MINUTES

REGULAR MEETING
TASK FORCE ON INVENTORYING EMPLOYMENT RESTRICTIONS
Friday, February 22, 2013 at 1:55 p.m.
James R. Thompson Center, Room 2-025, Chicago, Illinois
Stratton Building, Room 5001/2, Springfield, IL

Call to Order and Roll Call

Jeffrey Shuck, Deputy General Counsel for Personnel at Central Management Services (CMS) and Chairman of the Task Force, welcomed Task Force members and guests to the regular meeting of the Task Force on Inventorying Employment Restrictions. Mark Myrent, Associate Director of Research for the Illinois Criminal Justice Information Authority, acting as staff to the Task Force, called the roll.

Task Force members in attendance were:

Chairman Jeffrey Shuck
Mr. Chimaobi Enyia, CMS
Mr. Donald Evans, ISBE
Mr. Daryl Jones, IDOC
Mr. Hector Villagrana, IDHR
Ms. Elizabeth Sarmiento, DHS
Ms. Ellen Andres, ICCB

Approval of the minutes from the December 12, 2012 meeting

A quorum was not reached for this meeting. However, since there were no items up for a vote other than approval of the minutes from the January 17, 2013 meeting, the group agreed to proceed with the meeting as planned.

Chairman's Remarks

Chairman Shuck began by mentioning that one order of business was the rescheduling of the March meeting, which was originally set for March 11. A regular task force meeting later in March would be ideal in order to give the various work groups more time to meet in the interim. ICJIA staff will send out an email to all task force members seeking a consensus on a later March date.

He continued to preview the agenda. The State Hiring work group will present on their progress toward developing a model hiring process for state agencies. The chairs of the other workgroups will also present on their work to date. ICJIA staff will give a status update on their efforts to collate the large amount of information that has been gathered

regarding employment restrictions set in state statute, administrative code, and the state agency reports. And finally, the group will discuss any new and old business.

State hiring work group status report by Elizabeth Sarmiento, DHS

Ms. Sarmiento began her report by stating that the work group has covered many areas during the last two months, and she would be reporting on the group's findings and recommendations to date.

She discussed the issue of job postings. After review of the current job posting format, the group concluded that it should remain the same, that no disclaimer advising applicants that they may be subject to a background check was needed at this initial stage in the hiring process.

The work group considered the issue of removing question 9 (a, b and c) from the employment application (CMS 100) and the recommendation is that it should be removed. The group also is recommending that the applicant's email address be added to the form.

Ms. Sarmiento continued that the work group is further recommending changes to the Background Check Request form, to reflect language consistent with the EEOC Enforcement Guidance. This is a CMS form, and extensive changes are being contemplated for the second page of that document. Moving the questions regarding prior criminal history from the CMS 100 to the Background Check Request form should address state agencies' concerns about being able to ascertain applicants' eligibility for the position in an efficient and timely manner. She will present the draft changes at the next regular task force meeting.

Chairman Shuck asked why the work group decided against placing a disclaimer on the job posting. Mr. Enyia replied that they were concerned about a possible "chilling effect" on candidates. Ms. Sarmiento added that in order to give everyone the best opportunity to apply for the position, the best placement for a request to access and review criminal history information is at the end of the hiring process. The job posting and interview process would remain the same, but that the background check would be conducted on the selected candidate only.

Mr. Enyia continued that CMS counselors in the Assessment Centers could potentially serve to steer applicants toward positions for which they would qualify, in light of any criminal background. Currently, job applicants can receive counseling services to assist with determining if they are minimally qualified for particular positions. He acknowledged that this may increase counselors' workload.

Mr. Villagrana asked at what point a job counselor would ask someone about their prior criminal history. Mr. Enyia replied that they would not necessarily ask that question, but would bring it up if the applicant asks about qualifications needed for the job. That would include telling all candidates about any statutory bars that exist for the position.

