination laws. The NYCCHR is charged with preventing discrimination by informing the public of their rights and responsibilities under our laws but is not equipped with the resources to do so. Until the Commission is adequately funded, certain housing providers and employers will continue to conduct discriminatory background checks and violate the law simply because they are unaware of it.

Extend Fair Chance Act protections to additional city employees, including employees of New York City Public Schools

While we experience some success in getting employers to comply with the Fair Chance Act, many city employees – including employees of New York City Public Schools (NYCPS) – do not benefit from the protections of the Fair Chance Act. We recommend

that the protections of the Fair Chance Act be explicitly extended to cover City employees.

Multiple times a week, we receive referrals for teachers, paraprofessionals and other staff members who work for or are contracted to work for NYCPS. Though Chancellor's Regulation C-105 includes a procedure that is supposed to be followed when a NYCPS employee is arrested, in reality nearly all NYCPS staff are suspended and cannot return to work with an open criminal case; most non-teaching staff is suspended without pay. The Fair Chance Act should be explicitly extended to cover NYCPS and other city employers.

Conclusion

Both the Fair Chance Act and Fair Chance for Housing are essential laws that supports the city's goal of ensuring that contact with the criminal legal system does not doom someone to unemployment and homelessness. But enforcement of these laws is key to ensuring that they are effective.

BDS is grateful to New York City Council's Civil and Human Rights Committee for your time and consideration of our comments. We look forward to further discussing these and other issues that impact the people and communities we serve. If you have any additional questions, please contact Anna Arkin-Gallagher at aarkingallagher@bds.org.

New York City Council Committee on Civil and Human Rights
Oversight Hearing on Fair Chance Act Challenges and Successes
Testimony of Britny McKenzie, Policy Director
Fair Housing Justice Center (FHJC)
April 28, 2026

My name is Britny McKenzie, and I am the Policy Director at the Fair Housing Justice Center. I would like to thank Chair Sandy Nurse and the Committee on Civil and Human Rights for the opportunity to submit written testimony in support of increasing funding and resources for the New York City Commission on Human Rights (CCHR) to enforce the Fair Chance Act for Housing. Specifically, we call on the Committee to increase the CCHR budget by $10 million to enforce fair housing laws and improve the lives of countless New Yorkers in the areas of employment and public accommodations. Robust funding will allow the Commission to educate, investigate and enforce discrimination.

About the FHJC

The FHJC is a non-profit civil rights organization based in Queens, NY. The FHJC service area covers over 8 million people across the five boroughs of New York City. Our mission is to eliminate housing discrimination, promote policies that foster open, accessible, and inclusive communities, and strengthen the enforcement of fair housing laws. The FHJC primarily serves low-income individuals and communities that have experienced historic and continuing patterns of segregation, discrimination, and exclusion in housing. The FHJC's services are provided to the public free of charge and without regard to household income. Its investigations have led to over 170 successful legal challenges to discriminatory housing policies and practices by private housing providers and government agencies to bring them into compliance with fair housing laws. FHJC's work has led to a monetary recovery of over $55 million and has opened over 81,000 housing units to people that were previously excluded.

The Commission Needs an Increase in its Budget to Enforce the New Fair Chance in Housing Law (FCHA)

The Fair Chance in Housing provision of the City's Human Rights Law, which took effect on January 1, 2025, requires a housing provider to follow a specific process if they choose to conduct a background check after a conditional offer has been made. Given the new expansion to the NYCHRL, CCHR requires an increased budget necessary to prevent discrimination under the law; in 2023, the Finance Division estimated that CCHR needed

$1.4 million to hire ten new staff and for costs related to a public education campaign, which never materialized.[1]

The Commission is primarily responsible for informing housing providers and the public about their rights and obligations under the law, processing FHCA complaints, mediating cases, and filing enforcement actions, but the Commission has not received an increase in its budget to support this new protection. Anecdotally, FHJC has not seen significant increases in complaints related to the FHCA, which we suspect is due to the public being unaware of the law. Early investigation of and enforcement of this law by FHJC has demonstrated that providers are either ignoring or uneducated about their obligations under the law and the penalties they may face for violating it. In 2025, FHJC filed its first complaint under the Fair Chance in Housing Act after finding systemic discriminatory screening practices that categorically excluded certain applicants with criminal records.[2] In FY 2025, CCHR did not file any housing complaints related to criminal history, and so far this year has only received six complaints. As the primary city agency charged with this duty, the lack of action sends a clear message that CCHR is an enforcement agency without teeth. Staffing to educate, investigate and enforce discrimination under this law is critical to making the law a relevant tool in the City's aspirations to fight discrimination and create meaningful housing opportunities for a historically marginalized and penalized group of NYC residents.

CCHR Has a Critical Role in Enforcing NYC's Fair Housing Laws

CCHR serves a civil law-enforcement role like that of the district attorney's office in criminal matters, with both prosecutorial and punitive responsibilities. CCHR can investigate complaints, resolve cases, and refer matters to the New York City Office of Administrative Trials and Hearings (OATH). It may also assess fines, secure monetary damages, negotiate remedies such as rehiring, policy changes, training, and accessibility modifications, and mediate reasonable accommodation requests.

Unfortunately, CCHR currently operates with limited funding, which constrains its staffing and capacity and negatively affects NYC residents. Effective fair housing enforcement should foster accessible, inclusive communities, free of discrimination. While CCHR has a baseline infrastructure to support its mission, its impact depends on adequate resources. We have seen CCHR do commendable work, and its settlements have led to meaningful resolutions for victims of housing discrimination. For example, in 2024, CCHR reached a landmark $1 million settlement with Parkchester Preservation Management and held the company responsible for an unjustified minimum income requirement that prevented voucher holders from accessing critical affordable housing

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[1] New York City Council, Finance Division, Fiscal Impact Statement for the Fair Chance for Housing Act (Intro 632-A), December 19, 2023.

[2] Criminal History Discrimination Alleged at Multiple NYC Apartment Buildings, November 2025. https://fairhousingjustice.org/enforcement/fhjc-files-its-first-complaint-under-fair-chance-act/

opportunities.[2] As a result of CCHR's work and the City's commitment to protecting the housing rights of New Yorkers, the settlement secured 850 apartment units to be set aside for housing voucher holders, the most ever secured in a CCHR settlement.

We know from this experience that CCHR holds great promise to enforce fair housing laws; however, they are impeded by a lack of funding and staffing which has led to alarming delays. An audit by New York State Comptroller Thomas P. DiNapoli in December 2025 found that CCHR cases experience substantial waiting periods and New Yorkers experiencing housing discrimination are not receiving timely action or prompt resolution.[3] Auditors found significant delays in case resolution, intake appointments, and filing complaints; the average time frame to resolve a discrimination case took nearly three years. The FHJC's intake department has heard from NYC residents who have been turned away after attempting to work with the agency on numerous occasions due to lack of efficiency. Only by bolstering funding and staff capacity can CCHR develop policies and implement the necessary procedures to process housing discrimination complaints and help victims in a timely manner.

We reiterate the NYC Human Right Law Working Group's call to increase the budget by $10 million. With a well-funded CCHR, we believe that the Commission can properly investigate complaints and provide meaningful relief to New Yorkers experiencing discrimination, including discrimination related to conviction history. Adequate resources and staffing will ensure that CCHR's enforcement keeps pace with the scope and complexity of housing discrimination facing New Yorkers as well as enforcing new protections like the Fair Chance Act. We need this enforcement to ensure that key city programs are not being undermined by discriminatory practices and that the promise of the NYCHRL is realized for all.

Thank you again for the opportunity to testify. We look forward to working with you this year to ensure that there are increased funding and staffing for this vital agency.
To connect with us or for further questions regarding this testimony contact Britny Mckenzie, Policy Director at bmckenzie@fairhousingjustice.org and/or Yvette Chen, Policy Associate at ychen@fairhousingjustice.org.

HOUSING RIGHTS INITIATIVE

I would like to thank the committee for letting me provide this testimony.

My name is Akash Patel and I am the Program Development Director for the housing watchdog non-profit Housing Rights Initiative (HRI). Our organization was founded with the goal of taking a proactive and systematic approach in fighting fraudulent real estate practices, promoting fair housing, and connecting tenants to legal support.

