

BAN THE BOX
in
HOUSING, EDUCATION, AND VOTING

A Grassroots History

by
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All of Us or None
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Author's Note

My purpose in writing this report is to feature the accomplishments of thousands of formerly-incarcerated and convicted people around the country who became activists in various Ban the Box campaigns. Too often successful reforms are simply credited to a legislative sponsor, with little acknowledgement of the role of grassroots mobilization and support. With its companion volume, *Ban the Box in Employment: A Grassroots History*, this report seeks to focus on the directly-impacted people that made these campaigns successful.

With very few exceptions, throughout this report I have used the names of organizations, but not individuals. So many people have contributed to these campaigns – testifying, marching, registering people to vote, phone-banking, signature-gathering. Rather than name some individuals and exclude others whose work is just as important, I decided to mention only organizations.

About language: Having been in prison myself, I sometimes use the word “we” when referring to people who have been formerly-incarcerated or convicted. I’ve also been organizing since 2002 in All of Us or None, so I often use the term “we” when describing campaigns that All of Us or None has initiated.

In addition, I use language that affirms human dignity. Language like “ex-offender,” “ex-felon,” or “ex-convict” is demeaning and locks us into being defined by our past mistakes. We are people, human beings like all others. I use language that emphasizes our humanity: “people in prison,” “people on parole or probation,” “formerly-incarcerated people,” or “people with criminal records.” These phrases describe a condition rather than define a person.

I am very grateful to everyone who helped me write this report. THANK YOU to everyone who sent me articles, photos, notes from meetings, analyses, or had conversations with me about your Ban the Box campaign. THANK YOU to all who provided me with information,

research, and support. Finally, a very special appreciation to my partner, Eve Goldberg, who was invaluable in editing both of these Ban the Box reports.

Introduction:

Ban the Box in Housing, Education, and Voting

Ban the Box is a movement to end the discrimination faced by millions of people in the U.S. — people who are returning to their communities from prison or jail and trying to put their lives back together. It is a campaign to win full restoration of our human and civil rights.

Ban the Box is a campaign to end *structural discrimination* — discrimination directed against everyone who has a past conviction, without consideration for individual circumstances.

Ban the Box got its name from that box that appears on most employment forms, as well as applications for housing, college, public benefits, and the right to serve on a jury – the box that reads: “Have you ever been convicted of a felony?” While the wording may change slightly from application to application, the result is the same: it puts up a barrier for people who want to work, educate themselves, provide for their families, and lead healthy, productive lives.

For years, the prejudice against people with conviction histories has grown and flourished until now most employers and housing providers, most universities and colleges, even voting registrars ask that question. Formerly-incarcerated and convicted people know that the conviction history question on applications poses an almost insurmountable obstacle. Banning the Box – eliminating that question – is crucial for our communities and our families.

Estimates are that one in three people in the U.S. has a criminal record.¹ This means that Ban the Box policies could affect over 100 million people who experience the stigma and barriers associated with that record. There are a multitude of specific ways in which all forms of discrimination adversely affect our communities. Ban the Box policies can help alleviate

these problems and improve people's lives.

Ban the Box is a powerful tool in leveling the playing field, assuring that people get a second chance to put their lives together, and ending the blanket discrimination that shuts millions out of jobs, shelter, education, and participation in the democratic process. It's a key step in acknowledging the humanity of all people, regardless of past behavior or mistakes.

Ban the Box started as a campaign to end employment discrimination. Extending out from both Boston and San Francisco in 2003, now Ban the Box in Employment campaigns have swept the country.² Over 150 cities and counties, and 24 states have been passed and implemented Fair Chance hiring statutes. Nine states have extended ban the box hiring requirements to private employers.³ As a result, literally millions of people with records now have an improved chance of finding a job.

Formerly-incarcerated people around the country have used the experiences they gained in employment campaigns to inspire new efforts to end discrimination. In Seattle, San Francisco, Austin, and New Orleans, we worked to apply anti-discrimination principles to public housing. In New York, Chicago, and Washington, D.C., formerly-incarcerated and prospective students campaigned to Ban the Box on college admissions and student aid applications. And all over the United States, formerly-incarcerated people fought back against efforts to rob us of our voting power, and to register our communities to vote.

We have built a powerful movement for full restoration of our rights after release from prison or jail, strong enough to pressure Obama's White House to implement significant, widespread reforms. These reforms range from policies about job announcements to new inclusive housing provisions, from recommendations for universities to ban the box on admissions applications to increasing access to micro-loans for business development.⁴

This Ban the Box report will focus on the accomplishments of formerly-incarcerated people and our allies as we strive to win full restoration of our voting rights, and to access housing

and higher education. What follows is just a small sampling of what we have done – the full extent of what we can and will accomplish is still on the horizon.

Ban the Box in Housing: A Grassroots History

Background

Ban the Box campaigns in housing have focused primarily on public housing, which is housing for low-income people that is owned or subsidized by local, state, or federal government. Public housing is administered by local Public Housing Authorities which are autonomous but take policy direction from the U.S. Department of Housing and Urban Development (HUD). Some properties are government-owned; others are owned by private landlords, with rental assistance paid by the Section 8 (Housing Choice) voucher program.

“One-strike evictions’ were part of a public housing policy formulated as the Housing Opportunity Extension Act of 1996, signed by President Clinton. Since then, “one strike and you’re out” has characterized federal housing policy, allowing public housing authorities to evict tenants based on a single illegal occurrence. The law allows tenants to be evicted even when it was not them but rather their relatives or guests that were involved. In Oakland, a grandmother was evicted because her grandson was arrested smoking marijuana in a nearby parking lot. In 2002, the Supreme Court upheld the law in a unanimous decision and allowed her eviction.⁵

Laws regulating public housing actually state that tenants MAY be evicted because of drug or other criminal activity, and do not require eviction. The only mandatory limitations on eligibility for public housing or grounds for evictions are 1) lifelong registrants on sex offender registries, and 2) conviction for manufacturing methamphetamine on federally-subsidized property. HUD issues only guidances, not requirements. But local public housing authorities are independent, and most of them have been reluctant to welcome people coming home from jail or prison.

Millions of people with past convictions and their families feel the weight of these eligibility restrictions. More and more people with records end up homeless because they cannot reunite with their families living in public housing. Children suffer continuing separation and damage when returning parents are unable to join them in public housing.

Ban the Box campaigns for fair chance housing are one solution being embraced by communities all over the U.S. Because housing is such an immediate and crucial element for those coming out of prison, and changing public policy is a long process, other housing solutions are being explored as well.

For example, formerly-incarcerated people have bought homes, certified them as transitional housing, then welcomed others coming back from prison to live there. Most often operating with shoestring budgets and lots of volunteer labor, many of these efforts have grown into thriving non-profit organizations. Some of these efforts are detailed in the snapshots below.

These grassroots transitional homes have formed the backbone of the Ban the Box movement in housing, providing stability and safety to people rejoining our communities after jail or prison. They are included here because these organizations are on the frontline of campaigns against housing discrimination, and provide creative housing solutions for people with records. In addition to providing shelter, they offer services and support that build community and train new community leaders.

CALIFORNIA

San Francisco

When All of Us or None first approached the San Francisco Human Rights Commission in 2003, we wanted to ban the box in both housing and employment. On the advice of the Human Rights Commission staff, we pursued policy changes in public employment first. In 2005, we passed a resolution to ban the box in city hiring. In 2011, we revisited San

San Francisco's ban the box policy. San Francisco had been successful in implementing hiring changes for public employment, so we decided it was time to move forward with private employers and subsidized housing providers.⁶ People from the San Francisco Reentry Council, Human Rights Commission, community organizations, and All of Us or None, drafted a Fair Chance Ordinance.

Winning change in the housing arena was complicated. Many different non-profit housing developers administer affordable housing in San Francisco, each with their own application process. We reached out to the Council of Community Housing Organizations, a coalition of 24 community-based housing developers. In our discussions with coalition representatives we were able to answer their questions about our Fair Chance proposal, and we eventually overcame their objections. One member of the coalition, Community Housing Partnership, already welcomed formerly-incarcerated people as tenants. All of Us or None worked closely with this group as we organized support for the ordinance, and several of their formerly-incarcerated residents became active advocates in our campaign.

All of Us or None also partnered with San Francisco City government while working on the Fair Chance legislation. The Human Rights Commission staff were especially dedicated partners, devoting time and resources to building community support. The Human Rights Commission held more than 50 stakeholder meetings soliciting comments and suggestions. Through these discussions, some landlords began to see where their unconscious bias against people with criminal records was operating. They started to recognize the benefits of a city-wide, objective background screening policy. The Human Rights Commission and Reentry Council were also able to engage law enforcement – some of whom testified about the need for the Fair Chance Ordinance before the Board of Supervisors.

Formerly-incarcerated people and our allies mobilized public support. Community Housing Partnership has always emphasized community activism and values the leadership of its residents. They created a skit about background checks and housing, which they performed in many venues to educate people about the pending ordinance. When the time came for

hearings at the Board of Supervisors on the Fair Chance Ordinance, we filled the room with supporters — and won the vote!

LESSON LEARNED:

Partnering with city staff was invaluable in drafting legislation because they had superior knowledge of city code and required language. Having city officials as intermediaries also eased communication with landlords who opposed the legislation.

LESSON LEARNED:

Winning the Fair Chance vote took countless hours of discussion with legislators, housing providers, residents, and other formerly-incarcerated people. In order to achieve victory, we worked hard to win over many people and organizations that had initially been against us.

Los Angeles – A New Way of Life Reentry Project

A New Way of Life Reentry Project provides transitional housing and support services to women coming back from jail or prison. It was started by Susan Burton who had been in prison herself. Susan understood what women need as they return to their communities. Since its founding in 1998, A New Way of Life has provided services for over 900 women, and helped 170 families reunite. New Way of Life has also distributed household goods to over 3000 formerly homeless people, and established a Reentry Legal Clinic. It has also started a leadership development program for women called Women Organizing for Justice.⁷ And, A New Way of Life staff have organized a Los Angeles chapter of All of Us or None.

In 2015, A New Way of Life worked with the Housing Authority of Los Angeles to establish the Family Reunification Program. The goal of this program is to reunite families by allowing people coming out of prison to live with their families who are in Section 8 Housing. Participants in the program are supported towards success by taking classes in financial planning, and receive both job training and counseling. A New Way of Life staff — all formerly-incarcerated themselves — administers the program.

Inland Empire – Starting Over, Inc.

