



# JOBS FOR ALL

The Movement to Restore Employment Rights for Formerly Incarcerated People



Images courtesy of Californians for Safety and Justice

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## *Over the last decade, a powerful new movement*

led by formerly incarcerated people has elevated the issue of employment discrimination against people with criminal records and scored significant policy wins at the local, state and federal levels. Today, the movement to “ban the box” and pass other fair chance laws continues to build strength, enroll new allies and win reforms. Stable employment is a powerful crime-fighting tool, helping individuals rebuild their lives and avoid returning to prison.

Finding employment is critical to success for formerly incarcerated people, essential to their ability to take care of themselves and their families and to make positive contributions to our communities. A number of important policy reforms across the country are restoring the rights of formerly incarcerated people and reducing employment barriers for people with prior convictions. In the span of a decade, the fair chance employment movement, led by formerly incarcerated people, has gained unprecedented momentum, moving both policy and public opinion. From labor unions to major private corporations, and from Republican and Democratic elected officials alike, support for fair chance hiring practices has been achieved across the ideological spectrum. Restoring the rights of formerly incarcerated people is a critical public safety, public health, racial justice and human rights issue.

This brief provides an overview of the movement’s most significant policy wins to date as well as outlining major pieces of the work ahead. It also identifies policy priorities that are essential for expanding employment opportunities for formerly incarcerated people, with specific calls to action for philanthropy, policymakers, and public and private employers. Since 2007, the Rosenberg Foundation has invested \$2.5 million in grants to advance policies that help people with past convictions have a fair chance at securing jobs and rebuilding their lives. This relatively modest investment in an extraordinary group of effective and coordinated advocacy organizations has helped to reap rapid and substantial policy change. Rosenberg has been proud to partner with an incredible group of advocates and organizers and with a number of other foundations investing in reentry employment work in California and nationally. Philanthropy can play critical roles to ensure that this movement continues to gain strength, that barriers to employment for people with prior convictions are dismantled and that strong pipelines to quality employment are constructed. In addition, within our own philanthropic institutions, we can take affirmative steps to open employment opportunities for people with prior records.

Now more than ever, we must continue to work together to help restore communities that have been torn apart by the failed criminal justice policies of the past. Our work is cut out for us. With an unwavering commitment to justice and equity, real progress is within our reach.

Timothy P. Silard, President



Image courtesy of the National Employment Law Project

# EXECUTIVE SUMMARY

*More than half of those released from prison will be back behind bars within three years.<sup>1</sup> Many reenter their communities having served time for minor, nonviolent drug or property crimes.*

While there are many reasons for recidivism, research shows that employment is one of the most significant factors in reducing the number of people with prior records who return to prison or jail, helping them reclaim their lives and reintegrate into society.<sup>2</sup>

Yet, for people with records, finding work is an enormous challenge. Hiring practices such as routine criminal background checks result in discrimination against the more than one in four Californians who have an arrest or conviction in their past, despite the fact that the vast majority of those job-seekers have not recently served time.<sup>3</sup>

Their arrests or convictions may be decades old, yet they find themselves forever branded by their records, struggling to land work, their hopes for the future shackled by their past. Beyond background checks, a broad array of other statutory and administrative roadblocks systematically exclude their entry into the workforce and deny them access to critical services that could ease their transition, such as student loans, food stamps and housing subsidies.

Additionally, stigma among employers remains a substantial barrier for all people with records, and it has an immensely disproportionate impact on people of color.<sup>4</sup> At its core, this issue is also about racial justice. African Americans and Latinos, who currently make up nearly 70 percent of California's prisoners

# *Their arrests or convictions may be decades old, yet they find themselves forever branded by their records, struggling to land work, their hopes for the future shackled by their past.*

and parolees, have been disproportionately targeted and penalized by the criminal justice system. Their systemic disenfranchisement tears apart generations of families and entire communities.

The population of people with prior records represents too great a wave of human potential to leave behind, and comes at too great an economic cost to California and the country. Eliminating barriers to employment for formerly incarcerated people will benefit all of us by reducing recidivism and promoting public safety, cutting costs to taxpayers, and increasing the economic contributions of formerly incarcerated people.

In recent years, thanks to the leadership of formerly incarcerated people, efforts to reduce barriers to employment for people with past convictions have been gaining momentum across the country and within California. In passing Proposition 47 by a wide margin in 2014, Californians made clear that they were ready to break from decades of tough on crime policies that have contributed to escalating incarceration, fiscal crises and broken communities. Advocates, faith groups, private and public sector leaders, and policymakers from both sides of the aisle have championed a new wave of smart on crime policies and have made ending recidivism a public priority.

Around the country, a number of landmark reentry employment reforms have garnered support from diverse stakeholders, including elected officials from across the political spectrum, philanthropy, labor unions and major corporations. These reforms include:

- Federal, state and local fair chance hiring policies and standards, including Ban the Box, which restrict the way that criminal history information is requested and considered by employers and licensing agencies;
- Expansion of “clean slate” initiatives that help people lawfully expunge or otherwise seal their records;
- Increased investment in educational programs for currently and formerly incarcerated students; and
- Formal commitments by workforce development providers and labor unions to open their hiring and job training programs to people with past convictions. In addition, some leading companies are adopting hiring policies designed to open the door to job applicants from reentry populations.

With tremendous progress over the past few years, much work remains to be done at all levels. The need for reentry employment reforms remains undiminished for many people across the state and the nation.

## This report proposes 10 priority actions to continue to advance equal opportunities for people with past convictions:

1. Expand fair chance hiring policies in the private sector to scale job opportunities for people with criminal records;
2. Educate employers about liability and consider increasing liability protections for employers as an incentive to gain support for stronger fair chance hiring policies;
3. Enforce existing fair chance hiring, civil rights and consumer laws, and curb abuses in the background check industry to protect people with records;
4. Fully implement Proposition 47 and other criminal justice reforms to open opportunities on a large scale and shrink the number of people suffering felony convictions in the future;
5. Expand incentives for employers to hire people with past convictions;
6. Remove statutory and regulatory employment barriers and expand existing expungement remedies to make more occupations available to people with records;
7. Increase skills training for expanding job sectors so people with records can compete in today's job market;
8. Expand public and private investment in education pipelines that begin in prisons and jails and continue after release;
9. Improve access to housing, food and other essential services for people recently released from jail or prison; and
10. Leverage private resources to advance policy reform, support advocates, combat stigma and raise awareness.

Both the private and public sectors can expand the gains that have been achieved to date by pressing for additional reforms and practices that can fill critical gaps in the employment pipeline. Doing so will help thousands of people find work and make meaningful, lasting contributions to their communities.

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*“More than one in four Californians—or eight million adults—has a criminal record on file with the state, which is by-product of the decades of over-criminalization and policing in low-income communities of color.”*

NATIONAL EMPLOYMENT LAW PROJECT

*“We know from our own experience that allowing people with a conviction history to compete fairly for employment will not compromise safety and security in the workplace. Indeed, it can reduce recidivism and promote public safety.”*

SAN FRANCISCO MAYOR EDWIN M. LEE, LETTER IN SUPPORT OF CALIFORNIA'S BAN THE BOX LAW

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# I. IDENTIFYING THE PROBLEM: BARRIERS TO EMPLOYMENT

High unemployment rates among people with prior convictions have serious costs not just for those individuals, but also for our society as a whole. People returning from prison face unemployment rates as high as 70 to 80 percent.<sup>5</sup> In turn, unemployment has been shown to increase the likelihood of recidivism, with studies finding that being unemployed increases a person's odds of recidivating significantly. One study found that 600 days after release from prison, 76 percent of unemployed parolees had recidivated compared to 58 percent of those employed.<sup>6</sup> Repeated periods of incarceration destabilize our families and communities.

In the 2009-2010 fiscal year, California prisons released 104,981 people.<sup>7</sup> Over the next three years, 57,022 (54 percent) of those people returned to custody. From 1992—2011, over 78,000 parolees were returned to prison

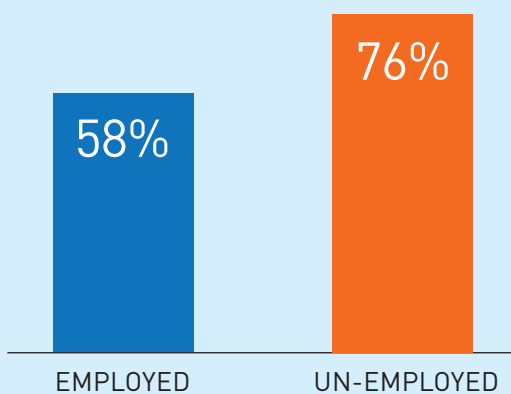
per year on average.<sup>8</sup> In 2011, a total of 60,270 parolees were returned to prison.<sup>9</sup> At that time, the estimated cost of incarceration per person in California state prisons was \$47,421.<sup>10</sup> Using this estimate, re-incarcerating these individuals in 2011 cost the state nearly \$3 billion.<sup>11</sup> In addition, the average cost to taxpayers of incarcerating an individual in prison in California is currently estimated to reach a record \$75,000 in the next year.<sup>12</sup>

We also bear the costs of high unemployment among people with conviction histories through lost earnings and taxes. As so many people with felony convictions and formerly incarcerated people have dismal job prospects, economists estimate the nation's gross domestic product was between \$57 and \$65 billion lower in 2008 than if they had been gainfully employed.<sup>13</sup>

## UNEMPLOYMENT IN THE REENTRY COMMUNITY HAS HIGH COSTS

One study found that 600 days after release from prison, 76 percent of unemployed parolees had recidivated compared to 58 percent of those employed. Recidivism in turn has substantial costs. The cost of incarcerating an individual in prison in California is currently estimated at nearly \$71,000 per year.

