

**United States Senate**  
WASHINGTON, DC 20510-0908

August 17, 2022

The Honorable Isabella Casillas Guzman  
Administrator  
United States Small Business Administration  
409 3rd Street, Southwest  
Washington, D.C. 20416

Dear Administrator Guzman:

Last month, the Senate Committee on Small Business and Entrepreneurship held a hearing entitled, “A New Start: Opportunities and Barriers to Entrepreneurship for Returning Citizens and Justice Impacted Individuals.” Through this hearing, members of the Committee heard about the numerous barriers, both in the private sector and government, to capital access, mentorship, and training that exist for justice impacted entrepreneurs. This hearing helped build on the actions we took during the implementation of the Paycheck Protection Program to ensure business owners with a criminal record had access to relief, including through the introduction of the *Paycheck Protection Program Second Chance Act*. We write today to ask that you: 1) Open up the 7(a) and 504 lending programs to those with a criminal record as you did with the Community Advantage program, 2) Evaluate the impact of “good character” criterion for participation in SBA lending and contracting programs on justice impacted entrepreneurs, and 3) Direct the Office of Entrepreneurial Development to create specific programming for justice impacted entrepreneurs to be available in each state.

The United States prison population has seen an increase of over 450% over the last fifty years, leading to 2 million individuals currently incarcerated in our federal and local prisons.<sup>1</sup> To date, between 70 and 100 million Americans, or as many as one in three Americans, have had involvement with the justice system with people of color overrepresented in these statistics.<sup>2</sup> Every year, 600,000 individuals return to their communities from prison; two thirds of them are rearrested within three years and roughly half are re-incarcerated.<sup>3</sup> One of the largest obstacles to successful reentry for many justice impacted individuals is finding a stable occupation once released; the unemployment rate among previously incarcerated individuals hovers around 27%, nine times that of the national average.<sup>4</sup> <sup>5</sup> There exists a general consensus among researchers that attaining an occupation upon reentry significantly reduces rates of recidivism, but this

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<sup>1</sup> [“Criminal Justice Facts.” \*The Sentencing Project\*](#)

<sup>2</sup> [“Americans with Criminal Records.” \*The Sentencing Project\*](#)

<sup>3</sup> [“Incarceration & Reentry.” \*Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services.\*](#)

<sup>4</sup> [Couloute, Lucius, and Daniel Kopf. “Out of Prison & Out of Work: Unemployment among formerly incarcerated people.” \*Prison Policy Initiative, Jul. 2018.\*](#)

<sup>5</sup> [“Labor Force Statistics from the Current Population Survey.” U.S. Bureau of Labor Statistics, 3 Aug. 2022.](#)

number fluctuates considerably depending on the quality of the job and the hourly wage that an individual earns.<sup>6</sup>

Entrepreneurship can serve as a means of stable employment and in many cases is a necessity for many justice impacted individuals as they may be denied hundreds of times by the traditional labor market. Numerous justice impacted entrepreneurs can speak to this phenomenon, including Mr. Coss Marte, a justice impacted entrepreneur who testified before the Senate Small Business Committee. Dr. Damon Phillips and Dr. Kylie Hwang found in their research that 18.61% of returning citizens started their own businesses, compared to 11.48% of those without a criminal record; as many as 1.7 employees in the American workforce are affiliated with businesses owned by someone with a criminal record. Additionally, their research found that returning citizen entrepreneurs earned 11.4% more per hour compared to returning citizens in traditional employment, and that entrepreneurship reduces the likelihood of recidivism by 5.3%. That's a 32.5% lower recidivism rate than the rate for returning citizens in traditional employment.<sup>7</sup>

Given the critical importance of entrepreneurship for justice impacted individuals and returning citizens, it is important that we ensure they have access to SBA programs. Ensuring access to these programs aligns with the SBA's mission to "aid, counsel, and assist" small businesses, and aligns with the agency's long-standing focus on reaching underserved entrepreneurs. We applaud the SBA, as part of President Biden's Second Chance Month Proclamation on March 31, 2022, for opening up the Community Advantage pilot program to justice impacted individuals by removing restrictions such as questions regarding criminal history that can keep individuals with a criminal background from accessing the program. However, the Community Advantage Program is just one of the many lending programs the SBA has to offer. We urge the SBA to open their traditional 7(a) and 504 loan programs to this group of underserved small business owners, by removing current restrictions, and working with lenders to make clear that questions regarding a small business owner's criminal history are not required.