Many formerly-incarcerated people conquer addiction, embrace sobriety, and want to help others. In 2002, Vonya Quarles, a formerly-incarcerated woman in Riverside, got sober and stable, then opened up her home to others facing the same obstacles she faced when she left prison. Starting Over, Inc. began as just one house in 2002, but now it has grown to five homes with a capacity of 55 residents. People can stay up to 18 months, are encouraged and assisted in finding other housing, but they are never kicked out. One woman stayed for four years. She was eventually hired as a house manager, and left Starting Over only because she was finally convinced that someone else needed her bed.

Starting Over is the home base for the Riverside chapter of All of Us or None. Riverside is an extremely conservative area. Every single County Supervisor is a Republican. But despite this conservative climate, All of Us or None worked with their public housing authority to improve public housing access for people with records. All of Us or None members convinced the housing authority that people coming out of prison or jail should be added to a “preference list.” This list allows homeless people with underage children to go to the top of the waiting list for affordable housing. Their argument was that transitional housing is by nature only temporary, and that residents of transitional housing should be eligible for the preference list. Otherwise, after they leave transitional housing they would be homeless.

At first, the director of the Riverside Housing Authority was reluctant to engage in discussion with All of Us or None. She was resistant to any suggestions from formerly-incarcerated people. After this director’s retirement, however, housing authority staff became much more receptive. Now the staff is supporting All of Us or None recommendations at the Housing Commission.

San Bernardino – Time for Change Foundation

Many women come out of prison with no place to call home. They want to reunite with their children and families, but have no way to do so if they are homeless. At Time for Change, homeless women and their children are provided safe and sober housing, family and individual counseling, financial planning classes, and a true sense of community.

Time for Change Foundation was started in 2002 by Kim Carter, a formerly-incarcerated woman who wanted to help others like herself. The foundation's mission is clear from its slogan, "We call it Home, Others call it Hope." Besides gaining safe housing and crucial survival services, women at Time for Change are encouraged to develop leadership skills. Many take part in a speakers' training program, and participate in advocacy campaigns. Hundreds of women and children have been lived in Time for Change transitional homes and have been supported by its programs.

In recent years, Time for Change has ventured even farther into solving the problem of homelessness, becoming a non-profit housing developer. They designed and constructed Phoenix Square, an affordable housing project for very low income families. A seven-unit apartment complex was extensively renovated and leased out. More housing and community space will be developed, and a solar-paneled parking structure and community garden are planned for the future.

Time for Change has also partnered with HUD in administering the Homes for Hope Project. This project places homeless families directly into their own apartment, even when they face institutional barriers like conviction histories, bad credit, or previous evictions. Through this program, families receive supportive services, learn how to maintain stable housing, and then assume the lease when they are ready.

ILLINOIS — Chicago

Until recently, in Chicago a person had to wait five years after completing probation before being allowed into public housing. To change this discriminatory policy, formerly-incarcerated men and women joined with service providers such as job trainers and drug counselors, educators, and other community members to form The Reentry Project. In 2010, The Reentry Project wrote a report, *Barred from Housing*, which urged the Chicago Housing Authority to end its automatic rejection of applicants who did not meet their rigid probation requirements.

Next, The Reentry Project designed a pilot program where service providers such as job trainers and counselors selected individuals on probation who they believed could succeed in public housing. These people were admitted into the pilot program. The pilot program was so successful that in 2013 the Chicago Housing Authority dropped its five-year waiting period.

LOUISIANA — New Orleans

Since Hurricane Katrina struck in 2005, New Orleans residents have faced a severe housing crisis. Today, over 17,000 families, most of them African-American, are on the waiting list for public housing. And, poverty is so widespread that one in four households in New Orleans receives rental assistance from the government.

This housing crisis is only exacerbated for people with conviction histories. Louisiana incarcerates more people per capita than any other state.⁸ Huge numbers of families in New Orleans have conviction records. Among African-American men in New Orleans, one in seven is either in prison, on parole, or on probation.

In 2013, Voice of the Ex-Offender (VOTE)⁹ issued a report on housing in New Orleans. Entitled “Communities, Evictions, and Criminal Convictions,” the report was authored by a formerly-incarcerated man who had become a lawyer and later became the Deputy Director

of VOTE.¹⁰ This report was the starting point for organizing to change New Orleans public housing policy.

VOTE members formed a housing rights coalition with a diverse group of organizations: Stand with Dignity, a project of the New Orleans Workers' Center for Racial Justice; the Greater New Orleans Fair Housing Action Center; Southeast Louisiana Legal Services; Vera Institute for Justice; and Unity, a 60-member coalition to end homelessness. Many of the organizations involved in the coalition had formerly-incarcerated people in their membership or on their staff. The coalition's members were a repository of first-hand expertise about the solutions needed in New Orleans public housing.

The coalition initiated discussions with the Housing Authority of New Orleans (HANO). HANO had been placed in Federal receivership in 2002 for chronic mismanagement, and was being operated directly by HUD. HANO had been notorious for evicting whole families even when no arrest occurred and where the alleged activity was not even attributed to a household member. The coalition organized in the community and submitted a proposed Model Policy to HANO that would change how it considers conviction history.

Because of this public pressure, HANO issued a draft of a Criminal Background Policy Statement and held a public hearing in January of 2013. In the preamble to the policy statement, HANO admits that its practices have injured New Orleans families: "HANO recognizes that, whether explicit or implicit, its practices have served to perpetuate the problem. As the city's major provider of affordable housing and of safe and healthy communities, HANO accepts that it has a responsibility to give men and women with criminal histories the opportunity to rejoin their families and communities and to rejoin them as productive members."¹¹ This represented a major shift in policy, largely due to the advocacy of formerly-incarcerated people and their family members.

The coalition responded by mobilizing people to attend the hearing. They also wrote a detailed critique of the draft policy statement. HANO responded to community concerns by issuing a revised policy that incorporated some of their suggestions.

HANO became the first public housing authority in the country to adopt policies that do not automatically bar applicants with conviction histories from public housing. (The exceptions to this more open policy are for two automatic bars required by federal law.¹²) The new policy requires that housing providers conduct a detailed review of individual and family circumstances for anyone whose conviction causes concern.

Additionally, HANO's new policy removed the conviction history question from its own employment applications and postpones any background check until after a conditional offer of employment has been made. For HANO to apply Ban the Box to its own employment practices as well as applying it to housing policy was unique.

HANO's new policy ensures that no person's application for public housing assistance in New Orleans will be rejected solely on the basis of a conviction. Instead, the housing authority worked with community organizations to create a Screening Criteria Grid. The grid sets *look-back periods* for different types of convictions and standardizes the process city-wide. If an application requires further review because of a specific conviction, a panel conducts a personalized assessment considering individual circumstances: schooling, treatment for addictions, job training, employment, and community service work are considered. They will also consider perspectives from employers, parole officers, friends and family members before making a decision.

But a major gap still exists for people seeking access to public housing in New Orleans. The Housing Choice program (also known as Section 8) provides vouchers to private landlords when they rent to people who receive public rental assistance. While new guidelines allow leaseholders to add family members with past convictions to their leases, private landlords are exempt from having to accept the vouchers if an applicant has a conviction history.

Since much of the city's public housing was devastated by floods after Hurricane Katrina hit, HANO-assisted renters are increasingly dependent on Housing Choice landlords. Some public housing has been rebuilt; much of it is managed by third-party managers who were

made subject to HANO's guidelines only because of community pressure. Now the grassroots housing coalition has set its sights on further revisions of the HANO guidelines that would apply to the Section 8 voucher program. They also plan to confront private housing developers about their admissions policies and get those policies changed.

As its members continue to struggle to ban the box on housing applications, VOTE has also created an exemplary program to support people coming home from prison. It's called "The First 72+" and was founded by six formerly-incarcerated men.

First 72+ got off the ground when VOTE partnered with a community church to open up a five-bed transitional home for men coming home from Louisiana state prisons. Men in First 72+ receive crucial support during the first three days of their release: transportation home from prison, clothes, food, rides to social services offices, and healthcare. After the first 72-hour stabilization period, the men are connected to education and employment opportunities. They start looking for long-term housing, and participate in parenting and financial literacy courses. Until they find employment, residents live rent-free and receive food and clothing. After they are employed, the men start contributing to household expenses on a sliding scale basis.

The guiding principle of First 72+ is "Us helping Us." When government failed them, formerly-incarcerated people forged their own, very successful, solutions.

NEW JERSEY — Newark

In 2003, the New Jersey Institute for Social Justice convened the first Reentry Roundtable in New Jersey. The Roundtable included formerly-incarcerated people and family members as well as state officials, agencies, and community organizations. Discussions during the Roundtable process led to policy proposals, which eventually resulted in significant reform legislation. This new legislation put an end to New Jersey's ban on people with drug convictions receiving public benefits. Subsequently, a statewide coalition of 80

organizations called the Integrated Justice Alliance united to enact further criminal justice reform.

On September 19, 2012, the coalition passed the broadest fair chance ordinance in the United States. The Newark ordinance banned the box for all public and private employment, all housing and real-estate transactions, and all local licensing. The law requires that applicants for jobs or housing must be found otherwise qualified before a background check is done. Employers and housing providers are required to notify the applicant when a background check will be required, and the applicant has the right to a copy of whatever information is being considered. Job and housing announcements cannot include any limitations on eligibility because of a conviction history. The law requires an individualized review of circumstances leading to the conviction as well as allowing applicants to submit evidence of rehabilitation.

NEW YORK — New York City

Grassroots organizations of formerly-incarcerated people are key partners with the New York City Housing Authority's Family Reentry Pilot. This pilot is a two-year program that assists formerly-incarcerated people by reuniting them with their families in public housing. The first phase screens 150 people applying for public housing, all of whom have been recently released from prison. During the two-year program, these participants develop an action plan with their case manager that may include job training, education, drug treatment, and family counseling. These support services are provided by a wide range of community organizations, including some led by formerly-incarcerated people. Successful completion of the program means the returning family member can be permanently added to the family's lease.

VERMONT — Burlington

In 2004, the Vermont Department of Corrections partnered with the Burlington Housing Authority and community organizations to start the “Offender Re-Entry Housing Program.” The program allowed people coming back from prison to receive housing subsidies and rejoin their families in public housing. It included a Family Unification Voucher program, which enabled people meeting specific criteria to move to the top of the waiting list for subsidized housing. The program also offered “transitional housing money” – up to \$1000 – to pay security deposits, first month rent, and other housing fees. Individualized hearings are held to determine eligibility for public housing placement, and support services of all types are part of the program.

WASHINGTON — Seattle

In Seattle, activists initially tried to Ban the Box in both employment and housing by pushing for legislation which defined people with past convictions as a protected class. This effort met a lot of opposition and was unsuccessful, so activists separated employment and housing. In 2013, after a creative and hard fought campaign, Seattle became the first city in Washington to Ban the Box for all public and private employers within city limits.