Mr. Villagrana added that the current workload for job counselors precludes an actual interview with each client, but that the session is most likely to be a review of the person's CMS 100. There is rarely, if ever, a discussion of how a person's criminal history affects their candidacy for a particular position, just an admonition to make sure that any requested detail about the person's criminal history is attached to the CMS 100. Inevitably, the person would ask if their history would prevent them from getting the job, and the answer would typically be not necessarily; it depends on the job duties of the actual position. If question 9 is taken off the CMS 100 altogether, Mr. Villagrana was not sure when there would be an appropriate time for the criminal background question to be asked during job counseling session.

Mr. Jones stated that the person would ask the counselor about their eligibility, not that the counselor should be asking about criminal background. Language should be added to the CMS 100 that the person cannot be denied employment opportunity unless there is a federal or state (statutory) bar for that particular position. The workgroup did not want people to waste time applying for a position for which they would not be eligible. A disclaimer on the CMS application would inform applicants that they should see a CMS counselor if they have a question about criminal record restrictions of a job they wish to apply for. They would make an appointment to speak to a counselor about any job related matter.

Mr. Evans asked if the State Hiring work group was suggesting that non-Personnel Code agencies, such as his own State Board of Education, follow the same recommendations. Ms. Sarmiento replied that the work group is planning to tackle the topic of how non-Personnel Code agencies would be affected by the recommended changes. Mr. Evans asked whether the goal was to have alignment of all state hiring under one model process. Ms. Sarmiento replied that they are seeking to do exactly that, to standardize the hiring process with respect to the consideration of criminal background information.

Mr. Villagrana observed that an applicant that goes through CMS is seeking to be qualified for a particular job classification, such as "administrative assistant", which then allows them to be considered among a pool of similarly qualified candidates as the top candidate for a particular job opening in a hiring agency. The restrictions based on criminal history may differ by the specific job setting – depending on which agency, and where within the agency, the job opening resides. A CMS job counselor should not discourage anyone from becoming qualified for a particular job classification, since that is based on meeting minimum education, training and work experience set for that job classification. The criminal history only comes into play when a specific agency is looking to fill a specific position.

Mr. Jones commented that applicants should be told that very fact by CMS job counselors, that their criminal history does not preclude them from qualifying for a job classification, but that specific job openings may carry certain restrictions based on criminal history. Ms. Sarmiento asked whether that applies to all titles under the Personnel Code. Mr. Jones replied that if there is a restriction that applied to the job

classification, not just the specific job posting, then the applicant should be made aware of that by the CMS job counselor. Mr. Villagrana agreed that it was easy if it is an agency-specific position, but not if the job classification applies to multiple agencies.

Mr. Evans asked for clarification about the disclosure timing, why it is not preferable to know about disqualifications as early in the process as possible, so as not to waste everyone's time and effort. Ms. Sarmiento replied that the work group was encouraging all candidates to apply and go through the interview process, and demonstrate that they are the best candidate. It would be only after that point that any criminal background would become a factor. It is agreed that the background could still disqualify them as a condition of employment, even if they meet or exceed all the other requirements.

Mr. Enyia added that the work group would not recommend that CMS job counseling be mandatory, but that applicants should be made aware that such a service exists, and that they can ask if their background will affect their candidacy before they invest more time and effort. Those persons with criminal convictions would likely want to know where to focus their energy for the best chance of success in obtaining employment, rather than getting discouraged by applying for multitude of jobs for which they may not be qualified.

Mr. Villagrana asked whether it would not be better to put the onus on the hiring agency, which would be responsible for notifying the applicant that the particular position has a bar based on criminal history. Ms. Sarmiento asked Chairman Shuck for his opinion on the matter. He replied that it was his opinion that each agency would need to decide for itself whether it will conduct an individualized assessment for each candidate it is considering ahead of an interview, or an individualized assessment with the one candidate being offered the position. The latter option has the potential for additional delay if that final candidate is found to be disqualified based on the criminal background factor, and a replacement must be found.