To date, our organization has generated numerous class action and fair housing lawsuits against some of the largest real estate companies in the world. Our work continues to uncover rampant violations of fair housing laws across the city, as well as the nation as a whole. The importance of stable, affordable, and equitable housing cannot be overstated. Preserving existing affordable housing options through proactive and aggressive enforcement of our housing laws is an important strategy for addressing New York City's ongoing housing affordability crisis. In addition, robust enforcement of the Fair Chance Act in Housing is necessary to prevent housing roadblocks faced by formerly incarcerated individuals. In New York City, that work is deeply bolstered by the NYC Commission on Human Rights (CCHR) which plays a vital role in enforcing these laws, and proper funding is necessary to uphold protections as intended.

CCHR plays an important role in safeguarding rights, preventing discrimination against vulnerable populations, and educating New Yorkers on their rights. Leaving an organization that holds these responsibilities without proper funding risks inadequate enforcement and sustained discrimination against protected groups. HRI continues to witness firsthand the extensive discrimination that exists against protected classes, especially as it pertains to housing. To help address this, we believe that CCHR funding should not be undercut, but instead prioritized.

For these reasons, Housing Rights Initiative urges members of this Committee to increase funding for CCHR as it will build a more equitable, affordable city for all New Yorkers.

Thank you.

Akash Patel
Program Development Director
Housing Rights Initiative

TESTIMONY

New York City Council Committee on Civil and Human Rights

Oversight Hearing: Implementation of the Fair Chance Act and Fair Chance for Housing Act

Presented by:

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April 28, 2026

Good morning. Chair Nurse and members of the Committee, thank you for holding this oversight hearing. My name is K.B. White, and I am a Staff Attorney at the Legal Action Center (LAC). For more than 50 years, LAC has been the only nonprofit law and policy organization in the United States devoted exclusively to fighting discrimination against, and protecting the rights of, people with arrest or conviction records, substance use disorders, and HIV/AIDS. We were at the table when City Council enacted the FCA in 2015, when it strengthened the FCA in 2021, and when it passed the FCHA in 2023.

People with conviction histories want to work, and they want a place to live. The Fair Chance Act (FCA) and the Fair Chance for Housing Act (FCHA) are what make those goals possible – that is, when employers and housing providers follow the law. This testimony is about why those laws are essential, what LAC sees on the ground when they are not followed, and what the Council can do to close the gap.

Three things make LAC's perspective on this hearing distinctive:

- **We are statewide.** LAC represents clients across New York. In FY25, roughly 73% of our services were delivered in the five boroughs and 27% in the rest of the state. That gives us a direct, head-to-head comparison of what the FCA delivers and what its absence costs.
- **Our clients are not coming out of arraignment.** Unlike many of our reentry partners attached to public defender offices, LAC's docket is overwhelmingly people with much older convictions from ten, twenty, even forty years ago that are still locking them out of jobs and housing today. These clients are simply asking to be evaluated under the law as it is written.
- **We see the repeat players that everyone in this field sees.** The same large and often national or out-of-state employers—including national rideshare and delivery platforms and large

logistics and transportation companies—appear repeatedly across our and our partners' FCA caseloads. The pattern is unmistakable: current penalties are not changing their behavior.

The FCA Works When Employers Follow It

This is not a hearing about whether the Fair Chance Act was a good idea. It was, and the law has produced real results. The challenge is that the FCA only delivers its benefits when employers actually follow it.

In FY25 alone, LAC handled approximately 1,600 employment-related matters. The vast majority of those involve only advice and counsel, brief services, (correcting an error, helping the client gather their evidence of rehabilitation or respond to an employer, screening for FCA violations) and other at non-litigation advocacy (such as an advocacy letter to the employer explaining their FCA obligations). In the cases in which we intervened more formally, LAC recovered $226,148 in backpay awards and settlements for our clients, plus $60,457 in restored monthly income. We do not believe our clients would have received these recoveries without attorney involvement.

Recent LAC matters illustrate what enforcement looks like in our work:

- A national rideshare company denied our client a job based on convictions from four decades ago, without conducting any of the FCA's required factor-by-factor analysis and without considering his decades of successful work since the offense. After LAC sent a demand letter, the company reversed its decision, paid damages, and gave our client a job.
- A platform connecting homeowners with service providers cut off our client's access to its job marketplace because of his conviction history, with no Article 23-A analysis. LAC filed a complaint with the Commission on Human Rights and sent a demand letter. The platform reversed the decision and restored his access.

- A supportive housing facility (itself a provider of services to vulnerable New Yorkers) denied our client a job based on his conviction history, with no FCA analysis at all. LAC has demanded reversal and prospective compliance.
- In *Lovett v. Greyhound Lines, Inc.*, now filed in court, LAC and our client are challenging a national transportation company that denied employment based on conviction history without providing the Fair Chance Act notice, written analysis, or any opportunity to respond.

These wins matter, and they are also the exception. Each one required attorney intervention to make the law work. That is not what the FCA was supposed to require.

What Is Going Wrong in Practice

Most employers are not following the FCA notice requirements at all, and applicants still don't know their rights.

In the great majority of LAC's FCA cases, the employer has provided no Fair Chance Notice, no Article 23-A analysis, no written explanation, and no opportunity to respond. The applicant simply receives a rejection, a generic email, or, in many cases, silence.

Without LAC and other reentry organizations throughout the state, those violations would simply not be challenged. Our clients almost universally report that they had never heard of the FCA before contacting us. The law's protections do not survive the first rescission letter unless someone with legal training intervenes.

When employers do produce a "Fair Chance Notice," it is too often individualized in name only.

Article 23-A requires a multi-factor analysis: the specific duties of the job, time since the offense, the applicant's age at the time of the offense, evidence of rehabilitation and good conduct, and the public policy in favor of employment. We see that analysis collapsed into a single factor over and over again.

- "Seriousness of offense" as a de facto automatic bar. Notices routinely lean on this factor, even when every other factor favors the applicant. As we asked the Commission in our September 5, 2024, testimony on the FCA rulemaking proceeding, seriousness of the offense cannot demonstrate an unreasonable risk; an employer must begin from no risk and show how the factors produce one.
- Demands for rehabilitation "specific to the offense." We have represented applicants whose employers told them they could only show rehabilitation by producing evidence tied to the particular conduct underlying the conviction. That standard is not in the statute, is impossible to meet, and is used almost exclusively to justify rescission.
- Refusing to credit pre-release conduct. The FCA requires consideration of good conduct since the offense. Employers regularly limit that to conduct since release from incarceration, telling clients in effect, "you have to have been good in prison." That is not what the law says, and it ignores the reality that in-custody records are often incomplete or shaped by factors beyond the person's control.

Employers should not be requiring certificates of disposition at all, and the five-business-day window makes that abuse acute.

Under Article 23-A, the employer's individualized analysis is based on the conviction information already produced by the background check. A certificate of disposition adds no information that the employer needs to weigh the seven Article 23-A factors. When employers nevertheless demand one as a condition of considering an applicant's response, they are imposing a layer of evidentiary friction the law does not require — a layer that, in our experience, functions as another off-ramp for employers looking to disqualify applicants on procedural grounds rather than on the merits of the Article 23-A analysis.

The five-business-day response window makes the problem acute. The Manhattan Criminal Court Clerk's office recently informed LAC staff that certificates for pre-2015 dispositions routinely take several weeks and require at least two in-person visits to obtain, because of known errors in pre-2015 paper records. The result: our clients lose opportunities not because of their underlying records, but because the City's records infrastructure cannot produce a document within a window that the law never required them to clear in the first place.

The Council can fix this directly by clarifying that employers may not condition the FCA-required analysis on the applicant's production of additional court documents; by extending the response window when an employer nevertheless requests one; and by working with the Office of Court Administration on an expedited electronic-disposition portal for pre-2015 records.

The Biggest Problem Is Delays After a Complaint Is Filed at the Commission

LAC supports the Commission on Human Rights' enforcement mission and the broader call for additional CCHR funding. This funding increase is imperative if we are to address the systemic delay between a complaint being filed and any meaningful resolution.

In our experience, two or more years from filing to CHR action is not unusual. One recent representative LAC client timeline:

- **May 2024:** amended complaint filed.
- **June 2024:** employer answer and position statement.
- **August 2024:** LAC rebuttal on behalf of client.
- **November 2025:** mediation with no investigative activity in the intervening 15 months.