On the housing front, as early as 2010, Seattle activists were in dialogue with the Fair Housing and Equal Opportunity division within HUD. The Seattle Office on Civil Rights was part of that dialogue because they had received a high number of complaints from people who were being excluded from housing due to past convictions. The Office on Civil Rights recommended to HUD that housing providers should not consider crimes with no demonstrable connection to tenancy or that do not infringe on the health, safety and welfare of residents.¹³ This was a significant victory for Seattle’s grassroots activists.

Housing activists in Seattle next mounted a campaign to Ban the Box for renters. They formed the FARE coalition (Fair and Accessible Rentals for Everyone). FARE’s grassroots partners included the King County Native American Leadership Council, Post-Prison

Education Project, the Tenants' Union, Columbia Legal Services, and other organizations comprised of or serving formerly-incarcerated people.

All of these struggles paid off. In 2015, Seattle city government ratified a Housing Affordability and Livability Agenda for the city. Among their recommendations were:

- 1) Prohibit all housing announcements that limit the eligibility of applicants with past convictions.
- 2) Eliminate screening criteria that absolutely exclude anyone with a criminal record or a broad category of criminal record (like felony).
- 3) Eliminate denials based on records that are illegally reported, convictions older than 7 years from disposition or release, and juvenile records.
- 4) Form a city Fair Housing Committee.

In January of 2016, a Fair Housing Committee was established as part of the Mayor's office. Formerly-incarcerated people and homeless people are an integral part of the committee.

The Seattle City Council also passed a resolution which encourages the use of an individualized tenant assessment when criminal history is used as a screening criterion by any landlord. As of the writing of this report, an ordinance is pending which will be one of the first laws in the nation to affect private landlords.

UNITED STATES — Federal policy

All over the U.S., formerly-incarcerated people and our allies have been campaigning to restore our rights. Many local reentry councils were formed to coordinate government responses to massive numbers of people rejoining their communities after prison. In 2011, the U.S. Attorney General formed the Federal Interagency Reentry Council signaling new attention from the federal government to the problems of people returning from prison.

After years of punitive one-strike evictions, the HUD Secretary issued a letter to all Public Housing Authority Directors. The letter re-affirmed that the lifetime bans applied only to 1)

people convicted of sex offenses who were subject to lifetime registration; and 2) anyone convicted of manufacturing methamphetamine on the premises of federally subsidized housing. The letter also clarified that someone with a past conviction for drug-related activity could reapply for admission to public housing after 3 years, or sooner if they completed a drug treatment program. It also specifically encouraged Public Housing Authorities to “allow ex-offenders to rejoin their families in the Public Housing or Housing Choice Voucher programs, when appropriate.”¹⁴

The legal foundation for Ban the Box policies was reinforced in 2012. That year, the Equal Employment Opportunity Commission affirmed its Guidance that employers’ consideration of conviction records has a disparate impact on people of color, and may violate the 1964 Civil Rights Act. Other government agencies started to conform their own policies to address the disparate impact of mass incarceration on communities of color.

More progress was made when, in 2015, HUD issued further guidelines about consideration of arrests as applied to Public Housing Authorities and federally-assisted housing. This Guidance clarified that “an arrest is not evidence of criminal activity in that it can support any adverse admission, termination, or eviction decision.”¹⁵

In April 2016, HUD issued a broader guidance affecting all public and private housing, as well as real estate transactions – the “Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records.”¹⁶ This Guidance concluded that because mass incarceration has impacted communities of color disproportionately, restrictions in housing based on past convictions have a disparate impact on people of color, and therefore violate the Fair Housing Act. This Guidance requires an individualized assessment of any past conviction and an evidence-based public safety justification for any conviction-based restriction. The HUD Secretary called one-strike evictions, “a harsh policy that likely did more harm than good,” as he announced the new HUD Guidance.

Because of the efforts of formerly-incarcerated people and our allies, we are defeating the concept of one-strike evictions, and winning increased opportunity for stable housing and reunification with our families.

Why Ban the Box in Housing?

Reduces recidivism and improves public safety

It's just plain common sense that having stable housing helps prevent people from returning to prison. This conclusion has been backed up by numerous studies. The Center for Housing Policy, a national research group, found a dramatic difference in recidivism rates among those with or without housing after prison: A whopping 66% of people without housing after release committed crimes within 12 months. Only 25% of people with housing re-offended in the same time frame. In one study, each change of address while on parole was associated with a 25% increase in the likelihood of re-arrest.¹⁷

Reduces racial disparities in housing access

We need Ban the Box policies in housing because housing providers use criminal record inquiries as a way to practice racial discrimination. Evidence of this was clearly revealed by tests conducted to ensure fairness in employment and housing by the Seattle Office of Civil Rights. Two separate tests showed that African-American and Latino applicants for housing were required to submit to background and credit checks much more often than white applicants.¹⁸ These race-based disparities violate U.S. civil rights law.

In another example, the Greater New Orleans Fair Housing Action Center found that when housing policies were left entirely up to a landlord's discretion, private landlords required background checks much more often with African-American housing applicants than with white applicants.¹⁹

Encourages individual rehabilitation and improves family stability

When someone is released from prison, stable housing is the place from which he or she begins looking for employment, reports to treatment programs or probation officers, and rebuilds relationships with children, friends, and family. Children in particular suffer trauma when their parents cannot find housing or employment because of a conviction history.

In Washington, researchers followed a sample of 12,000 individuals released from a state prison facility for one year. People who received housing assistance and eventually secured permanent housing fared the best. This group had the lowest rates of recidivism and the highest rates of employment, medical coverage and substance abuse treatment.²⁰ This study showed that “across every measure of recidivism and re-integration, the stably housed portion of the comparison group fared better than their unstably housed or homeless counterparts.”²¹

The research is conclusive: access to housing increases the likelihood that someone returning from incarceration will find and keep employment, stay drug free, and commit no new crimes.^{22,23}

Conviction history does not predict tenant failure

There is no concrete evidence that people without criminal records are better tenants than people with past convictions.²⁴ In fact, research suggests that criminal history does not provide reliable information about the potential for housing success.²⁵ Because conviction history is not a reliable indicator of tenant behavior, HUD has mandated that criminal records alone cannot determine future tenant dangerousness. Instead, HUD recommends individualized assessments of applications from people with conviction histories.

Ban the Box in Housing — Best Practices

Our campaigns to Ban the Box in housing have focused primarily on subsidized and affordable housing, usually involving a local Public Housing Authority. Until 2016, most housing authorities prohibited people with conviction histories from accessing subsidized housing.

Formerly-incarcerated people have been central to efforts to change these policies. In New Orleans, VOTE waged a multi-year battle with the Housing Authority of New Orleans to ban the box in their application process. In San Francisco, All of Us or None worked with city government officials and other community organizations to draft a Fair Chance Ordinance which applies to public and private employment and all subsidized housing.

VOTE and the FICPFM (Formerly Incarcerated and Convicted Peoples and Families Movement) have issued a comprehensive Model PHA Policy and strategy so anyone can start a Ban the Box in Housing campaign.²⁶ Here is a summary of Best Practice components to include when negotiating with housing decision-makers for fair chance housing.

1. Eliminate language that excludes people with convictions when listing housing openings.

Affirmatively state that people with conviction histories will be considered.

2. Remove the conviction history question from initial applications for housing.

Consider whether a conviction history check is necessary at all. Other information may be enough to assess a potential renter. HUD guidelines now require that a housing provider must justify any policy requiring background checks of applicants, using actual evidence and events, not hypothetical or speculative reasoning. HUD recommends these questions: Is a background check necessary to achieve a substantial, legitimate, nondiscriminatory interest of the provider? Is there another way to screen applicants that would have less of a disparate impact on minorities?

Postpone any conviction history inquiry until after an applicant is found otherwise eligible to rent. Review conviction history only after applying the usual criteria for assessing rental and credit history and finding the applicant to be an otherwise suitable tenant.

3. Do not use self-disclosure of conviction history as a “truth test”.

Discrepancies between what is self-disclosed and information provided by an official background check does not necessarily mean that an applicant is lying. Conviction histories are often complicated. Due to plea bargains and other legal processes, people may be convicted of crimes different than those for which they were arrested. An applicant may not know the final official outcome of a case. A person’s RAP sheet (Record of Arrests and Prosecutions) may include minor infractions that have been forgotten over the course of time. Most people don’t have access to their official records and depend on their memory, which may not be accurate.

Also, RAP sheets and other official records may contain inaccuracies. Housing applicants should have the opportunity to review and correct RAP sheets if an adverse decision is made based on conviction history.

4. Consider only convictions that are directly related to housing.

Housing providers should consider only past convictions that have a direct and specific negative bearing on the safety of persons or property.

Do not consider convictions more than seven years old. Studies show that after seven years the likelihood of someone with a conviction committing a crime is the same as anyone else in the population. Also, the Fair Credit Reporting Act limits all consumer reporting agencies to seven years in their disclosures.

The following information should never be asked about or considered at any stage of the process:

- Arrests not leading to conviction

- Participation in, or completion of, diversion or deferral of judgment program
- Any conviction that was judicially dismissed, expunged, or voided
- Any conviction or determination in the juvenile justice system
- Any conviction more than seven years old from date of sentencing
- Any criminal offense other than felony or misdemeanor, e.g. infraction

5. Conduct an individualized assessment for each applicant with a relevant past conviction.

This step should include consideration of these factors:

- whether the conviction is directly related to the safety and security of tenants or property
- how much time has elapsed since the conviction
- whether the housing situation offers the opportunity for the same or a similar offense to occur
- whether the circumstances leading to the conduct for which a person was convicted will recur in the housing
- evidence of inaccuracies in the applicant's conviction history record
- evidence of the applicant's rehabilitation, including completion of parole or probation, education, drug or alcohol treatment, tenancy record, community service

6. Provide a written reason for a denial and an opportunity for appeal.

If a denial of housing is based on a past conviction, provide the applicant with a copy of the background report and any other information considered. If possible, allow 14 days for the applicant to submit more information, including references and additional evidence of rehabilitation. Reconsider the decision in light of any new information.

7. Limit liability for landlords if tenants participate in illegal activity.

Housing providers will be more supportive of a Ban the Box policy if provisions are included guaranteeing that they will not be held liable for illegal activity on the premises.

8. Prohibit any retaliatory action.

Write the ordinance so retaliatory actions are not allowed if a tenant wins an appeal. (Usually an eviction or other adverse action is considered retaliatory if it occurs within 90 days.)

