



One Strike and You're Out

How We Can Eliminate Barriers to Economic Security and Mobility
for People with Criminal Records

By Rebecca Vallas and Sharon Dietrich December 2014

Center for American Progress



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Introduction and summary

Between 70 million and 100 million Americans—or as many as one in three—have a criminal record.¹ Many have only minor offenses, such as misdemeanors and nonserious infractions; others have only arrests without conviction. Nonetheless, because of the rise of technology and the ease of accessing data via the Internet—in conjunction with federal and state policy decisions—having even a minor criminal history now carries lifelong barriers that can block successful re-entry and participation in society. This has broad implications—not only for the millions of individuals who are prevented from moving on with their lives and becoming productive citizens but also for their families, communities, and the national economy.

Today, a criminal record serves as both a direct cause and consequence of poverty. It is a cause because having a criminal record can present obstacles to employment, housing, public assistance, education, family reunification, and more; convictions can result in monetary debts as well. It is a consequence due to the growing criminalization of poverty and homelessness. One recent study finds that our nation's poverty rate would have dropped by 20 percent between 1980 and 2004 if not for mass incarceration and the subsequent criminal records that haunt people for years after they have paid their debt to society.² Failure to address this link as part of a larger anti-poverty agenda risks missing a major piece of the puzzle.

It is important to note that communities of color—and particularly men of color—are disproportionately affected, and high-poverty, disadvantaged communities generate a disproportionate share of Americans behind bars. As Michelle Alexander argues in her book *The New Jim Crow*, mass incarceration and its direct and collateral consequences have effectively replaced intentional racism as a form of 21st century structural racism.³ Indeed, research shows that mass incarceration and its effects have been significant drivers of racial inequality in the United States, particularly during the past three to four decades.⁴

Moreover, the challenges associated with having a criminal record come at great cost to the U.S. economy. Estimates put the cost of employment losses among people with criminal records at as much as \$65 billion per year in terms of gross domestic product.⁵ That's in addition to our nation's skyrocketing expenditures for mass incarceration, which today total more than \$80 billion annually.⁶

The lifelong consequences of having a criminal record—and the stigma that accompanies one—stand in stark contrast to research on “redemption” that documents that once an individual with a prior nonviolent conviction has stayed crime free for three to four years, that person's risk of recidivism is no different from the risk of arrest for the general population.⁷ Put differently, people are treated as criminals long after they pose any significant risk of committing further crimes—making it difficult for many to move on with their lives and achieve basic economic security, let alone have a shot at upward mobility.

The United States must therefore craft policies to ensure that Americans with criminal records have a fair shot at making a decent living, providing for their families, and joining the middle class. This will benefit not only the tens of millions of individuals who face closed doors due to a criminal record but also their families, their communities, and the economy as a whole.

President Barack Obama's administration has been a leader on this important issue. For example, the Bureau of Justice Administration's Justice Reinvestment Initiative has assisted states and cities across the country in reducing correctional spending and reinvesting the savings in strategies to support re-entry and reduce recidivism.⁸ The Federal Interagency Reentry Council, established in 2011 by Attorney General Eric Holder, has brought 20 federal agencies together to coordinate and advance effective re-entry policies.⁹ And the president's My Brother's Keeper initiative has charged communities across the country with implementing strategies to close opportunity gaps for boys and young men of color and to ensure that “all young people ... can reach their full potential, regardless of who are they are, where they come from, or the circumstances into which they are born.”¹⁰ Additionally, states and cities across the country have enacted policies to alleviate the barriers associated with having a criminal history.

While these are positive steps, further action is needed at all levels of government. This report offers a road map for the administration and federal agencies, Congress, states and localities, employers, and colleges and universities to ensure that a criminal record no longer presents an intractable barrier to economic security and mobility.

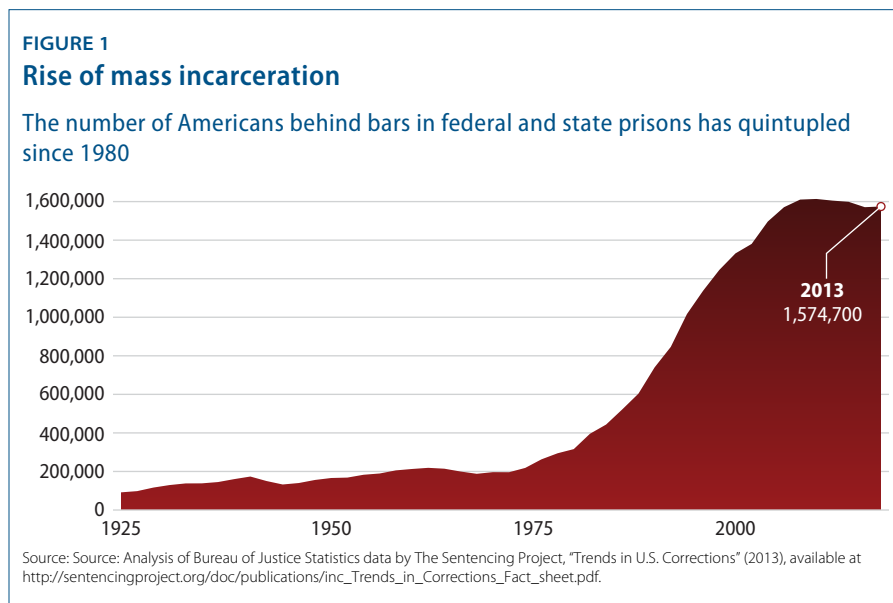
Bipartisan momentum for criminal justice reform is growing, due in part to the enormous costs of mass incarceration, as well as an increased focus on evidence-based approaches to public safety. Policymakers and opinion leaders of all political stripes are calling for sentencing and prison reform, as well as policies that give people a second chance. Now is the time to find common ground and enact meaningful solutions to ensure that a criminal record does not consign an individual to a life of poverty.

Background

The past four decades have seen an explosion in our nation's prison population. Today, the United States incarcerates more of its citizens than any other country in the world.¹¹

The rise of mass incarceration and hyper-criminalization

Currently, more than 1.5 million Americans are incarcerated in state and federal prisons, a figure that has quintupled since 1980.¹² Adding in jails, the number of Americans who are behind bars rises to 2.2 million. The U.S. incarceration rate is more than six times the Organisation for Economic Co-Operation and Development average.¹³



In addition to leading the world in incarceration, the United States is also the global leader in arrests.¹⁴ Between 25 percent and 40 percent of American adults have been arrested by age 23.¹⁵ Men—and particularly men of color—are at particular risk: 49 percent of black men and 44 percent of Hispanic men have been arrested by age 23.¹⁶ And the Federal Bureau of Investigation, or FBI, estimates that U.S. law enforcement has made more than one-quarter of a billion arrests in the past 20 years.¹⁷ Many arrests never lead to conviction; for example, just half—and in some years, fewer than half—of adult misdemeanor arrests made in New York City from 2009 to 2013 resulted in conviction.¹⁸

Thus, a more apt phrase might be hyper-criminalization—given that many individuals who come into contact with the criminal justice system end up with criminal records without doing any time in prison, either through arrest without conviction or sentences for probation or other forms of community supervision.

Changes in sentencing laws and policy, not crime rates, drove this rise in mass incarceration and hyper-criminalization. Federal policies such as the Sentencing Reform Act of 1984 and state policies such as three-strikes laws were significant drivers. Sentencing policies with their roots in the War on Drugs—such as harsh, mandatory minimum sentences—also played a major role.¹⁹

The impact on communities of color is particularly staggering. People of color make up more than 60 percent of the population behind bars.²⁰ Black men are incarcerated at a rate six times higher than that of white men, and Latino men at a rate 2.5 times higher than that of white men.²¹ A black man in his 20s or 30s is more likely to be in jail or prison than employed; on any given day, 10 percent of black men in their 30s are incarcerated.²²

Lesbian, gay, bisexual, and transgender, or LGBT, individuals and people living with HIV are also disproportionately affected by mass incarceration and hyper-criminalization. According to recent survey data, 5 percent report having been incarcerated, and 73 percent report having come into face-to-face contact with the police during the previous five years.²³

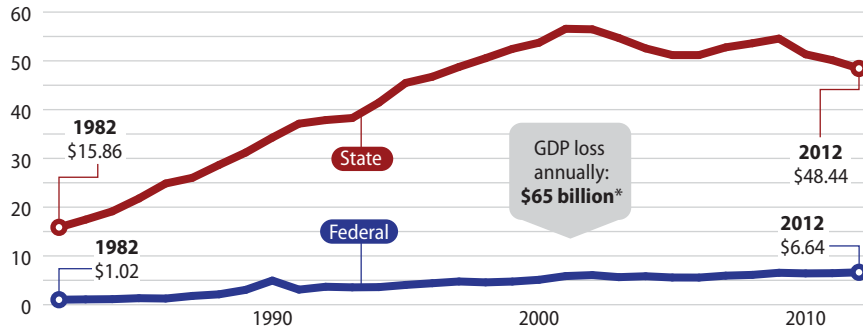
Mass incarceration and hyper-criminalization have come at tremendous cost to the American taxpayer. Total expenditures on corrections at the federal, state, and local levels exceeded \$80 billion in 2010—a 350 percent increase over the past 30 years in real terms.²⁴ When combined with other crime-related expenditures—such as policing, legal, and judicial services—total spending rises to more than \$260 billion annually.²⁵ The lion's share of these expenditures falls at the state and local levels, placing great fiscal burdens on states.

FIGURE 2

Rising costs and a net loss

Correctional expenditures have quadrupled over the past three decades

State and federal expenditures (in billions of dollars)



* Employment losses due to criminal records resulted in as much as \$65 billion in lost gross domestic product output in 2008.

Sources: Author's calculations are based on Bureau of the Census, Annual Survey of State Government Finances (U.S. Department of Commerce, 1982–2012), available at https://www.census.gov/govs/state/historical_data.html; Tracey Kyckelhahn, "State Corrections Expenditures, FY 1982–2010" (Washington: Bureau of Justice Statistics, 2014), available at <http://www.bjs.gov/content/pub/pdf/scefy8210.pdf>; Nathan James, "The Bureau of Prisons (BOP): Operations and Budget" (Washington: Congressional Research Service, 2014), available at <http://fas.org/sgp/crs/misc/R42486.pdf>. John Schmitt and Kris Warner, "Ex-offenders and the Labor Market" (Washington: Center for Economic and Policy Research, 2010), available at <http://www.cepr.net/documents/publications/ex-offenders-2010-1-1.pdf>.

These trends have profound implications for families and society as well—so much so that in 2013, “Sesame Street” added a character with an incarcerated father.²⁶ More than half of adult inmates are parents of minor children: 2.6 million, or 1 in 25 American children, had a parent in prison in 2012, up from 350,000 in 1980.²⁷ And more than one in four African American children born in 1990 have had a parent incarcerated during their childhood.²⁸

Many U.S. cities criminalize poverty and homelessness

Despite the fact that many U.S. cities have inadequate affordable housing and shelter beds, a growing array choose to criminalize basic survival behaviors. According to a 2014 survey of 187 cities conducted by the National Law Center on Homelessness & Poverty:²⁹

- 24 percent have city-wide bans on begging, and 74 percent prohibit begging in particular public places
- 33 percent have city-wide bans on loitering and vagrancy, and 65 percent prohibit such activities in particular public places
- 53 percent prohibit sitting or lying down in particular public places
- 43 percent prohibit sleeping in vehicles

These policies are not only unduly punitive; they are also a poor use of law enforcement resources. For example, a 2013 study commissioned by the Utah Division of Housing and Community Development found that the average annual cost of jail and emergency room visits for a homeless person was \$16,670, compared with \$11,000 to provide them with housing and a social worker for a year.³⁰

What's more, such policies can set up a vicious cycle. If an individual convicted of one of these status offenses is unable to pay fines and fees levied as punishment, he can wind up back in jail for nonpayment. And he ends up with a criminal record, which can make it even harder for him to obtain housing and employment and to get back on his feet. As a result, more than half of the homeless population has a history of incarceration.³¹

Criminal records: The back end of mass incarceration and hyper-criminalization

More than 95 percent of individuals in state prisons are expected to return to their communities at some point.³² More than 600,000 Americans are released from federal and state prisons each year.³³ Nearly 12 million cycle in and out of local jails each year,³⁴ and still more end up with a criminal record without any period of incarceration. More than 4.7 million people are currently being “supervised” in the community, with 3.9 million of these people on probation and 850,000 of them on parole.³⁵

Estimates put the number of Americans with criminal records between 70 million and 100 million.³⁶ Most convictions are for misdemeanors and nonserious infractions. And many Americans have only arrests without convictions. Yet, as described in the following sections of this report, having even a minor criminal record can lead to an array of significant and often lifelong barriers to employment, housing, education, public assistance, and the ability to build good credit, making it difficult if not impossible for individuals to achieve economic security.

