

October 30, 2014

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C., 20500

Dear Mr. President,

As a national coalition of formerly incarcerated people and their families, we write to urge you to take leadership on restoring the human rights of formerly incarcerated people. We are grateful for the important steps you have taken through the My Brother's Keeper Initiative to address challenges young men of color encounter following incarceration, and also for the steps taken by the Department of Justice through the Federal Interagency Reentry Council, whose "chief focus is to remove federal barriers to successful reentry."¹ However, we believe there are additional steps that you and your colleagues in the Administration and Congress could take to specifically address challenges that affect formerly incarcerated people while seeking employment and education opportunities.

We want to work with you and your Administration to develop and implement an **Executive Order to Ban the Box at the federal level by limiting consideration of conviction history in federal government employment decisions and extending these limits to federal contractors by only doing business with those that have adopted and employ conviction history policies that are consistent with Ban the Box.**² This action would send a clear signal to employers across the country, both public and private, to evaluate people with criminal records on their qualifications and merits rather than conviction histories.

In addition, we are prepared to work with your colleagues at the Department of Education and Members of Congress to **restore access to Pell Grants to incarcerated students in state and federal facilities and remove questions regarding conviction histories from initial college applications, asking for such information only after an applicant has been given a conditional offer of acceptance.** As a result of Ban the Box policies, employers have begun to focus on skills and talent rather than past convictions. Higher education provides the tools necessary for incarcerated people and people with conviction histories to build skills and abilities to meet an employer's needs.

Currently, the odds of success are stacked against the 70 million people with arrests or convictions in the United States, particularly for people of color. In its April 2012 guidance, the U.S. Equal Employment Opportunity Commission recognized the disparate impacts for people of color, especially from black and Latino communities.³ Black and Latino communities are disproportionately arrested, convicted, and incarcerated. This is especially the case for federal drug charges though the rate of drug use in black and Latino communities is

¹ Council of State Governments Justice Center. *Federal Interagency Reentry Council*. (2014). Retrieved from <http://tinyurl.com/l7bzufk>

² National Employment Law Project (NELP) offers best practices for model state and local policies that are applicable to the federal level as well. For more information go to: <http://tinyurl.com/m65en6e>

³ U.S. Equal Employment Opportunity Commission. *Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964*. Retrieved from <http://tinyurl.com/pam9crh>

similar to the rate of drug use in white communities.⁴ Each year, 688,000 formerly incarcerated people return to their communities,⁵ and two-thirds will be rearrested within three years.⁶

Ban the Box policies reduce recidivism and increase employment opportunities for people with criminal records. In Hawaii, the odds of recidivism decreased by 57 percent,⁷ and in Durham, North Carolina, government hiring of people with arrest and conviction histories increased nearly seven fold, from 2.3 percent to 15.5 percent between 2011 and the first quarter of 2014 after Ban the Box policies were implemented.⁸ It is estimated there are over 2 million federal contract workers in the U.S.⁹ People with arrest or conviction histories are 50 percent less likely to receive a call back for entry-level positions when compared to those without arrest or conviction histories, and outcomes are worst for black applicants. White applicants with a conviction history are more likely to receive a call back than black applicants without a conviction history.¹⁰ Banning the box for federal contractors ensures Washington continues to lead by example by providing a fair chance for people with criminal records to access job opportunities paid for using public dollars.

Regarding higher education, a recent study which surveyed 273 colleges, found that two-thirds collected conviction history information about applicants, less than half the schools that used the information in making admissions decisions have written policies, and only 40 percent train their staff to interpret the information.¹¹ Federal legislation in 1994 denied Pell Grant funding to incarcerated adults for use in prison college programs.¹² Research demonstrates higher education, not only leads to increased employment opportunities, but reduces recidivism by as much as 43 percent.¹³ Restoring Pell Grant funding is particularly important to ensure equitable outcomes for people of color. Students of color face harsher punishments in school than white students. This leads to higher rates of incarceration. Today, black and Latino youth make up the majority of confined youth, two-fifths and one-fifth respectively.¹⁴