9. Designate a government agency to receive and resolve complaints of housing discrimination.

It's very important to create a process to settle complaints and disputes in any ordinance. Publicity and outreach are critical to the success of a Fair Chance ordinance; people need to know where to file and resolve complaints. Including a structure of warnings and fines for landlord violations of the ordinance will strengthen it and make violations less likely.

10. Require that housing providers keep records of applications, written reasons for rejection, waiting lists, and documentation of individualized assessments.

Record-keeping allows oversight and monitoring, without which landlords may violate the ordinance. Keeping these records will provide proof that landlords have followed the individualized assessment process required by an ordinance.

Ban the Box in Education: Background

Education should be available to all people. Article 26 of the United Nations' Universal Declaration of Human Rights states that everyone has the right to education, and that, "higher education shall be equally accessible to all on the basis of merit."²⁷ Throughout history, education has been a beacon of hope for progress and self-improvement, and has long been recognized as an aid to rehabilitation and personal transformation.

The reality for people in prison and post-prison in the United States is far from this goal. Many discriminatory barriers limit people with conviction histories from obtaining a college education.

Barriers to Education

What are the ways a criminal conviction creates barriers to higher education? Imprisonment itself is a barrier. Few prisons have significant on-site college programs, so people in prison rarely have the opportunity to take college classes. Correspondence courses may not be available or approved by prison administrators, and they are expensive. Often it is difficult to obtain books and research materials necessary for college-level work in a prison setting.

After release, a conviction history is a barrier for admissions to many colleges and universities. Many admissions applications include questions about past convictions. Some require students with conviction histories to provide copies of their criminal record and to complete additional admissions essays. Many formerly-incarcerated students are discouraged by these questions on the application, and abandon their plans to attend college.

Students with drug-related convictions faced an additional barrier in obtaining student aid. For many years, federal student aid was denied to anyone with a drug-related conviction.

Pell Grants Denied to People in Prison

Beginning in 1972, people in state and federal prisons were able to take college classes through the federal government's Pell Grant Program. Pell grants were available to low-income people, both in and out of prison, who needed financial help for college. The grants did not require re-payment. Pell grants, administered by institutions of higher learning, allowed schools to set up in-prison educational programs throughout the nation.

By 1993, in-prison programs in 43 states as well as in the federal Bureau of Prisons (BOP) provided associate degrees. Thirty-one of these programs offered bachelor's degrees. Programs in nine states plus the BOP offered master's degrees. People in prison in Indiana, Maryland, Massachusetts, and the BOP could earn a doctoral degree.²⁸

Then, in 1994, Pell grants were eliminated for people in prison. This was a time when anti-prisoner sentiment was on the rise and the demonizing of prisoners as "the other" was common. Critics of in-prison education programs argued that Pell grants for prisoners meant that other people were excluded from the program. This argument was false. In fact, prisoner Pell grants totaled less than 0.001% of the Pell grant budget.²⁹

People in prison were devastated by the loss of their college opportunities when Pell grants were discontinued. By 1997, "66% of the reporting correctional systems indicated that stopping Pell Grants eliminated most if not all of their college course opportunities for inmates."³⁰

In the following two decades, while the U.S. prison population more than doubled, the number of prisoner-students diminished. Because of the advocacy of formerly-incarcerated people, this is now changing, as this grassroots history will show.

In 2014, the Obama administration issued a statement clarifying that students incarcerated in juvenile facilities or local county jails are still eligible for Pell Grants. In 2015, the Second

Chance Pell Pilot Program was introduced. This program will allow an additional 12,000 people now in state and federal prisons to participate in college or vocational training programs. In order to fully reverse the ban on prisoner eligibility for Pell Grants, however, Congress must pass the Restoring Education and Learning Act, currently pending in the House of Representatives.

Discrimination on College Admissions Forms

Denying people with criminal records the right to an education took another negative turn in 2006, when the Common Application added questions about conviction history. This application, used by nearly 700 colleges and universities, asks:

“Have you ever been adjudicated guilty or convicted of a misdemeanor, felony, or other crime? Note that you are not required to answer “yes” to this question, or provide an explanation, if the criminal adjudication or conviction has been expunged, sealed, annulled, pardoned, destroyed, erased, impounded, or otherwise required by law or ordered by a court to be confidential.”

The use of conviction history information in pre-admissions screening has increased. Of the schools surveyed in a RAND study, 61% collected conviction history information. In 2010, over one-third of those schools denied admission to at least one person based on criminal history records.³¹ A survey conducted by the Center for Community Alternatives found that schools that collect applicants’ criminal justice information are more frequently reluctant to admit students with criminal histories. “These results suggest that if the practice of collecting applicants’ criminal justice information continues to grow, so will the number of applicants denied admission because of their criminal histories.”³²

These studies also found that schools requiring self-disclosure of conviction history had lower enrollments of Black and Latino students. At these schools, 71% of students were white compared to only 63% at schools that did not require applicants to report their criminal histories. Using conviction history as an admissions criterion may result in legally-prohibited race discrimination because people of color are disproportionately affected by the

criminal justice system. For example, over half of all arrests for juvenile violent crime in 2009 involved Black youth, despite the fact that Black people composed only 16% of the U.S. population.³³

College admissions officers have cited many reasons for collecting this information. A 2014 survey of college admissions directors found that reducing violence and protecting against liability were ranked “very important,” the top ranking in their questionnaire.³⁴ But there is no data proving that campus violence is reduced by collecting this information. In fact, campus crime studies reveal that colleges that collect conviction history information are no safer than those that do not.³⁵

What studies do show is that requiring disclosure of conviction history stops students with past convictions from completing their admissions applications. Of the potential students applying for admission at the State University of New York, nearly two-thirds of those with past convictions stopped filling out the college application after being asked about their conviction history.³⁶

Ban the Box in Higher Education: A Grassroots History

This section will focus on grassroots campaigns to overcome the barriers to higher education in prison and after release. The snapshots below include two types of community responses to discrimination in education.

1 – Campaigns to Ban the Box on college admissions applications and for student financial aid.

2 – In-college and in-prison support programs where formerly-incarcerated people help others attain their educational goals.

CALIFORNIA

Project Rebound — San Francisco State University

John Irwin was released from prison in 1957 after serving five years for robbery. After prison, John went to college. Eventually, he became a sociology professor at San Francisco State University. He joined with other formerly-incarcerated faculty members to form a mutual support and research group called “Convict Criminologists.”

Because John was passionate about how education had turned his life around, he also founded Project Rebound, an organization based at SF State which is dedicated to helping formerly-incarcerated people succeed in college. Project Rebound members, both paid staff and volunteers are all formerly-incarcerated people.

There is no conviction history question on the admissions application for SF State. But formerly-incarcerated students have other barriers to overcome. Project Rebound provides counseling and mentoring at every stage of the SF State experience. They provide students with financial assistance, such as giving out vouchers for books and transportation when

needed. Rebound members also advocate with the Admissions Department to re-open admissions for someone being paroled after a deadline. And if a prospective student is not yet qualified to attend SF State, Rebound will help find community college classes to fulfill entrance requirements.

Project Rebound helps students transition from the disempowering prison environment to making decisions that determine their life direction. Rebound members help students juggle their schedules to meet the demands of parole officers, and will verify that students are truly on campus when questioned by parole officers. San Francisco State reports that over the past ten years, Project Rebound students have graduated at a 95% completion rate, far exceeding the 50% graduation rate of traditional students at that institution.

Project Rebound also travels to prisons throughout California to encourage people in prison to include college in their release plans. Rebound members sit down with prisoners to find out about their previous education, and help them define their higher educational goals. They then help each person access their school transcripts and apply to college so that ideally they can be enrolled immediately upon release.

People in prison clearly appreciate these efforts. After Rebound staff visited Central California Women's Facility, the women inside raised \$1000 from their prison salaries and commissary accounts to donate to Project Rebound.

In 2017, Project Rebound will be expanding to seven more California State University campuses: Bakersfield, San Bernardino, Fullerton, Sacramento, San Diego, Fresno, and Pomona. In 2018, San Jose State and Sonoma State will be added. Each geographical region presents its own challenges and barriers. Many of these campuses are located in areas that are very politically conservative. Some campuses won't hire people with records even though they received their training at that very campus. For instance, a person who earned a certificate in Substance Abuse Counseling at a certain campus may be disqualified, based on their conviction record, from working as a substance abuse counselor at that very campus. On these campuses, Project Rebound will be fighting to Ban the Box.

Transitions Clinic Network — City College of San Francisco

Transitions Clinic Network is an organization with a unique combination of components: employment training, medical clinic, and public policy advocacy. Founded in 2006 by two medical residents at San Francisco General Hospital, Transitions Clinic is staffed by and serves formerly-incarcerated people.

Partnering with formerly-incarcerated people at Legal Services for Prisoners with Children, Transitions Clinic Network designed a multi-faceted approach to supporting formerly-incarcerated people. Some aspects of this strategy address discrimination in education.

- A program at San Francisco City College where students earn a Post-Prison Community Health Worker certificate. This certificate trains graduates for competencies for over 70 job titles.³⁷ Some parts of the certificate program are available online.
- A national network of 14 full-service medical clinics with access to mental and dental health care for formerly-incarcerated people. Transitions now operates medical clinics in California, Puerto Rico, Connecticut, Massachusetts, Maryland, Arkansas, New York, and Alabama. Some of these clinics are affiliated with university medical centers, others have been integrated into local public health systems. All of the clinics provide primary medical care for people with chronic illnesses coming out of jails or prisons.
- All Transitions clinics employ people with a history of incarceration as an integral and required part of their medical team. Employment in the health care field has traditionally been very difficult to obtain for people with conviction history. This program breaks that barrier.
- Transitions patients can register to vote on-site, and workshops are offered on health and nutrition, as well as other issues affecting our communities.

City College of San Francisco admits people with records to its classes, but has had a policy of refusing them employment for certain positions, even if they were trained at City College. Transitions Clinic Network broke through these exclusions by working with City College to develop a certificate program specifically designed for formerly-incarcerated people.

Underground Scholars Initiative — University of California, Berkeley

The Underground Scholars Initiative is an organization of formerly-incarcerated students at UC Berkeley who support each other and organize to end discrimination against students with conviction histories. They've defined their goals as recruitment, retention, and advocacy.”

In terms of recruitment, Underground Scholars members visit community colleges and connect with both formerly-incarcerated students and staff. They encourage college counselors to steer formerly-incarcerated students to Underground Scholars when these students transfer to the university. They have also organized a summer event where students with records visit UC for a special orientation. In addition, Underground Scholars goes inside California prisons to recruit potential students.