Additionally, we are concerned that the "good character" criterion for SBA lending and contracting programs is open ended, vague, and could have a disproportionately negative impact on justice impacted small business owners. "Good character" criterion is present in the standard operating procedures for the SBA lending programs, and is also considered when assessing eligibility for the contracting programs, such as the 8(a) and Veteran Owned Small Business programs. There is no statute requiring the SBA to consider "good character" of a business to participate in an SBA program. This allows the SBA to independently revise how it is applying the criterion, and what constitutes it. Traditionally, "good character" criterion is intended to be a means of determining creditworthiness, however, there are no empirical studies that actually link criminal records with lower creditworthiness.<sup>8</sup> Rather, this type of criterion could exclude those with a criminal background from accessing SBA programs, and could persist even if other

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<sup>6</sup> [Visher, Christy, et al. "Employment after Prison: A Longitudinal Study of Releases in Three States." \*Urban Institute, Justice Policy Center, 2008\*](#)

<sup>7</sup> [Hwang, K.J. and D.J. Phillips. "Entrepreneurship as a Response to Labor Market Discrimination for Formerly Incarcerated People." \*Conditionally Accepted at American Journal of Sociology, Mar. 2020. ResearchGate\*](#)

<sup>8</sup> ["Federal policies block loans to small business owners with a record." \*Collateral Consequences Resource Center, 3 Aug. 2021.\*; "Video: Governmental Barriers to Small Business Financing for People with a Criminal History." \*Collateral Consequences Resource Center, 23 Nov. 2021\*](#)

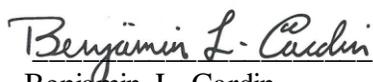
restrictions are removed. We would welcome a review of how the “good character” criterion is being applied across lending and contracting programs, the determinants taken into account across programs, and how many justice impacted entrepreneurs have been excluded from SBA programs as a result.

Finally, given the unique experience of those who are justice impacted, we request that the SBA create streamlined entrepreneurial development programming for justice impacted and returning citizen entrepreneurs to be available in each state. This should be done in consultation with the SBA resource partners and other organizations currently providing high quality entrepreneurial development programming for justice impacted individuals, such as the programs being administered by individual Small Business Development Centers and Women’s Business Centers as well as various private organizations that have created prison entrepreneurship programs.<sup>9 10</sup> As was discussed in the hearing, gaining business know-how, building entrepreneurship skills, and having access to mentorship play a great role in ensuring entrepreneurs are able to successfully start and operate their businesses. It is the goal of the SBA’s Office of Entrepreneurial Development to provide entrepreneurs with the tools needed to do just that, including tools for justice impacted individuals.

Again, we applaud the SBA’s commitment to underserved entrepreneurs. We also commend the agency for taking the first step in opening up the SBA lending programs to justice impacted entrepreneurs by removing restrictions in the Community Advantage program. We hope to work together and build on this by increasing access to other SBA programs for those who are justice impacted.

Thank you for your time and consideration.

Sincerely,

  
Benjamin L. Cardin  
United States Senator

  
Cory A. Booker  
United States Senator

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<sup>9</sup> [“ASPIRE MO Cultivates Hope for Missouri Women.” Missouri Department of Corrections.](#)

<sup>10</sup> [Nijhuis, Austin, and Peter Eberhardt. “Innovative Prison Entrepreneurship Program is Creating Wealth & Reducing Recidivism Among Formerly Incarcerated.” ICIC, 2022.](#)