Definitions of key terms

Criminal history or criminal record: Law enforcement agencies and courts maintain records of arrests and subsequent dispositions of criminal cases. These records are made available to third parties in a variety of ways, including through court records and websites, state-level criminal record repositories, and commercial vendors.

Expungement: A process, typically administered by courts, for eliminating public access to criminal records; it is also commonly called “sealing.” It usually requires the filing of a petition and an individualized determination; in rare cases, it may be automatic. Law enforcement agencies typically retain access to criminal records after expungement. Rules vary across states.

Felony: A more serious criminal offense that is typically punishable by incarceration of more than one year.

Misdemeanor: A minor criminal offense that is typically punishable by incarceration of one year or less.

Nonconviction record: Any court or law enforcement record that pertains to an arrest that did not result in a conviction, such as prosecution or court dismissal of charges, acquittal, or reversal upon appeal.

Parole: Provisional release of an incarcerated person, prior to the completion of his or her maximum sentence and subject to certain court-mandated conditions. Violation of these conditions can result in reincarceration.

Probation: A period of supervision that carries certain court-mandated conditions and that commonly serves as an alternative to incarceration. Violation of the court’s conditions can result in incarceration.

Re-entry: The return to society after a period of incarceration or following a criminal history.

Nonserious infraction: A criminal offense so minor that it is generally prosecutable without a trial; it is also sometimes called a “summary offense.” Nonserious offenses are commonly punishable by a fine instead of incarceration. Common examples are disorderly conduct, vagrancy, and loitering.

Source: Henry Campbell Black, *Black’s Law Dictionary: Second Edition* (Clark, NJ: The Lawbook Exchange, Ltd., 1995).

Barriers to employment

A generation ago, access to the criminal record information of job applicants was unusual. Today, however, background checks are ubiquitous: An estimated 87 percent of employers conduct criminal background checks on their applicants.³⁷ As a result, criminal records have become an intractable barrier to employment for tens of millions of Americans.

“Since the time of my conviction, I have come to realize that one wrong decision can cause a lifetime of pain. I realize that society is not as forgiving and that because of my actions, I am not able to utilize the educational knowledge that I have gained ... I have applied for and been offered many prominent job opportunities. However, when my criminal background comes back, I lose the chance and nothing I can say will make any difference.” — *Ronald Lewis, Philadelphia, Pennsylvania*³⁸

Employer rejections of people with criminal records cause deep and widespread joblessness and poverty

A recent study by the National Institute of Justice confirmed that a criminal record is a powerful hiring disincentive.³⁹ Job seekers currently on probation or parole or who have ever been incarcerated are most likely to be refused consideration for a position.⁴⁰ And a majority of employers surveyed were unwilling to hire applicants who had served prison time.⁴¹ Most alarmingly, the study found that having any arrest during one’s life decreases employment opportunities more than any other employment-related stigma, such as long-term unemployment, receipt of public assistance, or having a GED instead of a high school diploma.⁴² No criminal record is too old or too inconsequential to serve as a barrier to employment, including minor offenses graded below the level of misdemeanors and arrests without conviction.⁴³

As a result, some 60 percent of formerly incarcerated individuals remain unemployed one year after their release.⁴⁴ And for those who do find steady employment, a history of incarceration is associated with a substantial reduction in earnings. Formerly incarcerated men work nine fewer weeks per year and take home 40 percent less pay annually, resulting in an average earnings loss of nearly \$179,000 by age 48.⁴⁵

Men of color are hit especially hard. Studies find that white male and female job seekers with records have better employment chances than black or Hispanic applicants with records.⁴⁶ But regardless of race, a person who has been incarcerated has a lesser chance of getting an interview than does a job seeker with identical qualifications but no record.⁴⁷

Job seekers with records and their families are not the only ones who suffer. Paradoxically, employers are losing countless qualified and motivated workers as a result of applying overly broad criminal record exclusion policies. In addition, the significant public safety consequences that stem from the widespread unemployment of people with criminal records cannot be ignored, as postincarceration employment has powerful anti-recidivism effects.⁴⁸

Moreover, the impact on the national economy is substantial. Analysis by the Center for Economic Policy Research estimates that in 2008, the United States lost as many as 1.7 million workers due to employment barriers for people with criminal records—resulting in a staggering 0.9 percentage-point reduction in the nation's employment rate.⁴⁹ Its analysis estimates the resulting loss in gross domestic product to be as much as \$65 billion per year.

On the flip side, research indicates that removing barriers to employment for job seekers with criminal records would yield tremendous economic benefits through increased earnings, higher taxpayer revenues from employment, and avoided costs in reduced recidivism.⁵⁰

“When I was released, the jail told me to get a 40 hour a week job. I am trying hard to get a 20 hour a week job. When I went in I had a job, but I had to start all over.”

“It’s a challenge everywhere. When you come home from jail ... [a] job can’t complete. 10-20 hour jobs. There are no 600 dollar apartments anymore. When you come home you aren’t an asset to your family, you are a liability. Food costs increase, housing, your kids, clothes. Odds are if you don’t find a job, you’ll go back to doing what you know. It’s easier to get a gun and drugs than a job.”

– *Comments shared during focus groups convened by Neighborhood Legal Services, Inc., Washington, D.C., November 2013*⁵¹

Existing hiring protections must be improved

While no federal law is targeted specifically to employer hiring policies based on criminal records, Title VII of the Civil Rights Act—the federal law that prohibits race discrimination in employment—plays an important role. It bars employer practices that have a racially disparate impact, unless those practices are job related and justified as a business necessity.⁵² Given that blacks and Hispanics are more likely than whites to be involved in the criminal justice system, legal precedent going back to the 1970s holds that employer rejections based on criminal records can violate Title VII.⁵³

The Equal Employment Opportunity Commission, or EEOC, which enforces Title VII, has released guidance on employer consideration of criminal records, going back to the 1980s, when U.S. Supreme Court Justice Clarence Thomas was the EEOC chair.⁵⁴ These guidelines were updated and expanded in a bipartisan revision released in 2012.⁵⁵ The 2012 guidance lays out important standards, including that arrests not leading to convictions generally cannot be considered; employer demands for clean records—meaning employer requirements that job candidates have no record as a condition of hire—are illegal; and that certain factors must be considered, such as the seriousness of the crime, the time that has elapsed since the conviction, and the nature of the job.⁵⁶ The 2012 guidance also encourages individualized assessments of factors such as employment history, rehabilitation, and age at the time of conviction.⁵⁷ The U.S. Department of Labor has issued similar guidance for federal contractors⁵⁸ and the public workforce system.⁵⁹

The EEOC's 2012 guidance has been a crucial step forward in protecting workers with criminal records from unjust rejections. It has also sharpened employer awareness of the legal limitations on their use of background screening. However, enforcement can be a challenge because racially disparate impact must be proven in litigation.

In a positive trend, several states, such as New York⁶⁰ and Pennsylvania,⁶¹ have enacted “colorblind” laws that prohibit employer rejection based on a criminal record unless there is a nexus between the job seeker’s criminal record and the job being sought.⁶² The EEOC’s guidelines could and should be codified to apply to all job seekers regardless of race. In the meantime, increased education—for both employers and job seekers—about the EEOC’s guidance is essential.⁶³

Fair-chance hiring policies increase employment of people with criminal records

In its 90-day progress report to the president, the My Brother’s Keeper Task Force lays out a comprehensive strategy to reduce opportunity gaps faced by boys and young men of color and to make sure that all young people have the chance to succeed.⁶⁴ The report highlights the importance of fair-chance hiring to economic opportunity, stating:

Our youth and communities suffer when hiring practices unnecessarily disqualify candidates based on past mistakes. We should implement reforms to promote successful reentry, including encouraging hiring practices, such as “Ban the Box,” which give[s] applicants a fair chance and allows employers the opportunity to judge individual job candidates on their merits as they reenter the workforce.

To date, 13 states and 70 municipalities have enacted fair-chance hiring laws that incorporate a variety of practices that help level the playing field for people with criminal records.⁶⁵ Six of these states and several major cities apply these policies to private and public employers.⁶⁶ Common elements include:

- Banning the box on job applications that asks about criminal records and postponing the background check until after an applicant is being seriously considered for hire

- Prohibiting questions about arrests that did not lead to convictions
- Permitting applicants to review their background checks for accuracy
- Allowing applicants to provide evidence of rehabilitation
- Providing balancing criteria for employer consideration of criminal records

Early results of such policies have been promising. For instance, after adopting a fair-chance hiring policy, the city of Durham, North Carolina, has increased its percentage of new hires with criminal records from less than 2.5 percent in 2011 to 15.5 percent in 2014.⁶⁷ Minneapolis, Minnesota, has seen similarly positive results: Banning the box on job applications resulted in more than half of job seekers with criminal records being hired.⁶⁸ And in Atlanta, Georgia, a fair-chance hiring policy led to people with criminal records making up fully 10 percent of all city hires between March and October 2013.⁶⁹

Additionally, some private employers—such as Target Corporation, one of the nation’s largest employers—have removed criminal history questions from their job applications.⁷⁰

Cleaning up a criminal record removes barriers to employment

Cleaning up a criminal record—often called expungement or sealing—generally addresses most of the barriers discussed in this report, though elimination of employment barriers is the most frequently cited reason for record clearing.

States vary widely as to which types of offenses may be expunged or sealed—and even as to the nomenclature used. While the vast majority of states permit nonconviction records and juvenile adjudications to be expunged, fewer states permit misdemeanor or lower convictions to be expunged, and fewer still permit felony convictions from being cleared.⁷¹ Generally, an individual seeking expungement must serve a waiting period without reoffending.⁷² The waiting period varies by state but tends to be longer the more serious the offense.⁷³

Expungements and similar remedies are seldom automatic. Typically, a person seeking to clear a record must file a petition and appear in court. Having a lawyer can be essential, yet the need far exceeds available resources,⁷⁴ leaving many in need unable to clear their records due to lack of representation.

In a positive trend, according to a 2014 Vera Institute of Justice review of states' laws, 23 states—ranging from Arkansas to Mississippi to California—broadened their expungement laws between 2009 and 2014.⁷⁵ Reforms included extending eligibility to additional classes of offenses, reducing waiting periods, clarifying the effect of the expungement or sealing, and altering the burden of proof to facilitate expungement.⁷⁶

However, despite the exponential increase in federal criminal prosecutions that resulted from the War on Drugs, there is no general judicial mechanism to expunge federal cases. Not even federal nonconviction records, including acquittals, may be expunged.⁷⁷ A presidential pardon process exists, but in recent years it has rarely been used and has been subject to criticism.⁷⁸ Federal law thus lags far behind the states in this regard.

Accuracy of criminal record information provided to employers must be improved

Understandably, employers and other users of background checks rely upon the information presented there. Often, however, that information is not accurate or up to date.

In 2012, the Federal Bureau of Investigation released approximately 17 million background checks for employment purposes, a sixfold increase from the decade before.⁷⁹ These reports are notoriously inaccurate: An estimated 600,000 job seekers received an inaccurate FBI check in 2012.⁸⁰ Notably, FBI background checks frequently fail to provide the outcome of cases. The states have a role in causing this problem, as they often fail to provide case outcomes to the FBI, despite being required by law to do so within 120 days.⁸¹ Given that many cases do not result in convictions or are resolved on lesser charges, having a criminal record that has not been updated to reflect the outcome of charges can be highly prejudicial.

Other public sources of criminal record information, such as state criminal record repositories and court records of criminal cases, often also contain inaccuracies. One particularly egregious type of inaccuracy is commonly referred to as criminal identity theft, in which a person is saddled with the criminal record of another person who has falsely used his or her name and other identifiers when arrested. Many states do not provide a mechanism to correct this problem, causing a lifetime of misery for the estimated 400,000 Americans per year who encounter this obstacle.⁸²

The commercial screening industry produces far more background checks than the FBI. One recent report found that three of the largest screeners alone produced 56 million reports in a 12-month period.⁸³ Commercial screeners' background checks are frequently inaccurate or misleading, particularly when they simply report data from a computer run and do not review or verify it.⁸⁴ Common errors include reporting mismatches of cases belonging to someone else, reporting expunged cases, and failure to report outcomes of old arrests.⁸⁵

The Fair Credit Reporting Act, or FCRA, governs background checks produced by commercial screeners. The FCRA's legal standards can be read to prohibit the common errors of the commercial screeners. But the statute was enacted in 1970,⁸⁶ primarily to govern the generation and use of credit reports—and long before the rise of the industry that now sells background checks. Promulgating FCRA regulations that specifically govern criminal background checks would establish clear standards, which would enable both compliance by commercial screeners and enforcement through private litigation.

Sarah's story

Sarah, 28 years old, is desperate to find a job to provide adequately for her daughter and herself. But her arrest record stands in the way of employment.