In this example, our client chose the faster option of resolving via mediation, rather than waiting for the Commission to investigate and reach a probable cause determination. A year and a half of delay to even get to a confidential mediation is not deterrence. It is a cost-of-doing-business

calculation that strongly favors continued noncompliance, particularly for the largest repeat-player employers we see across reentry caseloads. Three structural problems amplify the delay:

- Monetary recoveries (i.e., back pay or emotional distress damages) are highly inconsistent across similar fact patterns, whether negotiated by non-profit attorneys like us or the Commission itself. That makes it impossible to counsel clients on likely outcomes and impossible for the FCA to send a clear pricing signal to industry.
- Mediation (the fastest route to resolution) typically produces a modest payment, no admission, no penalties levied, and no required practice change. The next applicant who walks into that same employer faces the same violation.
- Repeat-player employers continue to violate. The same handful of large national employers appear across LAC's and our partners' FCA dockets. If the current penalty structure were working, that pattern would not exist. Many of these employers are also shielded by forced arbitration clauses, which bar individuals from pursuing more formal action but do not prevent the CCHR from doing so.

The Commission already has the tools it is not fully exercising. Under New York City Administrative Code § 8-126, CCHR can impose civil penalties of up to $250,000 for willful, wanton, or malicious acts of discrimination, and up to $125,000 for unlawful discriminatory practices generally. CCHR can also order injunctive relief, training, and policy reform. And, crucially in this caseload, CCHR is not bound by the forced arbitration clauses that shield many of the largest repeat-player employers from individual lawsuits. The arbitration agreements those employers impose on applicants run only against the applicants. They do not run against the Commission. CCHR can investigate, enforce, and seek penalties against the same employers that an individual applicant cannot reach in court. What is missing is the consistent use of those tools.

LAC supports a statutory or regulatory early-intervention process at CCHR for FCA cases, analogous to early-intervention processes already used for other categories of discrimination, so that clear-cut violations can be resolved promptly, on the record, with practice-change commitments rather than parked for years pending a discretionary investigation.

Housing: The FCHA Works When It Is Enforced

The FCHA is one of the strongest fair-chance housing laws in the country on paper. LAC's first FCHA case shows what it can do when enforced — and the same case shows how widely it is being ignored at the start.

LAC recently represented a client who was denied an apartment three times by the same housing provider. First, in violation of NYC's source-of-income protections and twice in violation of the FCHA. We helped him compile mitigating materials, submitted them with an advocacy letter, and, after the third denial, sent a demand letter detailing the violations and advocated on his behalf with CCHR. The housing provider rescinded the denial and offered him the apartment. The management company involved handles more than 2,600 residential units in New York City; the building owner's portfolio is nearly 10,000 units. That is a meaningful signal to the largest housing providers in this city, but it should not take the risk of imminent litigation to deliver it.

The picture in the rest of our housing docket reinforces how far the law still has to travel. Though we are one of only two free legal services providers advertising that we take FCHA cases, since the law went into effect in January 2025, LAC handled just over a dozen housing-related matters, a small share of our overall caseload. Our caseload shows the same patterns the Council has heard about in employment, repeated in housing:

- Awareness is very low on both sides. Applicants do not know the FCHA exists, and many providers do not know the law's requirements or do not follow them.
- Providers continue to believe the FCHA does not apply to anyone with a sex-offense conviction. That is wrong: the FCHA's narrow registry-based carve-out is itself subject to individualized assessment. The misconception functions as a blanket bar.
- Providers continue to bundle criminal background checks with credit, income, and rental-history checks in a single tenant-screening report in violation of the FCHA's required bifurcated process and defeating the law's core purpose.
- Denials come without written individualized analysis, and sometimes without any written explanation at all, leaving the applicant at a loss. Many applicants simply stop hearing back from the housing provider or agent without even getting the chance to review and respond to their background check.

CCHR has indicated that an early-intervention pathway is available for FCHA cases, but in our experience that pathway is not accessible or clear to applicants or their attorneys. The structural delay we describe in employment cases applies in housing too, and the early-intervention process to the extent it exists must be visible, navigable, and reliably staffed before it can deliver on its purpose.

Clean Slate Implementation Makes Compliance and Enforcement More Urgent

Clean Slate New York will take full effect in November 2027. The same employers who currently misuse Article 23-A factors may look for workarounds: third-party background vendors that surface sealed records, social media searches, and informal inquiries. Without proactive compliance training and CCHR enforcement, Clean Slate's benefits will flow unevenly — strongest for people who already have counsel, weakest for everyone else.

Recommendations

Strengthen CCHR enforcement and resourcing.

- Fund CCHR at a level commensurate with its expanded FCA and FCHA mandate. Sustained underfunding is a primary driver of multi-year case timelines.
- Establish a clear, accessible, and fully staffed statutory or regulatory early-intervention process for FCA and FCHA cases at CCHR, modeled on early-intervention processes already used for other categories of discrimination. CCHR has indicated such a pathway exists for FCHA cases, but it is not accessible or clear to the applicants and attorneys who would use it.
- Establish statutory timelines for investigative steps (for example, an investigative plan within 60 days of rebuttal and status updates to the parties every 90 days thereafter).
- Establish penalty floors that scale to repeat conduct and employer size, and ensure the Commission fully exercises its existing authority under N.Y.C. Admin. Code § 8-126 to impose civil penalties of up to $250,000 for willful violations and $125,000 for unlawful discriminatory practices generally. The current pricing of FCA violations is not changing the behavior of the largest repeat-player employers we see, and the Commission's authority to issue penalties, and to act against employers that individual applicants cannot reach because of forced arbitration, must be used consistently.
- Require practice-change commitments, not just payments, as a condition of any mediated resolution, and publish anonymized resolution data.

Expand awareness and access.

- Fund community-based know-your-rights programming through reentry providers, community boards, libraries, and One-Stop Career Centers. LAC alone reached more than

12,800 people through community legal education and another 15,000 through online self-help materials in FY25. However, the unmet need is still enormous.

- Require plain-language FCA and FCHA rights notices at the point of application, not buried in applicant paperwork.
- Require employers to send applicants a brief, plain-language FCA notice along with any background-check authorization, with information about CCHR and free legal services.

Records access and the Fair Chance response window.

- Clarify that employers may not condition the FCA-required Fair Chance analysis on the applicant's production of additional court documents, including certificates of disposition. The conviction information already produced by the background check is sufficient for the Article 23-A analysis.
- Where an employer nevertheless requests a court document, extend the minimum response window to 10 business days.
- Work with the Office of Court Administration on a public-facing electronic certificate-of-disposition portal, with an expedited track for pre-2015 records.

Housing compliance.

- Direct CCHR to publish explicit guidance correcting the widespread misunderstanding that the FCHA does not apply to applicants with sex-offense convictions.
- Prioritize compliance enforcement against tenant-screening companies and housing providers that fail to bifurcate, fail to provide written individualized analysis, or fail to provide any denial explanation at all.

Clean Slate.

- Fund employer and housing-provider training on Clean Slate implementation, and direct CCHR to treat the surfacing of sealed records as an FCA/FCHA violation.

Closing

People with conviction histories want to work and want to come home to a place to live. That is the simplest possible statement of what the FCA and the FCHA are about. The work in front of this Committee is to close the gap between what those laws promise on paper and what they deliver in practice.

LAC looks forward to continuing to work with the Council, the administration, and the Commission on Human Rights to do exactly that. Thank you.

THE LEGAL AID SOCIETY CRIMINAL DEFENSE

TESTIMONY

The Council of the City of New York
Committee on Civil and Human Rights

Chairperson Sandy Nurse

Oversight - Fair Chance Act Challenges and Success

April 28, 2026

Presented by:
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Organizational Information

For over 150 years, The Legal Aid Society has provided free legal services to New York City residents who are unable to afford private counsel. Our Civil, Criminal Defense, Juvenile Rights, and Pro Bono practices work tirelessly in and out of the courtroom to defend our clients and dismantle the hidden, systemic barriers that can prevent them from thriving in New York City. Legal Aid's Criminal Defense Practice is at the forefront of public defense in New York City—playing a major role in shaping the practice of criminal defense and the criminal legal system. The Practice's expansive reach spans from our client representation in courts across all five boroughs of the city to our ongoing, active presence and partnership in communities. As the primary public defender in NYC, we are committed to protecting the rights of the most marginalized and disenfranchised people in society. We provide representation on trial and post-conviction litigation for New Yorkers across all five boroughs while our class action litigation and policy reform work address unjust laws and policies.