Retention of formerly-incarcerated students in school is another key goal. Underground Students had developed a strong culture of support, sharing, and mutual respect. They review each other's homework, share feedback, help each other get scholarships, solve problems, and discuss next steps in their lives. They build real community that helps formerly-incarcerated students stay in school.

Underground Scholars also advocates for policy changes in the UC system, and at UC Berkeley in particular. Although California state employees are hired through Fair Chance hiring, state colleges and universities are autonomous and exempt from this state law. Professors are hired solely on their professional and educational credentials, with no background check. But all non-teaching staff are asked about their past convictions.

Underground Scholars initiated discussions with the Director of Human Resources about how non-teaching staff were being hired. They met regularly with the HR Director, sharing their personal stories with her, explaining how prison had affected them, and discussing the barriers they now face as formerly-incarcerated people. This was the first time the HR Director actually heard from students about the effects of UC's exclusionary hiring practices.

After a year of discussions, the HR Director was finally ready to change the UC Berkeley job application. Underground Scholars offered their own draft, assisted by other formerly-incarcerated people from All of Us or None and from the Safe Return Team in nearby Richmond, CA. Although background checks are still part of the UC employment process, applicants' records are now reviewed only at the end of the process, after a conditional offer of employment has been made. A review committee conducts an individualized assessment of each applicant.

Underground Scholars is still negotiating with UC Berkeley Human Resources about the composition of the review committee. They are pushing to add a formerly-incarcerated person, and to remove the Berkeley police chief from the committee. Other issues in contention include the look-back period, the lack of written standards for the review committee, and the lack of an appeal process. Underground Scholars is also trying to eliminate the requirement for self-disclosure of records.

LESSON LEARNED:

Besides perseverance, patience, and hard work, sometimes it takes making a personal connection to accomplish our goals. Sharing personal stories with the HR Director was crucial in conveying to her the need for change.

NEW YORK

Background

New York has a long history of access to higher education inside prison. Several state colleges started programs in prisons as early as the 1970's. People in New York prisons have long been devoted to educating each other, acting as mentors, and becoming peer counselors. After the 1971 Attica prison rebellion, survivors were transferred to Green Haven prison where they set up an educational program. In collaboration with prison administrators and community members, the prisoners at Green Haven set up a four-year college program in 1973. It was funded by Pell Grants and run through Marist College. As the program grew to 10 different correctional facilities, Marist College soon was educating more students in prison than on its own campus.

But in 1994, Pell Grants for prisoners were eliminated. Around the country, over 350 college-in-prison programs shut down.³⁸ The Green Haven program was closed and their last graduation was held.

In response to this devastating loss, people in New York prisons, formerly-incarcerated people, and our allies have been working hard to break down the barriers and Ban the Box in education.

College Bound — Bedford Hills Correctional Facility

In upstate New York, Mercy College had run a college program for 10 years at Bedford Hills Correctional Facility for women. The end of prisoner Pell Grants in 1994 meant an end to that program.

In response, women at Bedford Hills worked to re-establish their college program. They organized a consortium of private colleges and universities, community members, prison officials, and a committee of women inside the prison. The Inmate Committee issued this statement:

“We understand the public’s anger about crime and realize that prison is first and foremost a punishment for crime. But we believe that when we are able to work and earn a higher education degree while in prison, we are empowered to truly pay our

debts to society by working toward repairing some of what has been broken... It is for all these reasons and in the name of hope and redemption, that we ask you to help us rebuild a college program here at Bedford Hills Correctional Facility.”³⁹

Marymount Manhattan College responded to the call. They agreed to serve as the degree-granting institution for a new college program at Bedford Hills. Over the next few months, a task force was established of community members from all over Westchester County: local government officials; clergy and church members; professors, presidents, and administrators from local colleges; prison administrators; and women from the Inmate Advisory Committee. The task force agreed that while Marymount offered the degree, many colleges would work together to donate courses.

Because of the determination of the women inside to get an education, along with the cooperation of community members and prison staff, a BA in sociology program began at Bedford Hills by Spring of 1997. College education was re-born at Bedford Hills. The program was named College Bound.

College Bound was one of several in-prison education projects that have been organized in New York over the past 20 years.

Abolish the Box

In New York, both the University (NYU) and the state university system (SUNY) use the Common Admissions Application. This application includes questions about conviction history. Formerly-incarcerated students and prospective students, outraged by this barrier to their education, have been working to Ban the Box on college admissions applications.

Students at NYU and SUNY have named this movement “Abolish the Box.” At Columbia University a similar initiative is called “Beyond the Box.”

New York University (NYU)

In 2005, NYU added these two questions to its admissions application:

- 1) Have you ever been found responsible for a disciplinary violation at any educational institution you have attended from the 9th grade?
- 2) Have you ever been adjudicated guilty or convicted of a misdemeanor, felony, or other crime?

An applicant that answers “yes” to either question is requested to write a statement that explains the incident. In 2006, NYU switched to the Common Application, which also includes the conviction history question.

Formerly-incarcerated students and their allies responded. In 2013, the Incarceration to Education Coalition set out to Abolish the Box on NYU admissions applications. Both students with and without records joined together in this effort.

After two years of frustrating discussion with NYU admissions officials, the coalition tried a different tactic. In December of 2015, they took action. Students staged a sit-in at the university’s Welcome Center, disrupting campus tours for prospective students. Outside, artistic performances and a protest demonstration added to the pressure. The sit-in lasted until top administration officials finally agreed to meet with protesters. A week later, the coalition met with admissions officials. They urged NYU to write a letter to the Common Application administrators supporting removal of the conviction history question.

NYU officials agreed. The sit-in had paid off. And another unexpected victory was won as well: NYU’s School of Social Work removed the box from their graduate school application.

But there was lots more work to do. In February of 2016, the Coalition held a teach-in called “Unpacking the Box” to further publicized their demands. These demands included a recorded meeting between NYU, the Coalition, and Common Application representatives, as well as a meeting with the NYU President. In March, they organized a 30-hour sit-in. Despite threats of disciplinary action, two dozen students remained at the student center overnight. They stayed until their demands were met.

A month later, Coalition members met with Common Application staff, including the Chairperson of their Board, to air their grievances and demand change.

The students found that Common Application staff were poorly informed about the negative impact of requiring disclosure of conviction history information. The staff rejected student arguments that the question was discriminatory, citing campus safety and the 2007 shooting at Virginia Tech (although that shooter had no criminal record).

Adding an element of surprise to the Abolish the Box campaign, students uncovered a potential financial conflict of interest. The company that manages NYU's investments holds stock in Corrections Corporation of America, and could potentially benefit from increased recidivism caused by people being denied access to college.

The University was up against the wall.

On August 1, 2016, NYU announced it would ignore applicants' answers to the Common Application questions about disciplinary and criminal history. Instead, the university narrowed the questions on its own application, asking only whether applicants had been convicted or punished for violent incidents. NYU admissions officers assert that answering "yes" to that question will not be an automatic bar to admissions. They also have adopted a "box-blind" process: admissions staff will read applications without knowing the answer to the conviction history question, then review that question after a preliminary admissions decision has been made.

While these changes are certainly positive progress, student activists are committed to push until the box is completely abolished.

Education from the Inside Out Coalition — State University of New York

Formerly-incarcerated people and their allies in New York formed the Education from the Inside Out Coalition to push the State University of New York system (SUNY) to abolish the box. Co-founders included College and Community Fellowship and JustLeadership, both organizations founded by formerly-incarcerated people. Center for Community Alternatives, another co-founder of the coalition, had researched the use of conviction history records in college admissions. They urged universities and colleges to remove the box altogether.^{40,41} They also produced a short documentary film, “Imagine a World Without the Box.”⁴²

Community Alternatives found that for every applicant rejected by a review committee because of a felony conviction, another 15 applicants were excluded because the conviction history question stopped them from completing the application. This finding suggests strongly that it is the conviction history question itself that is stopping prospective college students from entering college.

Education from the Inside Out wrote legislation to Ban the Box on college applications used in New York. Entitled the Fair Access to Education Act (S.00969/A.03363), this legislation is currently pending in both houses of the New York State legislature.

But most of the energies of the Coalition were directed to Abolish the Box at SUNY, the largest university system in the United States with 64 campuses serving 1.3 million students.

The Coalition used a strategy of bringing their Abolish the Box campaign directly to the SUNY Student Assembly. After many discussions and much struggle, the SUNY Student Assembly finally decided to support Abolish the Box. At their April 2016 meeting, hundreds of student senators voted to support a resolution urging admissions officials to ban the box. Their resolution recommended that “criminal history screenings should only be implemented after a student has been admitted, and that they should never be used to revoke admission.”⁴³

Six months later, with pressure from the Student Assembly, SUNY’s Board of Trustees voted to Ban the Box in their admissions application. It was the first time a university system

reversed its decision to screen for conviction history and remove the question from its admissions application.

To this day, however, questions about past convictions have not disappeared completely from the SUNY system. Students are still asked to disclose felony convictions if they seek campus housing; if they want to participate in clinical or field experiences; and if they apply for internships or study abroad. Education from the Inside Out members and other SUNY students have vowed to continue the struggle until all discrimination based on past convictions is eliminated.

College and Community Fellowship

In 2000, formerly-incarcerated women and allied community members formed the College and Community Fellowship. The Fellowship's purpose is to support women in their quest for higher education once they are freed from prison.

Any woman who has been incarcerated in New York and wants to go to college but needs support and help is eligible to connect with College and Community Fellowship. She meets with an intake coordinator to assess her college readiness. If she isn't ready for college, the Fellowship connects her with resources such as high school proficiency classes or literacy classes to address her college readiness needs. If she is college-ready, she enters their program and becomes a Fellow. Either way, any woman interested in Fellowship programs can participate in monthly meetings for support.

Fellows receive financial counseling, transportation vouchers, academic counseling, health and wellness coaching, tutoring, and assistance in overcoming any barriers to licensure in a chosen profession. For example, a nursing student may face barriers to licensing because of her conviction record. Fellowship support staff are available to go with this nursing student to hearings in front of professional boards like the Nursing Board to help her with board requirements.

For many women, the Fellowship becomes far more than a service program, it is really a community and friendship circle.

Fellowship has also developed a Speakers' Bureau and the unique Theater for Social Change.

Theater for Social Change is a community theater ensemble that raises awareness about the impact of mass incarceration on women, families, and communities. Their performances explore women's experiences with the criminal justice system, and are based on the real-life experience of their members. The performances also advocate for reform. The ensemble performs regularly in a variety of venues — from inside prisons to national conferences.