In 2011, Sarah had moved out of the apartment that she shared with her boyfriend and friends. One day, her former boyfriend came to visit their daughter. Federal agents burst in to arrest her boyfriend for theft of information from credit cards, a federal offense. Sarah had no idea prior to that day that her boyfriend was involved in any such thing. The four people who had lived in the apartment were all arrested and charged, including Sarah and two other people she did not know; they had apparently worked with her former boyfriend in the scheme.

The case finally went to trial in February 2012. Even before the trial ended, the judge entered an order of acquittal for Sarah because of the lack of evidence against her. The other defendants were convicted.

That should have been the end of Sarah's extremely bad luck. But it is not. Even though she was found not guilty, her arrest record has left her unable to find a job. She remains without the means to provide for herself and her daughter.⁸⁷

Barriers to housing

Safe, decent, and affordable housing is foundational to the economic security of individuals and families. It also has powerful anti-recidivism effects for people with criminal histories. Yet many individuals are released from incarceration with no plans of where they will live, and close to one-third expect to go to homeless shelters upon release.⁸⁸ And a minor criminal record—including even an arrest without conviction—can serve as an absolute obstacle to housing. Lack of stable housing can make every step of rebuilding one’s life—and, particularly, securing gainful employment—that much more difficult. What’s more, “one strike and you’re out” housing policies can stand in the way of family reunification.

Barriers to public housing: One strike and you’re out

Our nation’s two major housing assistance programs are the Section 8 Housing Choice Voucher Program and public housing. While both are federally funded and governed by federal law and policies, they are administered by local public housing authorities, or PHAs, which enjoy broad discretion in setting policy and screening prospective tenants for eligibility.

Federal housing law includes a narrow, mandatory ban on access to public housing for people with certain types of convictions.⁸⁹ But it also grants local housing authorities broad discretion to deny or evict on the basis of any type of “criminal activity.” Thus, federal law effectively provides a floor, which many PHAs opt to exceed by taking their discretionary authority to the extreme. For example, many local housing authorities will evict or deny housing to an individual or even to an entire household if one household member has an arrest without conviction or pending criminal charges.

Federal law requires local PHAs to implement a lifetime ban on public housing for individuals who:⁹⁰

1. Have been convicted of producing methamphetamine at a public housing property
2. Are subject to a lifetime sex offender registry

PHAs are also required to deny an application for public housing when any member of the household has been evicted from public housing due to “drug-related criminal activity” within the past three years.⁹¹

Additionally, federal law gives PHAs discretion to evict or deny housing if any member of the household is or has been engaged in within “reasonable time” of application:⁹²

1. Drug-related activity
2. Violent criminal activity
3. “Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity” or that of the owner or employees on public housing premises

Many local PHAs construe “other criminal activity” extremely broadly, barring individuals from housing even based on an arrest without conviction. Furthermore, there is tremendous variation in local PHAs’ interpretation of reasonable time.

As a consequence, public housing is out of reach for many people with criminal records. Additionally, many PHAs’ restrictive interpretation of the “one-strike” policy can also present a serious barrier to family reunification when a parent or family member returns home from incarceration. It can also lead to homelessness for entire families: When a family living in public housing permits a family member with a criminal record to stay with them, the entire family can end up being evicted.

Local efforts to remove barriers to public housing for people with criminal records

In a 2011 letter to PHAs, former Housing and Urban Development, or HUD, Secretary Shaun Donovan and former Assistant Secretary for Public and Indian Housing Sandra Henriquez encouraged authorities to reform overly restrictive policies and grant admission to people with criminal records “when appropriate.”⁹³ They reiterated the importance of housing to re-entry:

As President Obama recently made clear, this is an Administration that believes in the importance of second chances—that people who have paid their debt to society deserve the opportunity to become productive citizens and caring parents, to set the past aside and embrace the future. Part of that support means helping ex-offenders gain access to one of the most fundamental building blocks of a stable life—a place to live.⁹⁴

Some PHAs are beginning to reform their policies accordingly. For instance, in 2013, New Orleans’ housing authority reformed its policy to reduce discrimination on the basis of a criminal record. Under the new policy, the housing authority will consider each applicant’s case on an individual basis and assess the nature and gravity of the offense, as well as the time that has elapsed since, among other factors. In announcing the reforms, the housing authority stated:

Other than the two federally required categories, no [housing] applicant will be automatically barred from receiving housing assistance because of his or her criminal background. ... We are taking the necessary steps to ... make sure that those with criminal activity in their past who now seek productive lifestyles have a shot at a new beginning.⁹⁵

Additionally, in 2013, New York City announced a pilot program to permit 150 returning citizens to enter public housing with their families or to rejoin their families in public housing, while working with social service providers to seek employment, participate in needed mental health and substance abuse counseling, and take other steps to rebuild their lives.⁹⁶ While New York’s initiative is modest in size, it nonetheless constitutes a positive step forward.

Similar to Title VII, discussed previously in the employment context, the federal Fair Housing Act—enacted as Title VIII of the Civil Rights Act—prohibits housing discrimination on the basis of race, including practices that have a racially disparate impact. HUD, which enforces the Fair Housing Act, should issue guidance similar to the previously discussed EEOC guidance on employer consideration of criminal records, laying out clear standards for how and when PHAs and private landlords may consider a housing applicant or tenant’s criminal record. Mirroring the EEOC guidance, HUD guidance should include the stipulations that:

1. Arrests not leading to convictions generally cannot be considered
2. Landlords cannot require that tenants have no criminal history as a condition of housing
3. Certain factors relevant to desistance from crime must be considered, such as the nature and seriousness of the crime, the time that has elapsed since the conviction, evidence of rehabilitation, letters of recommendation, and the person’s history as a tenant elsewhere

Private housing is out of reach for many people with records

A criminal record can serve as a major barrier to private housing as well. An estimated four out of five landlords employ background checks to screen out prospective tenants with criminal records.⁹⁷ Many landlords utilize credit checks as well, presenting an additional barrier to housing for many people with criminal records.⁹⁸

Many landlords refuse to rent to individuals with criminal records based on concerns about public safety or the perception that tenants with criminal histories are less likely to meet rental obligations.⁹⁹ Many tenant-screening websites fan the flames through fear-inducing warnings about landlords opening themselves up to potential lawsuits by renting to a tenant with a criminal history who may later harm another tenant.¹⁰⁰

However, a growing body of research finds that these concerns are misplaced. An array of studies finds that criminal history is not predictive of successful tenancy.¹⁰¹ And as previously discussed, the likelihood of recidivism declines sharply over time. Additionally, concerns about potential “negligent renting” liability are overblown: In no state are landlords required to screen tenants for criminal history, and only one state appellate court has found potential liability for a landlord who rented to a tenant with a criminal history who subsequently caused harm to another tenant.¹⁰² Moreover, stable housing is associated with reduced likelihood of recidivism.

As noted above, the Fair Housing Act provides limits on overly broad bans on people with criminal records because of the racially disparate impact. Unfortunately, application of the Fair Housing Act in the context of housing discrimination against people with criminal records lags well behind the application of Title VII in the employment context, discussed previously. In the absence of HUD guidance on landlord consideration of criminal records, enforcement has been virtually nonexistent.

But in a positive step, some states have recently taken action to prohibit housing discrimination on the basis of a criminal record by enacting laws that do not require proof of racial discrimination and that establish specific rights. A recently enacted Oregon law provides a model. Under a statute that went into effect in January 2014, a landlord may not refuse to rent to a tenant on the basis of an arrest record or certain types of criminal convictions.¹⁰³ Oregon's law further provides that prospective tenants refused housing must be given a notice of adverse action stating the reason or reasons why they were denied housing. Additionally, the cities of San Francisco, California, and Newark, New Jersey, have also passed fair-chance housing policies.¹⁰⁴

Blanket ban on housing for people with criminal records disrupts re-entry

In October 2014, the first prominent lawsuit under the Fair Housing Act that alleged racially disparate impact based on a landlord's policy of excluding people with criminal convictions from renting an apartment was filed by The Fortune Society, a New York City re-entry program, against the Sand Castle, a multibuilding apartment complex with more than 900 units.¹⁰⁵ The lawsuit alleges that the Sand Castle refused to provide housing for The Fortune Society's clients because of a policy of automatically excluding any person with a conviction from living in its apartments.

The Fortune Society provides comprehensive re-entry services to 5,000 clients per year. One of its primary tasks is to provide housing to its clients and their families. It operates a housing pipeline, in which re-entering people move from emergency housing to temporary housing and, finally, to permanent housing. The organization works with more than 100 landlords throughout the city and is constantly looking to develop more housing sites for its clients, a challenge in light of the cost and scarcity of housing in New York City.

In May 2013, The Fortune Society negotiated leases for 25 of its clients to live in the Sand Castle. The complex was seen as a desirable placement because the rent was affordable, the neighborhood was safe and diverse, and public transportation was accessible. The 25 people lived in the complex without incident.

However, the Sand Castle's management had apparently been unaware that The Fortune Society was a service provider for re-entering people when it entered into the 25 leases. The lawsuit alleges that when the Sand Castle's management company learned that The Fortune Society tenants had criminal records, it stated that the complex does not rent to people with criminal records and refused to provide any further apartments. Subsequent attempts by The Fortune Society to rent additional units for its clients were rebuffed for the same stated reason, even though there were vacancies.

Because the Sand Castle refused to rent any further apartments to The Fortune Society's clients, the program's entire housing pipeline was disrupted. People could not move from temporary housing into permanent housing, nor could they move from emergency housing into temporary housing. Those who would have been able to move into emergency units were left homeless.

The Fortune Society notes that the Sand Castle's blanket ban on renting to people with criminal records would have affected some of the organization's most successful former clients, including its senior vice president and a Manhattan Housing Court judge.

This lawsuit will be closely watched. Depending on its outcome, it could pave the way for many more lawsuits alleging housing discrimination against people with criminal records in the future.

Barriers to public assistance

When individuals are released from correctional facilities, they commonly are sent back into the community with a few dollars, a bus ticket, and a few days' worth of needed medications.¹⁰⁶ Many returning citizens have no housing to return to—and, as discussed previously, would risk family members' eviction from public housing if they went to live with them. Given the great challenge of securing employment with a criminal record, finding a job is unlikely to happen overnight. Thus, many need to turn to public assistance in order to survive while seeking to transition to self-sufficiency.

Lifetime ban on receiving public assistance leads to deprivation, hunger, and hardship and impedes re-entry

In many U.S. states, even meager public assistance is out of reach for people with certain types of criminal records. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, or PRWORA, includes a lifetime ban on receiving federal public assistance for individuals with felony drug convictions.¹⁰⁷ Under this provision, individuals who are otherwise eligible for Temporary Assistance for Needy Families, or TANF, or the Supplemental Nutrition Assistance Program, or SNAP—formerly known as food stamps—are disqualified from receiving these types of assistance for life if they were convicted of a felony drug offense. The law gives states the option to modify or waive the bans, and by 2001, eight states and the District of Columbia had opted out of the bans altogether, and another 20 had modified them.¹⁰⁸ Several more have followed suit in the decade since. Yet the majority of states continue to enforce the lifetime ban in whole or in part for TANF, SNAP, or both.

This outdated and harsh policy has serious consequences for individuals and families. It deprives struggling families of nutrition assistance and pushes them even deeper into poverty at precisely the moment when they are seeking to regain their footing. According to a recent study of people recently released from incarceration in

Texas, California, and Connecticut, levels of food insecurity among recently released individuals “mirror the magnitude of food insecurity in developing countries.”¹⁰⁹

Moreover, when people cannot meet their basic needs, they are more likely to turn to risky and illegal activities to survive. Researchers at the Yale School of Medicine found that women denied nutrition assistance due to the felony drug ban are at higher risk not only of food insecurity but also of turning to prostitution and other risky behaviors in order to obtain money for food.¹¹⁰

Women are especially hard hit by the felony drug ban: Drug offenses accounted for half of the increase in the state female prison population between the mid-1980s and mid-1990s, compared with just one-third of the increase for men over the same period.¹¹¹ According to The Sentencing Project, an estimated 180,000 women were subject to the TANF ban in 2013 in the 12 states with the most punitive policies.¹¹² Women of color are effectively at double jeopardy, as racial disparities in enforcement of drug laws put people of color at much greater risk of having a drug conviction.