The Worker Justice Project, founded in January 2019 as an initiative of the Legal Aid's Criminal Defense Practice, combats discrimination faced by workers with arrest or conviction records living in New York City. Every day, employers and licensing agencies unfairly deny qualified individuals the opportunity to work because of pending charges, past convictions, and even sealed or dismissed cases. This discrimination prevents countless New Yorkers from maintaining financial stability and supporting their families—and further disenfranchises people of color already subjected to discriminatory employment practices and the racist administration of criminal justice. The Worker Justice Project fights this discrimination through a bold and comprehensive approach. The Project advises Criminal Defense Practice staff on the employment consequences of criminal case dispositions in order to minimize harm to clients' job opportunities and empowers workers with records to defend their rights. The Project also enforces the rights of workers who are unlawfully denied jobs or licenses because of arrest or conviction records by representing workers in administrative proceedings, pre-litigation advocacy, and affirmative litigation. Finally, the Project challenges government policies that create barriers to employment and advocates for legislative solutions to effect systemic change.

Since its inception, the Worker Justice Project has provided legal services on more than 10,000 matters for workers with criminal records – and on 2,100 such matters in the last year alone. Our legislative advocacy has helped lead to the enactment of new statutory protections at the State and City level that have benefited annually hundreds of thousands of New Yorkers with records. We also successfully advocated for the improvement of multiple administrative agency policies that will enable countless New Yorkers with records to access licensure and employment.

The Fair Chance Act has been transformative for workers' rights in New York City.

Since the expansion of the Fair Chance Act in 2021, the Worker Justice Project has provided direct legal services to more than 2,400 workers and provided over 5,600 consultations to Legal Aid's criminal defense attorneys to help mitigate the employment consequences faced by clients. The Fair Chance Act has fundamentally reshaped the employment law landscape in New York City, offering important protections and pathways to justice for working class New Yorkers who often face significant stigma due to their pending criminal cases or prior convictions. It is

impossible to overstate how monumental the expanded Fair Chance Act has been for the Worker Justice Project's clients. Before the Fair Chance Act was expanded, workers with pending cases had no antidiscrimination protections, and were generally unemployed until the conclusion of their criminal case. Since the 2021 expansion, the Worker Justice Project has strategically used the Fair Chance Act to get employment or reinstatement for over 600 workers, many with pending criminal cases. We have done so by helping our clients respond to Fair Chance Act Notices, sending letters notifying employers that they have violated our clients' rights, negotiating settlements of our clients' claims, and filing litigation where pre-litigation negotiation is unsuccessful. In more than 120 instances, our efforts have also resulted in financial compensation for affected workers. The Fair Chance Act has had a significant impact on New Yorkers: allowing them to work and financially support themselves and their families.

However, while the law has enormously benefited workers, consequential gaps remain. Addressing these shortcomings would further strengthen the law's impact and ensure more equitable access to employment opportunities for all New Yorkers.

Addressing remaining gaps in the Fair Chance Act would strengthen worker protections.

1) ***We request the Council fully fund the City Commission on Human Rights to ensure full enforcement of the Fair Chance Act.***

When employers refuse to redress their violation of the Fair Chance Act in response to the Worker Justice Project's prelitigation advocacy, our clients' primary avenue for relief is to file a complaint with the New York City Commission on Human Rights (CCHR). CCHR plays a critical role in enforcing the New York City Human Rights Law; indeed, they are the only government agency that investigates and prosecutes Fair Chance Act claims across New York City.

Despite its importance, CCHR is facing severe capacity constraints that significantly limit its ability to provide timely relief. These constraints have led to an extreme case backlog, forcing many complainants to wait years for resolution. In Fiscal Year 2026, the average age of an open complaint reached 629 days, up from 592 days in Fiscal Year 2025.[1] For many New Yorkers, this delay effectively denies meaningful access to justice. The backlog has also resulted in a troubling increase in administrative closures. Administrative closures occur when CCHR initiates a case after identifying a potentially viable discrimination claim but then lacks the resources to determine, within a reasonable timeframe, whether the case should proceed. In Fiscal Year 2025, 44% of the 379 cases closed by CCHR, approximately 167 cases, were administratively closed.[2] As a result, many individuals with credible discrimination claims were left without resolution or recourse.

Our clients experience overwhelmingly positive results when their cases are fully investigated, mediated, and, when necessary, litigated by CCHR. However, these outcomes depend on a functioning and adequately resourced agency. We are therefore deeply concerned by Mayor

[1] City Commission on Human Rights 2025 Report, available at https://www.nyc.gov/assets/operations/downloads/pdf/mmr2025/cchr.pdf
[2] *Id.*

Mamdani's preliminary budget proposal, which would cut CCHR's funding by nearly 10%.[3] Without a well-funded and fully staffed CCHR, our clients' already limited options for relief will shrink further. We urge Mayor Mamdani to reverse this proposed reduction and instead increase CCHR's budget from $15 million to $25 million for Fiscal Year 2027, a mere .02% of the City's $127 billion preliminary budget. A stronger, better-resourced CCHR is essential to ensure that New Yorkers are protected from discrimination and that legal services providers, like The Legal Aid Society's Worker Justice Project, can continue to effectively advocate on behalf of the communities we serve.

2) ***New York City Department of Education (DOE) employees and DOE contractor employees are left behind by the Fair Chance Act and without adequate protections.***

Although the Fair Chance Act has significantly expanded protections for New York City workers, statutory exemptions continue to leave important groups without meaningful safeguards. Under New York City Administrative Code § 8-107(10)(h), city agencies are not required to conduct a Fair Chance Analysis for pending cases that arise during a person's employment where the city agency follows a disciplinary process set forth in agency rules.[4]

One of the primary populations the Worker Justice Project serves is New York City Department of Education (DOE) employees, and employees of DOE-contracted vendors. These workers include, but are not limited to, teachers, paraprofessionals, aides, after-school program staff, cafeteria workers, IT personnel, bus drivers, and maintenance workers. The DOE's disciplinary process operates under the Regulation of the Chancellor C-105 (C-105) and, as a result, is exempt from performing a Fair Chance Analysis for current employees with pending arrests under § 8-107(10)(h).

While the Fair Chance Act does allow this carve-out for agencies with their own disciplinary processes, the DOE's procedures under C-105 lack transparency and meaningful safeguards. Although C-105(9) describes a notification and review process to determine whether an employee or contractor should be suspended pending the outcome of a case, it does not clearly define how that review is conducted. Moreover, there is no established mechanism for workers to appeal suspension decisions, leaving them without any options for relief.

The DOE Office of Personnel Investigation (OPI), which is responsible for reviewing arrest and conviction records, asserts that each case is evaluated individually prior to suspending individuals. However, the Worker Justice Project has found that, in practice, DOE suspends nearly all (and possibly 100 percent of!) DOE contractor employees who are arrested, regardless of their role or the nature of the charges, until their cases are resolved, and takes the same action against DOE employees who are unprotected by collective bargaining agreements; in both cases, the suspensions occur without pay and without recourse until the criminal case is resolved. Some DOE

[3] Khafagy Amir, "*Mamdani's Proposed Budget Threatens Cuts to Labor and Human Rights Agencies*," DOCUMENTED, https://documentedny.com/2026/03/12/nyc-budget-guts-worker-protections/ (Mar. 12, 2026).
[4] N.Y.C. Admin. Code § 8-107(10)(h).

employees who are protected by collective bargaining agreements fare slightly better, but a large number are still subjected to unfair suspensions and loss of pay.