In response, the communities most directly impacted by mass incarceration and over-criminalization have led the Ban the Box movement, a national movement to increase employment opportunities for people with criminal records by removing the question regarding conviction history from employment applications. As of

⁴ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. *Results from the 2010 National Survey on Drug Use and Health: Summary of national findings*. (2011). Retrieved from <http://tinyurl.com/84w5owy>

⁵ Prison Policy Initiative. *Mass Incarceration: The whole pie*. (2014). Retrieved from <http://tinyurl.com/p9jrsv>

⁶ Bureau of Justice Statistics. *Reentry Trends*. (2014). Retrieved from <http://www.bjs.gov/content/reentry/recidivism.cfm>

⁷ D'Alessio, S. *The Effect of Hawaii's Ban the Box Law on Repeat Offending*. (2014). Retrieved from <http://tinyurl.com/ldexqlb>

⁸ Southern Coalition for Social Justice. *Why #BantheBox Matters: Durhams success story*. (2014). Retrieved from <http://tinyurl.com/lm8qgp4>

⁹ National Employment Law Project. *Taking the Low Road: How the Federal Government Promotes Poverty-Wage Jobs through its Contracting Practices*. (2013). Retrieved from <http://tinyurl.com/kex9ufo>

¹⁰ Pager, D. *The Mark of a Criminal Record*. (2003). Retrieved from <http://tinyurl.com/jwvbg49>

¹¹ Center for Community Alternatives. *The Use of Criminal History Records in College Admissions Reconsidered*. (2010). Retrieved from <http://tinyurl.com/7bfa3v3>

¹² Nixon, V. and Pell, D. *The Need for Pathways of Opportunity for Convicted Individuals*. (2013). Retrieved from <http://tinyurl.com/lkwqmgf>

¹³ Rand Corporation. *Evaluating the Effectiveness of Correctional Education*. (2013). Retrieved from <http://tinyurl.com/pfbtwqe>

¹⁴ The Annie E. Casey Foundation. *No Place for Kids*. (2011). Retrieved from <http://tinyurl.com/oa8tbv9>

today, 13 states and nearly 70 cities have removed questions about conviction histories from their employment applications. In addition, state legislatures, including New York, are considering legislation that would require colleges to judge an applicant on academic merit and ask about conviction histories later.

While the above recommendations above represent only several of the many actions needed to bring respect and dignity to formerly incarcerated persons and their families, they would create an immeasurable change in the lives of millions of people. We urge the Administration to move forward with these measures in collaboration with Members of Congress and members of our communities. We look forward to working together in our fight for the full restoration of human rights for formerly incarcerated people.

Sincerely,

All of Us or None

Citizens United for Rehabilitation of Errants (CURE).

Human Rights Defense Center

Justice for Families

JustLeadershipUSA

Legal Services for Prisoners with Children

Nation Inside

Southern Coalition for Social Justice

Voice of the Ex-Offender (V.O.T.E.)

Barbara Fair, My Brother's Keeper

Mary Heinen, LLMSW, Soros Fellow 2011, McPherson & Heinen Associates, Co-founder of Prison Creative Arts Project and National Prison Creative Arts Coalition, <http://theprisonartscoalition.com/>

Vivian D. Nixon, Executive Director, College and Community Fellowship, Co-founder Education from the Inside Out Coalition

Center for Community Change Action

cc:

Paulette L. Aniskoff, Deputy Assistant to the President and Director of Public Engagement,
Brian E. Fallon, Director, Office of Public Affairs, Office of the Deputy Attorney General, Department of Justice

Ernesto Archila, Special Assistant, Office of Public Engagement, Office of the Secretary, Department of Labor

Massie Evans Ritsch, Deputy Assistant Secretary, Office of Communications and Outreach, Office of the Secretary, Department of Education

cc: The Honorable Eric H. Holder, Jr., Secretary, Department of Justice

The Honorable Tom Perez, Secretary, Department of Labor

The Honorable Arne Duncan, Secretary, Department of Education