Mr. Myrent asked how this would play out at agencies that hire from large classes of candidates. Would IDOC, for example, be able to delay the background check process until a final job offer is being made, after a significant training investment has already been incurred. Mr. Evans asked whether he was referring to timing of the notification to applicants that a background check will be conducted, or the timing of the actual check. Mr. Evans was in favor of letting applicants know about possible barriers to employment as soon as possible in the process. Further, this might result in fewer criminal histories needing to be reviewed by the hiring agency, since fewer disqualified candidates would needlessly apply.

Ms. Sarmiento stated that the next stage of the hiring process that the State Hiring work group will be discussing is the administrative review and appeal process. This is the individualized assessment process, where all the factors of the candidate's specific criminal history are reviewed based on the EEOC Guidance of job-relatedness, severity of the offense and time elapsed.

Ms. Phillips commented that the work group still needs to consider absolute bars to employment, based on federal or state statutes. Ms. Sarmiento asked at what point in the process those should be considered. Mr. Jones commented that it would extremely difficult to compile a list of positions that have such an absolute bar, and to keep that current. That is why it was suggested that the applicant see a CMS counselor for that information.

Mr. Villagrana disagreed, and stated that no matter how onerous, the hiring agency should have the responsibility of supplying potential candidates with information on any absolute bars based on criminal history in its positions. This information should be conveyed by the hiring agency at the time the candidates are contacted for the job interview. If the candidate chooses to withdraw their candidacy at that point, they will remain on the eligible list for potential hire by another agency that does not have that particular bar for its positions. If an agency makes a conditional offer of employment that cannot be accepted due to a criminal history bar, then the candidate is no longer on the eligible list, and would need to get back on the list. Ms. Sarmiento pointed out that it would be ideal to have that information be part of the letter sent to candidates inviting them to interview for the position.

Mr. Myrent asked if this scenario would mean that the discussion about the impact of a person's criminal history for a particular job classification would be taken out of the hands of the CMS job counselor. Mr. Villagrana stated that it would, since even mentioning such disqualifications in general terms may discourage some people with criminal backgrounds from applying. On the other hand, some may appreciate even a broad general statement so as not to waste their time or effort.

Mr. Myrent asked if the inventory being compiled by ICJIA staff would be of use in that more general sense for potential candidates, if a state agency (other than ICJIA) or an advocate agency was willing to keep it updated. Perhaps it takes the form of information on a website that would be easily accessible.

Mr. Villagrana asked if the Task Force is aiming to get standardization of these restrictions at the agency level. For example, if it is not a federal or state bar, then you can't consider it to be a bar at your agency simply by internal policy. Mr. Jones stated that it should be based on both federal or state law, and the nexus of the job and the individual criminal history. Mr. Myrent added that moving toward the EEOC Guidance would have the effect of moving away from standardized employment restrictions to more individualized assessments.

Ms. Phillips of ICJIA asked who fills the role of the CMS job counselor at non-Personnel Code agencies. Mr. Evans (ISBE) responded that there is no comparable person at his non-Personnel Code agency. The applicant is deemed qualified at the point of hire, not before. However, the applicant knows in advance that a background check will be conducted, since they sign the application form authorizing that background check at the beginning of the process. So, this is an agency-specific process.

Chairman Shuck pointed out that CMS operated differently, in that it is a central agency performing an intake function on behalf of many agencies under the Personnel Code. Non-Personnel Code agencies do not have a similarly positioned central agency performing similar intake functions. It should be easier at the agency level to keep track of the types of convictions that would disqualify applicants for positions within that agency. He agreed with Mr. Villagrana that it would be difficult for CMS job counselors to keep track of restrictions in all the agencies that go through CMS for intake functions, since they are focused on qualifying applicants for broad classifications of jobs, not specific jobs within specific agencies.