Given the significant caseload of New York City's criminal courts, even individuals facing minor or unfounded charges, often entirely unrelated to their employment or ability to work as a DOE-affiliated employee or contractor, may wait months for a resolution. For example, in many cases, individuals with minor misdemeanor offenses are forced to wait the full three months for dismissal under New York's speedy trial statute, even when the District Attorney does not intend to pursue the case.[5] As a result, affected workers face immediate and significant financial hardship, along with prolonged employment uncertainty. The lack of a meaningful review or appeal process leaves them without options, and organizations like The Legal Aid Society are unable to provide effective assistance to these clients under the current framework. For example, the Worker Justice Project had a client who was charged with harassment for allegedly sending harassing text messages to her husband; OPI suspended her clearance to work for a DOE contractor, refused to lift the suspension despite the Worker Justice Project's advocacy regarding these absurdly minor charges, and denied our client any kind of process to challenge the suspension. During the period of her suspension, our client was unable to work, support her children, or provide much needed services to the children she worked with in her DOE-regulated position.

For these reasons, we respectfully urge the Council to consider explicitly applying the Fair Chance Act to DOE employees and contractor employees with pending cases. The current exemption, justified by the supposed existence of an internal disciplinary process, fails in practice to provide adequate protection. Instead, it leaves workers without income, without due process, and without access to the critical relief that the Fair Chance Act was designed to ensure.

3) Entities regulated by the New York State Justice Center and the New York State Department of Health routinely and systemically violate the Fair Chance Act, automatically suspending clients due to the mere existence of pending charges.

Another population commonly served by the Worker Justice Project includes individuals employed in facilities regulated by the New York State Department of Health (DOH) and the Justice Center. These roles include, but are not limited to, home health aides, certified nursing assistants, personal care assistants, caseworkers, residence managers, and direct support professionals.

When an individual in one of these licensed positions is arrested, both DOH and the Justice Center send notifications of the arrest directly to their employers so that they may assess any potential risk to patients or residents. These notifications do not revoke an individual's clearance to continue working in DOH or Justice Center licensed facilities, and individuals retain their State-issued clearance to work despite the notification. Thus, employers such as home health agencies, nursing homes, and adult care providers remain subject to the Fair Chance Act and must conduct the required individualized analysis before taking any adverse action against a current employee based on an arrest. In practice, however, many employers misinterpret these arrest notifications, whether inadvertently or deliberately, as a directive to remove the employee from their position.

[5] CPL § 30.30.

As a result, workers are frequently suspended or terminated, even when the underlying criminal case involves minor or unfounded allegations that are entirely unrelated to their work.

When workers have legal representation familiar with the Fair Chance Act, workers can often get back to work. Advocates who intervene by notifying employers of their legal obligations can often successfully secure reinstatement where the alleged conduct is not directly related to the job or does not pose an unreasonable risk. However, employers sometimes refuse to engage and instead incorrectly assert that the arrest notification requires immediate suspension or termination. In these situations, workers are often forced to file complaints with CCHR. While this is an important enforcement mechanism, as previously discussed, cases can take a long time to resolve, leaving workers without income and searching for new employment in the interim.

Additionally, the Worker Justice Project has observed a troubling pattern in which some of these DOH- and Justice Center-regulated entities appear to comply with the procedural steps of the Fair Chance Act, issuing notices and allowing employees five business days to respond, without engaging in the required good-faith analysis. In some cases, employers rely on boilerplate reasoning to justify termination, even when presented with substantial mitigating information. For example, one Worker Justice client was recently terminated after her employer concluded she posed a significant risk to their clients due to her misdemeanor charge, despite strong evidence to the contrary. Shortly thereafter, the same employer terminated another worker facing entirely different allegations, yet used identical language in its Fair Chance analysis to justify the adverse action. This pattern suggests that the process is being used as a formality to justify predetermined outcomes, rather than as a meaningful, individualized assessment.

We respectfully urge the Council to increase outreach and education for New York City–based agencies regulated by DOH and the Justice Center. While these employers have a legitimate interest in protecting the vulnerable populations they serve, that responsibility does not permit unlawful discrimination based solely on an arrest. Targeted education on the requirements of the Fair Chance Act and the legal risks of noncompliance, both procedurally and substantively, would help reduce unjust terminations and ensure that workers are treated fairly under the law.

4) ***Clients who benefit most from the Fair Chance Act are those who have access to legal services attorneys, which is not the majority of New York City workers.***

Finally, a broader issue underlying the Fair Chance Act is that it disproportionately benefits workers who have access to legal representation. In many cases, employers do not inform workers of their rights under the Fair Chance Act, either during onboarding or before taking adverse action based on an arrest or conviction. As a result, many individuals who are suspended or terminated are unaware that they have any legal recourse and instead accept the loss of their employment as inevitable.

Even when workers are aware of the Fair Chance Act, navigating the process without legal assistance can be extremely challenging. Employment and civil rights attorneys understand how to engage in effective settlement negotiations with employers and how to navigate the process of filing and pursuing complaints before CCHR. While these avenues are technically available to all

workers, the reality is that the barriers to obtaining meaningful relief in discrimination cases are significantly higher for those without legal guidance.

For these reasons, we respectfully urge the Council to expand outreach and education efforts related to the Fair Chance Act for New York City workers. This should include more proactive measures, such as widely distributed, multilingual materials and accessible "Know Your Rights" programming. The Council should also adopt stronger measures to ensure that workers are affirmatively informed of their rights. This could include requiring employers to post clear, accessible information in the workplace and to provide written notice of Fair Chance Act protections during the hiring and onboarding process. Workers, regardless of whether they have legal representation, should understand that an arrest or conviction does not eliminate their rights, and that there are avenues available to challenge unlawful discrimination.

Conclusion

We thank the Council for its consideration of this testimony. The Fair Chance Act has been monumental for strengthening workers' rights in New York City. We hope the Council will continue to solicit feedback and to make changes to the law to fortify the protections that provide crucial relief for New York City workers. For more information or to address concerns, please feel free to contact me at enalepka@legal-aid.org or (917) 782-0614.

The New York City Council
Committee on Civil and Human Rights
Oversight - Fair Chance Act Challenges and Success

April 28, 2026

Written Testimony of Neighborhood Defender Service of Harlem
By Alexandra Rockoff, Supervising Attorney, Civil Defense Practice and Mariel Hooper, Managing Attorney, Civil Defense Practice

Chairperson Nurse, and Members of the Committee on Civil and Human Rights, my name is Alexandra Rockoff and I am a Supervising Attorney in the Civil Defense Practice of Neighborhood Defender Service of Harlem ("NDS"). NDS is a community-based public defender office that provides high-quality legal services to residents of Northern Manhattan. As a holistic public defender, NDS is particularly familiar with the collateral consequences that convictions and other contact with the criminal court system has on New York City residents' access to stable employment and housing. Thank you for the opportunity to testify on successes and barriers to implementation of the City's current fair chance act laws.

1. Introduction

Since the implementation for the Fair Chance Act in July 2021 and the implementation of the Fair Chance Act for Housing in January 2025, these laws have become a powerful tool for advocates in ensuring that community members with criminal legal system involvement do not face discrimination in obtaining employment and housing. NDS clients, with the help of the attorneys in our Civil Defense Practice, have been able to overcome potential employment denials and threatened terminations through the opportunity that these laws provide to respond with evidence of their ability to safely and capably perform their jobs despite contact with the criminal court system.

However, there are certain improvements which could make these laws even more powerful, ensuring that community members are not subject to unfair discrimination at every step of a housing or job application, rather than relying on legal services organizations to step in once they have experienced discrimination.

For the reasons listed below, NDS recommends the City Council:

- Improve employer and housing provider education and outreach and community outreach;

- Implement an early intervention process through the NYCCHR for applicants who are facing discrimination for faster relief;

- Adequately staff the New York City Commission on Human Rights ("NYCCHR") to ensure that individuals facing discrimination do not wait years to have their claims heard; and

- Undertake more affirmation litigation for employers who repeatedly violate the Fair Chance Act.

2. Fair Chance Act Enforcement Issues

Since the passage of both the Fair Chance Act for employment and the Fair Chance Act for housing, our office has seen that clients have more opportunity to provide mitigating or explanatory materials when an employer or housing provider flags an arrest or conviction. However, despite this opportunity, there are still places where implementation and enforcement could be improved.

a. Lack of Employer/Housing Provider/Community Education

The rights conferred by the Fair Chance Acts would provide greater protections in practice with better awareness among employers, housing providers, and community members. For example, many of the employment notices we see from larger employers simply attach the background check report, sometimes a list of the Article 23-A factors (even for applicants who are applying with an open criminal case as opposed to a criminal conviction, which requires analysis under the Fair Chance Act factors rather than the Article 23-A factors), and perhaps a message informing client that they can provide mitigating evidence. The fact that we as advocates overwhelmingly see this insufficient notice, rather than the actual Fair Chance Act Notice required under the law, speaks to the underlying issue that many employers simply are not aware of how to properly follow the law, perform a Fair Chance analysis, and allow an applicant or employee the opportunity to respond.