### RECIDIVISM RATES:



### COSTS OF INCARCERATION:

**\$71,000**  
per person  
per year



Another estimate of the economic costs of unemployment among people with conviction records comes from a 2011 study by the Economy League of Greater Philadelphia.<sup>14</sup> The study estimates that every 100 formerly incarcerated people who are connected with jobs would produce an additional \$55 million in combined post-release lifetime earnings and would increase city wage tax contributions by \$1.9 million and sales tax revenues by \$770,000 over their lifetimes.

Several barriers stand in the way of people with records' ability to gain employment and avoid the cycle of recidivism. These barriers include:

**Discrimination in hiring.** People with criminal records face discrimination when applying for jobs. Most employers include questions about conviction histories on applications for employment, reducing the chances that individuals with past convictions will be considered for positions, even if they are well qualified. Additionally, a broad array of other statutory and administrative roadblocks systematically exclude people with records from entering the workforce. Californians with conviction records are categorically shut out from hundreds of occupations that require licenses or other clearance from the state.

**Too few workforce development programs.**

Most formerly incarcerated people re-enter society without the education or job skills needed to compete in the labor market. For years, budget cuts reduced in-prison programs as well as transition programs for those recently released. The existing workforce development programs for this population have been fragmented and are insufficient to meet demand. Many programs also have been criticized for being unresponsive to labor market needs. What is needed are real pipelines connecting soft- and hard-skills training during incarceration to out-of-custody training and workforce services leading to actual jobs in growth sectors. Moreover, employers have indicated that having supportive services in place for individuals, such as workforce development programs, would increase the likelihood of their hiring people with records.<sup>15</sup>

**A shortage of educational opportunities both in and out of custody.** A recent RAND study found that incarcerated adults who participated in a variety of correctional education programs—including adult basic education, high school programs, vocational education and college programs—reduced their risk of recidivating by 43 percent.<sup>16</sup> RAND estimates that every dollar invested in these programs results in between \$4 and \$5 in savings in re-incarceration costs in the first three years post-release.<sup>17</sup>

Yet, state funding for correctional education programs has been persistently inadequate. Access to higher education is extremely limited with existing college programs regularly having long waiting lists of prospective students. In California prisons, access to in-person college courses dropped in the 1990s due to a number of factors, including reductions in the prison education budget, loss of other funding streams, and importantly, the 1994 Violent Crime Control and Law Enforcement Act that prohibited individuals in state prisons from accessing Pell Grants.<sup>18</sup> Low-income incarcerated students have continued to be eligible for Board of Governors Fee Waivers to enroll in community college courses in California, but these do not cover the cost of textbooks.<sup>19</sup> Until 2014, community colleges were only able to offer and receive state funding for distance education courses in state prisons and jails, and they only are recently beginning to offer higher quality in-person courses.<sup>20</sup> Community-based education opportunities tailored to the needs of the reentry population are also in short supply.

**A shortage of affordable and stable housing.**

People recently released from prison or jail face severe challenges in accessing stable, affordable housing. Past reports have estimated that, on average across California, around 10 percent of recent parolees experience homelessness; between 30 and 50 percent of parolees in large urban areas like San Francisco and Los Angeles are homeless.<sup>21</sup> The high rate of homelessness among this population is exacerbated by the admissions policies of public and affordable housing programs, which often automatically exclude people with felonies despite the fact that such exclusions are not required by law.



Individual advocacy can sometimes succeed in helping people overcome these exclusions, but is not widely available. Compared to the employment arena, there are even fewer legal protections for people with records as they apply for housing. As a result, private landlords can, and often do, refuse to rent to them. Without a stable place to call home, holding down a job or completing a job-training program becomes exponentially more difficult.

**A changed economy.** While the unemployment rate has inched downward, unemployment rates in communities of color that have been hardest hit by over-criminalization remain higher than average.<sup>22</sup> The recovery also reflects the struggle to create well-paying jobs. The National Employment Law Project (NELP) has found that the economic recovery was led by the creation of lower-wage jobs, while mid-wage and higher-wage industries suffered more losses and recovered more slowly.<sup>23</sup> At the same time, real wages have fallen across the board during the recovery, with lower-wage occupations seeing the largest decreases.<sup>24</sup> In this climate, the struggle of people with past convictions to secure stable employment is exacerbated.

**Persistent stigma.** In their efforts to secure employment, people with records face discrimination based on commonly held negative perceptions. One study found that applicants with conviction records were significantly less likely to get a callback for a job interview than equally qualified applicants without records.<sup>25</sup> This stigma has an enormously disproportionate impact on people of color. For white applicants, having a conviction record cut their chances of a callback in half, while Black applicants with the same record were only one third as likely to get a callback as other equally qualified Black applicants.

In fact, Black applicants who had no criminal history were less likely to get a callback than white applicants with conviction records. Existing clean slate laws are limited and do not prevent discrimination even for those who have cleaned up their records through the available expungement process. Reducing stigma against people with records is a vital component in improving their employment prospects.

By addressing these barriers to employment for people with records, we can reduce recidivism and realize the economic benefits of employing a large segment of our society.



## II. A SECOND CHANCE: KEY POLICY MILESTONES

Progress in reducing barriers to employment for people with past convictions has been accelerating in recent years. In the span of a decade, the fair chance employment movement, led by formerly incarcerated people, has gained unprecedented momentum, moving policy and changing hearts and minds. State and local governments across the country have enacted fair chance hiring policies. Large-scale policy changes also are helping to combat structural discrimination and stigma against people with past convictions. Supporters of these policies are numerous and diverse, ranging from formerly incarcerated individuals, labor unions and major corporations to local, state and federal policymakers. The movement has garnered support even among conservative elected officials who see the value of removing barriers that block people with records from working and achieving self-reliance.

California has been a leader in these efforts, enacting fair chance policies and expanding educational opportunities and reentry services to support individuals' efforts to gain employment. In addition, Ban the Box, a ground-breaking campaign that has improved employment opportunities for thousands of people with arrest and conviction records, was initiated over a decade ago by All of Us or None, a San Francisco-based grassroots organization. All of Us or None is led by formerly incarcerated people and is actively engaged in this work across the nation. The campaign seeks to remove questions pertaining to conviction histories from applications for employment, as

well as housing, loans, and other services. In the past few years, with rigorous and coordinated efforts among advocates, Ban the Box has swiftly gained political traction around the country. As of April 2017, 26 states, Washington, D.C., and over 150 cities and counties had adopted Ban the Box policies.<sup>26</sup> Although many Ban the Box policies apply only to public employment, a push for more expansive policies that also ban the box for public contractors and private employers is increasing.

Doors to job opportunities that once were firmly shut to formerly incarcerated people now are opening, thanks to the extraordinary and tireless work of organizations and individual leaders advocating at the federal, state and local levels.

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## CALIFORNIA: STATE AND LOCAL POLICY MILESTONES

*Across California, policymakers and activists have worked to enact and implement policies that give people with prior convictions a fair chance to gain employment. These efforts are continuing to build as the state expands fair chance hiring reforms, clean slate programs, educational opportunities and reentry services.*

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### **AB 218 – Fairness in Government Hiring<sup>27</sup>**

#### **PASSED IN 2013**

Requires state and local government agencies to remove questions about criminal histories from job applications

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### **California Bans the Box for All Public Sector Jobs**

California was an early state to ban the box for public sector employment.<sup>28</sup> In 2010, Governor Arnold Schwarzenegger signed an executive order requiring most state agencies to remove questions about criminal histories from applications for employment.

Since then, legislators and advocates worked to turn this order into law. They succeeded in 2013 with the enactment of Assembly Bill 218, signed into law by Governor Jerry Brown, which banned the box for all public sector employment. It requires state, regional and local government agencies to delay criminal history inquiries until candidates are determined to meet the “minimum employment qualifications” for a position.

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When we first introduced the bill... our goal was to advance the simple and powerful message—that everyone who works hard deserves a second chance to turn their lives around and give back to their communities.