Over the past decade and a half, the College and Community Fellowship has supported 301 formerly-incarcerated women in earning a college degree. Among these graduates, the recidivism rate is 2%, as compared with 30% overall recidivism for women in New York.⁴⁴

WASHINGTON

Post-Prison Education Project

While sitting in solitary confinement inside a Washington state prison, Ari Kohn decided to become a lawyer. He was so upset by prison conditions that he vowed to dedicate his life on the outside to prison and criminal justice reform.

After being released from prison, Ari went to law school. At law school, he met other formerly-incarcerated people who were encountering overwhelming barriers in trying to finish college: addiction, poverty, discrimination, and mental illness. After talking with some professors and staff at the University of Washington, Ari founded the Post-Prison Education Program.

Formerly-incarcerated people are the backbone of the Post-Prison Education Program, participating as staff, mentors, volunteers, and Board members. They go into Washington's prisons to let people inside know that others who had been in prison have succeeded, received an education, reunited with their families, and secured good jobs.

The Post-Prison Education Program provides academic counseling, financial aid counseling, and career mentoring to formerly-incarcerated students and potential students. All these services are provided by other formerly-incarcerated people. They also connect participants to housing resources, legal representation, and mental health services. The Program receives about 900 calls a month from prisoners seeking information and support. They receive an average of 13 applications each day from people who have been released from prison and want to join the program.

During winter quarter of 2012, the University of Washington learned that one of their students had a prior conviction for a sex-related offense. This student was one quarter away from earning a degree in physics and applied mathematics. The University informed the student that he had to leave school immediately. The Post-Prison Education Program hired an attorney who successfully helped this student's right to finish his degree.

Not long after this incident, the University added a section to their admissions application requiring disclosure of any violent felony or sex-related offense. This new admissions policy created controversy all over campus. It particularly offended law school students who were outraged and adamant that there should be no conviction history disclosure required.

University of Washington School of Law students contacted the Post-Prison Education Program. Together, they began meeting with university officials. Eventually the University agreed not to deny anyone admission due to a conviction history. They pledged to use answers "only to create safety protocols and support programs for formerly-incarcerated students."

But the Box remained.

The University has been collecting data from responses to the Box question. They have discovered that Admissions staff were rejecting applicants who answered “yes” at the same rate as for applicants who answered “no.” However, this does not measure the chilling effect that the question has on prospective students, or how that question can trigger bad associations for people applying.

After almost five years of discussions and controversy, the University is currently moving closer to removing the Box from its admissions application.

UNITED STATES

Ban the Box for Student Aid

In 1996, a group of formerly-incarcerated students from around the U.S. created a national on-line community to discuss problems they had when applying for federal financial aid. From this loose on-line association, a core group of activists developed. They called themselves Students for a Sensible Drug Policy (SSDP). In 1999, they organized their first national gathering. At that conference, the students decided upon an organizational structure: one representative from each campus with an active SSDP chapter.

SSDP decided to tackle the onerous Higher Education Act (HEA) Aid Elimination Penalty, passed by Congress in 1998. This bill prevented any student with a drug conviction from receiving financial aid — unless they completed a government-approved drug treatment program. This penalty was added to the bill without debate or a recorded vote. It has resulted in over 200,000 prospective students being ineligible for student aid due to their prior convictions. SSDP organized a national action at the College Convention in New Hampshire in 2000, where they protested the penalty and repeatedly asked President Bush questions about the bill during his Education Townhall.

Denying financial aid to so many students had a huge impact. By 2001, colleges were already adopting resolutions urging changes to the HEA Penalty. Thirteen leading education associations sent a letter to the Drug Enforcement Agency criticizing the Penalty.

In 2006, SSDP mobilized 125 student governments to voice their opposition to the policy. They prepared an excellent Student Organizing Manual to help their members mobilize against the Penalty.^{45,46} They built a coalition of more than 300 education, recovery, and civil rights organizations. Together, they lobbied Congress aggressively for reform.

As a result of this grassroots pressure, Congress scaled back the HEA Penalty and limited it to people convicted of a drug-related crime while in college and receiving financial aid. Later, Congress reformed the penalty further. Now, instead of being required to complete a government-approved treatment program, students convicted of a drug-related crime need only pass two unannounced drug tests.

While the changes enacted so far are encouraging, more reform is clearly needed. SSDP's position is that any student aid penalty tied to drug related offenses disproportionately affects people of color. And, any drug conviction question appearing on the financial aid application still deters countless eligible students from applying.

Two bills were introduced into Congress in 2009 that would repeal the Aid Elimination Penalty completely. As of the writing of this report, both bills are still pending.

Students for a Sensible Drug Policy has not given up the fight. As they continue to agitate for progressive change, they have also been organizing more chapters around the country. By 2014, they had grown from the original five chapters on U.S. campus to 200 chapters.

Pell Pilot Program

It has been two decades since Pell grants for prisoners were eliminated. Today, the positive

value of higher education in prison is once again being widely recognized. In 2015, the U.S. Department of Education initiated a Second Chance Pell Pilot Program for people in federal and state prisons. At a few selected prisons, people within five years of release are eligible to apply for a Pell Grant for college classes and vocational training. This program is still experimental. However, several members of Congress have co-sponsored the Restoring Education And Learning Act which would reinstate Pell Grant eligibility to all people in prison.

The U.S. Departments of Education and Justice issued a joint guidance for juvenile facilities officially asserting that young people in these facilities are eligible for Pell Grants. The guidance stated that people in municipal and county jails are also eligible for Pell Grants. Hopefully this will encourage local educational institutions to form partnerships with local corrections facilities for the creation of in-jail education.

Fair Chance Pledge

Throughout the country, students with criminal records have been agitating to remove the conviction history question from college applications. Partly in response to these student-led campaigns, the U.S. Department of Education issued a *Beyond the Box Resource Guide*. This guide urges colleges and universities to remove the question from their applications, or at least to delay it until a conditional admission has been offered. Additionally, in 2016, the White House and Department of Education launched a Fair Chance Education Pledge encouraging schools to remove barriers to higher education.

Why Ban the Box in Higher Education?

Reduces racial discrimination in college admissions

More than 70 million people in the U.S. have conviction records.⁴⁷ There is now widespread recognition that people of color are arrested, convicted, and imprisoned at a rate vastly disproportionate to their percentage of the population. The result is that an estimated one in three adult Black men has a felony conviction.⁴⁸ When the conviction history question is used to deny opportunities for higher education, communities of color are disproportionately impacted.

The school-to-prison pipeline starts early. Young people of color are pushed out of school by disparate treatment, suspensions, expulsions, and school-based arrests. Racial profiling, “gang” databases, and militarized policing of their communities mean that young people of color are more often involved with the criminal justice system than white students. Black students are suspended and expelled at a rate that are three times greater than white students, often for the same behavior. Black students in public schools represent 16% of enrollment but 27% of students referred to law enforcement and 31% of students subjected to school-related arrests.⁴⁹

Admissions screening that uses racially-biased school disciplinary records and conviction histories results in racial discrimination. College applications often ask about suspensions and expulsions from high school. These questions can stop an applicant from completing the admissions process.

Racial disparities in the criminal justice system may also make it financially difficult for people of color to attend college. Until 2006, students could be denied Pell Grants and federal student loans because of past drug convictions. One study concluded that “racial and ethnic minorities are significantly more likely to be convicted of disqualifying drug offenses

and significantly more likely to require a Pell Grant to attend college. It is therefore plausible that tens of thousands have been denied college funding solely on the basis of their conviction status.”⁵⁰

Reduces recidivism

Those of us who have participated in college programs while incarcerated know beyond a doubt that in-prison college classes affected us positively. The personal changes may be intangible, but the effects of college-in-prison on recidivism levels are measurable. For example, a New York State Department of Correctional Services study tracked 274 women who attended college while in prison and compared them to 2,031 women who did not attend college while in prison. The women who attended college while in prison were significantly less likely to be re-incarcerated than those who did not attend college while in prison.⁵¹ Another study in Ohio showed that people who earned an associate’s degree were 62% less likely to return to prison than those who did not.⁵²

Many formerly-incarcerated people have been transformed by the opportunity to attend college while locked up. And just as importantly, continuing our education on the outside has helped us improve our lives and stay out of prison.

College and Community Fellowship, a program that works directly with formerly incarcerated people who are in college in New York City, enrolled more than 200 formerly incarcerated women in higher education programs in its first seven years. They report a recidivism rate of less than 1% among their Fellows.⁵³

The Post-Prison Education Program in Seattle, Washington, has been supporting formerly-incarcerated students for over 11 years, and its success rate is 92%. Of the hundreds of people attending college with support from this program, only 14 people have returned to prison.

Will not increase crime on campus

There is no empirical evidence to suggest that students with criminal records pose a greater safety risk on campus than students without conviction histories. One of the few studies to address this issue found no statistical difference in the rate of campus crime between institutions of higher education that explore students' disciplinary background and those that do not.⁵⁴ In fact, a study showed that neither background checks nor pre-admission screening accurately predicted which students were likely to commit crimes on campus.⁵⁵ To the extent that research exists on this issue, there are no conclusive findings to suggest that asking about an individual's criminal justice history during the admissions process decreases campus crime.⁵⁶

Ban the Box in Higher Education — Best Practices

The following recommendations have evolved through years of activism by formerly-incarcerated students in a variety of venues. For a more thorough discussion of these recommendations, the Education from the Inside Out Coalition has developed an excellent *Ban the Box in Higher Education Student Organizing Toolkit*.⁵⁷

1. Remove the conviction history question from admissions applications.

Consider whether conviction history information is really necessary to make an informed admissions decision. Evaluate whether other assessment tools may yield enough information: academic record, test scores, references, high school diploma, essays, and the personal interview. Allow any qualified applicant, regardless of conviction history, to attend college.

2. Limit the use of conviction history information:

- Delay any request until after the admissions decision has been made based on criteria applied generally to all applicants.
- Avoid use of ambiguous terms like “other crime.”
- Define what should NOT be disclosed, and how far back disclosure is required.
- Limit disclosure to specific types of information. Only felonies should be considered, NOT arrests, dismissed offenses, misdemeanors or infractions.
- Limit disclosure to convictions within the past five years and only to felony convictions occurring after an applicant’s 19th birthday.

3. Establish admissions criteria that are fair and evidence-based.

Avoid policies that impose blanket denials for certain crimes. Determine whether a past conviction is relevant to how a student will achieve. Base admissions decisions on unbiased, well-informed case-by-case assessments.

4. Establish procedures that are transparent and consistent with due process.

Any policy regarding criminal history information should be in writing to ensure fairness and consistency. If an offer of admissions is withdrawn, an applicant should be informed in writing of the reason, and should have the right to appeal the decision. Allow prospective students the opportunity to explain any criminal justice involvement, offer evidence of rehabilitation, and discuss how they are prepared to succeed.