Similarly, since the passage of the Fair Chance Act for Housing, we have seen housing providers continue to ask applicants to undergo background checks before any housing offer has been made.

Moreover, the majority of the clients we assist are also fully unaware of their rights under either Fair Chance Act, whether it be an employer improperly considering sealed records, or a prospective landlord asking about criminal convictions prior to approval. In many instances our

clients have already submitted a response to an improper form of notice that does not include a fair chance analysis or the proper factors, before we receive their case. Our concern is especially for community members seeking employment or housing who do not have the benefit of access to attorneys who specialize in removing the barriers that those with criminal records face, particularly because the process happens so quickly.

All of these issues could be addressed with better, mandatory education for covered housing providers and employers, and know-your-rights materials available at the clerks' offices in Criminal Court, or within courthouses for individuals – since many community members are navigating this process without the assistance of legal representation.

b. Lack of Access to Early Intervention through the NYCCHR

Another issue that our office regularly sees is lack of access to an early intervention process when employers or housing providers fail to follow the notice and opportunity to respond requirements of either Fair Chance Act. In these circumstances, rather than protracted litigation or negotiation, many clients are most interested in simply being afforded due process under the law such that they can respond and obtain housing or employment as quickly as possible.

However, the lack of a process whereby the NYCCHR can intervene and mediate this outcome in the early stages of a prospective housing or employment denial often means that community members or advocates are left in a protracted back-and-forth of demanding the employer/housing provider follow the law's notice requirements, waiting to see whether or not they do, and then hopefully allowing the client to provide evidence of mitigation/rehabilitation. This process can sometimes take months, during which time clients are unable to begin work or may be forced to simply abandon the housing they sought in the first place. Such delays undercut a system which was designed to quickly resolve the eligibility of an applicant for housing or employment and sometimes leave monetary penalties as the only available remedy for applicants responding to FCA violations, rather than the original employment or housing that was sought.

A more effective system would be similar to the early intervention process that was implemented by the Commission on Human Rights for source of income discrimination, whereby an investigator would swiftly reach out to a potential discriminator to swiftly mediate a tenant's approval for housing. The same process should exist for job and housing applicants being discriminated on the basis of their criminal record. An early intervention process is particularly needed in light of NYCCHR delays in processing formal complaints.

c. Time Delays with NYCCHR Complaint Process

In some circumstances, even with our ability to advocate with employers and housing providers, sometimes we simply do not receive a response, or a provider doubles down on their refusal to follow the Fair Chance Act properly. In these circumstances, the main mechanism for relief is to file a complaint with the NYCCHR.

However, in our office's experience filing these claims, this process oftentimes leaves clients and community members still without any timely relief from discrimination. While NDS has not filed any FCA violation case with the NYCCHR recently, other discrimination claims filed with the NYCCHR by NDS and/or our clients in the last few years have languished. Not a single complaint filed by NDS since 2020 has reached adjudication through present. Other providers have reported experience similar delays in timely resolution of complaints.

These administrative hurdles speak to a greater issue: that the City Council must allocate adequate funding and make immediate efforts to fully staff and train the Commission so that it can be responsive to these, oftentimes incredibly time-sensitive, claims, rather than simply prolonging community members efforts to seek relief from discrimination.

d. Repeat Offenders

Moreover, a fully staffed and trained NYCCHR would be able to do more affirmative work towards curbing certain larger employers who repeatedly violate the Fair Chance Act. In the past, the NYCCHR conducted this kind of affirmative work against larger landlords who repeatedly committed source-of-income discrimination. The outcomes were incredibly beneficial to tenants: some landlords entered into settlement agreements where they had to set aside a certain percentage of units and rent exclusively to voucher/subsidy holders, which allowed many tenants to immediately find housing rather than continuing to experience discrimination in their housing searches.

In the employment context, this kind of affirmative litigation could be used to the same effect. Our office sees recurrent issues in Fair Chance Act compliance with certain larger employers. Affirmative litigation by the Commission to address the repeat problems our clients experience with the same companies would prevent these violations from happening to future applicants. Moreover, some of these larger employers have no publicly available information for how to contact their legal departments when we do encounter violations of the Fair Chance Act: sometimes our attorneys spend valuable weeks simply trying to contact a customer service representative or legal department contact during which time our clients are still denied employment. Having the Commission investigate these repeat offenders and ensure that these protracted violations do not happen again and again, would greatly improve our clients' ability

to gain meaningful employment.

3. Conclusion

We thank City Council for their successful efforts to increase access to employment and housing for those facing discrimination based on prior contact with the criminal court system, and their continued efforts to improve on these processes. Many New Yorkers have benefitted from these laws.

City Council can improve FCA implementation by:

- Providing greater education to the community, employers, and housing providers;
- Implementing an early intervention enforcement model;
- Adequately staffing and funding the NYCCHR for enforcement;
- Undertaking affirmative litigation against employers who repeatedly violate the FCA.

Thank you in advance, for your time and action on this important matter.

TESTIMONY OF
THE FORTUNE SOCIETY

THE COMMITTEE ON CIVIL AND HUMAN RIGHTS
OF THE NEW YORK CITY COUNCIL
250 Broadway,
New York, NY

Tuesday, April 28, 2026

SUBJECT: Oversight Hearing – Fair Chance Act Challenges and Successes

PURPOSE: To discuss the success and challenges of the Fair Chance for Housing Act and related need for additional funding for the NYC Commission on Human Rights

Presented by

Reggie Chatman
Director of Policy
The David Rothenberg Center for Public Policy

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INTRODUCTION

Thank you, Chair Nurse, and Members of the Committee, for the opportunity to provide testimony today.

My name is Reggie Chatman, Director of Policy at The Fortune Society's David Rothenberg Center for Public Policy. The Fortune Society is a 58-year-old organization dedicated to alternatives to incarceration, successful reentry, and strengthening communities through services and advocacy. Our mission is grounded in the belief that people can change, and that systems must change with them. We work to rebuild lives and shift public understanding to support a fair, humane, and rehabilitative system. In my role, I help lead Fortune's policy and advocacy efforts, including co-leading the Fair Chance for Housing Coalition. I am also a formerly incarcerated person who spent 25 years in prison. Like many others, my conviction record created significant barriers to housing. Thus, I bring both professional and lived experience to this issue.

WHY FAIR CHANCE LAWS MATTER

The need to strengthen local human rights laws has never been more important. Under the new administration, the federal government has dismantled several critical civil rights protections, particularly those related to fair housing and racial equity. It has de-funded agencies such as the Equal Employment Opportunities Commission (EEOC) and the Department of Housing and Urban Development (HUD).[1] This has left millions of New Yorkers vulnerable and defenseless to discriminatory practices.

New York City has taken important steps to reduce discrimination through the Fair Chance for Housing Act.[2] This law recognizes that people should be evaluated based on their qualifications and potential, not excluded because of past involvement with the criminal legal system. The law creates a pathway to opportunity; but that pathway only works if the general public is aware of the law and if it is enforced by a functioning civil rights infrastructure.

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[1] Workforce Bulletin. DEI Dead at Revamped EEOC: EEOC Enforcement Priorities After Trump Administration Makeover (February 5, 2025) https://www.workforcebulletin.com/dei-dead-at-the-eeoc-whats-next-for-eeoc-enforcement-priorities-after-trump-administration-actions.

[2] NYC Council legislation page (Int. 0632-2022 – Fair Chance for Housing Act): https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=5755059&GUID=1081D9A0-5626-4DE4-BB6A-142AB373A4AF; Official local law text – Local Law 24 of 2024 (PDF): https://www.nyc.gov/assets/cchr/downloads/pdf/amendments/Local-Law-24.pdf

SUCCESSES: INCREASED ACCESS TO HOUSING AND LEGAL PROTECTIONS

The Fair Chance for Housing Act has helped shift how we think about access to housing. It reinforces that fear, stigma, and outdated assumptions about risk should not determine whether someone can secure housing. It has also helped establish the expectation that housing is a matter of fairness, dignity, and public safety, not a privilege reserved only for those without records. Most of all, it has given people with convictions a tool to combat discrimination and secure housing.