Mr. Jones commented that from the applicant's perspective, they just want to know if they should apply for the position or not. If the job classification is not barred due to criminal background across all agencies, then the applicant should still apply, and the CMS job counselors should encourage their applications.

Mr. Villagrana asked if the Task Force was already in agreement that the "box" (Question 9) should be removed from the CMS application. Ms. Sarmiento stated that it was one of the recommendations of the State Hiring workgroup. Once the work group's recommendations are finalized, they would be brought to the full Task Force for consideration. Mr. Evans stated that the question regarding criminal history on the ISBE application serves a useful purpose, and he did not understand the point of removing it, since whether it intimidates candidates or not, a background check will still be conducted for positions in his agency. He added that there was something to be said for giving applicants a chance to explain the circumstances of their criminal history, which is included as part of the question regarding criminal history.

Mr. Myrent responded that there is a lot of academic research and work done by the EEOC that indicates that if a job candidate can demonstrate their qualifications for a job before a background check is done, the less weight the potential employer will place on that criminal history, and the less likely that the applicant will be removed from consideration for the job.

Ms. Devitt Wesley of ICJIA added that the CMS 100 application could have the 'box' removed, and the question moved to the agency level, rather than including it at the more generic intake level performed by CMS on behalf of agencies. That would be a more parallel process to non-Personnel Code agencies, which ask the question at the agency level, because there is no comparable centralized "clearinghouse" agency for those agencies. Mr. Evans and Mr. Villagrana agreed with that distinction between a generalized CMS applicant intake function and the necessity of the individual hiring agency to conduct an individualized assessment for its own job openings.

Mr. Villagrana added that the question regarding criminal history should be moved to the time that the applicant is asked for an interview, to make the candidate aware that the information has legitimate relevance for the particular position, and that a check will be conducted to verify any self-disclosure made by the applicant. He stressed that if there is no bar to the position, either through statute, administrative code or agency

determination based on specific job duties, then the employer should not be asking about the applicant's criminal history, since it is not relevant to the job. Further, the applicant should not have to self-disclose such information in that scenario. He continued that currently in Illinois, agencies can make whatever policies they choose regarding establishing conditions for particular jobs, since there is no oversight agency to determine if that condition of employment is legitimate. The Department of Human Rights would like for such a state or federal oversight agency to exist, but for now, each agency must make its own policies.

Mr. Villagrana continued that he hoped the Task Force would make recommendations that agencies abide by the EEOC Guidance, in determining the manner in which they consider potential disqualifiers in an applicant's criminal history. An example would be placing time limits on the relevance of incidents, such as events from 20 years ago being considered irrelevant to a current application. Chairman Shuck added that the only time an agency should implement a "bright line" rule is if there is a mandatory statutory restriction. Otherwise, an individualized assessment needs to be done, weighing the requirements of the particular position against the particular circumstances of the candidate's criminal history.

Mr. Jones commented that one of the priorities of the Task Force should be to focus on that administrative review (of the criminal history) process. That review process could perhaps be standardized across agencies in terms of how to view a candidate's criminal history in light of EEOC Guidance. This might include requiring the agency providing an explanation of how the determination was reached to disqualify the final candidate based on their criminal history. Mr. Evans agreed that agencies need to define their policies so that they can demonstrate that they have been fair to all candidates, although setting required standards for these policies can create unintended, unforeseen consequences.

Ms. Sarmiento asked Mr. Evans to explain how the hiring process works at ISBE, which is a non-Personnel Code agency. He replied that they have the candidate sign a release form for a background check at the time of the interview, not at the time of their initial application. The review process tends to focus on the positive things the person is currently doing, rather than focusing solely on what they did in the past. Positions that entail going into the schools have certain statutory restrictions, such as those related to sex offenses, which create mandatory bars. For positions within ISBE, the hiring process consists of having the candidate answer the question regarding criminal history on the application, which is then checked against official records. ISBE does not go through the Illinois State Police for its background checks, but it relies on local records within the regions where the person has ever resided.