5. Provide on-campus support services for students with records.

Provide information and assistance when a student's prospective field or profession bars anyone with criminal record. Professional training and degree programs should challenge employment and licensing barriers for students with past convictions. Provide help with housing and financial aid, since people with records also experience discrimination in these areas. Establish peer mentoring programs to support formerly-incarcerated and convicted students.

Ban the Box in Voting: A Grassroots History

Background

Currently in the United States over six million people are denied the right to vote because of past convictions. Whether the conviction is for a felony or misdemeanor, this phenomenon of voting prohibition is known as “criminal disenfranchisement.”⁵⁸

Criminal disenfranchisement happens not as a part of the punishment for a specific crime, but when state constitutions disenfranchise anyone with certain types of conviction or incarceration. With one in three people in the United States having a conviction record, criminal disenfranchisement has become a massive threat to representative democracy in our country.

Only 23% of the people disenfranchised because of felony convictions are incarcerated. The majority are living, working, and paying taxes in their communities after fully completing their sentences or while on probation or parole.

In recent years, criminal disenfranchisement has become a tool of Republican voter suppression strategies. Since people of color and people from poor communities tend to vote Democrat, Republicans have used criminal disenfranchisement as a way of stopping people from voting for the Democratic Party.

Voting laws have changed so often that people with past convictions are justifiably confused about their rights. Some states automatically restore voting rights upon completion of one’s sentence. In other states, people must apply for restoration of their voting rights. In Maine and Vermont, everyone is allowed to vote even if they’re in prison or jail.

Kentucky, Virginia, and Iowa apply a lifetime bar to voting for people with felony convictions, but this prohibition may be lifted by the governor on an individual case-by-case basis. Seven states apply a lifetime bar to selected categories of offenses. Among these, Arizona applies the lifetime bar to anyone who returns to prison, while Nevada and Wyoming apply a lifetime bar for crimes of serious violence and for recidivism.

Republicans have been ruthlessly curtailing the right to vote in every state where they can. Their efforts at voter suppression through felony disenfranchisement have significantly impacted voters of color. In the “swing state” of Florida over 10% of the adult population is barred from voting for life because of a felony conviction. Within that group lies 21% of the state’s African-American population.⁵⁹

New restrictive voting laws range from strict photo ID requirements, to cutbacks in locations and time for early voting, to registration restrictions. Since 2010, Republican state lawmakers have introduced hundreds of harsh measures making it harder to vote. Overall, 22 states have new restrictions in place.

Voting rights restoration, however, is a growing movement. Twenty-seven bills have been introduced in 15 states to restore voting rights for people with past convictions. Maryland’s legislature overrode a governor’s veto to restore the rights of 40,000 state residents. Kentucky’s legislature is deadlocked over a law to automatically restore voting rights.

Often it has been the grassroots organizing of formerly-incarcerated people working with civil rights organization such as the American Civil Liberties Union (ACLU) that have pushed for voting rights restoration. Formerly-incarcerated people have run voter registration campaigns in most states. They have also filed legal challenges to expand and clarify voting rights for people with past convictions.

Below are snapshots of some of these grassroots efforts.

CALIFORNIA

Bay Area

In 1976, the California constitution was amended to end permanent disenfranchisement for people with conviction histories. Only people who are “currently imprisoned or on parole for the commission of a felony” are prohibited from voting. The specific meanings of “imprisoned” and “parole,” however, have continued to be unclear and the subject of litigation.

Since its founding in 2003, All of Us or None has made registering formerly-incarcerated voters a priority. The first voter registration table we set up was at our first annual Community Giveback in 2003. As we gave away new bikes to children whose parents were in prison, we registered voters with the slogan, “Deliver Political Consequences! Register to Vote.”

All of Us or None has worked consistently to expand voting rights for formerly-incarcerated people in California. In 2004, Legal Services for Prisoners with Children and All of Us or None contacted the Secretary of State, requesting clarification of the law regarding the right of county jail prisoners to vote. People detained in California county jails had limited access to absentee ballots, and many were being denied their right to vote. We hoped to get a written response in time to register county jail prisoners throughout the state to vote in the November 2004 election. The Secretary of State affirmed our interpretation of the law: that people serving a county jail sentence for a felony, as well as people on probation, had the right to vote. Unfortunately, we did not receive this official response affirming our rights until several days after the November election.

All of Us or None also formed a partnership with the ACLU to work on voting rights issues. Together, we created a public education campaign that included postcards, billboards, and bus stop posters featuring All of Us or None members. The campaign informed the public that in California people in jail, on probation, or off parole have the right to vote.

The ACLU polled the county jails statewide to determine how registration and absentee voting practices differed throughout the state. A new Secretary of State sought an official legal opinion about jail voting rights from the California State Attorney General. The Attorney General's opinion reversed the previous Secretary of State, and held that people on probation in county jails could not vote.

A group of plaintiffs which included the ACLU, the League of Women Voters, and Legal Services for Prisoners with Children challenged the Attorney General's ruling. In 2006, a ruling came down in *League of Women Voters v. McPherson* (145 Cal.App. 4th 1469). The ruling affirmed the rights of people in county jail and on probation to vote.

In order to monitor implementation of this court decision, All of Us or None sent a letter to all 58 county sheriff's offices inquiring about voting policies in their jails. The inconsistent and often inaccurate responses received from the sheriff's offices prompted us to begin an educational campaign around voting rights. We also contacted every Public Defender in the state, requesting them to inform their clients during plea negotiations that a guilty plea might affect their voting rights.

We wanted the Secretary of State to guarantee the right of county jail prisoners to vote, but she refused to meet with us. So we held a demonstration outside her office. We also connected with over 50 state legislators asking them to contact the Secretary of State and request that she distribute voting rights information to all county jail prisoners. Finally, she agreed to post information about county jail voting rights on her website. Unfortunately, much of the information posted was inaccurate and county-by-county implementation was never monitored. And of course none of this information could be accessed by people incarcerated in the jails.

All of Us or None also organized a national day of voter registration. All of Us or None chapters throughout the U.S., along with other groups of formerly-incarcerated people, did voter registration in their communities and at their local jails.

Grassroots efforts to raise awareness about voting rights have included media campaigns, political lobbying and creative outreach. When Bay Area All of Us or None members were turned away from doing voter registration inside the Alameda County Jail, we handed out our flyers to visitors waiting in line. We asked them to press the flyers against the glass in the visiting booths to inform people inside about their voting rights.

In Orange County, we went to shopping malls and passed out voter education materials to shoppers. Altogether All of Us or None members in California assisted over 1000 people in registering to vote that year.

In 2009, Republican legislators mounted a new attack on our voting rights. They introduced eight bills regarding voting rights, as well as a ballot initiative for the 2010 election. The bills and initiative called for three major changes in California elections law:

- Added a requirement that voters show government-issued ID in order to vote;
- Extended the amount of time allowed to count military vote-by-mail ballots;
- Eliminated the right to vote for people on probation.

Thanks to a Democratic majority in the California legislature that year, these bills were defeated.

In 2012, All of Us or None organized another voter registration campaign. We made a detailed outreach plan which included visiting all the residential substance abuse treatment centers in the Bay Area; outreach at community summer festivals and street fairs; and voter outreach tables in front of the Probation Department. And, we conducted regular voter registration and education at the visiting lines at several county jails.

We encountered another obstacle when the Secretary of State issued a ruling that two newly-created forms of post-incarceration supervision were functionally equivalent to parole, so that people on these types of supervision would not be eligible to vote. All of Us or None, LSPC, and our allies filed a lawsuit contesting this ruling.⁶⁰ We won the lawsuit!

The Secretary of State immediately appealed the decision. But in 2015, a new Secretary of State withdrew the appeal, and tens of thousands of people became eligible to vote.

In 2016, the ACLU and other allies introduced a “voting rights clarification bill” which was passed by the state legislature and signed by the governor. This law goes into effect on January 1, 2017. As of that date, ANY CITIZEN detained in a California county jail will be able to vote.

Los Angeles

In 2012, the Los Angeles chapter of All of Us or None registered 1200 out of 19,000 people in the L.A. County jails. Forty volunteers devoted four weeks to talking with people inside the five jail facilities. The process was complex and time-consuming. The Sheriff and County Registrar cooperated closely with the volunteers. All of Us or None worked with the Registrar to train and deputize volunteers. Despite many logistical challenges, over 900 people cast their ballots that year from inside Los Angeles County jails.

That Sheriff retired in 2014, a change that was devastating to in-jail voter registration. In 2016, the All of Us or None chapter in Los Angeles brought a lawsuit against the new Sheriff for violating the civil rights of people locked up inside the jail. Although the Sheriff’s Department insisted that county jail prisoners had access to voter registration, they had to admit that only 13 people out of a jail population of 15,000 had registered to vote. The lawsuit proposed bringing volunteers into the jail to do voter registration. It also proposed an organized timeline and process for registration. The courts showed little interest in resolving the lawsuit before the Presidential election of 2016.

Inland Empire

In 2012, Riverside All of Us or None held multiple discussions with the Orange County Sheriff, seeking authorization to do voter registration inside the county jail. After several weeks of delay, it became apparent that the Sheriff had no intention of allowing community

members to register people to vote. All of Us or None members checked with the Registrar of voters and found that very few people had registered from the jail. They knew that voter registration was not being encouraged. As the deadline for registering approached, we took the Sheriff to court over in-jail voter registration. The judge ruled that the Sheriff was creating barriers and denying eligible voters the right to vote. We won the lawsuit. Now implementation was the next step in assuring that people incarcerated in the jail truly had access to voting.

Rather than simply issuing an order that could be ignored, the judge convened a settlement conference in her chambers. The Sheriff and his deputies sat down with All of Us or None members and their lawyers to discuss how to implement voting in the jail. All of Us or None members convinced the Sheriff to change procedures and create easier access to voter registration forms. Rather than requiring that prisoners request voting forms from a deputy, the forms are now permanently available on the commissary cart that goes everywhere in the jail. Riverside All of Us or None members also re-wrote the jail's voting rights brochure to make it accurate and more understandable.

During the 2016 election season, Riverside All of Us or None conducted voter registration in local high schools, as well as on street corners, at community events, and door-to-door. Members also canvassed in support of a local proposition that will change districting laws to achieve more racial balance.

CONNECTICUT — Hartford

Formerly-incarcerated people in A Better Way Foundation led a 2008 state-wide voter registration campaign in six Connecticut cities. They registered 2500 people to vote. At one weekend public wellness event, volunteers registered 500 people. In Hartford, Voices of Women of Color and other groups of formerly-incarcerated people joined in a united voter registration effort.