Housing applicants from the Fortune community have used the law to successfully challenge discrimination. In two separate instances, our Coalition partner, the Legal Action Center, intervened after unlawful denials to inform the housing providers of the applicants' rights and their obligations to follow the law. In each instance, the providers rescinded their denial, and the applicants were able to secure housing. These individuals decided to work with Legal Action Center because they were concerned about how long it might take the New York City Commission on Human Rights ("the Commission" or "CCHR) to respond.

CHALLENGES: IMPLEMENTATION GAPS IN EDUCATION AND ENFORCEMENT

While these examples highlight the success of the law, it also underscores a challenge that applicants and advocates face, which is that there is a gap in enforcement. The fact that individuals rely on advocacy organizations instead of the Commission, which is responsible for enforcing the law, points to a critical issue. The City has not adequately funded the Commission. Therefore, it lacks the capacity to fully educate the public, investigate complaints, enforce the law, and ensure that these rights are meaningful in practice. As a result, advocacy organizations, which have limited resources and reach, are the only line of defense for system-impacted housing applicants.

For Fair Chance for Housing to work, CCHR must have the resources to:

- Educate housing providers on their obligations;
- Inform the public of their rights and responsibilities;
- Process, mediate, and litigate cases; and
- Hold violators accountable.

But more than a year after the law took effect, CCHR has not conducted any widespread public education campaign because they lack the budget to do so.

The FCHA Coalition has stepped in with private funds to fill the gap in outreach. We launched the New Rights, New Beginnings ads across bus shelters and LinkNYC kiosks in 2025; this year, we launched an education campaign of posters in 144 stations across the subway system, citywide; and we have conducted numerous trainings. While this helps, we cannot reach the full universe of private housing providers and potential housing applicants. Consequently, many remain unaware of the law and continue discriminatory practices.

FCHA cannot succeed if CCHR cannot do its job.

OUR REQUEST

Fortune urges the Council to:

1) Increase CCHR's budget from $15 million to at least $25 million for FY27.
2) Exempt CCHR from future hiring freezes and PEG cuts.

CONCLUSION

The Fair Chance for Housing Act represents an important commitment to fairness, dignity, and opportunity. But laws alone are not enough. To ensure these protections are real and accessible, CCHR must have the resources to educate, enforce, and hold bad actors accountable. Without that investment, the promise of this law will remain out of reach for too many New Yorkers.

Thank you for the opportunity to provide testimony.

youthrepresent
JUSTICE FROM COURTROOM TO COMMUNITY

New York City Council
City Council's Committee on Civil and Human Rights
Oversight Hearing on Fair Chance Act Challenges and Success
Written Testimony of Tziona Breitbart, Senior Staff Attorney, Youth Represent
April 28, 2026

Youth Represent is dedicated to improving the lives and futures of young people impacted by the criminal legal system. When the legal system creates barriers to success for youth, we use the law to help them leave the stigma of a criminal record behind. We provide criminal and civil reentry legal representation to young people aged 16-26, assisting them with everything from RAP sheet review to school suspensions to employment discrimination and other legal needs they identify. We also engage in policy advocacy and youth leadership development through our Youth Committee and the Youth Justice & Opportunities Act (YJ&O) Campaign. Youth Represent is also a member of the Coalition of Reentry Advocates.

In 2025, 88% of our clients were people of color, including 49% Black, 26% Latinx, 6% multiracial, and 7% Asian. Our clients have an average age of 23, with nearly 20% being non-U.S. citizens and another 20% living in subsidized housing. Alarmingly, only 10% are employed full-time, underscoring the urgent need for comprehensive support. These statistics highlight the significant barriers our youth face in achieving stability and self-sufficiency, emphasizing the critical role that the Fair Chance Act ("FCA") plays in removing barriers to employment and empowering marginalized young people to overcome systemic challenges.

Our clients consistently face employment discrimination based on their criminal records, which has far-reaching impacts on their families, communities, and futures. Youth Represent has filed multiple federal and state class action lawsuits to enforce protections against criminal record-based discrimination defined in the FCA and Article 23-A of the New York State Correction Law. In *Kelly v. Brooklyn Events Center, LLC et al.*[1], we represented a class of people denied jobs at the Barclays Center on the basis of their criminal convictions. In *Millien v. Madison Square Garden Co.*[2], we challenged Madison Square Garden's policy of denying employment to job applicants whose criminal record disclosures did not fully match the information that appeared on the company's background checks. We have also litigated systemic FCA violations in *Aguilera v. UberEats*[3], representing a class of applicants denied employment after the company failed to properly apply FCA factors and provide individualized assessments before rescinding offers. The case resulted in compensation for class members and reforms to

[1] No. 17 Civ. 4600 (E.D.N.Y. 2017).
[2] No. 17 Civ. 4000 (S.D.N.Y. 2017).
[3] *Aguilera, et al. v. UBER Technologies, Inc. d/b/a UberEats*, Index No. 509275/2023 (Kings Co. Sup. Ct. 2023)

Uber's background check process to comply with the FCA to better support job applicants with criminal records.

In addition to class action litigation, we also support our clients in navigating the FCA process, including compiling mitigation documents in response to an FCA notice on an individual basis and advocating informally with employers to address FCA violations without litigation when possible.

We appreciate the Committee's opportunity to share our grounded perspective on how the FCA is being implemented, particularly as it affects young people, including areas of success and where gaps remain.

A Youth Lens Matters

Young people with criminal convictions encounter distinct and often compounding barriers to employment. Many are entering the workforce for the first time and lack prior work experience due to their age. At the same time, system involvement—particularly arrest, prosecution, and incarceration during formative years—can significantly disrupt their development and limit future opportunities. These challenges are further intensified by the emotional and psychological impact of system involvement at a young age, including separation from family and community, as well as disruption in schooling. Together, these barriers can increase the likelihood of continued system involvement, not due to a lack of effort, but because meaningful opportunities, such as employment, remain out of reach.

For these young people, early employment is not optional—it is essential. It is how they begin to build stability, develop skills, and establish independence. Yet many are navigating this process after experiencing disruptions to their education and while facing stigma tied to system involvement. Not only are they facing extra scrutiny when applying due to limited professional experience, young New Yorkers are also facing extremely high unemployment rates, especially Black, Hispanic, and Asian youth.[4] Furthermore, young people are often applying to entry-level positions in hospitality and retail industries, which have yet to rebound fully since the pandemic–resulting in less jobs being available for young people.[5]

For system-impacted youth, the barriers are even greater. Disruptions in education, combined with stigma associated with arrest or conviction, already make it harder to compete in the job market. When the protections of the Fair Chance Act are not meaningfully implemented, these young people are effectively being pushed further to the margins at the very moment they are

[4] Thomas P. DiNapoli, *DiNapoli: Youth in NYC Face Double-Digit Unemployment Rate* (Press Release, June 2025), New York State Office of the State Comptroller, https://www.osc.ny.gov/press/releases/2025/06/dinapoli-youth-nyc-face-double-digit-unemployment-rate
[5] *Id.*

trying to move forward. At the same time, courts and supervising agencies expect and even require young people to obtain employment, creating a stark and often unworkable contradiction, resulting in an unbreakable cycle.

When those opportunities are delayed or denied—especially in ways that circumvent the FCA—the impact is not temporary. It can alter a young person's entire employment trajectory by undermining that young person's ability to enter and remain in the workforce. On the other hand, when the FCA is utilized properly, it allows the young person to know that they are not permanently defined by past involvement with the legal system. It also opens the door to meaningful employment, enabling them to earn income, build skills, establish stability, and contribute to the support of themselves and their families.

Fair Chance Act Successes

When employers correctly follow the FCA, it works. The law creates real opportunities for young people with criminal records, allowing them to access jobs they might otherwise be excluded from or overlooked during the hiring process.

We have seen how the FCA can function as intended, ensuring our clients have access to meaningful opportunities. One of our clients, a 23-year-old, applied for a Support Associate position at Mount Sinai Hospital in August 2025. He was deeply invested in this opportunity and often shared that securing this job would allow him to build a future and move beyond his single interaction with the criminal legal system.