Mr. Jones added that one of the issues considered by the State Hiring work group was whether, and when, the person should be able to explain their prior criminal record and any rehabilitation efforts. He agreed that a more complete picture of a criminal past is obtained when self-disclosure facts are checked against official records, particularly if

the person has resided in another state. This is also a good indication of their honesty and willingness to provide a complete self-disclosure.

Mr. Belcore of the Shriver Center on Poverty Law asked if the Task Force has considered the issue of lifetime bars in light of the EEOC Guidance. It seems to him that the only way to ensure that all individuals have a chance for an individualized assessment is to eliminate these lifetime bars, so that the relevance of very old entries on a criminal history can be weighed against the current requirements of the job opening. That would also solve the question of determining the best approach for making candidates aware of such bars, since such blanket prohibitions would no longer be a factor. One of the biggest concerns for candidates with criminal records is that they are afforded chance to be called for an interview and have the opportunity to explain their individual circumstances.

Chairman Shuck replied that the Task Force final report will include a set of findings and recommendations to the General Assembly, including perhaps recommendations for changes to certain statutes that do not explicitly mention a time frame after which the employment restrictions should not apply. Mr. Myrent added that some of these facts may come out of the laborious work that ICJIA staff is doing in conducting an exhaustive review of Illinois statutes and administrative rules for existing employment restrictions. When the work is completed, the question of how many lifetime bans exist currently will be answered, both for state hiring and occupational licensure and certification.

Ms. Sarmiento concluded her report by stating that the next steps for the work group are to: finalize the administrative review and appeals process, including the identification of several parameters across which to standardize that process for all agencies; the issue of training agency hiring staff in the new process; the issue of multiple hires (classes of candidates) for certain agencies; contractual hires; and the non-Personnel Code agencies. State Hiring workgroup meetings have been tentatively set for March 7th and March 25th. Once the group has finalized its recommendations, it would like to meet with the six or seven agencies that have opposed removing the “box” (Question 9) from the CMS 100 application form and address their concerns. These agencies are largely those that do bulk hiring (bringing in classes of new hires who have successfully completed a training process).

Mr. Jones commented that DOC, one of these opposing agencies, is concerned that they be able to conduct background checks prior to entry of applicants into the training classes. Currently, Question 9 on the CMS 100 serves that purpose for them.

Ms. Sarmiento added that at the work group meeting held earlier in the day, the issue of providing the candidate with a copy of their background check was discussed. Mr. Villagrana asked whether that was allowed under current state law. Mr. Jones stated that he would want this work group recommendation to be vetted by attorneys who specialize in this area of the law. Ms. Devitt Westley suggested that this might be a role for the Illinois State Police, since there may be requirements in place for applicants to be provided with copies of any records obtained for employment purposes. Chairman

Shuck pointed out that would be crucial for any name-based records checks, to verify that the correct criminal history records were obtained for the candidate under consideration. In addition, the candidate should be able to challenge any erroneous information posted to their record.

Ms. Kay of IDFPR asked at what point in the process a hiring agency would provide the candidate with a copy of their criminal history record. Ms. Sarmiento replied that it most likely be during the proposed new appeal process, although candidates should be provided a copy even if they do not appeal the hiring decision. Mr. Villagrana commented that if a person gets turned down for a job and suspects it is because of race, age, or arrest record (among other factors listed in state and federal civil rights acts), they should file a complaint with the Department of Human Rights. Ms. Kay added that the EEOC Guidance recommends that the candidate be afforded the opportunity to come back after an adverse decision and have that decision reviewed, and to inform everyone that they have the right to such an appeal, on a requested basis. Ms. Sarmiento replied that language to that effect is proposed to be added to a new Background Request form.