ASSEMBLY MEMBER ROGER DICKINSON  
AUTHOR OF AB 218

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In 2017, legislators and advocates seek to go a step further. Assembly Bill 1008 would expand Ban the Box to private employers and forbid inquiries into an applicant’s criminal history until they have received a conditional offer of employment.<sup>29</sup>

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### **SF Fair Chance Ordinance<sup>30</sup>**

#### **PASSED IN 2014**

Limits the use of arrest and conviction records by city contractors, private employers and housing providers

## California Cities Ban the Box for Government Contractors and Private Employers

Some California cities have policies that expand fair chance hiring to include government contractors and private employers. In 2011, Compton passed a resolution that delays background checks until after a conditional offer of employment is made for hiring by both the city and city contractors. Richmond also expanded its Ban the Box policy to city contractors and subcontractors in 2013.

In 2014, the San Francisco Board of Supervisors voted unanimously to pass one of the nation's most comprehensive Ban the Box ordinances. This new policy—the Fair Chance Ordinance—builds on All of Us or None's successful 2005 effort to make San Francisco one of the first cities to adopt a Ban the Box policy for all public agency job applications. The 2014 Fair Chance Ordinance

expands this policy, barring all private employers, affordable housing providers and city contractors from asking prospective workers or residents about their records until after a live interview or conditional employment offer.

The law also prohibits employers from ever considering certain criminal history information, such as arrests, juvenile records, and convictions older than seven years. It incorporates U.S. Equal Employment Opportunity Commission (EEOC) guidance standards, such as requiring that applicants be reviewed on an individual basis and denied employment only for convictions that bear a direct relation to the job. Finally, the ordinance is enforced by a local agency, the Office of Labor Standards Enforcement, which investigates all complaints filed by job seekers who experience a violation of the law.

In 2016, the City of Los Angeles passed its own Fair Chance Initiative Ordinance.<sup>31</sup> The ordinance applies to any employer that is located or does business in the city with at least 10 employees who work two or more hours per week on average in Los Angeles. Additionally, the ordinance requires employers to follow a "Fair Chance Process" before withdrawing an offer of employment due to an applicant's criminal history, including a written assessment and providing the applicant an opportunity to respond.

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Limiting access to jobs and housing not only victimizes formerly incarcerated people, but also generations and generations of children and grandchildren.

DORSEY NUNN, EXECUTIVE DIRECTOR, LEGAL SERVICES FOR PRISONERS WITH CHILDREN/ALL OF US OR NONE

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## BAN THE BOX POLICIES ACROSS CALIFORNIA

Several Northern California cities and counties led the state in banning the box for public employment, including the City and County of San Francisco, Alameda County, Berkeley, and Oakland. California followed by banning the box for public sector employment statewide. Some cities have expanded this ban further. Richmond and Compton have extended Ban the Box to government contractors, and San Francisco and Los Angeles has gone a step further and banned the box for both government contractors and private employers.



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## *Proposition 47 – Reduced Penalties for Some Crimes*<sup>32</sup>

**APPROVED IN 2014**

Reclassifies most nonserious and nonviolent property and drug crimes from felonies to misdemeanors

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### **Californians Vote to Reduce Penalties for Non-serious, Nonviolent Offenses**

The approval of Proposition 47 in 2014 was a watershed moment in criminal justice reform in California. Sixty percent of Californians voted in favor of Proposition 47, a ballot initiative that reduced the penalties for most nonserious and nonviolent property and drug crimes. These crimes are now classified as misdemeanors instead of felonies. Additionally, individuals currently serving sentences for these crimes are eligible for resentencing, and those who already have completed sentences for these crimes are eligible to have those convictions reclassified as misdemeanors. This change in state law has led to significant decreases in incarceration and has created the opportunity for up to a million Californians to have felony convictions reclassified as misdemeanors on their records. Already Proposition 47 is anticipated to produce more than \$100 million in savings over the next three years that will go towards local programs to prevent recidivism.<sup>33</sup> Proposition 47 marks a momentous step forward for removing barriers to employment and reducing other collateral consequences of a felony conviction.

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The passage of Proposition 47 is a historic moment in California. California has gone from a state epitomizing our country's over-reliance on incarceration to now leading the nation in advancing smart justice. It is a true breakthrough.

**LENORE ANDERSON, EXECUTIVE DIRECTOR,  
CALIFORNIANS FOR SAFETY AND JUSTICE**

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### **Clean Slate Programs and Other Reentry Legal Services Expand**

California law does not provide the opportunity for full expungement that would remove prior convictions from individuals' records completely. However, people with past convictions who have served their sentences can work to have their convictions dismissed (under California Penal Code 1203.4) depending on the nature of the offense. Private employers cannot ask about dismissed convictions, although individuals are still obligated to disclose these convictions on applications for licensure from state or local agencies. Clean Slate programs are helping Californians navigate this path to a fresh start. Since 2004, the East Bay Community Law Center (EBCLC) has provided free legal help to clients in California seeking to remedy their records so they can reenter society with a clean slate.

These services help clean up clients' records and entitle them to legal protections when they apply for jobs and housing. In recent years, EBCLC has trained service providers, law enforcement officials and public defenders in other parts of the state to replicate its successful Clean Slate Clinic model. Simply having an individual's convictions dismissed does not necessarily move him or her across the finish line to landing a job. That is why the Clean Slate model also has moved towards a broader range of reentry legal services, assisting clients to overcome the many legal barriers that persist, even decades after their conviction. For example, even job seekers with clean records face barriers when a background check illegally reports a dismissed conviction or when seeking a job that requires a license.

Legal service providers have developed a network of support for coordinated services statewide, including trainings, webinars and other resources that are enabling newer programs to spring up in underserved geographic areas. The network also has been instrumental in supporting successful legislative efforts to preserve and advance laws that enable individuals to clean up their records—such as Assembly Bill 651 in 2013—which expanded dismissal remedies in California for those sentenced to county jail under Realignment. Two other recent pieces of legislation— Senate Bill 530 (2013) and Assembly Bill 2396 (2014)—clarify the limits

on employers and licensing boards with regards to dismissed convictions.<sup>35</sup> SB 530 prohibits employers from asking job applicants to disclose convictions that have been dismissed or ordered sealed, and AB 2396 prohibits boards within the Department of Consumer Affairs from denying licenses based solely on dismissed convictions.

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## **AB 651 – Reentry & Employment Opportunities Act<sup>34</sup>**

**PASSED IN 2013**

Expands expungement law to allow individuals sentenced pursuant of AB 109 to apply for expungement after their cases are completed

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Without this bill [AB 651], thousands of people would have had no opportunity to move beyond their records, regardless of the progress or rehabilitation they achieved. This new law will help to promote meaningful access to stable jobs and housing, and stronger and safer communities for all.

LAWYERS' COMMITTEE FOR CIVIL RIGHTS OF THE SAN FRANCISCO BAY AREA

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### **Public and Private Actors Work to Improve College Opportunities for Incarcerated Students**

Obtaining a college education reduces recidivism, increases formerly incarcerated people's chances of securing stable employment, and can mitigate the stigma of a criminal record. Yet, until recently, access to college courses inside 34 of California's 35 state prisons was limited to paper-based correspondence courses of questionable quality. Now, state lawmakers, private foundations, and higher education institutions are working together to increase college access for incarcerated students across the state.

In 2015, the Ford Foundation launched the Renewing Communities Initiative to increase college opportunities for criminal justice-involved Californians. The initiative, a collaboration with Stanford Law School and UC Berkeley School of Law, produced a report in 2015 surveying the existing college programs for currently and formerly incarcerated students across the state and outlining recommendations for policymakers and practitioners to improve the quality of and access to college programs.<sup>36</sup> In 2016, with the support of a consortium of foundations, including the Rosenberg Foundation, Renewing Communities awarded three-year grants totaling \$5.9 million to fund seven programs serving students at California Community Colleges and the California State University. The initiative is a public/private partnership, and applicants were required to bring matching public resources amounting to 25 percent of their total budget. Finally, in an unprecedented move, California's 2016 budget included \$2.5 million to continue coordination between California Community College's Chancellor's Office and technical assistance efforts for inmate education programs across the state.<sup>37</sup>

In addition to these efforts, state lawmakers made significant progress in expanding college access for incarcerated students with the passage of Senate Bill 1391 in 2014. Historically, community colleges have been the primary providers of higher education in California's prisons and jails. However, legal restrictions prevented them from offering and receiving funding for credit-bearing in-person courses for incarcerated students. By removing these restrictions, SB 1391 created the opportunity for community colleges to expand their offerings for incarcerated students.

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Expanding access to higher education can have tremendous benefits for incarcerated students and those around them. Community colleges can provide incarcerated students with new skills and perspectives that can help build better lives and reduce recidivism.