Prior to this, he had faced numerous denials due to his single conviction from October 2023. Despite obtaining a Certificate of Relief from Disabilities in March 2025—less than a year after his sentence—he continued to encounter record-based discrimination, often without employers completing the full FCA process.

Mount Sinai, however, followed the law. The employer provided a Fair Chance notice and gave our client the opportunity to respond with mitigation materials. In his submission, he included his Certificate of Relief as well as evidence of significant programming and personal growth since his arrest, including participation in Youth Justice Network, RiseBoro Atlas Therapy, and 100 Suits for 100 Men. After reviewing these materials, Mount Sinai conducted an individualized assessment and determined that he was a qualified candidate. He was hired and has remained employed there since August 2025.

This outcome illustrates what the FCA is designed to do. When employers follow the required process, young people are evaluated based on their full circumstances—not defined by a single

moment in their past. Without these protections, this client likely would have been excluded from consideration despite his qualifications and demonstrated growth.

Circumventions of the Fair Chance Act

Unfortunately, we also often see employers effectively denying young people employment due to their records, especially when a young person has a pending case. While the FCA is clear that an applicant cannot be denied a job simply due to a pending case, in reality this is often the outcome for young people with pending cases. Employers regularly fail to conduct an analysis of the mandatory Fair Chance factors.[6] Under the law, an employer can only withdraw an offer by complying with the Fair Chance Process and conducting the Fair Chance analysis.[7] However, in practice, our clients often face long delays in hearing back from an employer, and in some cases have been told directly that they will not be able to continue the hiring process until the case is finished and a Certificate of Disposition is provided.

Youth Represent recently worked with a client whose job application was held in abeyance by an employer from October 2025 through February 2026. At the time of his application, our client was facing a pending criminal court matter charging Criminal Possession of a Weapon in the Second Degree (CPL 265.03(03)), stemming from a July 2024 arrest. He was 18 years old at the time of the arrest and a passenger in the vehicle in which the alleged weapon was recovered.

Our client applied for the sales associate position and was scheduled to begin training and start work on October 17, 2025. However, after the retail employer received the results of his background check, he was informed that he could no longer begin employment and would only be considered once there was a final disposition in his case. The employee relations team remained in communication with him to ensure his conditional offer remained active and welcomed any updates on the resolution of the case, inevitably keeping our client in limbo.

In response, our client submitted a letter from his defense counsel explaining the procedural posture of the case and the anticipated resolution. The submission was disregarded, despite clearly outlining the status of the matter and the expected outcome. In our professional experience, neither defense counsel nor an Assistant District Attorney will represent that a case will be dismissed unless dismissal is actually anticipated or has been agreed upon, and thus the employer should have taken the submission more seriously.

The employer did not issue a FCA notice, nor did it appear to conduct the individualized analysis required under the law, including whether there was any nexus between the alleged conduct and the responsibilities of the position, or whether the individual posed any risk to persons or

[6] New York City Commission on Human Rights, *Legal Enforcement Guidance on the Fair Chance Act* (July 15, 2021), at 15.
[7] *Id*. at 17.

property. Had such an analysis been conducted, the employer would have learned that our client was actively engaged in intensive workforce development programming and therapeutic services aimed at stabilization and reentry support. Ultimately, our client's case was dismissed on February 5, 2026. However, by that time, the job opportunity had already been lost and by failing to give a final decision, the employer avoided triggering FCAprotections–leaving him without a job and without recourse.

While this was a specific experience of one individual client, this is not an uncommon practice. Required pre-adverse action and adverse action notices are inconsistently provided—or omitted altogether. In practice, this means young applicants are often denied employment without receiving the legally required written explanation or meaningful opportunity to respond. These failures undermine the core protections of the FCA. Without notice, the individualized assessment process is effectively bypassed, and young applicants are deprived of the opportunity to correct errors, provide rehabilitation evidence, or contest inaccurate records. Additionally, although the FCA imposes clear procedural obligations on employers, violations occur with limited consequence and weak oversight. Employers face minimal deterrence, and the burden of enforcement shifts onto the very individuals least equipped to navigate legal systems or assert their rights: the young people.

For a young person at the very beginning of their working life, this is a significant and destabilizing setback. A job represents not only employment, but an opportunity to establish income, build work history, cultivate dignity and self-worth, and create the stability necessary to move forward after system involvement. The loss of that opportunity during a critical developmental period underscores the real-world consequences when the FCA protections are not fully implemented. So while navigating a criminal legal system, which is already isolating and traumatizing, young people are left alone in navigating a hiring process that also silences or ignores their voices.

Recommendations

For the young people we represent, these gaps in implementation are not abstract—they shape the jobs young people are able to access, and whether or not they are able to enter the workforce at all. At a critical stage when they are trying to build stability and independence, and exit the criminal legal system, inconsistent compliance with the FCA process creates barriers that the law was designed to prevent. The following reflects key areas where additional clarity, accountability, and investment are necessary to ensure the law functions as intended:

1. Clear Protections for Applicants with Pending Cases

   a. Employers should be required to make a final hiring decision within a defined and reasonable timeframe. Failure to do so should be treated as a constructive denial, triggering an applicant's rights under the FCA.
   b. When an employer receives relevant information from an applicant, or their attorney or advocate, that information should be explicitly required to be considered as part of the individualized assessment process.
2. Age Application
   a. For applicants age 26 and under, the FCA framework should incorporate explicit consideration of youth and developmental factors.
3. Strengthened Enforcement and Accountability
   a. Enforcement mechanisms should not rely solely on individual complaints. Proactive investigations and audits are necessary to identify patterns of noncompliance.
   b. Penalties for violations should be increased to create meaningful deterrence and ensure that compliance is taken seriously by employers.
4. Expanded Outreach and Education
   a. For the FCA to have the impact it was designed to do, employers and applicants must be aware and understand their rights and obligations. Employer-facing education should clearly outline required procedures, including notice obligations and the FCA analysis. There should also be targeted outreach for young people to understand their rights and to have accessible ways to obtain support.

Meaningful enforcement, clear standards, and accessible education are essential to ensuring that fair chance hiring is not the exception, but the norm—particularly for young people at the earliest and most critical stages of workforce entry.

Conclusion

The FCA is a critical tool that, when properly followed, creates real pathways to employment for young people with criminal records. We have seen that it works when employers comply with its requirements and engage in a fair and individualized process.

For young people, the FCA tells them they deserve more and are not defined by a single moment in their young life. It allows them to see beyond a criminal legal system or beyond the trauma they endured in their young lives that led them to where they are. But when an employer fails to utilize the fair chance process, these barriers cause harm at a crucial moment that shapes long-term outcomes. Greater enforcement and education are needed for both employers and young people to ensure a new box on an application does not show up behind the scenes.

We appreciate the Committee's attention to how the FCA is functioning in practice, and we urge continued focus on ensuring that its protections are meaningfully implemented so that young people are not left behind at the very moment they are trying to move forward. If you have any questions or would like additional information, please contact Tziona Breitbart, Senior Staff Attorney, tbreitbart@youthrepresent.org; (646) 759-4463.

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: SoAnn Kamuf Ward (Deputy Commissioner Admin

Address: _____

I represent: _____

Address: _____

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Date: 4/28/26

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Name: Hanlaw Schwan

Address: 22 Reade St

I represent: NYC Commission on Human Rights

Address: _____

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Name: PAUL Keefe

Address: 633 Third Ave 10th Fl NY NY 10017

I represent: Community Service Society

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Name: Anna Arkin-Gallagher

Address: 177 Livingston St Bklyn NY 11201

I represent: Brooklyn Defender Services

Address: 177 Livingston St Bklyn NY 11201

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Name: KB White, Legal Action Center

Address: 39 Broadway NY NY 10006

I represent: Legal Action Center

Address: 39 Broadway NY NY 10006

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Civil and Human Rights

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Name: Robert Desir

Address: Legal Aid Society

I represent: Legal Aid Society

Address:

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I intend to appear and speak on Int. No. _____ Res. No. _____

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Date: 04/28/2026

(PLEASE PRINT)

Name: Ella Nalepka

Address: [redacted] Brooklyn, NY 11231

I represent:

Address:

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