Status update on collation of employment restrictions materials by ICJIA staff

Chairman Shuck called on Ms. Devitt Westley and Ms. Phillips of ICJIA to provide a status update on the work being done to collate all the various material on employment restrictions. Ms. Devitt Westley began by explaining that the majority of the work since the last meeting was focused on the spreadsheet of Illinois statutes related to collateral consequences of a felony conviction initially compiled by American Bar Association (ABA) staff in 2009. She discussed the handout summarizing that work, which will be posted on the IERTF website.

She stated that the first task was to identify which of the 632 statutes on that spreadsheet was related directly to employment restrictions. The initial review reduced that number down to 344 statutes related to the work of the Task Force.

Ms. Devitt Westley continued that the statutes related to employment were further collated into categories called for by the Inventorying Employment Restrictions Task Force Act (IERTF Act). These include statutory restrictions related to: the state hiring process; occupational licensing, certification and regulation by state agencies; education and training required for state positions; non-occupational licensure that may be conditions of employment, such as the requirement that a candidate be qualified for a Firearms Owner ID (FOID) card in order to hold certain positions; military and law enforcement hiring processes; appointed officials within state agencies as a category of employment distinct from staff positions; and a few other miscellaneous categories.

She referred to the handout, which is a table that enumerates these categories, along with information on which chapters within the Illinois Compiled Statutes the restriction statutes fall. The majority (70 percent) of statutes in the ABA spreadsheet relate to occupational licensing, certification and regulation. The next step in the process was to

begin to extract common information from the 21 statutes identified as relating to the state hiring process, in order to convey that information as quickly as possible to the State Hiring work group.

Ms. Phillips continued that staff intends to add information about any corresponding administrative codes to the spreadsheet, as well as information from the agency reports, to obtain the most comprehensive view possible of Illinois employment restrictions. These will initially be organized by state agency.

She presented a brief summary of the statutes related to state hiring, to give Task Force members an idea of the types of restrictions contained in those statutes, organized by the various categories of information required by the IERTF Act. Under the category of general provisions of the statutes, they deal mainly with establishing criteria for eligibility of candidates based on merit and fitness, the requirements for background checks, and criminal history restrictions on candidates being entered on eligibility lists. Some statutes target specific job titles, such as nurses' assistants, while others target employees of specific agencies, such as a penal institution, treatment or detention center. Some statutes target private employers regulated by state agencies, such as the operator or supervisor of an assisted living facility.

She continued that out of the 21 statutes identified as being related to state hiring, seven strictly address current employees, 10 strictly address applicants, one addresses student applicants, and two address directors, supervisors or agents of a facility regulated by a state agency. Thirteen of the statutes enumerate specific disqualifying offenses, which staff will later collate. The Legislative Research Unit (LRU) documents identify 14 statutes with mandatory restrictions. These will be reviewed further to determine whether they set time limits on those restrictions. Most of the statutes specify that a conviction is the basis for the restriction, although a few focus on misconduct on the job for which the employee can be dismissed, regardless of whether they are arrested or convicted for that misconduct. Three statutes listed a source for the background checks to be conducted, including authorization to use FBI or other federal sources in addition to the State Police. Only one statute addressed waivers or relief provisions to employment restrictions imposed.

Ms. Phillips concluded her report by saying that some of the information required by the IERTF Act could not be obtained from the state statutory language alone, and that it is hoped that the state agency reports will fill in some of the information gaps. Staff recognizes that the statutes related to licensing are the most numerous and that it will take a concerted effort to collate all that information in a timely manner for use by the Task Force.

Mr. Grippando suggested that staff add a category of regulated local entities, such as park districts and school districts. Ms. Devitt Westley replied that these will be added to the extent that there is an identified state agency that does that regulation. The original intent of the Task Force was to use the state agency reports as its primary source of information, but since many agencies sent in their reports well after the deadlines

imposed by the IERTF Act, the Task Force agreed to make use of other reputable employment restriction information, including the ABA spreadsheet and LRU documents. However, the primary focus for the Task Force remains hiring and licensing processes within the 72 state agencies named in the IERTF Act.

