

## Schmidt, Melissa

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**From:** McWilliams, Emily  
**Sent:** Tuesday, October 26, 2010 10:59 AM  
**To:** Schmidt, Melissa; Schmidt, Dan  
**Subject:** FW: Discrimination & Ex-offenders

**Attachments:** DWDinfoonbiascomplaints.doc



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-----Original Message-----

**From:** Bill Lueders [mailto:blueders@isthmus.com]  
**Sent:** Tuesday, October 26, 2010 9:48 AM  
**To:** Rep.Roys  
**Subject:** FW: Discrimination & Ex-offenders

In request to your request, I made some inquiries of the state Department of Workforce Development. The complete email chain is below, and I have reconstituted the relevant information in an attachment.

I'm sorry this was not in time for the materials list, but I trust we can still distribute it to members.

-----Original Message-----

**From:** Dipko, John A - DWD [mailto:John.Dipko@dwd.wisconsin.gov]  
**Sent:** Monday, October 25, 2010 9:50 AM  
**To:** Lueders, Bill  
**Subject:** RE: Discrimination & Ex-offenders

1. July 1, 2009 - June 30, 2010
2. Of the 3,238 employment discrimination complaints received by the Equal Rights Division in fiscal 2010, 316 complaints alleged discrimination based on criminal conviction.

John Dipko  
Communications Director  
Wisconsin Department of Workforce Development  
608-266-6753

Check out [www.JobCenterofWisconsin.com](http://www.JobCenterofWisconsin.com)

-----Original Message-----

**From:** Bill Lueders [mailto:blueders@isthmus.com]  
**Sent:** Friday, October 22, 2010 12:45 PM  
**To:** Dipko, John A - DWD  
**Subject:** RE: Discrimination & Ex-offenders

Two questions:

1. What period of time is covered by fiscal year 2010?
2. Is it possible to say how this volume of complaints relates to other categories? Or even to complete a sentence like, "Of the more than XXXXX discrimination complaints the Equal Rights Division received in fiscal 2010, 316 complaints alleged discrimination based on criminal conviction"?

-----Original Message-----

From: Dipko, John A - DWD [mailto:John.Dipko@dwd.wisconsin.gov]  
Sent: Friday, October 22, 2010 12:29 PM  
To: Lueders, Bill  
Cc: Jones, Richard - DWD  
Subject: RE: Discrimination & Ex-offenders

Hi Bill: Our Equal Rights Division received 316 complaints of discrimination based on criminal conviction in fiscal year 2010. During the same year, resolution activity included 67 findings of probable cause and another 42 settlements. Please note that the resolutions involve complaints filed during any point in time and are not a pure subset of the complaints filed that year. Additionally, the Division does not specifically track whether CCAP references are included in complaints.

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-----Original Message-----

From: Bill Lueders [mailto:blueders@isthmus.com]  
Sent: Wednesday, October 06, 2010 5:17 PM  
To: Dipko, John A - DWD  
Subject: RE: Discrimination & Ex-offenders

I passed this on to the committee chair, Rep. Kelda Roys, who responded in part:

I am not surprised that the DWD memo lays out the penalties and process for employment discrimination - I don't recall hearing someone assert that there are no penalties at our first meeting, but rather that penalties are rarely enforced for such discrimination arising from CCAP.

My perception is not that DWD fails to enforce complaints or go through their stated process upon receiving complaints (I imagine they do), but that the process is inadequate for the type of discrimination made easier by CCAP. Many individuals who believe they have been illegally discriminated against do not see justice in their cases - either because the burden of proof is too high or because the process is too long/arduous/expensive to pursue for someone without employment, or perhaps some other reasons. This is a conundrum worthy of exploration.

The committee ought to know how many inquiries were made and complaints were filed alleging discrimination on the basis of conviction (and if there is a way to track those regarding CCAP specifically), as well as the disposition of those cases. That might give us some clues about where the problems lie.

If you would make those inquiries, I would be happy to share them with the committee.

Following up on Rep. Roys' suggestion, I would like to ask for information from DWD on the volume and resolution of complaints alleging discrimination on the basis of criminal record. If I can clarify or refine this question, please let me know.

Bill Lueders, 251-5627.

-----Original Message-----

From: Dipko, John A - DWD [mailto:John.Dipko@dwd.wisconsin.gov]  
Sent: Tuesday, September 21, 2010 5:45 PM  
To: Lueders, Bill  
Cc: Jones, Richard - DWD  
Subject: FW: Discrimination & Ex-offenders

Hi Bill,

The Equal Rights Division of the Department of Workforce Development enforces the Wisconsin Fair Employment Law which prohibits discrimination based on conviction record, in addition to other protections. The conviction record portion of the law prohibits discrimination against an employee or applicant for employment, unless the conviction is substantially related to the job. Here is link to the Equal Rights Division fact sheet on arrest and conviction under the law:

<[http://dwd.wisconsin.gov/er/discrimination\\_civil\\_rights/publication\\_erd\\_7609\\_p.htm](http://dwd.wisconsin.gov/er/discrimination_civil_rights/publication_erd_7609_p.htm)>  
[http://dwd.wisconsin.gov/er/discrimination\\_civil\\_rights/publication\\_erd\\_7609\\_p.htm](http://dwd.wisconsin.gov/er/discrimination_civil_rights/publication_erd_7609_p.htm)

DWD's Equal Rights Division enforces the conviction record portion of the law the same as all other provisions. Here is a link to an on-line discrimination complaint form:

<<http://dwd.wisconsin.gov/discriminationcomplaint/>>  
<http://dwd.wisconsin.gov/discriminationcomplaint/>

Here is another link to a complaint guide that explains the process used for investigation and hearing of a complaint:

<[http://dwd.wisconsin.gov/er/discrimination\\_civil\\_rights/publication\\_erd\\_6160\\_pweb.htm](http://dwd.wisconsin.gov/er/discrimination_civil_rights/publication_erd_6160_pweb.htm)>  
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The Wisconsin Circuit Court Access System / Consolidated Court Automation Program (CCAP) was updated several years ago to include information about the Wisconsin Fair Employment Law's conviction record protections. The following information currently appears on their website:

Notice to employers: It may be a violation of state law to discriminate against a job applicant because of an arrest or conviction record. Generally speaking, an employer may refuse to hire an applicant on the basis of a conviction only if the circumstances of the conviction substantially relate to the particular job. For more information, see Wisconsin statute 111.335 and Department of Workforce Development's Arrest and Conviction Records under the Law publication:

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In contacting us, you noted comments of another member of the Legislative Council Committee. According to you, this member stated that the law is not enforced and that there are no penalties. This is not correct. DWD's Equal Rights Division enforces the law, and the law stipulates penalties, depending on the seriousness of the violation. That said, an individual must file a complaint and having filed a complaint, has the burden of proving discrimination. Many people say they are denied a job because of the information on CCAP, but it is difficult to prove.

I hope this response is helpful. Please let me know if you need any further information.

John Dipko  
Communications Director  
Wisconsin Department of Workforce Development  
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# Information on complaints alleging bias on the basis of criminal history

*The following is taken directly from responses provided by John Dipko, spokesperson for the state Department of Workforce Development.*

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For fiscal 2010 (July 1, 2009 - June 30, 2010), the Division of Equal Rights received 3,238 employment discrimination complaints. Of these, 316 complaints alleged discrimination based on criminal conviction. During the same year, resolution activity for this category of complaints included 67 findings of probable cause and another 42 settlements. Please note that the resolutions involve complaints filed during any point in time and are not a pure subset of the complaints filed that year. Additionally, the Division does not specifically track whether CCAP references are included in complaints.

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