PAMELA WALKER, VICE CHANCELLOR OF EDUCATIONAL SERVICES,  
CALIFORNIA COMMUNITY COLLEGES CHANCELLOR'S OFFICE

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### California Invests in Reentry Employment Efforts

In the past few years, following Public Safety Realignment in 2011, California has invested in a variety of programs aimed at reducing recidivism and fostering successful reentry into the community for people leaving prison or jail. These programs include a number of efforts to help prepare the reentry population for employment. As of 2016, the California Department of Corrections and Rehabilitation (CDCR) has created Reentry Hubs at 13 prisons across the state where individuals within four years of release have access to a variety of supports, including career technical education programs.<sup>38</sup> Additionally, the 2014-2015 California State Budget allocated \$91 million to the Recidivism Reduction Fund.<sup>39</sup> Among a variety of programs, the Recidivism Reduction Fund includes:

- ✓ **\$2 million in grants** to community colleges to provide education for inmates geared towards improving their employability upon release;
- ✓ **\$1 million in grants** to Workforce Investment Boards for workforce training and job developments programs targeting the reentry population; and
- ✓ **\$20 million for community reentry facilities** targeting individuals with mental illnesses nearing release and providing work training among a number of other services.

The 2017-2018 California State Budget allocates \$45.6 million under Proposition 47 savings.<sup>40</sup> Approximately \$29.3 million will fund local reentry programs; \$11.3

million will go towards truancy prevention and student supports; and \$4.5 million will go to supporting crime victims.

In addition to these public investments, private foundations have offered support for a variety of initiatives and nonprofit organizations supporting the reentry population. One innovative example comes from the Anti-Recidivism Coalition (ARC), a nonprofit organization based in Los Angeles. In 2014, ARC launched a Supportive Housing and Education Initiative, which provides housing, counseling, and academic support for formerly incarcerated students attending LA Mission College, effectively the first dormitory for formerly incarcerated students in California.

Together, these public and private investments show promising signs that California is directing resources toward reentry employment efforts.

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One of the best accomplishments of SB 1391 is the coalition between CDCR and the Chancellor's Office. We are now inspired to work collaboratively to break down departmental silos to create the best correctional college system in the world.

BRANTLEY CHOATE, SUPERINTENDENT OF  
THE OFFICE OF CORRECTIONAL EDUCATION,  
CALIFORNIA DEPARTMENT OF CORRECTIONS AND  
REHABILITATION

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## LABOR AND PRIVATE SECTOR MILESTONES

*The fair chance employment movement both within California and across the country has garnered broad support, with labor unions backing key legislation and major corporations and foundations instituting Ban the Box policies across the country.*

### Labor Unions Approve Reentry Employment Resolutions

Labor unions have used their clout to institute fair chance hiring and employment practices among their ranks and across major industries. At its 2013 National Convention, the AFL-CIO, the nation's largest federation of unions, passed a historic criminal justice-focused resolution. It included support for reentry employment initiatives, such as job training and education as part of a broader restorative justice platform. This move may lead to more pre-apprenticeship and apprenticeship opportunities for people with felony records. In 2015, the AFL-CIO was part of a coalition declaring June 10 a national day of action. They called on allies to contact their elected representatives and use social media to promote the Ban the Box campaign and to urge President Obama to sign an executive order establishing fair chance hiring for federal contractors.<sup>41</sup>

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The fact that more and more of our nation's major employers—including a company like Koch Industries that is synonymous with conservative politics—are choosing to embrace fair chance hiring policies shows that this is an idea with broad appeal whose time has come.

CHRISTINE OWENS, EXECUTIVE DIRECTOR  
NATIONAL EMPLOYMENT LAW PROJECT

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Labor unions also have played an important role in supporting fair chance hiring in California. In 2014, AFL-CIO President Richard Trumka supported Proposition 47. Additionally, California labor unions, led by the California Labor Federation and SEIU Local 1000, were vital supporters of California's Ban the Box bill (AB 218), which passed in 2013 following two years of organizing among a coalition of supporters. The San Francisco Labor Council, the city's local body of the AFL-CIO, also supported San Francisco's Fair Chance Ordinance.

### Major Corporations Adopt Fair Chance Hiring Policies

Private industry has begun to do its part as well. Under pressure from advocates, including the NAACP, a number of major corporations have agreed to strip questions about criminal history from their job applications. Wal-Mart, the world's largest retailer, led the way in 2010, followed by Target Corporation, the nation's second largest retailer, in 2014. Minnesota, where Target is headquartered, banned the box for private employers in 2013. Target's policy was a response to this change in the state law as well as to pressure from a Minnesota activist group. Other major corporations that have banned the box include Google, Starbucks, Facebook, Home Depot, Bed Bath & Beyond and Koch Industries. Ban the Box advocacy has prompted sweeping changes among private employers who foresee the tide of reform moving in this direction.

### Philanthropy Bans the Box

Philanthropy has also been active in the Ban the Box movement. In August 2015, foundation leaders who are part of the Executives' Alliance for Boys & Men of Color sent a joint letter to the White House calling on the President to issue an executive order requiring fair hiring



policies for federal agencies and contractors. In 2016, the Executives' Alliance issued a call to action for all U.S. philanthropic institutions to implement fair hiring practices ([bantheboxphilanthropy.org](http://bantheboxphilanthropy.org)). The number of participating foundations has grown from 27 in August 2015 to 47 in 2017.

In addition, the Executives' Alliance, in partnership with the National Employment Law Project and the Formerly Incarcerated and Convicted People and Families Movement (FICPFM), developed the "Fair Chance Hiring in Philanthropy: A Step-by-Step Guide" to provide technical assistance to its members and other foundations seeking to update their hiring practices.<sup>42</sup> Designed specifically for employers in the philanthropic sector, the toolkit is a step-by-step guide on how to implement best-practice hiring policies that expand employment opportunity for formerly incarcerated people and jobseekers from communities hardest hit by decades of over-criminalization.

“

While the need for criminal justice reform is broadly agreed upon across the country and across political lines, too little is being done on a practical level to provide meaningful opportunities to people who have been incarcerated. By establishing a new benchmark for what we are capable of as a society and modifying our own practices, we pursue together a system of justice of which we can be proud.”

DARREN WALKER, PRESIDENT OF THE FORD FOUNDATION

”



Image courtesy of All of Us or None

Image courtesy of Californians for Safety and Justice

Image courtesy of Californians for Safety and Justice

# III. MAKING INROADS: 10 PRIORITY ACTIONS FOR CALIFORNIA AND THE NATION

Thanks to the work of directly impacted people and advocates, recent years have seen considerable policy progress in this area, including the enactment of new fair chance hiring and sentencing reform policies, expansion of clean slate programs, and increased educational and workforce training opportunities. Already pioneers, states and municipalities will continue to be on the front line in promoting equal employment opportunities for formerly incarcerated people. By capitalizing on the current momentum around criminal justice reform in California and nationwide, we can work to expand employment opportunities and reentry support for people who have been involved in the criminal justice system.

The recommendations below are priority actions California and the country can take to scale reentry employment now and into the future. In California, a major component of this effort involves enforcing and expanding the policy reforms that have been achieved to date. Equally important is developing partnerships among employers, unions, community colleges, job-training providers, housing services, local government and advocates—stakeholders that are in the best position to help create a sustainable and powerful pipeline to jobs for people who have been arrested, convicted, or incarcerated. These partnerships should include and build upon the organizations and campaigns led by formerly incarcerated people.

Finally, none of these efforts will succeed unless people with records are empowered through education, trainings, workshops and legal services to exercise their rights and affirmatively pursue the skills and careers that will help them support themselves and their families.

**1. Expand fair chance hiring policies in the private sector to scale job opportunities for people with records.**

No large-scale reentry employment reform will succeed without leadership and participation from the private sector, which accounts for the vast majority of jobs in our economy.

Companies can institute and expand fair chance policies that:

- Establish a written policy for all hiring managers that includes no “blanket bans” or automatic exclusions for certain types of records;
- Remove the conviction question from initial job applications;
- Delay background checks so that they are conducted only after a conditional offer of employment or, minimally, after the first live interview;
- Require conversations with job candidates about any convictions that may be considered disqualifying to determine rehabilitation and the bearing on their ability to perform the job; and
- Encourage outreach to public agencies or local workforce development organizations that may refer potential candidates with arrest and conviction records for hiring.

City, county and state governments can do their part by passing fair chance ordinances that apply to private employers. As of April 2017, nine states, Washington D.C., and 29 cities and counties have fair chance policies on the books that extend to government contractors or private employers.<sup>43</sup> Mayors and city council members have an important role to play in advancing these policies

at the local level and can move to supplement the state law with local policies that expand Ban the Box to private employers.

*“[Hiring reentry candidates has] been great for our bottom line and contributes to the overall strength and competitiveness of our workforce. Plus, we are doing the right thing for the community, which counts as a big competitive advantage these days.”*

MIKE HANNIGAN, CO-FOUNDER AND PRESIDENT,  
GIVE SOMETHING BACK OFFICE SUPPLIES

**2. Educate employers about liability and consider increasing liability protections for employers as an incentive to gain support for stronger fair chance hiring policies.**

Fearing liability, some employers are reluctant to hire people with past convictions despite the fact that following the EEOC guidance and performing an individualized assessment of the conviction will generally satisfy the legal requirements and eliminate liability risk.

