



## **Employers Beware – The Arrest May Be a Real Problem!**

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The EEOC recently released new guidance to employers explaining the parameters of using criminal records in employment decisions without violating federal law.

An employer's policy of not hiring anyone with an arrest record disparately impacts African-American and Hispanic men according to the EEOC.

Employers can rebut disparate impact claims by showing that the policy in question is both "job related and consistent with business necessity." Criminal conduct exclusions will generally meet these standards if the employer:

- Validates their screening process under the Uniform Guidelines on Employee Selection Procedures; or

- Takes into account the nature of the crime, time elapsed, and nature of the job, and then provides a personal assessment for excluded individuals.

Policies and procedures used by employers should be based on the best practices suggested in the guidance.

For further guidance, please contact Dressman Benzinger LaVelle psc.

The full text of the guidance can be read at:

[http://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm#IV](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm#IV)