In addition to causing hunger and hardship, denying SNAP and TANF can prevent individuals from obtaining needed mental health and substance abuse treatment. Mental health and substance abuse programs, particularly residential treatment programs, often rely on funding from public assistance to pay individuals’ room and board.¹¹³ Without these funds, programs may be forced to turn people away, reduce services, or even close altogether. People returning from incarceration are especially likely to need these services: More than half of inmates in prisons and jails have mental health disorders, three-quarters of those returning from prison have a history of substance abuse, and nearly half of female inmates report a history of being physically or sexually abused.¹¹⁴ A growing body of evidence indicates that connecting returning citizens who have mental health and substance abuse disorders with needed treatment can lower recidivism.¹¹⁵

California and Missouri mitigate harsh lifetime bans on basic assistance

California and Missouri are the two most recent states to join the ranks of those that have modified or opted out of the harsh felony drug bans on TANF and SNAP. In June 2014, the California Legislature passed S.B. 1029, removing the lifetime ban on CALWORKs and CALFresh. The new policy will go into effect on April 1, 2015. Also in June 2014, Missouri Gov. Jay Nixon (R) signed S.B. 680 into law, modifying the state's implementation of the federal lifetime ban on SNAP to permit people with felony drug convictions to qualify for SNAP while they participate in or after they complete an approved drug treatment program.¹¹⁶ Individuals determined not to need treatment must be in compliance with or have already completed the terms of their sentence. They must also pay for and pass a drug test.¹¹⁷

Connecting returning citizens with needed supports facilitates successful re-entry and reduces recidivism

One way to ensure that returning citizens are able to access the supports and services they need is through “prerelease” application procedures, which enable federal and state agencies to connect incarcerated individuals with needed benefits such as Medicaid and SNAP in the months prior to release. Prerelease efforts typically involve collaboration by several state agencies—corrections agencies, mental health and substance abuse agencies, and the agencies that administer Medicaid and/or SNAP—as well as localities that operate jails. The prerelease model mitigates the problem of returning citizens re-entering their communities without the basics they need for successful re-entry—such as health insurance so they can obtain needed medications, mental health and substance abuse treatment, and nutrition assistance so they have the means to put food on the table.¹¹⁸

A related but separate solution is how states treat individuals' Medicaid coverage in the event of incarceration. As noted in a 2004 letter from the Department of Health and Human Services' Centers for Medicare and Medicaid Services to state Medicaid directors, states do not have to terminate an individual's Medicaid coverage upon incarceration; rather, they can suspend eligibility when an individual is incarcerated and reactivate it upon release, sparing the need for reapplication.¹¹⁹ This practice is a win-win for both state budgets and individuals, as it allows states to save money associated with the churn of termination and new applications,

while ensuring that incarcerated individuals have access to needed health coverage upon release. This approach holds promise for reducing the number of inmates who return to prison or jail by ensuring that they have necessary medical care and other crucial supportive services they need for successful re-entry, thus reducing state costs. At least 12 states currently have policies in place to suspend rather than terminate Medicaid coverage for inmates.¹²⁰

Barriers to education and training

Roughly two out of five prison and jail inmates lack a high school diploma or GED.¹²¹ Among those who have a high school diploma or GED, an additional 46 percent lack postsecondary education.¹²² A 2003 study found that about 16 percent are below basic literacy levels, and 3 percent are completely illiterate in English.¹²³ Low levels of education and literacy make it difficult to compete in the labor market, even without a criminal record. Among non-Hispanic white and African American males, the employment rate fell from 96 percent in 1970 to 75 percent in 2011; during the same period, earnings for these groups dropped by more than 50 percent.¹²⁴ The difference in median earnings between an individual with a high school diploma and someone with a bachelor's degree is more than \$23,000 per year, a 70 percent increase.¹²⁵

Prison education and training programs increase employment and reduce recidivism

A recent study by the RAND Corporation—the largest-ever analysis of correctional education—offers strong evidence that prison education and training programs reduce recidivism, increase employment, and yield cost savings¹²⁶ The study found that inmates who participated in correctional education were 43 percent less likely to return to prison than those who did not.¹²⁷ Employment rates after release were 13 percent higher for inmates who participated in academic or vocational education programs and 28 percent higher for those who participated in vocational training. Furthermore, these programs were found to be highly cost effective: Every dollar spent on prison education was found to save \$4 to \$5 in incarceration costs during the next three years, when recidivism is most likely.

Despite their cost effectiveness, prison education and training programs are relatively scarce. According to a recent report from the Government Accountability Office, the number of federal inmates on waiting lists to participate in basic literacy programs nearly equals the number participating in such programs.¹²⁸ And in 1995, Congress removed access to Pell Grants for inmates—causing the number of postsecondary prison education programs to drop by more than 90 percent by 2005.¹²⁹

Barriers to financial aid put higher education and training out of reach

As noted above, since 1995, currently incarcerated individuals have been ineligible for Pell Grants, putting prison education and training out of reach for many inmates who wish to increase their employability and chances of successful re-entry. Additionally, formerly incarcerated individuals—and even those with criminal records who have never been incarcerated—can face barriers to education and training.

In 1998, the Higher Education Act was amended to prohibit anyone with a misdemeanor or felony drug conviction from receiving federal financial aid.¹³⁰ Between 1998 and 2006, an estimated 200,000 students were denied financial aid under this provision.¹³¹ In a positive step, the ban was modified in 2006 to prohibit receipt of federal aid only when a drug offense occurs while the student is receiving aid.¹³² And more recently, the Free Application for Federal Student Aid, or FAFSA, has been amended to no longer ask about criminal convictions.¹³³

Federal law also includes a lifetime ban for individuals with felony drug convictions from receiving the American Opportunity Tax Credit, or AOTC. The AOTC serves as a complement to Pell Grants, providing qualifying students and families with a partially refundable tax credit of up to \$2,500 per academic year to offset some of their educational expenses.¹³⁴

Given the rising cost of college tuition, a denial of federal financial aid can put college out of reach for many students. Research indicates that students denied federal financial aid due to drug convictions are significantly less likely to enroll in and less likely to graduate from college. Those who do enroll in college typically face a two-year or longer gap between high school graduation and college matriculation.¹³⁵

Due to disparities in arrests and sentencing—and, particularly, in enforcement of drug laws—students of color are disproportionately affected. In every year between 1980 and 2007, African American adults were arrested for drug charges at rates between 2.8 and 5.5 times higher than that of white adults.¹³⁶

Pathways from prison to postsecondary education

Led by the Vera Institute of Justice and with support from several leading philanthropies, the Pathways Project is a five-year effort currently underway to provide three states with incentive funding and technical support to boost access to prison education. It also, through a prison-to-community continuum model, increases access to higher education and supportive re-entry services for individuals who have recently been released from incarceration. Education and training programs are designed to align with local labor-market trends. The participating states are Michigan, New Jersey, and North Carolina. The project is a partnership between colleges, prisons, parole and probation officials, local employers, and community leaders. The initiative is being evaluated by the RAND Corporation and the Vera Institute's cost-benefit analysis unit, with the goal of building an "evidence-based case that creates momentum for systems change and spurs national replication and long-term public investment."¹³⁷

College application process presents barriers to admission and enrollment

In addition to barriers to financial aid, the college application process itself may serve as a barrier. A 2009 survey found that 66 percent of colleges ask about criminal history or conduct criminal background checks during the application process.¹³⁸ While not all colleges that collect this information consider it in the admissions process, less than half report having written policies in place for how to handle the criminal background information that is collected, and only 40 percent train admissions staff in how to interpret this information. For those that do consider it in admissions, a wide array of criminal records can be viewed negatively despite having little if any relevance to public safety, such as arrests that did not lead to conviction, drug and alcohol offenses, and low-level misdemeanor convictions.

In recognition of the barriers that this can present to higher education, several New York colleges recently announced that under an agreement with the state Attorney General's Office, they would be removing overly broad criminal history questions from their applications. Announcing the change, New York State Attorney General Eric Schneiderman stated that, "An arrest or police stop that did not result in a conviction, or a criminal record that was sealed or expunged, should not—indeed must not—be a standard question on a college application. Such a question can serve only to discourage New Yorkers from seeking a higher education."¹³⁹ Under the agreement, a criminal conviction will be considered only if it "indicates that the individual poses a threat to public safety or property, or if the convictions are relevant to some aspect of the academic program or student responsibilities."¹⁴⁰

Barriers to economic security and financial empowerment

Building savings, reducing debt, and having decent credit are vital to financial stability and upward economic mobility. Yet criminal justice fines and fees, as well as crushing child support arrearages, can hobble individuals' chances at re-entry at precisely the moment when they are seeking to get back on their feet.

Criminal justice debt keeps returning citizens from getting back on their feet

In a growing nationwide trend, states and localities have increasingly shifted to a system of “offender-funded justice”—funding their law enforcement and court systems through fines and fees levied on individuals involved with the criminal justice system.¹⁴¹ In an example that has received significant recent attention, the city of Ferguson, Missouri, relied on rising municipal court fines to make up a whopping 20 percent of its \$12.75 million budget in 2013.¹⁴²

Examples include various types of “user fees” that get tacked onto a conviction, public defender fees for defendants who exercise their right to counsel, and “pay-to-stay” fees to offset the costs of incarceration, among many, many others. Many states and localities assess late-payment fees, steep collection fees, and even fees for entering an installment payment plan. Total criminal justice debts can rise into the hundreds, thousands, and even tens of thousands of dollars.¹⁴³

These criminal justice debts act to compound the collateral consequences of a criminal record and transform punishment from a temporary experience into a long-term, even lifelong status. In many states, individuals are not eligible to clean up their criminal records until they have paid off all criminal debts.¹⁴⁴ Outstanding criminal debt can also stand in the way of public assistance, housing, employment, and access to credit.¹⁴⁵ Moreover, while debtor's prison was long ago declared unconstitutional, missing a payment can be a path back to jail in many states.¹⁴⁶

Unlike consumer debt, criminal debt is unlikely to be dischargeable in bankruptcy¹⁴⁷ and is frequently not subject to statutes of limitations.¹⁴⁸ Inability to pay can result in late fees, interest fees, payment-plan fees, and steep collection fees, and criminal debt can be subject to collection tactics such as wage garnishment.¹⁴⁹

While these fees may seem a tempting source of revenue to states and localities seeking to close budget gaps, they are being levied on a population that is by and large unable to pay. Between 80 percent and 90 percent of criminal defendants in the United States are poor enough to qualify for a public defender, and between 15 percent and 27 percent of people released from prison expect to go to a homeless shelter upon release.¹⁵⁰ As noted previously, as many as 60 percent of formerly incarcerated individuals remain unemployed a year after release.¹⁵¹ A study of court clerks in Florida revealed that just 9 percent of criminal debts were expected to be collected.¹⁵² And a study in Washington state found that formerly incarcerated men face criminal debts that equal 36 percent to 60 percent of their annual incomes; even if they paid \$100 per month—constituting 11 percent to 15 percent of their monthly earnings—they would remain significantly indebted 10 years later.¹⁵³

State and local best practices to alleviate crushing criminal justice debts

Massachusetts: Impact analysis

Massachusetts' recent use of impact analysis prior to instituting a new jail fee demonstrates how a thorough analysis of a proposed criminal fee can be a win-win for state budgets, as well as for individuals who would face criminal debts. In 2010, the Massachusetts Legislature created a special commission to study the impact of a proposed jail fee. The commission considered factors such as expected revenue generation, the cost of administering the fees, the impact of the fees on inmates and on prisoner work programs, and waiver of the fees for indigent individuals. The commission ultimately concluded that such a fee would create a "host of negative and unintended consequences," such as increased financial burdens on inmates and their families and additional obstacles to successful re-entry. Following the commission's recommendation, the legislature decided not to impose the new fee.¹⁵⁴

Philadelphia: Write-off of uncollectible debt

In 2010, the Philadelphia courts announced a city-wide effort to collect criminal justice debts back to the early 1970s, despite a long and widely known history of poor record keeping. One in five of the city's residents were assessed as owing these debts, some of which were in the hundreds of thousands of dollars. According to city officials, 70 percent of those facing collections were low income, unemployed, elderly, disabled, and/or receiving public assistance¹⁵⁵—and the city was described by advocates and the media as trying to get "blood from a stone."¹⁵⁶ After four years of widely criticized collection efforts, city and court officials ultimately announced in mid-2014 the cancellation of certain types of debts older than 2010.¹⁵⁷

Washington state: Waivers of interest

In Washington state, interest on criminal debts accrues at the rate of 12 percent per year even during incarceration.¹⁵⁸ Criminal debts and crushing interest rates can place serious burdens on formerly incarcerated people: For example, one Washington state resident entered prison with \$35,000 in debt and upon release found his debt had risen to more than \$100,000. After observing these costly impacts, Columbia Legal Services partnered with the American Civil Liberties Union and the Washington Defender Association to advocate successfully for legislation to permit the waiver of interest accrued during incarceration. As a result of this legislation, formerly incarcerated Washingtonians can now petition for a waiver of the interest accrued on their nonrestitution criminal debts during their period of incarceration.¹⁵⁹

The Clapham Set: An alternative workforce-development model

The Clapham Set, a pilot project operated in Suffolk County, Massachusetts, from 2008 to 2011, provides a model of a voluntary workforce-development program that supports successful re-entry and allows individuals to have their criminal debts lessened as a reward for completing the program. Founded by a former prosecutor—in partnership with the local courts and nonprofit re-entry service providers—the program helped young court-involved men develop resumes, complete job training, participate in job interviews, and attend mental health or substance abuse treatment. Participants who successfully completed the program received credit toward their outstanding criminal debts.¹⁶⁰

Child support enforcement can impede re-entry and weaken family ties

Child support represents an important contribution to the well-being of children who no longer reside with both parents. However, unaffordable child support obligations can also serve as a major driver of postincarceration debt. More than half of incarcerated Americans are parents of minor children.¹⁶¹ Many enter with child support orders in place. While policies vary from state to state, incarceration is not a permissible basis for tolling child support orders in 21 states, meaning that a parent who is behind bars will accumulate sizable arrears—and interest—despite having little to no income with which to make payments while incarcerated.¹⁶²

Upon release, child support debts can be in the tens of thousands of dollars. For example, a Massachusetts study found that in 2004, the average parent entered prison with, on average, \$10,543 in child support arrears. If those individuals remained incarcerated until their expected release date, each would accumulate, on average, an additional \$20,461 in child support debt.¹⁶³ Interest and penalty charges would add about \$9,400 more, bringing total child support debt upon release to more than \$40,000 for the average inmate. A study of Colorado inmates yielded similar findings and estimated that the average inmate would experience a 63 percent increase in arrears while incarcerated.¹⁶⁴ Incarcerated parents are likely to end up with similarly crushing debts in the other 19 states that do not toll child support orders for incarceration.