Mr. Myrent added that staff has been engaged in much discussion about the best way to organize all this information into the final report for the General Assembly and the Governor. He suggested that a Final Report work group should be formed soon, to guide the process. In the meantime, staff would be working to get pertinent core information about the actual employment restrictions to the State Hiring and Licensing workgroups to inform their deliberations.

Mr. Jones observed that the interpretation of what pertains to state hiring restrictions might be broader now than when the state agencies completed their reports. They most likely thought of the restrictions that would preclude a person from getting hired, rather than also including those statutes that address conditions for keeping the job once obtained (such as not engaging in criminal activity while acting in their official capacity). Ms. Devitt Westley replied that staff would be creating various sub-categories of statutes for Task Force consideration, such as differentiating between new hires vs. existing employees. This extra step may not have been necessary if the collation of restriction information had remained solely focused on the state agency submissions.

Ms. Devitt Westley added that staff will also have to work backwards from the state agency reports to make sure that agencies that stated they do not have restrictions get represented in the final report. These agency will be absent from the ABA spreadsheet and LRU documents. For example, the Attorney General's Office report stated that the agency has no employment restrictions. Based on the statutes in Chapter 15 of the Illinois Compiled Statutes, they do not have a statute addressing employment eligibility within the agency, and thus no entry in the ABA spreadsheet. Therefore, the ABA spreadsheet and the Attorney General's Office report appear to be in agreement as to the absence of *statutory* employment restrictions. The next step will be to look for any applicable administrative codes, and any statutes that apply to "all state agencies".

Workgroup reports

Chairman Shuck called on each of the other work group chairs to report on progress since the January 17th regular Task Force meeting.

Licensing Work Group

While not an official work group member due to not being named to the Task Force, Ms. Tiffany Kay of the Department of Financial and Professional Regulation (IDFPR) reported that she and Mr. Lagattuta of IDFPR have continued to work on several issues pertaining to licensing since the last meeting. She referred to a handout that outlined some of their proposals. Their first goal was to identify a model rule that could be applied across licensing agencies in regard to Certificates of Relief, Good Conduct and

Rehabilitation. The processes used by the Department of Public Health, the Health Care Worker Background Check Act, and the Child Care Act were identified as promising models.

Ms. Kay continued that their second goal was to identify any IDFPR rules that require agencies consider an applicant's arrests, not just convictions. The Private Detectives Act is the one instance they found. They are looking into determining why this requirement is necessary, and perhaps recommend a legislative change for its elimination if no compelling reason is found.

She continued describing the Public Health Certified Nursing Background Check Act. Part A of the Act requires that a background check be done. If it comes back with a disqualifying conviction, the person may not be certified unless a waiver is approved. Part B enumerates the disqualifying convictions eligible for a waiver. Part C enumerates the offense that are always disqualifying, except if the person goes through an appeal process. Part D addresses the waiver request process, including the completion of a waiver application, the providing of a written explanation of the circumstances of the offense, how years have elapsed, and other mitigating factors. Employment and character references can also be provided. Finally, there is a requirement that the Department of Public Health must notify the potential employer that the person is requesting a waiver.

Ms. Kay continued to describe Part E of the Act, which addresses how the Department is to review the waiver request application. It requires that a fingerprint-based background check to done, and that the waiver applicant show evidence that all court ordered obligations have been met, including paying any fines or fees. If the offense was related to drugs or alcohol, the applicant must successfully complete a treatment program. Part E of the Act also enumerates more mitigating factors to consider when granting a waiver. An example of a reason for granting the waiver is that the person has a single conviction for a disqualifying misdemeanor offense.

She continued that the Act also contains provisions for an appeal process for individuals who have been denied a waiver because of a conviction for a disqualifying offense. That process includes the person submitting a letter appealing the denial of the waiver, provision of a copy of the police report that was generated at the time if the arrest, along with a transcript of the trial or court proceedings. The Department of Public Health also has the ability to revoke the waiver if the person commits another crime similar to the one for which a waiver was obtained. She also provided written information on the Child Care Act as a model rule for waivers and appeals in the licensure process. This handout will be posted on the IERTF website.