Research suggests that hiring managers may be less likely to discriminate against people with past convictions when formal policies dictating their responses to applicants are in place.<sup>44</sup> Although more research is needed to establish a connection between such policies and increased employment of reentry workers, this study suggests that human resource managers are an important target for education and engagement by advocates, and that there is room for further investigation into liability protection as an incentive for hiring. The National HIRE Network has developed educational materials on best practices for employers on proper use of records.<sup>45</sup>

Some states have enacted policies expanding liability protections for employers in conjunction with strengthened fair chance hiring policies.<sup>46</sup> These models show how expanding liability protection can be used as an incentive to gain broader support for the kind of fair chance hiring reforms proposed in the previous section.

These policies include new negligent hiring protections accompanying Ban the Box legislation in Massachusetts and North Carolina, as well as a policy in Colorado limiting employer liability by restricting the use of an employee's record in civil cases brought against the employer or its agents.

### **Liability Protections Included with Ban the Box Legislation**

**Massachusetts:** In 2010, Massachusetts included liability protections for employers in the comprehensive Ban the Box legislation (Senate Bill 2583). The bill ensured that employers are not liable for negligent hiring practices by reason of relying solely on the Criminal Offender Record Information (CORI), the state's criminal record database. Employers receive this protection only if they receive background check information from the state database, thus also discouraging the use of commercially-available background checks in favor of the state system, which is subject to stricter conviction-reporting limitations.

### **3. Enforce existing fair chance hiring, civil rights and consumer laws and curb abuses in the background check industry to protect people with records.**

Employer policies to conduct criminal background checks as part of the hiring process have grown in the past few years. In a survey of its members in 2012, the Society for Human Resource Management found that 86 percent of organizations conducted background checks on either all or some applicants.<sup>47</sup> While these checks are designed to promote security and reduce employers' risk of liability, using them to reject applicants without considering the relevance of a conviction to the particular job can face legal challenges under civil rights and consumer protection laws. By systematically excluding applicants with records, a practice that disproportionately affects Latinos and African Americans, employers limit their talent pool and undermine their own policies to hire based on merit.

The criminal background reports relied on by employers, staffing firms and screening firms can be riddled with errors and misinformation and fail to adequately reflect

the nature of an offense, the age of the offense, or its relationship to the job. While there are state and federal laws intended to institute fairness in the commercial reporting and use of criminal background reports, these laws are difficult to enforce. As a result, background check companies have little incentive to ensure that their reports are accurate and in compliance with existing laws.

To ensure that unlawful background checks do not categorically exclude people with past convictions from employment, the State of California and the federal government should enforce civil rights and consumer protections that apply to criminal background checks in public and private sector hiring practices to the fullest extent. Specifically, the 2012 EEOC guidance regulating criminal background checks for employment should be aggressively enforced, and regulations should be issued at the state level enacting similar protections under the California Fair Employment and Housing Act.

In addition, California has the strongest consumer law in the nation limiting the release of criminal history information by commercial background check companies to convictions dating back seven years. State and local governments should certify that their hiring policies fully comply with federal civil rights standards and state and local fair chance hiring laws, as well as launch employer outreach and education campaigns. Jurisdictions that enact fair chance hiring laws should set out penalties for violating these laws and identify an enforcement agency to give them real teeth, as San Francisco did by empowering the Office of Labor Standards Enforcement to enforce its Fair Chance Ordinance. Finally, employers should promote best practices, prioritizing fairness and accuracy in criminal background checks and balancing the mutual interest of workers and employers.

### **Ban the Box Implementation Guide Developed**

**California:** All of Us or None in Collaboration with the National Employment Project issued a resource guide for California communities implementing AB 218.<sup>48</sup> The guide provides information about how to implement the new law. Additionally, it highlights fair-hiring best practices that can help leverage local resources to expand economic opportunities in local communities.

**4. Fully implement Proposition 47 and other criminal justice reforms to open opportunities on a large scale and shrink the number of people suffering felony convictions in the future.**

With Proposition 47 on the books, hundreds of thousands of Californians have a chance to be resentenced or to reclassify their felony convictions to misdemeanors. This is an unprecedented opportunity to bring people impacted by the criminal justice system out of the shadows and give them a fair chance at securing work and building their own futures. Californians for Safety and Justice has launched an online resource where individuals can find information about the reclassification process.<sup>49</sup> In the first 16 months since its approval, 279,235 people have applied for resentencing or reclassification.<sup>50</sup>

Maximizing the positive social and fiscal impact of the new law will require a comprehensive and coordinated statewide strategy that combines education with advocacy. If implemented correctly, this strategy not only will capitalize on the benefits of the new law for individuals, but also build power and capacity for communities that are most impacted. Advocates for people with prior convictions, legal services providers, public defenders, and other public agencies are well-positioned to lead and implement this strategy, provided they have the right support.

An infrastructure of legal services must also be developed to make the benefits of the new law as widely available as possible. This effort should be led by public defenders and will require the active cooperation of the courts, district attorneys, probation offices, and a variety of local public agencies. For people with simple cases, information packets and sample documents may be sufficient to help them file for relief on their own. For people with more complex cases (for example, involving convictions in multiple counties), a coordinated network of advocates and trainings may be needed.

Proposition 47 could also open the door to the full range of reentry and employment legal services for people with past convictions. For example, when filing to have a felony re-designated as a misdemeanor under the new law, a reentry attorney could also file a dismissal petition, giving the client full protection under the law. A coordinated

services approach will help identify people with more specialized needs who may otherwise be overlooked, including those with juvenile adjudications. Legal service providers can also educate job seekers about basic civil rights and consumer protections.

*“One million Californians can now change their sentences, records, and lives. That is why my organization and others are partnering with Californians for Safety and Justice to alert as many people as possible to the benefits of removing the felony stigma, the ‘Scarlet F,’ that far too many continue to wear.”*

SUSAN BURTON, FOUNDER AND EXECUTIVE DIRECTOR, A NEW WAY OF LIFE REENTRY PROJECT

**5. Expand incentives for employers to consider hiring people with past convictions.**

Large, government-funded contracts can be powerful levers to change private companies’ policies with regard to reentry employment. Government-funded projects can promote fair chance hiring in the contract bidding process by rewarding companies that hire local people with past convictions. An increasing number of cities nationwide are leveraging local development funds to create employment opportunities for local residents disadvantaged in the labor market, including people with past convictions.

These government-backed funds, often created to support large construction or conservation projects, can be used to encourage private bidders on related contracts to meet hiring targets of people with past convictions. These “best value contracting” processes can include job training and apprenticeship requirements, as well as training for employers to ensure that they have effectively implemented fair chance hiring practices.

Community Redevelopment Agencies were eliminated across California in 2011 amidst budget cuts. In September 2015, Governor Brown signed Assembly Bill 2, establishing Community Revitalization and Investment Authorities. These authorities are a new economic development tool that will replace the previous and more powerful redevelopment agencies. New redevelopment authorities created as a result of this law should incorporate hiring targets for disadvantaged workers,

including those with records, into their contracts. Project labor agreements are another possible mechanism for pursuing progressive reentry employment policies for publicly funded development projects. These agreements between local communities and union apprenticeship programs can be used as a tool for creating opportunities for disadvantaged workers. Community groups can push developers to provide employment opportunities for specific groups of workers—such as “hard to employ” workers, including those with records—in exchange for their public support of the project. State and local governments can further support these efforts by implementing Ban the Box policies for all of their contractors and subcontractors.

### Fair Chance Development Funds in Action

**Oakland:** In 2012, Revive Oakland—a coalition of 30 community, labor, and faith organizations—secured a landmark community jobs agreement with the city and the developer of the former Oakland Army Base. The agreement includes the creation of community-based training center, outreach, and job placement programs, local hire requirements, a commitment to the creation of family-supporting jobs, and access to employment for formerly incarcerated people.

## **6. Remove statutory and regulatory employment barriers and expand expungement remedies to make more occupations available to people with records.**

Californians with conviction records are categorically shut out from hundreds of occupations that require licenses or other clearance from the state. These are solid, well-paying jobs in diverse fields such as security, cosmetology and health and community care. Hundreds of these barriers are codified in California statutes and regulations.<sup>51</sup> In many more cases, state licensing agencies exercise their broad discretion to deny individuals with records. Having access to an attorney is often the only way to succeed in appealing these decisions.