Moreover, as noted previously, many inmates leaving prison have poor employment and earnings prospects and little to no savings, making it difficult if not impossible to ever dig out of the hole. In one example, according to the Urban Institute, two-thirds of Maryland inmates reported owing child support debt, and one-quarter reported that their average payments upon release exceeded their entire income.¹⁶⁵

Failure to secure a job—or one that pays well enough to afford to meet child support obligations—can lead to growing debt, more late-payment penalties, and the possibility of reincarceration for failure to pay.¹⁶⁶ Thus, it comes as little surprise that states report that 30 percent to 40 percent of their hard-to-collect cases consist of noncustodial parents with criminal records and/or histories of incarceration.¹⁶⁷

States' collection efforts can create great hardship and a lasting barrier to financial stability, let alone upward mobility, for the individuals being chased for debts. Additionally, in a perverse and unintended consequence, child support enforcement

efforts can take a toll on family bonds and impede family reunification after release.¹⁶⁸ Importantly, a sizable share of child support debts is owed not to custodial parents but to state agencies as repayment for Temporary Assistance for Needy Families benefits or foster care services.¹⁶⁹

In recognition of the challenges that child support arrearages can pose to re-entry, the Department of Health and Human Services' Office of Child Support Enforcement has released extensive guidance to states with best practices for alleviating the burden of child support arrearages.¹⁷⁰

State innovation to boost child support payments and upward mobility for children and families

Some states have recently created innovative programs to boost child support payments and help families save for their children's future educational expenses. These efforts build on research that shows that even a small amount of college savings greatly increases the likelihood of college attendance, particularly among children from low-income families.¹⁷¹

In 2012, Texas began an 18-month pilot program to use child support arrears payments—which are often received by the custodial parent in the form of a large lump sum—as an opportunity to both promote college savings and provide financial coaching for families.¹⁷² Through Texas' Child Support for College program, or CS4C, parents who used a portion of the arrears payment to open a college savings account could receive a matching contribution from the state, as well as services from a professional financial planner.¹⁷³ Kansas recently implemented a similar program called the Child Support Savings Initiative, or CSSI.¹⁷⁴ For every dollar invested in the child's CSSI account, the parent's debt obligation to the state will be reduced by \$2.

In Virginia, a pilot program that began in four courts in 2008 has since expanded to 31 courts around the state.¹⁷⁵ The program targets noncustodial parents facing jail for nonpayment of child support and, instead of jail, connects them with employment services and case management and ensures that their monthly child support order is adjusted to an affordable amount.¹⁷⁶ According to the state, of the 2,736 noncustodial parents who participated in the program as of July 2014, 1,000 graduated, and the average monthly child support payment per graduate more than doubled.¹⁷⁷ Recently added into the mix is Club Reinvent, a weekly support group that provides job hunting and other guidance; 85 of the approximately 150 men who have participated in Club Reinvent are reported to have found work.¹⁷⁸

Recommendations

Understanding that a criminal record can be a lifelong barrier to economic security and mobility—with adverse effects on families, communities, and our entire economy—we must craft policies to ensure that Americans with criminal records have a fair shot at a decent life for themselves and their families.

A comprehensive solution: Provide a truly clean slate

Enabling Americans with criminal records to obtain a clean slate upon rehabilitation would permit them to redeem themselves and move on with their lives after they pay their debt to society. Providing a clean slate also presents a strong incentive against recidivism, which is likely to reduce crime in our communities. To that end, a comprehensive solution that would address many of the barriers discussed in this report is the automatic sealing of minor records after rehabilitation has been demonstrated. Congress and the states should enact legislation to automatically seal low-level, nonviolent convictions after an individual has demonstrated his or her rehabilitation—meaning if he or she has not been rearrested within 10 years of conviction. Nonconviction records should be automatically sealed or expunged, at no charge to the individual and without their needing to apply or petition the court. Absent such legislation, state courts should follow New York’s lead and no longer disclose criminal history information for individuals who meet the criteria described above.¹⁷⁹ Providing a clean slate is the single most powerful tool to resolve the obstacles documented in this report.

Recommendations to increase employment opportunities for people with criminal records

The following steps would go a long way toward improving the employment prospects of people with criminal records and giving them a fair shot to earn a decent living, support their families, and avoid recidivism.

Enact hiring protections that incorporate the Equal Employment Opportunity Commission's standards for consideration of criminal records

A fair hiring law should be enacted at the federal level. In the meantime, states and localities should follow the lead of New York, Pennsylvania, and other states that have enacted fair hiring laws that apply to all job seekers regardless of race. They should strive to incorporate the principles of the EEOC criminal record guidance: no consideration of arrest; no across-the-board exclusions of people with criminal records; evaluation of the time since conviction, the nature and gravity of the offense, and the nature of the job; and individualized assessment of each job seeker's qualifications.

Government should be a model employer

Taken together, federal, state, and local government is by far the largest employer in the United States. In 2012, 22 million people were employed in all sectors of government, with more than 2.8 million in the federal government.¹⁸⁰ The U.S. Postal Service alone is the second-largest civilian employer in the country, with more than half a million jobs dispersed throughout virtually every community.¹⁸¹ The government should set out to be a model employer at every level. The federal government should take the lead by issuing a fair-chance hiring executive order that requires federal contractors to delay asking about criminal records until after a contingent offer has been made and to only consider job-related convictions,¹⁸² as well as a presidential memorandum to ensure that people who have records and have been rehabilitated get a fair shot at federal jobs.¹⁸³ Additionally, the EEOC should issue guidance to federal agencies on how best to communicate with federal job applicants about equal opportunity procedures, such as the 45-day deadline to file a discrimination complaint.¹⁸⁴ And all levels of government should implement fair-chance hiring criteria and require fair hiring by government contractors, training staff with hiring responsibilities and analyzing their hiring procedures for criminal record barriers. The sheer size of the public sector would permit a significant bang for the buck if these barriers were eliminated.

Create subsidized jobs for people with criminal records

Finding employment is particularly difficult for people who have been recently convicted or who are re-entering the community from incarceration. Employers' reluctance to hire these people is understandable, given that recidivism rates are highest for previously convicted people immediately after their return to the community, after which the probability of reoffending steadily declines. But employment is a strong antidote to recidivism and the best pathway out of poverty. Subsidized jobs thus offer a strategy to help people with criminal records reattach to the labor force and boost their earnings, reduce recidivism, and address unmet public service needs in carefully designed programs. The administration should release guidance that encourages state and local workforce development and criminal justice partners to create subsidized jobs programs and identifies which federal funds can be used for that purpose. States should leverage available funding sources such as Temporary Assistance for Needy Families and Workforce Innovation and Opportunity Act funds to create subsidized jobs programs and target people with criminal records as a priority population for job placement.

Reform overly broad laws that restrict employment

Federal law—and to a much larger extent, state laws—prohibit many qualified people with criminal records from working in a broad range of jobs. Some such laws prevent licensure, often after applicants have invested a great deal of time and money in training for a particular occupation. Others prohibit certain types of employers from hiring people with records. Such laws should be reviewed and tailored to exclude only those individuals who present heightened risk. A strong model is the statutory scheme adopted for Transportation Security Administration, or TSA, port workers, whose jobs raise national security implications. Replicable components of the policy include the provisions that only felony convictions within the last seven years are disqualifying, job seekers have the opportunity to seek a waiver of the disqualifying offense by providing evidence of rehabilitation, and job seekers have the opportunity to appeal the decision if TSA's records are inaccurate.¹⁸⁵

Create a federal expungement mechanism

Bipartisan legislation championed by Sens. Cory Booker (D-NJ) and Rand Paul (R-KY) would create a sealing mechanism for arrests and convictions of federal non-violent offenses.¹⁸⁶ This proposal marks a long overdue and common-sense step. However, all federal arrests that do not lead to conviction should be eligible for sealing.

Expand opportunities for record clearing at the state and local levels

This strategy has a multipronged approach, which includes both changes to the legal rules for when records can be cleared and more accessible procedures.

- **Expand the legal bases for record clearing.** A clean slate—or at least a lesser one—is the surest way toward a better employment future. States that limit expungement or sealing to nonconvictions and juvenile adjudications should make convictions subject to clearing as well. States that do allow some convictions to be cleared should look to expand their list of offenses for which expungement can be sought, bearing in mind that periods of desistance from crime show rehabilitation from a criminal past. Indiana’s record-clearing statute, enacted in 2013, is perhaps the broadest model currently in use: Nonconvictions are eligible for expungement after one year, and misdemeanors and less serious felonies are eligible after five years.¹⁸⁷
- **Leverage diversion programs to permit record avoidance or clearing upon satisfaction of the conditions of sentencing.** Diversion programs—for example, drug courts, mental health courts, veterans’ courts, and domestic violence courts—often target particular populations and are typically established at the state and local levels by either legislatures or courts. They can prevent a defendant from being convicted by deferring adjudication until completion of the terms of the sentence and thus typically allow individuals who comply with all necessary conditions to avoid a criminal record.¹⁸⁸
- **Expand access to record-clearing remedies.** Making expungement automatic where possible will ensure that people are not deprived of expungement simply because they cannot master the legal process or get legal representation. Connecticut law provides a model, permitting nonconvictions to be automatically erased.¹⁸⁹ Alternatively, presumptions in favor of expungement could be implemented for nonconvictions and minor offenses.¹⁹⁰ Resources for legal representation, such as funding for legal aid and expungement clinics, should also be increased so that expungement is not blocked solely because people cannot access the process or afford a lawyer.

Require accuracy of background checks

Several recently introduced bills—such as those sponsored by Rep. Robert C. Scott (D-VA), Rep. Keith Ellison (D-MN), Sen. Booker, and Sen. Paul—would require the Federal Bureau of Investigation to track down missing dispositions of cases, as it does for gun checks under the Brady Handgun Violence Prevention Act.¹⁹¹

Enactment of such legislation is long overdue. Moreover, the FBI should invest in making its reports more decipherable, something that many state databases have been able to do. The states must also do their part by complying with their regulatory obligation to provide outcomes of cases on a timely basis. Helping the FBI provide correct and up-to-date background checks by giving them the proper case outcomes should be seen as an initiative that promotes re-entry and is comparable to expanding expungements.

Additionally, the Consumer Financial Protection Bureau, or CFPB, should promulgate Fair Credit Reporting Act regulations that govern commercial background screeners. The CFPB has statutory authority to issue regulations under the FCRA. It should do so to bring visible and consistent standards to the uneven and generally unregulated product of the commercial screening industry. In the meantime, the CFPB should issue clarifying guidance on the most common background checking errors in this industry.

Recommendations to remove barriers to housing for people with criminal records

The following steps would ensure that a criminal record is not a lifelong barrier to housing and that barriers to housing do not impede family reunification.

End the ‘one-strike’ policy in public housing

This overly broad and harsh policy should be repealed and replaced with a policy requiring individualized assessments, which would address safety concerns while removing the barriers that people with records face to accessing public housing, promoting family reunification, and preventing the family homelessness that can result from a family member with a record joining the household after returning home from incarceration.

The Department of Housing and Urban Development should release guidance limiting landlord consideration of criminal history

HUD should release guidance¹⁹² similar to the EEOC guidance on employer consideration of criminal records, laying out clear standards for how and when public housing authorities and private landlords should consider housing applicants' or tenants' criminal history and requiring a notice of adverse action to prospective tenants denied housing. HUD should also release a model policy for PHAs.

Local PHAs should reform overly broad admission and eviction policies

Even absent reform to the one-strike policy or additional guidance from HUD, local PHAs need not and should not exceed the narrow mandatory bans they are required to implement. They should follow the lead of New Orleans and other localities that have heeded HUD's repeated calls to reform their overly broad admission and eviction policies. As New York City has shown, pilot programs offer an opportunity for states and localities to explore strategies for removing barriers to housing for individuals with criminal records and their families.