Ms. Kay also described progress made toward the second goal of identifying situations where the license restriction is based on an arrest, not just conviction. The one identified so far is the Private Detective Act. She was not certain of the next meeting date for the Licensing work group, but she will send out an email once a date has been

set. She wanted to thank Mr. Belcore and Mr. Lowery of the Safer Foundation for their contributions of information regarding the Rehabilitation Act.

Mr. Jones asked whether the Licensing work group was proposing that all licensing agencies follow a similar process regarding their restrictions. Ms. Kay replied that it was at least a starting point to see where the different licensing processes would be similar or diverge, based on the nature of the occupation and the setting in which the person practices. On the other hand, so few licensing acts even mention a waiver process, that it might be a useful concept to introduce, so as to increase opportunities for employment.

Education Workgroup

Mr. Evans, chair of the Education workgroup, reported that he is working to get more information from the Board of Higher Education and the Community College Board. A finalizing meeting will be scheduled once that information is received.

Human Rights Workgroup

Mr. Villagrana, chair of the workgroup, reported that the group had not met since the last meeting in January, due to lack of pending business. The group is on stand-by if there are any issues that they need to consider stemming from any of the other work groups.

Old business/new business

Mr. Myrent reported that there were two items of new business. The first was a report from Mr. Belcore regarding pending legislation that may be relevant to the Task Force. The second was the formation of a Final Report work group.

Mr. Belcore began by stating that some of the work done by the Poverty Law Center is lobbying legislators regarding the issue of employment and other opportunities for persons with criminal backgrounds. They continue to educate the new legislators about passing responsible legislation and understanding the plight of this segment of their constituency. They have raised awareness about the Task Force and other legislation that they have been promoting for several years. They are currently working on two bills – HB2531 which seeks to increase the number of non-violent convictions eligible for sealing, and HB1150, which seeks to ‘ban the box” on all public and private employment applications and move inquiries about criminal history information to much later in the hiring process. Even if the Task Force makes that recommendation in its final report, it will only have the effect of law if legislation to that effect is passed.

Mr. Myrent proceeded to discuss the other item of new business, that of forming a Final Report work group. That work group is needed to help organize the various recommendations coming out of the other work groups, as well as provide direction on

the level of detail that the actual inventory of employment restrictions should include in the final report.

Chairman Shuck agreed that it was time to form that work group, but because there was not a quorum for the meeting, he would suggest that an email to all Task Force members be sent the following week, soliciting volunteers for the Chair this workgroup, and other participants.

Mr. Myrent stated that last item for consideration is moving the currently set March 11 meeting date to a date later in March, to allow the workgroups more time to meet. There may be some conflicts for Task Force members in the next few months due to the legislature being in session, but the members currently present can take this opportunity to express their preference. Chairman Shuck expressed his concern that any meetings in March or April might not also reach a quorum due to the legislative sessions, and his preference would be to still hold two meetings between now and the end of April, rather than trying to find one intermediate date.

Mr. Villagrana mentioned that the week of March 25th was a Spring Break week for the Legislature, and that Monday March 18th was also open, and that his preference would be March 18th. Ms. Devitt Westley commented that a consideration might also the availability of Room 2-025 at the JRTC in Chicago, since that was the preferred room for holding Task Force meetings. As it stands, the April 22nd meeting will be held in Room 9-035, since Room 2-025 was already booked on that date.

It was agreed by the Task Force members present at the meeting that a final decision on the next meeting date would be made once the other members were given an opportunity to respond to the email. Ms. Phillips would send out an email notifying the Task Force of the next scheduled meeting date, which would be posted on the website.

Adjournment

With no other business, the Chairman adjourned the meeting.