Feeling discouraged, many denied applicants decide not to appeal at all, effectively shutting themselves out of these skilled professions. All states have the power to reduce barriers to employment by offering certificates of rehabilitation. However, these certificates vary from state to state in their usefulness and are often extremely difficult to obtain. California is one of only a handful of states that does offer certificates of rehabilitation, but they are hard to obtain and their usefulness is still being debated.<sup>52</sup>

Improving these available remedies for people with past convictions, in addition to expanding the availability of legal services to aid individuals in applying for these remedies, is an important component of reducing barriers to employment.

The growing demand for health-related jobs, including entry-level positions, makes licensing reform timely and urgent. The California Legislature and state licensing boards and agencies can work to remove unnecessary barriers to certification and licensing of health care and other occupations. Potential reforms include eliminating lifetime disqualifications and standardizing requirements that review boards consider when determining licensure or certification eligibility. The Legislature could also overhaul existing clean slate remedies to create a more comprehensive and robust expungement process that would pave the way towards licensed and other higher-paying fields. These reforms would dovetail with efforts to create employment pipelines to licensed fields through partnerships with community colleges, as described below.

## Barriers Removed for Certified Nursing Assistants

California: In September 2014, Governor Jerry Brown signed Senate Bill 1384 eliminating the laws that have barred people with certain past convictions, including nonviolent offenses, from becoming licensed as certified nursing assistants. The new law removes most lifetime disqualifications and provides applicants an opportunity to submit evidence of rehabilitation.

### **7. Increase skills training for expanding job sectors so people with records can compete in today's job market.**

Removing barriers to reentry employment will pay off only if workers possess both the hard and soft skills in demand in today's labor market.

To prepare people with prior records for work, private companies—many of which already invest significant resources in training employees—can work to design vocational and employment-related reentry programs that train people directly for jobs in expanding sectors. These programs can be adapted and integrated into existing publicly supported community college programs and funded with grants from the public sector and industry-funded foundations that train students for industry needs.

Public and private workforce development providers that work with the reentry population should also invest in modernizing and otherwise upgrading their skills-training programs to align them with 21st-century workplace needs, including training in technology skills. These providers are a critical bridge between employers and job seekers. As ambassadors to both groups, they would benefit from ongoing training and support on laws related to employment and arrest and conviction records. Such trainings would help dispel misconceptions about which records do or do not exclude someone from a certain field. Better understanding of relevant laws would help ensure workforce development programs are as inclusive as possible to the reentry population.

## Job Training Programs Developed for People with Past Convictions

Pasadena: Pasadena City College and the Flintridge Center have collaborated to offer the Apprenticeship Preparation Program, which prepares students for careers in the construction trades through a nationally union-approved course. The course is supplemented with life skills training, employability training, hands-on volunteering with Habitat for Humanity, union site visits, and guest speakers. This program was designed with the needs of formerly incarcerated people in mind. The creators chose to focus on construction trades, which are growing in California, do not exclude people with past convictions, and provide stable income and benefits.

### **8. Expand public and private investment in education pipelines that begin in prisons and jails and continue after release.**

For job seekers today, education is essential. Yet, if criminal justice-involved individuals have limited formal schooling, their reentry into society is all the more difficult. Community colleges and corrections have joined forces to provide large numbers of incarcerated people with post-secondary education and vocational training. As a result of several current initiatives including both public and private sector investments, access to college for people incarcerated in prison and jail in California is poised to expand. As new college programs are developed and implemented, it is important to ensure the provision of high-quality education that will lead to viable employment options grounded in local labor market needs for individuals returning to the community. Additionally, seamless connections should be forged between college programs available inside prisons and jails and resources for students to continue their education after release. The Renewing Communities project issued a report in 2015 with guidelines for college programs serving currently and formerly incarcerated students in California.<sup>53</sup> Colleges should use these guidelines to ensure they provide high-quality education that is responsive to the needs of these students.

Although access to community college for incarcerated people in California is improving, access to four-year college programs is still extremely limited. Board of Governor's Fee Waivers allow low-income students—including those who are incarcerated—to enroll in community college for free. However, the costs of pursuing a Bachelor's degree have remained prohibitive for the vast majority of incarcerated students, contributing to the dearth of four-year programs available to these students. Additionally, while the Second Chance Pell Pilot Program is a step forward, the program's future remains uncertain under the current administration.

Rather than reverting to harmful, overly punitive policies to promote public safety, lawmakers should acknowledge the importance of education for rehabilitation and successful reentry.

*“Providing high quality education for those who are incarcerated and formerly incarcerated provides an opportunity for them to take full responsibility for themselves, their families, and their communities. This is an issue of community renewal.”*

DOUGLAS WOOD, PROGRAM OFFICER, FORD FOUNDATION

### **Improve access to housing, food and other essential services for people recently released from jail or prison.**

9.

Beyond employment, a comprehensive strategy is needed to increase access to food, housing, healthcare and other support services for many people who recently have been released from jail or prison. Lack of access to these basic resources makes finding and keeping a job even more challenging.

Federal law imposes a lifetime ban on access to food stamps and cash assistance programs for anyone with a drug-related felony conviction; however, it also allows states the option of limiting or eliminating this ban. Advocates across California have been trying to remove these bans for over 15 years, finally succeeding in 2014 with the passage of Assembly Bill 1468. As of 2015, individuals are no longer barred from receiving

CalWORKS and CalFresh benefits (California's cash aid and services and food stamps programs) because of drug-related convictions. This progress at the state level has the potential to support reentry stability for people across California. Local support service providers should help individuals gain access to the resources for which they are eligible. Across the country, many states have joined California in removing these bans.

Despite this progress, limited access to housing remains a significant challenge for people reentering the community following incarceration. The majority of formerly incarcerated people live with family members upon release; alternative housing options are extremely limited. Their housing situation remains precarious due to local housing program policies that make it difficult or impossible for formerly incarcerated people to be formally added to the lease of family members. Their families' shelter is also threatened because the entire household becomes subject to eviction for having an unapproved tenant. This untenable situation exists despite federal guidance that encourages local public housing agencies to support family reunification for people coming out of jail or prison. A successful reentry employment strategy must take into account the housing needs of this population.

Ban the Box policies should be expanded to the housing sector. As many housing providers screen out potential tenants with records, government officials should implement housing policies that will not penalize those who have served time. San Francisco's Fair Chance Ordinance, which applies to all affordable housing citywide, is an important model in this area. Education and outreach is needed to ensure that the policy is enforced in San Francisco, and efforts should be made to extend this policy at local, state and federal levels. Implementing these policies should include extensive training for housing owners and managers. More recently, the California Fair Employment and Housing Council proposed new regulations regarding the use of criminal history information and the discriminatory effect in housing. The proposed regulations clarify how the use of criminal history may constitute discrimination in violation of the Fair Employment and Housing Act.



Finally, supportive housing models must also be expanded. These community-based models, which combine affordable housing, employment programs and other social services, help formerly incarcerated people reintegrate into society and reduce the likelihood of their returning to prison or jail. Housing for the reentry population should also be integrated with mainstream shelter or housing nonprofits as part of their overall programming. Doing so will help streamline funding and counter the stigma directed at formerly incarcerated people.

### Community-Based Organizations Provide Reentry Support

**Los Angeles: A New Way of Life Reentry Project provides housing and support services to formerly incarcerated women in South Central Los Angeles. The project was founded in 1998 by Susan Burton, a formerly incarcerated woman who is committed to helping other women transition back to community life following incarceration. In addition to providing stable housing, A New Way of Life also offers educational and skill-building opportunities and advocates for the rights of currently and formerly incarcerated people and their families.**

#### **10. Leverage philanthropy resources to advance policy reform, support advocates, combat stigma and raise awareness.**

Private foundations have an important role to play in supporting the work of organizers and advocates to advance reentry employment reforms at the local, state and national levels. Foundations should continue to expand their efforts to impact policy, to support advocates, to combat stigma against people with past convictions, and to raise awareness among employers and the public.

Foundations already are playing a key role in supporting reentry employment reforms in California and across the nation. Foundations can continue to use their voices to push for the policy reforms outlined in this brief. Foundations should also continue to expand their efforts to fund advocates for reentry employment. This support can

facilitate bringing together employers, colleges, training programs, workforce development, local government officials and other stakeholders to work together to improve reentry outcomes and create concrete job pipelines. The California Reentry Council Network is one such network that brings together stakeholders across the state and supports local community collaborations. Support for advocates and reentry networks should be expanded in California and nationally.

Negative perceptions of people with past convictions undercut their efforts to secure employment. Countering the stigma they face involves educating the public and employers in particular. Philanthropic institutions can be instrumental in organizing convenings where employers are encouraged to focus on these issues. In 2014, Alameda County business leaders, employers, entrepreneurs, staffing agencies, workforce development professionals, and government agencies and officials came together for a summit convened by NELP and the Lawyers' Committee for Civil Rights of the San Francisco Bay Area (LCCR). The Business Leaders Summit on Reentry engaged the business community in developing strategies to expand employment opportunities for people with records. Similar convenings where business leaders can share their concerns, hear from peers who are successfully employing workers with prior records, and collaborate on solutions can help overcome employer biases.