States and localities should adopt fair housing policies that prohibit landlords from discriminating on the basis of criminal history

States and cities should follow Oregon's lead by limiting the use of criminal history by private landlords, requiring individualized assessment in place of zero tolerance, and requiring that tenants denied housing be provided a notice of adverse action that states the reason or reasons for the denial. While policies that lay out specific rights are optimal, states may be able to issue regulations that construe their own fair-housing laws to limit discriminatory denials of housing without the need for legislation.

Recommendations to remove barriers to public assistance

The following recommendations would remove barriers to basic supports for people with criminal records and boost access to needed mental health and substance abuse treatment, which can play a key role in supporting successful re-entry.

End the felony drug ban for income and nutrition assistance

Congress should repeal this harmful and outdated policy so that returning citizens and their families are able to meet their basic survival needs while they work to get back on their feet. In the meantime, states that have not already exercised their authority to opt out of or modify the bans should do so.

Leverage prerelease application procedures to connect soon-to-be-released inmates with health insurance and other needed supports

States that do not already have prerelease procedures in place should leverage this model to connect inmates with needed supports upon release to boost their chances at successful re-entry. Second Chance Act grants offer a funding source to support planning, capacity building, and other activities to get such programs up and running.

Suspend Medicaid coverage instead of terminating it

States should suspend Medicaid coverage, instead of terminating it, upon inmates' incarceration to ensure that individuals have access to needed health coverage upon release, while reducing state costs associated with the churn of termination and reapplication.

Strengthen the Earned Income Tax Credit, or EITC, for childless workers

The benefits of the EITC largely miss workers without qualifying children. Strengthening the EITC for childless workers and noncustodial parents would be of tremendous benefit to workers with criminal records, who are more likely to work in low-wage jobs and to be noncustodial parents.

Recommendations to remove barriers to education and training

The following steps would boost access and remove barriers to education and training for people with criminal records, increasing their future employment and earnings.

Remove barriers to federal financial aid and tax credits

The ban on federal financial aid for students with drug convictions can interrupt and even bring an end to students' college attendance, jeopardizing their chances of securing a decent job and paving a path to economic security down the road. Similarly, the harsh lifetime ban on the American Opportunity Tax Credit for individuals with felony drug convictions puts a vital source of financial aid out of reach for current and prospective students who might not otherwise be able to afford to pursue higher education or training. Removing these bans would boost students' chances of completing higher education and ensure that a bad decision at a young age does not stand in the way of economic security later in life.

Invest in prison education and training

Given strong evidence that prison education and training programs reduce recidivism, increase employment, and yield tremendous cost savings through reductions in reincarceration, increased investment in these programs for federal and state inmates would be a win-win for formerly incarcerated individuals and federal and state budgets. The Obama administration should propose increased investment for expansion of these types of programs at the federal and state levels. Additionally, states should explore and leverage Second Chance Act funds; the Byrne Memorial Justice Assistance Grant, or JAG, program; and other criminal justice grants as potential sources of funding to establish and expand prison education and training programs.

Test Pell Grants for incarcerated individuals

Prison education and training increase inmates' employment rates upon release, substantially decrease recidivism, and yield tremendous cost savings in reduced incarceration. To test the effects of restoring Pell Grants for inmates, the Department of Education should exercise its experimental authority and implement pilots to explore the potential benefits of changing this policy.

Colleges and universities should limit consideration of criminal history

Higher-educational institutions should review their admissions policies and practices to evaluate whether they are overly broad or exclusionary. Colleges and universities should remove criminal history questions from their applications and not ask about criminal history until after a conditional admission has been made. At that point, higher-educational institutions should follow New York’s lead by not considering arrests that did not lead to conviction and youthful infractions and only considering convictions if they indicate that the student poses a threat to public safety—or if the convictions have bearing on some aspect of the academic program or student responsibilities. Schools should develop clear policies on consideration of criminal records and train admissions staff in how to consider them. Students who are denied admission due to their criminal records should be informed of the reason and offered an opportunity to explain and provide further information.

Recommendations to reform criminal justice debt policies

The following recommendations would alleviate criminal justice debts as a barrier to re-entry and economic security.

Issue guidance to states and localities on best practices for levying and collecting criminal justice debt

Despite the emergence of several best practices, many states and localities persist in criminal justice debt policies that present serious barriers to re-entry. In collaboration with the CFPB, the Department of Justice, or DOJ, should release guidance that encourages states and localities to adopt best practices in levying and collecting criminal justice debt.

In the meantime, the following are steps states and localities can take to reform their criminal justice debt policies. It is important to note that criminal justice fines and fees can and should be addressed separately from victim restitution.

Conduct impact analysis before adopting new fees

States and localities should follow Massachusetts' lead and conduct impact analysis to examine whether the costs and harms associated with implementing a new fee outweigh the benefits of revenue generation.

Consider ability to pay

At present, fees are often levied without regard for an individual's ability to pay. States and localities should consider ability to pay both at the time fees are levied—to avoid assessing fees that will later be uncollectible—and when payments begin, which is typically the date of release from incarceration. Permitting individuals to pay in affordable installments will increase the likelihood of payment and also avoid great hardship to individuals and families, who often must choose between paying the gas bill and making a payment on criminal debt. States and localities should also allow debts to be placed on hold in circumstances of extreme hardship, such as job loss and illness.

Implement statutes of limitation and write off uncollectible debt

States should adopt statutes of limitation on criminal justice debts to prevent situations similar to what occurred in Philadelphia between 2011 and 2014 and should follow Philadelphia's lead in writing off debt that is old and uncollectible and that causes great hardship to former defendants.

Permit waiver of fees upon completion of re-entry programs

The Clapham Set provides a model of a program that supports successful re-entry and allows individuals to have their criminal debts lessened as a reward for completing the program. States and localities should consider testing similar models for supporting re-entry.

Recommendations to reform child support policies

States should take the following steps to reform their child support policies to boost collections and improve outcomes for formerly incarcerated parents and families.

Prevent crushing debts from accruing during incarceration

States that do not already should include incarceration as a permissible ground for tolling child support payments. They should also create easily accessible processes for incarcerated parents to modify their child support orders upon entry into a correctional facility. States should also suspend interest and penalties while a parent is incarcerated. Short of establishing incarceration as a basis for halting child support payments, Minnesota’s law provides a middle-ground option to allow courts to modify support orders retroactively based on incarceration.¹⁹³ Additionally, corrections officials should identify incarcerated parents who have child support orders, and criminal justice agencies should provide informational presentations to parents—such as on how to modify an order—as part of prerelease programs.

Keep child support orders affordable

Child support enforcement agencies should strive to ensure that support orders are established and modified as needed so that they are affordable based on the parent’s actual current income. Orders that are unrealistic or beyond the parent’s ability to pay are not in the best interests of either the child or the parent. Currently 22 states and the District of Columbia operate programs designed to ensure that orders reflect the parent’s current earnings and are modified when earnings change.¹⁹⁴ States that do not already have such policies or programs in place should follow suit.

Increase pass-through to custodial parents

States should pass through a greater share of child support payments to custodial parents, rather than withholding most or all to offset TANF and child care assistance, to ensure that payments benefit the child. States should also forgive debts owed to the state for TANF and foster care payments as an incentive for the payment of ongoing support.¹⁹⁵

Provide re-entry and employment supports to noncustodial parents

States should follow Virginia's lead by providing re-entry services and employment assistance for parents returning to their families and communities. Boosting employment and supporting family ties will result in higher child support payments, lower recidivism rates, and improved family outcomes. Additionally, states should leverage child support enforcement as an opportunity to help families build savings for their children's education, as Kansas and Texas have done.

Other recommendations

The following are additional steps to remove barriers to economic mobility for people with criminal records.

Implement smart-on-crime reforms to reduce incarceration

Reducing incarceration at the federal level

The Fair Sentencing Act of 2010 and the federal drug sentencing reforms adopted earlier this year by the U.S. Sentencing Commission serve as steps in the right direction. Congress should build upon these reforms by taking common-sense steps to reduce the number of low-level, nonviolent offenders in our federal prisons. Examples that have gained recent attention include:

- Reviewing federal mandatory minimum penalties to ensure that they are not excessively severe and apply only to those offenders who warrant such punishment
- Expanding the “safety valve” provision to give judges more flexibility to depart from federal mandatory minimum sentences
- Expanding the use of alternatives to incarceration, such as community supervision and residential re-entry centers¹⁹⁶
- Expanding early release measures, such as reinstating parole for federal inmates, expanding good-time credit—early release for good behavior—and allowing courts to reduce sentences where appropriate, such as for elderly and terminally ill inmates¹⁹⁷

Such reforms are likely to produce substantial cost savings; for instance, the Congressional Budget Office estimates that the bipartisan Smarter Sentencing Act sponsored by Sens. Mike Lee (R-UT) and Richard Durbin (D-IL) would save more than \$4 billion over 10 years.¹⁹⁸

Reducing incarceration at the state level

States should take steps to reduce their prison populations as well. While some states have seen reductions in incarceration in recent years, most states' prison populations remain at historic heights after decades of exponential growth. Sentencing reform and other smart-on-crime steps to reduce incarceration offer an opportunity for states to realize significant cost savings, while maintaining and even enhancing public safety and improving the future outlook for their residents. States should consider options such as:

- Reducing the length of sentences through reforms to three-strikes laws, mandatory minimums, and other overly harsh policies
- Reclassifying low-level felonies as misdemeanors, as California's recently passed Proposition 47 does
- Expanding the use of alternatives to incarceration for certain populations through drug and mental health courts, veterans' courts, and other specialized diversion programs designed to connect low-level offenders with treatment and supportive services instead of prison¹⁹⁹ and, in some cases, to avoid conviction altogether
- Reviewing and reforming laws that target or disproportionately impact homeless people
- Limiting the use of reincarceration as a penalty for technical violations of parole or probation when no new crime has been committed

Additionally, all states should participate in the National Incident-Based Reporting System, or NIBRS, which provides comprehensive data that law enforcement and service providers can use for accountability and self-assessment.²⁰⁰ States should reinvest the savings from reduced incarceration into more productive investments such as mental health services, drug treatment, re-entry services and supports, and diversion programs.²⁰¹

Leverage federal grants to move state and local incentives away from mass incarceration and toward successful re-entry

All federal grants should be reviewed for opportunities to reorient state and local incentives. One notable example is the Byrne Memorial Justice Assistance Grant, or JAG program, which serves as the leading source of federal funding for state and local criminal justice activities. Congress should review and revise the program's solicitation and performance measures to provide incentives to reduce incarceration and support re-entry. In the meantime, DOJ should exercise its authority to modify the program's performance measures and replace them with measures tailored to reduce incarceration while improving public safety. Other federal grants should be reviewed for similar opportunities to reorient incentives and support re-entry.

Reauthorize the Second Chance Act and fully fund DOJ's Smart on Crime initiative

Enacted in 2008, the Second Chance Act authorizes DOJ to award federal grants to government agencies and nonprofit organizations to provide services designed to reduce recidivism. Grants support activities and programs such as mentoring, substance abuse and mental health treatment, and demonstration programs, as well as re-entry courts specially designed to support reintegration after sentencing and technology career-training programs to train inmates for technology-based jobs before their release.

President Obama's fiscal year 2015 budget proposed \$173 million for criminal justice reform, including targeted funding to support the Smart on Crime initiative—a package of reforms that promotes diversion programs—such as drug courts, mental health courts, and veterans' courts—and other alternatives to incarceration for low-level drug offenders, as well as encourages increased investment in programs to support re-entry and reduce recidivism.²⁰² Increased funding for Second Chance Act grants is a key part of the administration's Smart on Crime initiative. Congress should fully fund this initiative, including boosting funding for Second Chance Act grants.

Increase federal funding for civil legal aid, and make legal aid a preferential partner in federal re-entry grants

The administration should propose increased funding for civil legal aid in federal re-entry grants. Additionally, relevant agencies should give preference to applications that include civil legal aid as a partner in federal re-entry grants and should develop performance measures that assess whether primary contractors actually utilize their services to address the myriad problems people with criminal records face.

Consider collateral consequences before issuing new federal policies

In 2011, Attorney General Holder directed DOJ to consider whether any proposed policy would exacerbate the collateral consequences of a criminal record; if so, the policy must be justified and tailored as narrowly as possible.²⁰³ Other federal agencies should follow DOJ's lead by adopting similar policies.

Create inventories of collateral consequences

In recent years, states across the country—such as Maryland, Ohio, New York, and California—as well as legal organizations such as the American Bar Association, have undertaken efforts to compile and inventory collateral consequences. Their goal is to ensure that defendants are appropriately notified of relevant collateral consequences at all stages of the criminal process and to review and alleviate those consequences to support successful re-entry.²⁰⁴ States that have not yet done so should undertake such efforts and utilize the information compiled to inform a thorough review of their laws and policies to avoid unnecessary obstacles to re-entry.