The Connecticut voter registration campaigns included activist training in how to organize people. The training emphasized the importance of staying in touch with the people they connected with during the voter registration. In addition to registering people to vote, A Better Way urged people to actually vote, and equipped them to understand legislation that might affect their lives.

Formerly-incarcerated leaders of A Better Way later went on to form the Civic Trust Public Lobbying company which worked to lobby public officials around voting rights and criminal justice reforms. Working with others, they have passed over 50 pieces of legislation since 2010.

LOUISIANA — New Orleans

A group of prisoners at Louisiana State Penitentiary-Angola created the Angola Special Civics Project back in 1987. The men studied law and criminal justice issues together. Through their research, they discovered that detainees not on probation, parole, or serving time on a felony conviction were legally allowed to vote in the state of Louisiana. The group began to agitate for in-jail voter registration. Later, they expanded their activism to lobbying legislators around criminal justice reform, and encouraging friends and family to vote.

When several members of the group were released in 2003, they established VOTE,⁶¹ continuing to work on voter registration for people detained pretrial or convicted of misdemeanors. Over the years, VOTE members have registered thousands of people to vote. Going door-to-door, they have also educated thousands of community members about issues on the ballot.

Recently, VOTE's deputy director, a formerly-incarcerated lawyer, testified in front of the national Voting Rights Commission on the history of racism in the development of criminal disenfranchisement.⁶²

PENNSYLVANIA — Philadelphia

In Pennsylvania, people imprisoned for a felony are not allowed to vote. But people detained while awaiting trial, in jail for a misdemeanor, under house arrest, in halfway houses, or released from prison, can cast their votes. Formerly-incarcerated women in The Time is Now to Make a Change have been registering people to vote inside Philadelphia's jails for 10 years. Registering people to vote in jail entailed overcoming many obstacles and was very time-consuming. Nevertheless, they have registered at least 7,000 people inside the jail so far. Problems remain, however: people inside the jails must turn over their ballots to jail staff, and are unsure whether the ballots actually make it to the Election Board to be counted.

Why Ban the Box in Voting?

Fulfills the promise of representative democracy

In a democracy, everyone should have the right to vote, even if they are in jail or prison, on probation, parole, or any other form of law enforcement supervision.

In 2016 in the United States, 6.1 million citizens are barred from voting because of a past conviction. The majority of these people are living, working, and paying taxes in their communities. This massive criminal disenfranchisement is a serious problem to any nation that considers itself a democracy. When so many people are not allowed to vote, elections are not fair.

Reduces racial discrimination in voting

Criminal disenfranchisement disproportionately affects people of color. Because of the racial disproportionality in the system of mass incarceration, one of every 13 African-American adults cannot vote.⁶³ In four states – Florida, Kentucky, Tennessee, and Virginia – one in every five African-American adults are disenfranchised. In total, 2.2 million African-American citizens are banned from voting because of past convictions.⁶⁴ And the problem is growing. In 1980, only nine states disenfranchised at least 5% of their African-American adult citizens. In 2016, 23 states disenfranchise at least 5% of their black citizens.⁶⁵

Contributes to successful re-entry and public safety

Recent research suggests that people with criminal records who vote are less likely to commit new crimes.⁶⁶ Though little research has been done in this area, one study concluded that among people who were recently arrested, more than twice as many non-voters were rearrested than people who voted.⁶⁷

In 2007, the Governor of Florida issued an executive order which restored voting rights to nonviolent felons. During the next three years, more than 150,000 people had their voting rights restored. Four years later, a study conducted by the Florida Parole Commission found that the rate of recidivism in this group was one-third lower than the general rate. Their conclusion: Restoring voting rights seems to encourage greater stability among former inmates who were nonviolent.^{68,69}

Encourages involvement in community life

Voting is one step in building a life of active community involvement. Eliminating barriers to voting for people with records opens up avenues of civic participation that may go far beyond elections. When people believe that they can have an impact on the civic life of their community, they are more likely to care about the future and have a stake in it. In contrast, prohibiting formerly-incarcerated people from voting increases their marginalization and alienation from society.

Does not contribute to voter fraud

One common argument used to justify taking the vote from people with past convictions is that it will help combat “voter fraud.” The specter of widespread voter fraud has been introduced largely as a justification for voter suppression efforts by Republicans. Little evidence exists of any voter fraud in U.S. elections, and numerous courts have ruled that there is no evidence that people with records are any more likely to commit voter fraud than anyone else.⁷⁰

Criminal disenfranchisement is also sometimes justified by an argument that it will prevent “bloc voting” by people with records. Attempts to control “bloc voting” are in fact unconstitutional. The U.S. Supreme Court has ruled that states may not manipulate voting rights because of concerns about how a specific group of people would vote.⁷¹

Ban the Box in Voting— Best Practices

Requirements for voter ID, fewer days for early voting, reduced numbers of polling sites — these are present-day equivalents of the poll taxes and literacy tests that targeted African-American voters prior to the Voting Rights Act of 1964. Ban the Box in voting rights is a direct counter to these restrictions. Below is a list of specific practices which, when implemented, will lead to the expansion of the voter base and a more robust democracy.

1. Abolish all restrictions on the right to vote related to current incarceration or past convictions.

For All of Us or None, best practices would assure everyone of their right to vote, including while they are incarcerated in state or federal prison, or in a local jail, or on probation, parole, or any other type of supervision.

2. Ensure that official voting rights information is correct and easy to understand.

In most states, the Secretary of State is responsible for consistency from county-to-county, to ensure that everyone eligible gets to cast their vote. It's crucial that formerly-incarcerated people review voting rights information appearing on official websites, to be sure the information is understandable and accurate. Trainings conducted by voter registrars must also include accurate information specific to people with conviction records.

3. Conduct public education campaigns to inform people with records about their voting rights.

Because state laws vary widely and change often, vast numbers of people with conviction histories do not know what their voting rights are. If someone with past convictions moves to a different state, he or she may gain or lose their right to vote. Widespread public education campaigns should be supervised by the Secretary of State to assure that accurate and up-to-date information is disseminated.

Sheriffs and parole officers should provide people with information about their voting rights. Because sheriffs often have been unreliable or uncooperative in providing accurate voting rights information to residents of their jails, community volunteers such as formerly-incarcerated activists should be allowed into correctional facilities to present this information in a culturally sensitive manner.

4. Amend state voter registration forms to explain the eligibility of people with conviction records.

On registration forms, voter eligibility information should be written in short sentences and in language that is easy to understand. Information about voting with a criminal record should appear in the instructions sections of voter registration forms, alongside other information about voter eligibility. Any process required for rights restoration should be explained on the form.

5. Amend state laws to maximize voter eligibility and participation for people with conviction histories.

Depending on laws in your state, potential changes might include:

- Eliminate waiting periods before restoration of voting rights. All adults should be eligible to vote after they have been released from custody and completed their sentence, parole, or probation.
- Allow everyone living in the community on probation or parole to vote.
- Rights restoration should be immediate and automatic upon release from prison or jail. Eliminate requirements that people apply to a governor or special board for rights restoration.
- Repeal requirements for state-issued photo ID. This requirement creates barriers for poor, disabled, and elderly people.
- Increase access to voter registration through online services, automatic registration at Department of Motor Vehicles, and registration at social service sites.
- Increase the number of days and number of polling places available for early voting.
- Allow same-day voter registration.

6. Require parole officers to update lists of people who are disenfranchised.

Parole officers have a legal obligation to remove the name of anyone released from custody from lists of the disenfranchised. Parole officers should be responsible for making sure that their clients have any paperwork necessary to apply for restoration of their voting rights.

7. Offer easy access to voter registration forms in jails and prisons.

Incarcerated voters should not be required to hand over their registration form or absentee ballot to a guard or deputy. Just like voter registration forms are available at a public library, they should be accessible to incarcerated people without the need to interact with a guard. Sheriffs and deputies should be held accountable for voter fraud if registration cards or ballots are found missing. Formerly-incarcerated people should be allowed to conduct voter education and registration, and to pick up absentee ballots inside jails and prisons.

Conclusion

As this Ban the Box grassroots history illustrates, thousands of formerly-incarcerated people all over the U.S. have been organizing for our rights. We have awakened to our potential to win change – change for our families and communities, change in our own circumstances and personal dignity. We are learning how to affect laws and public policy. We have organized locally and joined with others in statewide and national coalitions to address the pressing needs of our communities.

Such nationwide collaborations like the Formerly-Incarcerated and Convicted Peoples' and Families Movement, and the National Council of Incarcerated and Formerly-Incarcerated Women and Girls, show promise of building strong, united, diverse movement.

The struggle for full restoration of our civil and human rights is far from over.

Where fair chance hiring is already the law for public employers, we can extend those policies to private employers. Where we have won Ban the Box in employment, we can Ban the Box for housing. When our universities remove the Box from admissions forms, we can campaign to take it off forms for campus housing. Where we have won voting rights for people on community supervision, we will campaign for voting rights for people in prison as well.

We've been inspired by the victories we've won together — and we won't go back. We are building for long-lasting social change, and a future where no one is left out.

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¹ Anastasia Christman and Michelle Natividad Rodriguez, “Research Supports Fair Chance Policies,” National Employment Law Project, 2016. Available at <http://www.nelp.org/publication/research-supports-fair-chance-policies/>

² For more information, please see the companion volume to this report: “Ban the Box in Employment: A Grassroots History,” Legal Services for Prisoners with Children, 2016. Available at: <http://www.prisonerswithchildren.org/wp-content/uploads/2016/10/BTB-Employment-History-Report-2016.pdf>

³ Connecticut, Hawaii, Illinois, Massachusetts, Minnesota, New Jersey, Oregon, Rhode Island, and Vermont have passed statewide laws mandating fair chance hiring for private employers.

⁴ White House Fact Sheet, <https://www.whitehouse.gov/the-press-office/2015/11/02/fact-sheet-president-obama-announces-new-actions-promote-rehabilitation>

⁵ *HUD v. Rucker*, 535 U.S. 125 (2002).

⁶ For a more thorough discussion of the San Francisco Fair Chance Ordinance, see “Ban the Box in Employment, A Grassroots History,” op.cit.

⁷ <http://www.anewwayoflife.org/>

⁸ Cindy Chang, “Louisiana is the world’s prison capital,” *New Orleans Times-Picayune*, May 13, 2012, updated April 6, 2016. Available at http://www.nola.com/crime/index.ssf/2012/05/louisiana_is_the_worlds_prison.html

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