Employer engagement strategies include a public education campaign ([www.agoodhire.com](http://www.agoodhire.com)) spearheaded by LCCR and NELP that targeted hiring decision-makers. This campaign made a business and economic case for reentry employment, including demonstrating the untapped workforce potential of people with records.<sup>54</sup> LCCR and NELP have also developed a legal training to encourage employer compliance with existing laws, such as EEOC guidance and state and federal background check laws. Foundations should work with advocates to support and expand these multi-pronged strategies that will engage employers in reentry employment efforts and help till the ground for private sector Ban the Box reforms in the near future.

It also is crucial to create opportunities for stakeholders to hear and learn from the perspectives of individuals and groups led and staffed by formerly incarcerated people. These efforts can include exchanges with organizations that work closely with this population, such as All of Us or None, the Safe Return Project, A New Way of Life Reentry Project, and Time for Change Foundation.

### **Employers Asked about the Benefits of Hiring People with Criminal Records**

Alameda County: Participants in the 2014 Business Leaders Summit on Reentry in Alameda County were given a survey about their hiring practices.<sup>67</sup> When asked about the potential benefits to their companies of hiring people with records, the respondents did not name legal compliance, tax breaks, or wage subsidies at the top of their list. Instead, the most frequently cited benefits touched on the workforce and community-based contributions of this population:

**78% – access to hardworking applicants**

**73% – access to talented applicants**

**73% – having an employee population that reflects the community**

**67% – creating a stronger economy**



## IV. THE PATH FORWARD

Decades of mass incarceration and excessively punitive sentencing have created an underclass of people with past convictions. Hampered from securing work by federal and state penalties as well as severe stigma, these individuals struggle to reenter society. These unjust laws and policies undermine our shared sense of fairness, denying millions of community members a reasonable chance at rebuilding their lives.

For formerly incarcerated people, securing work is the path to stability, to supporting their families, and to building hope for the future. The sheer number of people who transition from prisons and jails to our communities each year makes reentry employment more than a criminal justice issue: it is an economic and moral imperative for our state and the nation.

The past few years have brought a sea change in criminal justice policies. The tide has turned toward policies that are more responsive to the root causes of crime and what it takes to help people with past convictions reintegrate into society. Organizations like All of Us or None, Californians for Safety and Justice, The Opportunity Institute and others are at the forefront of advocating for these changes. Philanthropy has a vital role to play in continuing to support advocates.

States and cities across the nation continue to pass fair chance laws expanding equal employment opportunities. The movement advances and we must continue to fight for the lives and futures of our children, siblings, parents and community members — individuals who deserve a fair chance at success and stability.

Recent reforms have shown what is possible when Californians and leaders from multiple sectors and constituencies come together to correct an unjust system. Now, more than ever, we must stay firm in our commitment to justice. We must draw from the same well of collaboration and collective will to transition Californians with prior records to productive jobs that will help them support their families and keep our communities safe and stable for years to come.

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## END NOTES

<sup>1</sup> California Department of Corrections and Rehabilitation, "2014 Outcome Evaluation Report" (California Department of Corrections and Rehabilitation, Office of Research, July 2015), [http://www.cdcr.ca.gov/Adult\\_Research\\_Branch/Research\\_Documents/2014\\_Outcome\\_Evaluation\\_Report\\_7-6-2015.pdf](http://www.cdcr.ca.gov/Adult_Research_Branch/Research_Documents/2014_Outcome_Evaluation_Report_7-6-2015.pdf).

<sup>2</sup> John M. Nally et al., "The Post-Release Employment and Recidivism Among Different Types of Offenders with a Different Level of Education: A 5-Year Follow-Up Study in Indiana," *International Journal of Criminal Justice Sciences* 9, no. 1 (2014): 16–34, <http://www.sascv.org/ijcjs/pdfs/nallyetalijcjs2014vol9issue1.pdf>; Mark T. Berg and Beth M. Huebner, "Reentry and the Ties That Bind: An Examination of Social Ties, Employment, and Recidivism," *Justice Quarterly* 28, no. 2 (April 1, 2011): 382–410, doi:10.1080/07418825.2010.498383.

<sup>3</sup> Madeline Neighly, Maurice Emsellem, and Anastasia Christman, "A Healthy Balance: Expanding Health Care Job Opportunities for Californians with a Criminal Record While Ensuring Patient Safety and Security" (National Employment Law Project, May 2014), <http://www.nelp.org/page/-/SCLP/2014/Healthy-Balance-Full-Report.pdf>.

<sup>4</sup> Devah Pager, "The Mark of a Criminal Record," *American Journal of Sociology* 108, no. 5 (2003): 937–75, doi:10.1086/374403.

<sup>5</sup> Marcus Nieto, "Adult Parole and Probation in California" (California Research Bureau, September 2003), <https://www.library.ca.gov/crb/03/09/03-009.pdf>.

<sup>6</sup> Berg and Huebner, "Reentry and the Ties That Bind": 398.

<sup>7</sup> California Department of Corrections and Rehabilitation, "2014 Outcome Evaluation Report."

<sup>8</sup> This average was calculated using the yearly data provided by the CDCR in the following report: California Department of Corrections and Rehabilitation, "Rate of Felon Parolees Returned to California Prisons: Calendar Year 2012" (California Department of Corrections and Rehabilitation, Offender Information Services Branch, April 2013), [http://www.cdcr.ca.gov/Reports\\_Research/Offender\\_Information\\_Services\\_Branch/Annual/PVRET2/PVRET2d2012.pdf](http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/PVRET2/PVRET2d2012.pdf).

<sup>9</sup> California Department of Corrections and Rehabilitation, "Rate of Felon Parolees Returned to California Prisons: Calendar Year 2012."

<sup>10</sup> Christian Henrichson and Ruth Delaney, "The Price of Prisons: What Incarceration Costs Taxpayers" (Vera Institute of Justice, 2012), [https://storage.googleapis.com/vera-web-assets/downloads/Publications/the-price-of-prisons-what-incarceration-costs-taxpayers/legacy\\_downloads/price-of-prisons-updated-version-021914.pdf](https://storage.googleapis.com/vera-web-assets/downloads/Publications/the-price-of-prisons-what-incarceration-costs-taxpayers/legacy_downloads/price-of-prisons-updated-version-021914.pdf).

<sup>11</sup> This estimate was calculated using the number of parolees who returned to prison in 2011 and the estimated cost of incarceration per California prison inmate at that time. Given that the costs of incarceration per individual have been increasing in recent years and that costs other than incarceration associated with recidivism (e.g., court costs), this represents a conservative estimate of the total current costs of recidivism to the state.

<sup>12</sup> "At \$75,560, housing a prisoner in California now costs more than a year at Harvard," (Associated Press, June 4, 2017), <http://www.latimes.com/local/lanow/la-me-prison-costs-20170604-htlmlstory.html>.

<sup>13</sup> John Schmitt and Kris Warner, "Ex-Offenders and the Labor Market" (Center for Economic and Policy Research, November 2010), <http://cepr.net/documents/publications/ex-offenders-2010-11.pdf>.

<sup>14</sup> Economy League of Greater Philadelphia, "Economic Benefits of Employing Formerly Incarcerated Individuals in Philadelphia" (September 2011), <http://economyleague.org/uploads/files/712279713790016867-economic-benefits-of-employing-formerlyincarcerated-full-report.pdf>.

<sup>15</sup> Lawyers' Committee for Civil Rights of the San Francisco Bay Area and National Employment Law Project, "Strategies for Creating Fair Employment Opportunities for People with Criminal Records: Findings from the Alameda County Business Leaders Summit on Reentry" (2015), <http://www.nelp.org/content/uploads/2015/03/Strategies-For-Creating-Fair-Employment-Opportunities-For-People-With-Crimin.pdf>.

<sup>16</sup> Lois M. Davis et al., "How Effective Is Correctional Education, and Where Do We Go from Here? The Results of a Comprehensive Evaluation" (RAND Corporation, 2014), [http://www.rand.org/pubs/research\\_reports/RR564.html](http://www.rand.org/pubs/research_reports/RR564.html).

<sup>17</sup> "Education and Vocational Training in Prisons Reduces Recidivism, Improves Job Outlook" (RAND Corporation, August 22, 2013), <http://www.rand.org/news/press/2013/08/22.html>.