Conclusion

Bipartisan momentum is building in support of criminal justice reform, due in part to the enormous costs of mass incarceration, as well as increasing interest in evidence-based approaches to public safety. Policymakers and opinion leaders of all political stripes have called for sentencing and prison reform, as well as policies to put second chances within reach.²⁰⁵ Former President Bill Clinton—who signed into law the Violent Crime Control and Law Enforcement Act of 1994—recently told a group of mayors and law enforcement officials that some criminal justice policies have gone too far and predicted that criminal justice reform would be a central issue in the 2016 presidential campaign.²⁰⁶ Now is the time for the federal government, Congress, and states and cities to work together to reform public policies to ensure Americans with criminal records have a fair shot at a second chance.

Growing bipartisan support for criminal justice reform

"There is an urgent need to address the astronomical growth in the prison population, with its huge costs in dollars and lost human potential. ... The criminal justice system is broken, and conservatives must lead the way in fixing it." – *Newt Gingrich, former speaker of the U.S. House of Representatives*²⁰⁷

"Today, a vicious cycle of poverty, criminality, and incarceration traps too many Americans and weakens too many communities. And many aspects of our criminal justice system may actually exacerbate these problems, rather than alleviate them. ... As a society, we pay much too high a price whenever our system fails to deliver outcomes that deter and punish crime, keep us safe, and ensure that those who have paid their debts have the chance to become productive citizens." – *Eric Holder, attorney general*²⁰⁸

"The biggest impediment to civil rights and employment in our country is a criminal record. Our current system is broken and has trapped tens of thousands of young men and women in a cycle of poverty and incarceration. Many of these young people could escape this trap if criminal justice were reformed, if records were expunged after time served, and if nonviolent crimes did not become a permanent blot preventing employment." – *Sen. Rand Paul (R-KY)*²⁰⁹

"Today's criminal justice system is big government on steroids, and the responsibility for taming its excesses falls to those committed to smaller government: conservatives." — *Grover Norquist, president of Americans for Tax Reform*²¹⁰

"We basically took a shotgun to a problem that needed a .22 ... We took a shotgun to it and just sent everybody to jail for too long." – *Former President Bill Clinton*²¹¹

"We know from long experience that if [former prisoners] can't find work, or a home, or help, they are much more likely to commit more crimes and return to prison. ... America is the land of the second chance, and when the gates of the prison open, the path ahead should lead to a better life." – *Former President George W. Bush*²¹²

"[T]here's a big chunk of that prison population that is involved in nonviolent crimes. And it is having a disabling effect on communities. You have entire populations that are rendered incapable of getting a legitimate job because of a prison record. And it boggles up a huge amount of resources. If you look at state budgets, part of the reason that tuition has been rising in public universities across the country is because more and more resources were going into paying for prisons, and that left less money to provide to colleges and universities. I think we have to figure out what are we doing right to make sure that that downward trend in violence continues, but also are there millions of lives out there that are being destroyed or distorted because we haven't fully thought through our process?" – *President Barack Obama*²¹³

"The idea that we lock people up, throw them away, never give them a chance at redemption, is not what America is about. Being able to give someone a second chance is very important." – *Gov. Rick Perry (R-TX)*²¹⁴

Appendix A

What the administration and federal agencies can do

The federal government should be a model employer

The Obama administration should issue a fair-chance hiring executive order that requires federal contractors to delay asking about criminal records until after a contingent offer has been made and to consider only job-related convictions. The administration should also offer a presidential memorandum to ensure that people with records who have been rehabilitated have a fair shot at federal jobs.²¹⁵

Additionally, the Equal Employment Opportunity Commission should issue guidance to federal agencies on how best to communicate with federal job applicants about equal opportunity procedures, such as the 45-day deadline to file a discrimination complaint. Federal agencies should train staff with hiring responsibilities and analyze their hiring procedures for criminal record barriers.

Leverage federal grants to move state and local incentives away from mass incarceration and toward successful re-entry

All federal grants should be reviewed for opportunities to reorient state and local incentives. One notable example is the Byrne Memorial Justice Assistance Grant program, which serves as the leading source of federal funding for state and local criminal justice activities. The Department of Justice should exercise its authority to modify the program's performance measures and replace them with measures tailored to reduce incarceration while improving public safety. Other federal grants should be reviewed for similar opportunities to reorient incentives and support re-entry.

Support subsidized jobs for people with criminal records

The Obama administration should release guidance that encourages state and local workforce development and criminal justice partners to create subsidized jobs programs, identifies which federal funds can be used for that purpose, and encourages people with criminal records to be targeted as a priority population.

Increase federal funding for civil legal aid, and make legal aid a preferential partner in federal re-entry grants

The Obama administration should propose increased funding for civil legal aid in federal re-entry grants. Additionally, relevant agencies should give preference to applications that include civil legal aid as a partner in federal re-entry grants and should develop performance measures that assess whether primary contractors actually utilize their services to address the myriad problems that people with criminal records face.

The Consumer Financial Protection Bureau should issue regulations under the Fair Credit Reporting Act that govern background check companies

The CFPB should promulgate FCRA regulations that govern commercial background screeners to bring visible and consistent standards to the uneven and generally unregulated product of the commercial screening industry. In the meantime, the CFPB should issue clarifying guidance on the most common background checking errors in this industry.

The Department of Housing and Urban Development should release guidance that limits landlord consideration of criminal history

HUD should release guidance similar to the EEOC guidance on employer consideration of criminal records, laying out clear standards for how and when public housing authorities and private landlords should consider housing applicants' or tenants' criminal history and requiring a notice of adverse action to prospective tenants denied housing. HUD should also release a model policy for PHAs.

Expand prison education and training

Given strong evidence that prison education and training programs reduce recidivism, increase employment, and yield tremendous cost savings through reductions in reincarceration, increased investment in these programs for federal and state inmates would be a win-win for formerly incarcerated individuals and federal and state budgets. The Obama administration should propose increased investment in expansion of these types of programs at the federal and state levels.

The Department of Education should test restoration of Pell Grants for incarcerated students

Prison education and training increase inmates' employment rates upon release, substantially decrease recidivism, and save significant costs through reduced incarceration. The Department of Education should exercise its experimental authority and implement pilots to explore the potential effects of restoring Pell Grants for inmates.

DOJ should issue guidance to states and localities on best practices for levying and collecting criminal justice debt

Despite the emergence of several best practices, many states and localities persist in criminal justice debt policies that present serious barriers to re-entry. In collaboration with the CFPB, The Department of Justice should issue guidance to states and localities to adopt best practices in levying and collecting criminal justice debt.

Federal agencies should consider collateral consequences before issuing new policies

In 2011, Attorney General Holder directed DOJ to consider whether any proposed policy would exacerbate the collateral consequences of a criminal record; if so, the policy must be justified and tailored as narrowly as possible. Other federal agencies should follow DOJ's lead by adopting similar policies.

What Congress can do

Enact smart-on-crime reforms to reduce incarceration

The Fair Sentencing Act and the federal drug sentencing reforms adopted earlier this year by the U.S. Sentencing Commission serve as steps in the right direction. Congress should build upon these reforms by taking common-sense steps to reduce the number of low-level nonviolent offenders in our federal prisons—reforms that are likely to produce substantial savings.

Examples that have gained recent attention include:

- Reviewing federal mandatory minimum penalties to ensure that they are not excessively severe and apply only to those offenders who warrant such punishment; expanding the safety valve provision to give judges more flexibility to depart from federal mandatory minimum sentences
- Expanding the use of alternatives to incarceration, such as community supervision and residential re-entry centers
- Expanding early-release measures, such as reinstating parole for federal inmates, expanding good-time credit—early release for good behavior—and allowing courts to reduce sentences where appropriate, such as for elderly and terminally ill inmates

Reauthorize the Second Chance Act and fully fund the administration's Smart on Crime initiative

Congress should reauthorize the Second Chance Act, which authorizes DOJ to award federal grants to government agencies and nonprofit organizations to provide services designed to support re-entry and reduce recidivism. In addition, Congress should fully fund the administration's Smart on Crime initiative—a package of reforms that promotes diversion programs—such as drug courts, mental health courts, and veterans' courts—and other alternatives to incarceration for low-level drug offenders, as well as encourages increased investment in programs to support re-entry and reduce recidivism.

Leverage federal grants to move state and local incentives away from mass incarceration and toward successful re-entry

All federal grants should be reviewed for opportunities to reorient state and local incentives. One notable example is the JAG program, which serves as the leading source of federal funding for state and local criminal justice activities. Congress should review and revise JAG's and other federal grants' solicitation and performance measures to provide incentives to reduce incarceration.

Enact a federal fair-chance hiring law

Congress should enact a fair-chance hiring law that includes features such as banning the box on job applications that asks about criminal records and delaying background checks until after a job seeker is being seriously considered for hire. The law should also incorporate the principles of the 2012 EEOC guidance on employer consideration of criminal records. Additionally, it should be designed to apply to all job seekers regardless of race, in order to protect all individuals with criminal records.

Create a federal expungement mechanism

Bipartisan legislation championed by Sens. Booker and Paul would create a sealing mechanism for arrests and convictions of federal nonviolent offenses. This proposal marks a long overdue and common-sense step. However, all federal arrests that do not lead to conviction should be eligible for sealing.

Require accuracy of Federal Bureau of Investigation background checks

Several recently introduced bills—such as those sponsored by Rep. Scott, Rep. Ellison, Sen. Booker, and Sen. Paul—would require the FBI to track down missing dispositions of cases, as it does for gun checks under the Brady Handgun Violence Prevention Act. Enactment of such legislation is long overdue. Moreover, the FBI should invest in making its reports more decipherable, something that many state databases have been able to do.

Reform overly broad laws that restrict employment

The statutory scheme in the Transportation Security Administration's port-worker program provides a strong model, including provisions that only felony convictions within the past seven years are disqualifying, job seekers have the opportunity to seek a waiver of the disqualifying offense by providing evidence of rehabilitation, and job seekers have the opportunity to appeal the decision if TSA's records are inaccurate.

End the 'one-strike' policy in public housing

This overly broad and harsh policy should be repealed and replaced with a policy that requires individualized assessments, which would address safety concerns while removing the barriers that people with records face in accessing public housing, promoting family reunification, and preventing the family homelessness that can result from a family member with a record joining the household after returning home from incarceration.

End the felony drug ban for income and nutrition assistance

Congress should repeal this harmful and outdated policy so that returning citizens and their families are able to meet their basic survival needs while they work to get back on their feet.

Remove barriers to federal financial aid and tax credits

The ban on federal financial aid for students with drug convictions, and the lifetime ban on the American Opportunity Tax Credit for individuals with felony drug convictions, can put financial aid out of reach for students who might otherwise not be able to afford to pursue higher education or training. Removing these bans would boost students' chances of completing higher education and ensure that a bad decision at a young age does not stand in the way of economic security later in life.

Strengthen the Earned Income Tax Credit for childless workers

The benefits of the EITC largely miss workers without qualifying children. Strengthening the EITC for childless workers and noncustodial parents would be of tremendous benefit to workers with criminal records, who are more likely to work in low-wage jobs and to be noncustodial parents.

What states and localities can do

Implement smart-on-crime reforms to reduce incarceration

Sentencing reform and other smart-on-crime steps to reduce incarceration offer an opportunity for states to realize significant cost savings, while maintaining and even enhancing public safety and improving the future outlook for their residents. States should consider options such as:

- Reducing the length of sentences through reforms to three-strikes laws, mandatory minimums, and other overly harsh policies
- Reclassifying low-level felonies as misdemeanors, as California's recently passed Proposition 47 does
- Expanding the use of alternatives to incarceration for certain populations through diversion programs designed to connect low-level offenders with treatment and supportive services instead of prison and, in some cases, to avoid conviction altogether
- Reviewing and reforming laws that target or disproportionately impact homeless people
- Limiting the use of reincarceration as a penalty for technical violations of parole or probation when no new crime has been committed

Additionally, all states should participate in the National Incident-Based Reporting System, which provides comprehensive data that law enforcement and service providers can use for accountability and self-assessment. States should reinvest the savings from reduced incarceration into more-productive investments such as mental health services, drug treatment, re-entry services and supports, and diversion programs.

Create inventories of collateral consequences

In recent years, states across the country, as well as legal organizations such as the American Bar Association, have undertaken efforts to compile and inventory collateral consequences for the purpose of ensuring that defendants are appropriately notified of relevant collateral consequences at all stages of the criminal process and to review and alleviate those consequences to support successful re-entry. States that have not yet done so should undertake such efforts and utilize the information compiled to inform a thorough review of their laws and policies to avoid unnecessary obstacles to re-entry.