- <sup>18</sup> Debbie Mukamal, Rebecca Silbert, and Rebecca M. Taylor, "Degrees of Freedom: Expanding College Opportunities for Currently and Formerly Incarcerated Californians" (Stanford Criminal Justice Center, Stanford Law School, and Chief Justice Earl Warren Institute on Law and Social Policy, UC Berkeley School of Law, 2015), [https://www.law.berkeley.edu/files/DegreesofFreedom2015\\_FullReport.pdf](https://www.law.berkeley.edu/files/DegreesofFreedom2015_FullReport.pdf).
- <sup>19</sup> Mukamal, Silbert, and Taylor, "Degrees of Freedom."
- <sup>20</sup> Mukamal, Silbert, and Taylor, "Degrees of Freedom."
- <sup>21</sup> Administrative Office of the Courts, "A Preliminary Look at California Parolee Reentry Courts" (Judicial Council of California, June 2012), <http://www.courts.ca.gov/documents/AOCBriefParolee0612.pdf>.
- <sup>22</sup> Employment Development Department, "California's Unemployment Rate Decreases to 5.2 Percent" (State of California, Employment Development Department, June 17, 2016), [http://www.edd.ca.gov/About\\_EDD/pdf/urate201606.pdf](http://www.edd.ca.gov/About_EDD/pdf/urate201606.pdf); California Department of Alcohol and Drug Programs, "Racial/Ethnic Disparities—A Data-Informed Perspective" (California Department of Alcohol and Drug Programs, June 2013), [https://archive.cdph.ca.gov/programs/Documents/ADP\\_Race-Ethnicity\\_Report\\_Final.PDF](https://archive.cdph.ca.gov/programs/Documents/ADP_Race-Ethnicity_Report_Final.PDF).
- <sup>23</sup> National Employment Law Project, "The Low-Wage Recovery: Industry Employment and Wages Four Years into the Recovery" (April 2014), <http://www.nelp.org/content/uploads/2015/03/Low-Wage-Recovery-Industry-Employment-Wages-2014-Report.pdf>.
- <sup>24</sup> National Employment Law Project, "The Inequality of Declining Wages During the Recovery" (July 2013), <http://www.nelp.org/content/uploads/2015/03/NELP-Fact-Sheet-Inequality-Declining-Wages.pdf>.
- <sup>25</sup> Pager, "The Mark of a Criminal Record."
- <sup>26</sup> Michelle Natividad Rodriguez and Beth Avery, "Ban the Box: U.S. Cities, Counties, and States Adopt Fair Hiring Policies" (National Employment Law Center, April 2017), <http://www.nelp.org/publication/ban-the-box-fair-chance-hiring-state-and-local-guide/>.
- <sup>27</sup> See the text of the bill here: [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201320140AB218](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201320140AB218).
- <sup>28</sup> Rodriguez and Avery, "Ban the Box: Fair Chance Guide."
- <sup>29</sup> See text of bill here: [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB1008](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB1008).
- <sup>30</sup> See the text of the ordinance here: [http://www.nelp.org/content/uploads/2015/03/San\\_Francisco\\_Fair\\_Chance\\_Ordinance\\_2014.pdf](http://www.nelp.org/content/uploads/2015/03/San_Francisco_Fair_Chance_Ordinance_2014.pdf).
- <sup>31</sup> See text of the ordinance here: [http://clkrep.lacity.org/onlinedocs/2014/14-0746\\_ORD\\_184652\\_12-9-16.pdf](http://clkrep.lacity.org/onlinedocs/2014/14-0746_ORD_184652_12-9-16.pdf).
- <sup>32</sup> See details about the proposition here: [https://ballotpedia.org/California\\_Proposition\\_47,\\_Reduced\\_Penalties\\_for\\_Some\\_Crimes\\_Initiative\\_\(2014\)](https://ballotpedia.org/California_Proposition_47,_Reduced_Penalties_for_Some_Crimes_Initiative_(2014)).
- <sup>33</sup> "Prop. 47 funding to fight criminal recidivism has finally arrived - right on time" (Los Angeles Times, June 6, 2017), <http://www.latimes.com/opinion/editorials/la-ed-prop-47-funding-20170606-story.html>.
- <sup>34</sup> See the text of the bill here: [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB651](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB651).
- <sup>35</sup> See text of SB 530 here: [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140SB530](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB530); See text of AB 2396 here: [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB2396](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB2396).
- <sup>36</sup> Mukamal, Silbert, and Taylor, "Degrees of Freedom."
- <sup>37</sup> "Renewing Communities Grant Announcement" (The Opportunity Institute, March 23, 2016), <http://theopportunityinstitute.org/renewingcommunities-grant-announcement/>. For details on the 2016 CA budget, see here: [http://extranet.cccco.edu/Portals/1/ExecutiveOffice/Board/2016\\_agendas/July/Item-4.5-Budget-Update.pdf](http://extranet.cccco.edu/Portals/1/ExecutiveOffice/Board/2016_agendas/July/Item-4.5-Budget-Update.pdf)
- <sup>38</sup> "An Update to the Future of California Corrections" (California Department of Corrections and Rehabilitation, January 2016), <http://www.cdcr.ca.gov/Blueprint-Update-2016/An-Update-to-the-Future-of-California-Corrections-January-2016.pdf>.
- <sup>39</sup> State of California, "California State Budget 2014-15" (2014), <http://www.ebudget.ca.gov/2014-15/pdf/Enacted/BudgetSummary/FullBudgetSummary.pdf>.
- <sup>40</sup> "2017-2018 May Revision to the Governor's Budget" (State of California, May 11, 2017), <http://www.ebudget.ca.gov/2017-18/pdf/Revised/BudgetSummary>.
- <sup>41</sup> "Trumka: Criminal Justice Reform is a Labor Issue" (AFL-CIO, October 10, 2014), <https://aflcio.org/speeches/trumka-criminal-justice-reform-labor-issue/>; "It's Time to 'Ban the Box'" (AFL-CIO, June 10, 2015), <http://www.aflcio.org/Blog/Political-Action-Legislation/It-s-Time-to-BantheBox>.
- <sup>42</sup> Executives' Alliance for Boys and Men of Color et al, "Fair Chance Hiring in Philanthropy: A Step-by-Step Guide," (published 11/2/2016), <http://nelp.org/publication/fair-chance-hiring-in-philanthropy-a-step-by-step-guide/>.
- <sup>43</sup> Rodriguez and Avery, "Ban the Box: U.S. Cities, Counties, and States Adopt Fair Hiring Policies"
- <sup>44</sup> Sarah Esther Lageson, Mike Vuolo, and Christopher Uggen, "Legal Ambiguity in Managerial Assessments of Criminal Records: Legal Ambiguity and Criminal Records," *Law & Social Inquiry* 40, no. 1 (February 2015): 175-204, doi:10.1111/lsi.12066.
- <sup>45</sup> Roberta Meyers, Ray P. McClain, and Lewis Maltby, "Best Practice Standards: The Proper Use of Criminal Records in Hiring" (Lawyers' Committee for Civil Rights Under Law, Legal Action Center, and National Workrights Institute, 2013), <http://hirenetwork.org/sites/default/files/Best-Practices-Standards-The-Proper-Use-of-Criminal-Records-in-Hiring.pdf>.
- <sup>46</sup> National Employment Law Project, "State Reforms Promoting Employment of People with Criminal Records: 2010-11 Legislative Round Up" (December 2011), <http://www.nelp.org/content/uploads/2015/03/PromotingEmploymentofPeoplewithCriminalRecords.pdf>.

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## END NOTES

<sup>47</sup> "SHRM Finds Fewer Employers Using Background Checks in Hiring" (Society for Human Resource Management, July 19, 2012), <https://www.shrm.org/about-shrm/press-room/press-releases/pages/backgroundchecks.aspx>.

<sup>48</sup> See the resource guide here: <http://www.prisonerswithchildren.org/wp-content/uploads/2014/03/NELP-AOUON-California-Ban-the-Box-Resource-Guide-1.31.14.pdf>.

<sup>49</sup> See the online resource here: <http://myprop47.org/>.

<sup>50</sup> Judicial Council of California, "Proposition 47 Data Summary Report" (June 28, 2016), [http://www.courts.ca.gov/documents/for-publication\\_prop-47.pdf](http://www.courts.ca.gov/documents/for-publication_prop-47.pdf).

<sup>51</sup> "ABA National Inventory of Collateral Consequences of Conviction" (accessed July 12, 2016), <http://www.abacollateralconsequences.org/agreement/?from=/map/>.

<sup>52</sup> Paul Samuels and Debbie Mukamal, "After Prison: Roadblocks to Reentry" (Legal Action Center, 2004), [http://lac.org/roadblocks-toreentry/upload/lacreport/LAC\\_PrintReport.pdf](http://lac.org/roadblocks-toreentry/upload/lacreport/LAC_PrintReport.pdf).

<sup>53</sup> Mukamal, Silbert, and Taylor, "Degrees of Freedom."

<sup>54</sup> Lawyers' Committee for Civil Rights of the San Francisco Bay Area and National Employment Law Project, "Strategies for Creating Fair Employment Opportunities for People with Criminal Records: Findings from the Alameda County Business Leaders Summit on Reentry" (2015), <http://www.nelp.org/content/uploads/2015/03/Strategies-For-Creating-Fair-Employment-Opportunities-For-People-With-Crimin.pdf>.





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