Implement fair-chance hiring policies

States and localities should adopt fair-chance hiring laws that include such features as banning the box to delay background checks until a job seeker is being seriously considered for hire, as well as the principles of the 2012 EEOC guidance on employer consideration of criminal records. Colorblind fair-chance hiring laws have the broadest impact by helping all job seekers with criminal records regardless of race. Fair-chance hiring policies can be constructed to reach both private and public employers.

Leverage subsidized jobs for people with criminal records

Subsidized jobs offer a strategy to help people with criminal records reattach to the labor force, boost earnings for themselves and their families, reduce recidivism, and address unmet public service needs in carefully designed programs. States should leverage available funding sources such as Temporary Assistance for Needy Families and the Workforce Innovation and Opportunity Act to create subsidized jobs programs and target people with criminal records as a priority population for job placement.

Reform overly broad state laws that restrict employment of people with criminal records

The statutory scheme in the TSA port-worker program provides a strong model, including the provisions that only felony convictions within the last seven years are disqualifying, job seekers have the opportunity to seek a waiver of the disqualifying offense by providing evidence of rehabilitation, and job seekers have the opportunity to appeal the decision if TSA's records are inaccurate.

Expand access to record clearing

States that limit expungement or sealing to nonconviction records and juvenile adjudications should join the majority of states that make at least some convictions subject to clearing as well. States that do allow some convictions to be cleared should look to expand their list of offenses for which expungement can be sought, bearing in mind that periods of desistance from crime show rehabilitation from a criminal past. States should strive to make record clearing automatic where possible to ensure that people are not deprived of expungement simply because they cannot master the legal process or get legal representation. Alternatively, presumptions in favor of expungement could be implemented for nonconvictions and minor offenses.

Provide timely information on dispositions of arrests to the FBI

While the FBI ultimately has responsibility to provide correct and up-to-date reports from its database, its results can only be as good as the data that the states provide to it. States are required by law to provide outcomes of all arrests to the FBI within 120 days, but very few comply with this obligation. States should come into compliance, recognizing that improving the accuracy of FBI records is an important re-entry goal.

Reform overly broad public housing admission and eviction policies

Even absent reform to the one-strike policy or additional guidance from HUD, local public housing authorities need not and should not exceed the mandatory ban they are required to implement in certain narrow circumstances. They should

heed HUD's repeated calls to reform overly broad admission and eviction policies. As a middle ground, pilot programs offer an opportunity for states and localities to explore strategies for removing barriers to housing for individuals with criminal records and their families.

Adopt fair housing policies that prohibit landlords from discriminating on the basis of criminal history

States and cities should enact policies that limit the use of criminal history by private landlords, requiring individualized assessment in place of zero tolerance and requiring that tenants denied housing be provided a notice of adverse action stating the reason or reasons for the denial. While policies laying out specific rights are optimal, states may be able to issue regulations that construe their own fair-housing laws to limit discriminatory denials of housing without the need for legislation.

Opt out of felony drug bans on public assistance

While federal law imposes a harsh lifetime ban on TANF and the Supplemental Nutrition Assistance Program for people with felony drug convictions, states have the authority to modify or opt out of the ban entirely. States that have not already exercised this authority should eliminate or modify the bans to enable returning citizens and their families to access basic assistance while they get back on their feet.

Leverage prerelease procedures to connect individuals with needed health insurance and public assistance upon release

States that do not already have prerelease procedures in place should leverage this model to connect inmates with needed supports upon release to boost their chances at successful re-entry. Second Chance Act grants offer a funding source to support planning, capacity building, and other activities to get such programs up and running.

Suspend Medicaid coverage instead of terminating it

States that do not do so already should opt to suspend Medicaid coverage, not terminate it, upon inmates' incarceration to ensure that individuals have access to needed health coverage upon release, while reducing state costs associated with the churn of termination and reapplication.

Invest in prison education and training

Given strong evidence that prison education and training programs reduce recidivism, increase employment, and yield tremendous cost savings through reductions in reincarceration, increased investment in these programs for state inmates would be a win-win for formerly incarcerated individuals and state budgets. States should explore and leverage Second Chance Act, JAG, and other criminal justice grants as potential sources of funding to establish and expand prison education and training programs.

Implement best practices in levying and collecting criminal debt

- **Conduct impact analysis before adopting new fees.** States should conduct impact analysis to examine whether the costs and harms associated with implementing a new fee outweigh the benefit from revenue generation.
- **Consider ability to pay.** At present, fees are typically levied without regard for an individual's ability to pay. States and localities should consider ability to pay both at the time fees are levied—to avoid assessing fees that will later be uncollectible—and when payments begin, which is typically the date of release from incarceration. Permitting individuals to pay in affordable installments will increase the likelihood of payment and also avoid great hardship to individuals and families. States and localities should also allow debts to be placed on hold in circumstances of extreme hardship, such as job loss and illness.
- **Implement statutes of limitation and write off uncollectible debt.** States should adopt statutes of limitation on criminal debts and write off debt that is old and uncollectible and causing great hardship to former defendants.
- **Permit waiver of fees upon completion of re-entry programs.** States and localities should consider testing models to support re-entry that allow participants to have their criminal debts lessened as a reward for completing the program.

Adopt best practices in child support enforcement

- **Prevent crushing debts from accruing during incarceration.** States that do not already should include incarceration as a permissible ground for tolling child support payments and create easily accessible processes for incarcerated parents to modify their child support orders upon entry into a correctional facility. States should also suspend interest and penalties while a parent is incarcerated. Short of establishing incarceration as a basis for halting child support payments, a middle-ground option is to allow courts to modify support orders retroactively based on incarceration. Additionally, corrections officials should identify incarcerated parents who have child support orders, and criminal justice agencies should provide informational presentations to parents—such as on how to modify an order—as part of prerelease programs.
- **Keep child support orders affordable.** Child support enforcement agencies should strive to ensure that support orders are established and modified as needed so that they are affordable based on the parent’s actual current income. Orders that are unrealistic or beyond the parent’s ability to pay are not in the best interests of either the child or the parent. States that do not already should establish programs designed to ensure that orders reflect current earnings and are modified when earnings change.
- **Increase pass-through to custodial parents.** States should pass through a greater share of child support payments to custodial parents rather than withholding large portions to offset TANF and child care assistance to ensure that payments benefit the child. States should also forgive debts owed to the state for TANF and foster care payments as an incentive for payment of ongoing support.
- **Provide re-entry and employment supports to noncustodial parents.** States should incorporate re-entry services and employment assistance into child support enforcement efforts. Boosting employment and supporting family ties will result in higher child support payments, lower recidivism rates, and improved family outcomes. Additionally, states should explore options to leverage child support enforcement as an opportunity to help families build savings for their children’s education.

What employers can do

Eliminating people with criminal records from the hiring pool will disqualify some of the most qualified candidates. Moreover, background checks can be costly and inaccurate. The following are steps employers can take to be model employers and give job candidates with criminal records a fair shot.

- Review background screening policies for conformance with the EEOC's 2012 guidance on employer consideration of criminal records
- Ensure that hiring criteria are tailored to the risk actually presented by candidates with criminal records
- Adopt best practices identified by the EEOC's guidance, such as considering individual circumstances that have bearing on a job applicant's suitability and adopting a ban-the-box approach that postpones consideration of a criminal record until later in the hiring process
- Contract with commercial screeners that have procedures that ensure reliable results

What colleges and universities can do

Higher-education institutions should review their admissions policies and practices to evaluate whether they are overly broad or exclusionary. The following steps would go a long way toward removing barriers to higher education for students with criminal records:

- Remove criminal history questions from applications and delay asking about criminal history until after a conditional admission has been made.
- Follow New York's lead by not considering arrests that did not lead to conviction and youthful infractions and only considering convictions if they indicate that the student poses a threat to public safety or if they have bearing on some aspect of the academic program or student responsibilities.
- Develop clear policies on consideration of criminal records and train admissions staff in how to consider them.
- Inform students who are denied admission due to their criminal records of the reason or reasons and offer them an opportunity to explain and provide further information.

Appendix B

The following list includes several resources related to the barriers to economic security and mobility that people with criminal records face.

General

Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*.

Marc Mauer and Meda Chesney-Lind, eds., *Invisible Punishment: The Collateral Consequences of Mass Imprisonment* “National Inventory of the Collateral Consequences of Conviction,” available at <http://www.abacollateralconsequences.org/>.

“Extension of Current Estimates of Redemption Times: Robustness Testing, Out-of-State Arrests, and Racial Differences,” available at <https://www.ncjrs.gov/app/publications/abstract.aspx?ID=262174>.

Collateral Consequences Resource Center, available at <http://ccresourcecenter.org/>.

“Reentry Council Snapshots and Additional Resources,” available at <http://csgjusticecenter.org/nrrc/projects/firc/snapshots/>.

“Reentry Mythbusters,” available at <http://csgjusticecenter.org/nrrc/projects/mythbusters/>.

Letter to state attorneys general, available at http://csgjusticecenter.org/wp-content/uploads/2014/02/Reentry_Council_AG_Letter.pdf.

“What Works in Reentry Clearinghouse,” available at <http://whatworks.csgjusticecenter.org>.

Margaret Colgate Love, Jenny Roberts, and Cecelia Klingele, *Collateral Consequences of Criminal Convictions: Law, Policy and Practice*, 2012-2013 ed.

Report to the President, available at http://www.whitehouse.gov/sites/default/files/docs/053014_mbk_report.pdf.

“Collateral Damage: America’s Failure to Forgive or Forget in the War on Crime,” available at <http://www.nacdl.org/restoration/roadmapreport/>.

“Fulfilling the Promise of My Brother’s Keeper,” available at <http://www.piconetwork.org/tools-resources/my-brothers-keeper-report>.

Reentry Net, available at <http://www.reentry.net/>.

“Trends in Corrections,” available at http://sentencingproject.org/doc/publications/inc_Trends_in_Corrections_Fact_sheet.pdf.

Employment

“Criminal Stigma, Race, Gender, and Employment: An Expanded Assessment of the Consequences of Imprisonment for Employment,” available at <http://nicic.gov/library/028063>.

“Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.,” available at http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm.

“What Job Applicants and Employees Should Know,” available at http://www.eeoc.gov/eeoc/publications/background_checks_employees.cfm.

“Background Checks: What Employers Need to Know,” available at http://www.eeoc.gov/eeoc/publications/background_checks_employers.cfm.

“Ban the Box: A Fair Chance for a Stronger Economy,” available at <http://www.nelp.org/page/content/banthebox/>.

“Best Practices Standards: The Proper Use of Criminal Records in Hiring,” available at http://www.lac.org/doc_library/lac/publications/Best_Practices_Standards_-_The_Proper_Use_of_Criminal_Records_in_Hiring.pdf.

Housing

Letter to public housing authorities, available at http://csgjusticecenter.org/documents/0000/1130/HUD_letter.pdf.

Public assistance

“‘Some Days Are Harder Than Hard’: Welfare Reform and Women With Drug Convictions in Pennsylvania,” available at <http://www.clasp.org/resources-and-publications/files/0167.pdf>.

“Advocacy Toolkit: Opting Out of Federal Ban on Food Stamps and TANF,” available at <http://www.lac.org/toolkits/TANF/TANF.htm>.

“A Lifetime of Punishment: The Impact of the Felony Drug Ban on Welfare Benefits,”

available at http://sentencingproject.org/doc/publications/cc_A_Lifetime_of_Punishment.pdf.

Education

“The Use of Criminal History Records in College Admissions Reconsidered,” available at <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>.

Education from the Inside Out Coalition, available at <http://www.eicoalition.org/#home>.

Debt

“Courts Are Not Revenue Centers,” available at <http://cosca.ncsc.org/~media/Microsites/Files/COSCA/Policy%20Papers/CourtsAre-NotRevenueCenters-Final.ashx>.

“Your Money, Your Goals,” available at <http://www.consumerfinance.gov/your-money-your-goals/>.

“Criminal Justice Debt: A Barrier to Reentry,” available at <http://www.brennancenter.org/publication/criminal-justice-debt-barrier-reentry>.

“The Debt Penalty: Exposing the Financial Barriers to Offender Reintegration,” available at http://justicefellowship.org/sites/default/files/The%20Debt%20Penalty_John%20Jay_August%202014.pdf.

“Building Debt While Doing Time: Child Support and Incarceration,” available at <https://peerta.acf.hhs.gov/uploadedFiles/BuildingDebt.pdf>.

“Child Support Toolkit & Training,” available at <http://www.acf.hhs.gov/programs/css/toolkit-training>.

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Acknowledgments

The authors wish to thank Greg Berman, Merf Elman, Maurice Emsellem, Jeremy Haile, Amy Hirsch, Christine Leonard, Marc Mauer, Amy Solomon, and Ram Subramanian. Additionally, the authors are enormously grateful to Tyler Cherry and Rachel West for their invaluable research support, as well as to Meghan Miller, Anne Paisley, and Lauren Vicary for their extremely helpful and patient editing.

Endnotes

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